

ASCAP GENERAL LICENSE AGREEMENT – FITNESS CLUBS

This ASCAP MUSICAL WORKS LICENSE AGREEMENT FOR PREMISES (the "License Agreement") is made and entered into as of _____ (the "Effective Date"), by and between the AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS ("ASCAP"), a voluntary membership association organized under the laws of the State of New York with offices at One Lincoln Plaza, 1900 Broadway, New York, NY 10023, and _____, with an address at _____ ("Licensee") (ASCAP and Licensee are each referred to herein as a "Party" and collectively referred to as the "Parties"). Capitalized terms not otherwise defined shall have the meanings ascribed them in the Additional Terms and Conditions attached hereto and made part hereof.

TERMS AND CONDITIONS RELATED TO LICENSEE'S RIGHTS AND OBLIGATIONS

PREMISES: _____

LICENSED RIGHTS: Subject to the terms and conditions of this License Agreement, ASCAP hereby grants to Licensee, and Licensee hereby accepts, a non-exclusive, non-transferable, non-assignable, non-sublicensable right and license, solely during the Term, to make non-dramatic public performances of the ASCAP Repertory (or any part thereof) solely at the Premises listed above and solely in connection with the Music Uses indicated below.

MUSIC USES:

- Recorded music that is played via audio-only and/or audio-visual devices located in publicly-accessible areas of the Premises during regular business hours in an ambient or background manner ("Ambient Uses").
- Recorded music, including through the use of a DJ, used in connection with fitness instruction classes led by an individual located on the Premises ("Group Classes").
- Recorded music used in connection with fitness instruction classes originating at a location other than the Premises and which are transmitted to the Premises ("Virtual Classes").
- Recorded and/or live music used in connection with special events for club members or prospective members presented or sponsored by Licensee that are held at the Premises during regular business hours, but specifically excluding events for which attendees must pay a fee or charge in addition to any fees or charges paid for regular use of and access to the club (each such event, a "Social Event").

BUSINESS INFORMATION RELATED TO FEE CALCULATION:

- Total square footage of the Premises: _____
- Total Group Class Participant Weekly Capacity (*i.e.*, the sum of the capacity of each room at the Premises in which Group Classes are conducted multiplied by the average number of Group Classes conducted in each such room each week): _____
- Ambient Uses (*check one*): YES NO
- Provision of Virtual Classes (*check one*): YES NO
- Number of Social Events during the Contract Year: _____

TERM OF LICENSE: Twelve months from the Effective Date, and thereafter automatically renewing for additional, successive 12-month periods unless either Party provides the other with written notice of termination in accordance with the terms and conditions of this License Agreement.

FEES FOR THE INITIAL TERM: _____

PAYMENT TERMS: The Fees for the Initial Term is due upon execution of this License Agreement and the Fees for each Renewal Term is due on the first day of such Renewal Term (each such due date, a "Fee Payment Date"). In the event Licensee enrolls in ASCAP's Autopay feature that may be made available on the ASCAP Website and elects to pay monthly installment payments (each an "Installment Payment"), then one twelfth (1/12) of the Fees for any Renewal Term is due on the first day of each month of the applicable Renewal Term.

LICENSEE'S OPERATING POLICY. Licensee acknowledges that the Fees were determined by ASCAP, in whole or in part, based on the factors, parameters and criteria described on the rate schedule in effect as of the Effective Date and attached hereto as Schedule A (the "Rate Schedule") as applied to Licensee's then-current Business Information

Related to Fee Calculation (collectively, the "Operating Policy"). Licensee represents, warrants and covenants that all information provided by it in connection with this License Agreement, including Licensee's Operating Policy, is true and correct. Licensee shall promptly provide ASCAP with written notice of any change in Licensee's Operating Policy and shall, at such time, furnish to ASCAP all requested information and certify that all information so provided is true and correct. In the event of any change to Licensee's Operating Policy, ASCAP reserves the right to make adjustments to the Fees as required, upon notice to Licensee. Upon any change in Licensee's Operating Policy resulting in an increase in the Fees, Licensee agrees to pay ASCAP the increased fees, effective as of the initial date of such change, whether or not written notice of such change has been provided pursuant to the terms and conditions hereof. Any such increase shall be applied on a pro rata basis during the Initial Term or Renewal Term, if applicable, in which the applicable change in Licensee's Operating Policy resulting in such increase occurred.

IN WITNESS WHEREOF, the Parties have executed this License Agreement as of the Effective Date.

**AMERICAN SOCIETY OF COMPOSERS,
AUTHORS AND PUBLISHERS**

By: _____

By: _____

Name: _____
[Type or Print]

Name: _____
[Type or Print]

Title: _____

Title: _____

ADDITIONAL TERMS AND CONDITIONS

Article 1. Definitions.

1.1. "ASCAP Member" means any individual or entity that has entered into a membership agreement with ASCAP.

1.2. "ASCAP Repertory" means all copyrighted Musical Works (a) written and/or published by ASCAP Members or by the members of any FPRO, including Musical Works written and/or published during the Term and (b) for which ASCAP controls, whether as of the Effective Date or thereafter, the non-dramatic public performance rights in the Territory, but solely to the extent such rights are or may during the Term be vested in or assigned to ASCAP by ASCAP Members or by the applicable FPRO or other rights holder(s).

1.3. "ASCAP Terms of Use" means the terms and conditions relating to the access to and use of the ASCAP Website and certain applications made available thereon, as set forth at www.ASCAP.com/about/legal-terms.

1.4. "ASCAP Website" shall mean www.ascap.com, including any sub-domains thereof.

1.5. "Contract Year" means a twelve-month period during the Term measured from the Effective Date or any anniversary thereof (*i.e.*, the Initial Term or any Renewal Term).

1.6. "Foreign Performing Rights Organization" or "FPRO" means any entity incorporated or otherwise legally organized outside of the United States with which ASCAP has a written and binding agreement appointing ASCAP as an agent authorized to license and/or administer Musical Works owned or controlled by such entity to third parties on a non-exclusive basis.

1.7. "Musical Work" means any copyrightable musical composition, including any lyrics or words written to be used with such composition.

1.8. "Territory" means the United States of America, its territories, dependencies and possessions and the Commonwealth of Puerto Rico.

1.9. "User Account" means the online user profile and payment account that may be accessed by Licensee via the ASCAP Website.

Article 2. Provisions Related to Licensed Rights.

2.1. License Limited to Non-Dramatic Performances. The Licensed Rights are limited to non-dramatic performances of the Musical Works in the ASCAP Repertory. This License Agreement does not authorize the dramatic performances of any Musical Work in the ASCAP Repertory, nor does it authorize the public performance of any opera, operetta, musical comedy, play with music, revue, ballet or like production or performance, in whole or in part; provided, however that this license does authorize the public

performance of Musical Works embodied on albums constituting the audio soundtracks of operas, operettas, musical comedies, plays or like productions.

2.2. Reservation of Rights. Except for the limited rights and licenses granted to Licensee pursuant to this License Agreement and subject to the applicable obligations and restrictions set forth herein, nothing shall be construed to restrict, impair, encumber, alter, deprive or adversely affect the ASCAP Repertory or any of ASCAP's rights or interests therein or any other ASCAP intellectual property, brands, information, content, processes, methodologies, products, goods, services, materials or rights, tangible or intangible.

2.3. State Disclosure Statutes and Related Information. Schedule B hereto sets forth certain disclosures, notices, rights and other information that may apply to Licensee depending upon, among other things, the state, territory and/or the location of the Premises ("State Disclosure Statement"). In the event of any conflict between the terms and conditions of this License Agreement and the terms and conditions of the State Disclosure Statement, the terms and conditions of the State Disclosure Statement shall control to the extent necessary to resolve any such conflict.

Article 3. Restrictions and Conditions.

3.1. No Right to Sublicense or Redistribute. In no event shall Licensee sublicense, transfer, convey or assign this License Agreement and/or the rights granted to Licensee herein or otherwise license others, including any affiliate of Licensee, the right to perform publicly or redistribute in any way any Musical Work in the ASCAP Repertory. Nothing in this License Agreement shall be deemed to grant to any party other than Licensee any right to perform publicly by any means, method or process whatsoever any Musical Work in the ASCAP Repertory licensed pursuant to this License Agreement, including any transmission, retransmission or further transmission of any such Musical Works.

3.2. No Right to Reproduce, Copy or Distribute. Nothing in this License Agreement shall be construed to grant to Licensee, or any third party, any right to reproduce, copy or distribute by any means, method or process whatsoever, any Musical Works (or any part thereof) that are included in the ASCAP Repertory licensed under this License Agreement.

3.3. No Sound Recording Rights. Nothing in this License Agreement shall be construed to grant to Licensee, or to authorize Licensee to grant to any of its affiliates or any third party, the right to reproduce, copy, distribute or perform publicly by any means, method or process whatsoever, any sound recording embodying any Musical Works (or any part thereof) that are included in the ASCAP Repertory licensed under this License Agreement.

3.4. License Limited to the Premises. Nothing in this License Agreement shall be construed to grant to Licensee, or to authorize Licensee to grant to any of its affiliates or any third party, the right to perform publicly the ASCAP

Repertory (or any part thereof) to persons outside of the Premises by any means, methodology or technology, including by wire, cable, electronic means or any internet-connected websites, software applications, systems, platforms, devices, products and/or services or any other means or methodology, without the prior written consent of, or valid license from, ASCAP in each instance.

Article 4. Additional Terms Related to Fees and Payment.

4.1. **Payment of Fees; Adjustment of Fees for Renewal Term.** In consideration of the rights granted in this License Agreement, for each Contract Year during the Term, Licensee shall pay the amounts determined by applying Licensee's Operating Policy to the Rate Schedule applicable at the commencement of the applicable Contract Year (the "**Fees**"). ASCAP shall provide Licensee with the Rate Schedule applicable to each subsequent calendar year prior to the commencement of such calendar year, provided that in the event the fees and charges set forth on such Rate Schedule exceed the corresponding fees and charges set forth in the then-current Rate Schedule by an amount greater than the increase in the Consumer Price Index-All Urban Consumers (CPI-U) during the twelve-month period concluding in the October of the then-current calendar year, ASCAP shall provide Licensee with such Rate Schedule at least 45 days prior to the commencement of the applicable calendar year. Subject to the terms and conditions of this License Agreement and the ASCAP Terms of Use, Licensee shall pay to ASCAP the applicable Fees (including all applicable taxes and levies as described below) on the applicable Fee Payment Date(s), and if paying via a credit, debit or other payment card, using the payment method associated with Licensee's User Account (the "**Payment Preferences**").

4.2. **Late Payments.** If payment is not received by ASCAP on or before the applicable Fee Payment Date, Licensee agrees to promptly pay all amounts due upon demand by ASCAP, together with a late payment charge equal to one and one half percent (1.5%) per month, or the maximum rate permitted by law, whichever is less, calculated from the date such payments were due.

4.3. **Taxes.** Licensee shall be responsible for any taxes and/or levies imposed on any transactions conducted by it and any applicable taxes or levies may be added to the amount charged for the applicable transaction. Applicable taxes may include sales tax, use tax and other applicable taxes, which may be based on various factors, including the bill-to address, location of the Premises and tax rates in effect at the time Licensee's transaction is completed. Further, in the event that Licensee's payment of Fees under this License Agreement causes ASCAP to incur any liability to pay a gross receipts, sales, use, business use or other tax which is based on the amount of ASCAP's receipts from Licensee, the number of licensees of ASCAP, or any similar measure of ASCAP's activities, Licensee agrees to pay to ASCAP the full amount of such tax, provided that ASCAP is permitted by law to pass through such tax to its licensees. No tax exemptions are permitted for transactions made on www.ASCAP.com.

4.4. **No Refunds or Credits.** Except as otherwise expressly agreed by ASCAP, all Fees are final and nonrefundable, and ASCAP shall in no event provide any refunds, reimbursements or credits of any kind for any reason, including in connection with any early termination of this License Agreement, partial or unused services or Licensed Rights, or any other product or service, in whole or in part. The Fees are based upon the total value attributable solely to the interests in and to the Musical Works included in the ASCAP Repertory that are owned and/or controlled by ASCAP Members and specifically exclude the value of any rights and interests in such Musical Works that are owned and/or controlled by any other third-party rights holder, including Broadcast Music, Inc., SESAC Inc. and Global Music Rights. Licensee agrees that neither ASCAP nor any ASCAP Member shall be required to account to any third-party rights holder in any Musical Work in the ASCAP Repertory for the rights granted to Licensee, and as between ASCAP and Licensee, Licensee shall be responsible for any such accounting.

4.5. **Audit.** During the Term, and for a period of three years thereafter: (a) Licensee shall maintain and keep complete and accurate records in accordance with generally accepted accounting principles consistently applied and sufficient to verify compliance with Licensee's obligations hereunder; and (b) ASCAP shall have the right, by its authorized representatives and/or third-party designees, at any time during customary business hours, and upon 30 days written notice, to examine the books and records of account of Licensee to verify any statements of Licensee's Operating Policy and any other information provided by Licensee. In the event any such audit shows Licensee to have underpaid the Fees, Licensee shall pay a finance charge on the additional Fees due of one and one half percent (1.5%) per month, or the maximum rate permitted by law, whichever is less, from the date(s) the additional Fees were due, and, if the underpayment is five percent (5%) or more of the total amount due for the period in question, then Licensee shall also reimburse ASCAP for ASCAP's reasonable costs actually incurred as a result of the audit.

Article 5. Services Made Available Via the ASCAP Website.

5.1. **Licensee's User Account.** ASCAP may provide Licensee with the ability to access certain services relating to this License Agreement on the ASCAP Website via Licensee's User Account, e.g., payment of Fees, notice relating to any changes relating to Licensee or Licensee's Operating Policy. Licensee agrees that any use of such services made available by ASCAP on the ASCAP Website, including without limitation, via Licensee's User Account, shall be subject to the ASCAP Terms of Use and further, that the use of services relating to the payment of Fees through the ASCAP Website and Licensee's User Account are subject to this **Article 5.**

5.2. **Recurring/Automatic Billing Services on the ASCAP Website via Licensee's User Account.** If Licensee has selected or enrolled in ASCAP's Autopay feature that may be made available on the ASCAP Website, via Licensee's User Account, then unless and until Licensee cancels or disables the Autopay feature in Licensee's account profile available

at www.ascap.com/mylicense, Licensee acknowledges and agrees that ASCAP may automatically charge Licensee no more than 30 days in advance of each Fee Payment Date the applicable Fees for the continued right to use the Licensed Rights and Licensee hereby agrees to pay such Fees, which may be billed via the payment card that Licensee has provided to ASCAP and associated with Licensee's User Account. The Fees charged will be the same as those charged on the immediately preceding Fee Payment Date (or, in the event of the first Fee Payment Date after the Effective Date, the same as those set forth on the Terms and Conditions Related to Licensee's Rights and Obligations), unless subject to increase as permitted and described in this License Agreement.

ASCAP will notify Licensee in advance of each Fee Payment Date of the amount that will be charged to Licensee's payment card account and Licensee is solely responsible for ensuring that Licensee's user profile and payment card account information is accurate, complete and up to date. Licensee acknowledges and understands that Licensee's authorization to use the Autopay feature to pay the Fees on an automatic, recurring basis is entirely optional and not required to maintain Licensee's account or license with ASCAP. However, if ASCAP is not able to secure payment of the applicable Fees from Licensee's designated credit, charge or debit card payment account for the payments required, due to, but not limited to, inaccurate information, expired card account or insufficient or uncollected funds in the debit account provided by Licensee, ASCAP may discontinue processing the recurring charges and cancel Licensee's enrollment in the Autopay feature. Cancelling or disabling the Autopay feature for any reason shall not and does not relieve Licensee of the obligation to make required Fees or other payments under this License Agreement.

Licensee may disable the Autopay automatic billing feature at any time, by modifying Licensee's Payment Preferences in the Licensee User Account profile at www.ascap.com/mylicense.

FOR THE AVOIDANCE OF DOUBT, ASCAP MAY CONTINUE TO BILL LICENSEE'S PAYMENT CARD ACCOUNT, THE APPLICABLE FEES EACH AND EVERY FEE PAYMENT DATE OF THIS LICENSE AGREEMENT UNTIL LICENSEE DIRECTS ASCAP TO STOP AS PROVIDED ABOVE; PROVIDED, HOWEVER, THAT ASCAP SHALL HAVE NO OBLIGATION TO AUTOMATICALLY BILL LICENSEE FOR THE APPLICABLE FEES VIA RECURRING OR AUTOMATIC BILLING, AND LICENSEE SHALL BE REQUIRED TO PAY ALL AMOUNTS DUE BY THE REQUIRED DATES. IN THE EVENT THAT ASCAP IS UNABLE TO OBTAIN THE REQUIRED FEES, ASCAP RESERVES THE RIGHT TO IMMEDIATELY TERMINATE THIS LICENSE AGREEMENT, WITHOUT NOTICE OR OTHER OBLIGATION OR LIABILITY TO LICENSEE OR ANY THIRD PARTY.

Article 6. Term and Termination.

6.1. Term. This License Agreement shall commence on the Effective Date and shall continue thereafter for a period of twelve months, unless earlier terminated in accordance with the terms and conditions set forth herein (the "Initial Term"). Thereafter, this License Agreement shall automatically renew for additional, successive twelve-month periods (each, a "Renewal Term"), unless either

Party provides the other with written notice of termination at least 30 days prior to the expiration of the Initial Term (or any Renewal Term, as applicable) (the Initial Term and each Renewal Term shall be collectively referred to herein as the "Term").

6.2. Termination by Licensee. Subject to and without limiting the terms and conditions of Section 4.4, Licensee may immediately terminate this License Agreement upon notice to ASCAP in the event that Licensee discontinues the public performance of all music in the ASCAP Repertory at the Premises for a period of no less than 30 consecutive days.

6.3. Termination for Breach. If Licensee breaches any provision, term or condition of this License Agreement, ASCAP may (reserving cumulatively all other remedies and rights pursuant to this License Agreement and in law and in equity) immediately terminate this License Agreement, in whole or in part, by providing at least 30 days' notice to Licensee; provided, however, that such termination shall not be effective if Licensee's breach has been cured prior to the expiration of such 30-day period.

6.4. Termination for Insolvency. ASCAP may immediately terminate this License Agreement in the event that Licensee (a) admits in writing its inability to pay its debts as they become due, fails to satisfy any enforceable, final and material judgment against it, or otherwise ceases operations of its business in the ordinary course, (b) is adjudicated bankrupt or becomes insolvent, (c) winds up or liquidates its business voluntarily or otherwise, (d) applies for, consents to or suffers the appointment of, or the taking of possession of by, a receiver, custodian, assignee, trustee, liquidator or similar fiduciary of itself or of all or any substantial portion of its assets, (e) makes a general assignment for the benefit of creditors other than in the ordinary course of financing its ongoing operations, (f) commences a voluntary case under any state or federal bankruptcy laws (as now or hereafter in effect), (g) files a petition seeking to take advantage of any other law providing for the relief of debtors, (h) acquiesces to, or fails to have dismissed, within 30 days, any petition filed against it in any involuntary case pursuant to such bankruptcy laws or (i) takes any action for the purpose of effecting any of the foregoing.

6.5. Termination for Interference in ASCAP's Operations. ASCAP has the right to terminate this License Agreement, effective immediately upon notice, if there is any interference with, or material increase in the cost of, ASCAP's operation as a result of any law in the state, territory, dependency, possession or political subdivision in which Licensee, its affiliates or its operations are located which is applicable to the licensing of performing rights.

6.6. Effect of Termination. Upon any termination or expiration of this License Agreement for any reason, all rights and licenses granted by ASCAP to Licensee herein shall immediately terminate.

Article 7. INDEMNIFICATION; DISCLAIMER; WAIVER.

7.1. Indemnification. Licensee agrees to defend and handle at its own cost and expense any claim or action against ASCAP, its affiliates and the ASCAP Members, and each of their respective officers, directors, employees, representatives and agents (each an "ASCAP Indemnitee") based upon or in connection with (a) any actual or alleged breach of Licensee's representations, warranties and covenants contained in this License Agreement and (b) the Premises, but specifically excluding any claim or action caused by or based upon Licensee's use of the ASCAP Repertory as specifically permitted pursuant to this License Agreement. Licensee agrees to indemnify and hold the ASCAP Indemnitees harmless from and against any and all liabilities, losses, damages, costs and expenses (including reasonable attorneys' fees) associated with any such claim or action. Licensee shall have the right to conduct the defense of any such claim or action and all negotiations for its settlement or compromise; provided, however, that (y) that no settlement or compromise affecting the financial or legal obligations of any ASCAP Indemnitee shall be entered into or agreed to without the applicable ASCAP Indemnitee's prior written approval and unless such settlement contains an unconditional release by the claimant or the plaintiff of the ASCAP Indemnitee, its officers, directors, employees, representatives and agents from all liability in respect of such claim or action and (z) each ASCAP Indemnitee has the right to participate, at its own expense, in the defense and/or settlement of any such claim or action in order to protect its own interests.

7.2. DISCLAIMER. THE MUSICAL WORKS IN THE ASCAP REPERTORY AND ALL OTHER PRODUCTS, SERVICES AND RIGHTS PROVIDED OR OTHERWISE MADE AVAILABLE BY OR ON BEHALF OF ASCAP ARE BEING PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT GUARANTEE, REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING AS TO THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, SATISFACTORY QUALITY, QUIET ENJOYMENT, OR ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE, AND ASCAP HEREBY EXPRESSLY DISCLAIMS ALL SUCH REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS OR IMPLIED, OR ORAL OR WRITTEN, INCLUDING THAT LICENSEE'S EXPLOITATION OF ANY MUSICAL WORKS OR ANY OTHER INTELLECTUAL PROPERTY RIGHTS WILL NOT VIOLATE ANY INTELLECTUAL PROPERTY RIGHT OR OTHER PROPRIETARY RIGHT OWNED OR CONTROLLED BY ANY THIRD PARTY.

7.3. WAIVER. LICENSEE UNDERSTANDS AND AGREES THAT, TO THE FULLEST EXTENT PERMISSIBLE BY LAW, ASCAP, ITS AFFILIATES AND MEMBERS, AND THE RESPECTIVE SUCCESSORS AND ASSIGNS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, REPRESENTATIVES, LICENSORS, OPERATORS, SERVICE PROVIDERS, ADVERTISERS AND SUPPLIERS OF THE FOREGOING, SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE, OF ANY KIND, DIRECT OR INDIRECT, IN CONNECTION WITH OR ARISING OUT OF THIS LICENSE AGREEMENT AND/OR FROM USE OF THE ASCAP REPERTORY, REGARDLESS OF THE FORM OF ACTION OR THE BASIS OF THE CLAIM OR WHETHER OR NOT ASCAP HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, INCLUDING COMPENSATORY, CONSEQUENTIAL, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES.

Article 8. Notices.

All notices and other communications required or permitted pursuant to this License Agreement shall be in writing and transmitted via email to the applicable Party at the addresses set forth herein, unless, by notice, a Party changes or supplements the addressee and addresses for giving notice; provided, however, that ASCAP shall also have the right to provide notice and other communications to Licensee hereunder in writing that are delivered personally, mailed via certified mail, postage prepaid, or via a nationally recognized overnight courier. All notices shall be deemed given on the date personally delivered, when placed in the mail as specified above or when transmitted via email. ASCAP's email address for notices is glcs@ascap.com.

Article 9. Arbitration

Any dispute arising out of or related to this License Agreement shall be subject to final binding arbitration between the Parties as provided herein. The arbitration shall be conducted pursuant to the JAMS Comprehensive Arbitration Rules and Procedures in effect at the time the request for arbitration is made (the "Arbitration Rules"), and in accordance with the Expedited Procedures in those Arbitration Rules, including Rules 16.1 and 16.2 of those Arbitration Rules, except as modified herein. The arbitration shall take place in New York, New York before a single neutral arbitrator (the "Arbitrator") selected in accordance with the Arbitration Rules. Each Party shall pay its own costs and expenses for the arbitration, with the cost of the Arbitrator to be divided equally between the Parties. Any award or decision in arbitration shall be final and binding upon the Parties and shall be enforceable by judgment of any court of competent jurisdiction. The Parties further agree to the exclusive jurisdiction of the state courts in New York, New York, for purposes of any pre-arbitral injunctive relief, including any application for a preliminary injunction or order compelling arbitration, and waive any objection to laying venue in any such action or proceeding in such courts, or that such courts are an inconvenient forum or do not have jurisdiction over such Party. Neither the Parties nor the arbitrators may publicly disclose the existence, content or results of any arbitration hereunder without the prior written consent of both Parties.

Article 10. Miscellaneous.

This License Agreement shall be binding upon and inure to the benefit of the Parties and their permitted successors and assigns, except that Licensee shall not be permitted to assign, convey, transfer or subcontract this License Agreement or any of its rights or obligations hereunder, in whole or in part, without ASCAP's prior written consent (which may be withheld in ASCAP's sole and absolute discretion) and any purported assignment without such consent shall be void *ab initio* and of no force and effect. Each Party is an independent contractor and neither Party's personnel are employees or agents of the other Party for federal, state or other tax purposes or any other purposes whatsoever. Personnel of one Party have no authority to make representations, commitments, bind or enter into contracts on behalf of or otherwise obligate the other Party in any manner whatsoever. Nothing in this License Agreement shall be construed or deemed to constitute, create, give effect

to or otherwise recognize a joint venture, partnership, business entity of any kind, nor constitute one Party an agent of the other Party. There are no third-party beneficiaries, actual or intended, pursuant to this License Agreement. This License Agreement shall be governed by the law of the State of New York and Licensee irrevocably submits to the jurisdiction of the courts of New York State, situated in the City, County and State of New York. Except as specifically set forth herein, all consents, request and approvals to be given under this License Agreement shall be in writing and not be unreasonably withheld. This License Agreement may be amended or modified only by the written agreement of the Parties. If any provision of this License Agreement is held to be invalid, the remaining provisions hereof shall remain in full force and effect. This License Agreement constitutes the entire agreement between Licensee and ASCAP and supersedes any prior agreements, written or oral with respect to the subject matter hereof. The provisions of Section 2.2, Section 4.4, Section 4.5, Article 5, Section 6.6, Article 7, Article 8, Article 9 and this Article 10 shall survive the cancellation, expiration or termination of this License Agreement.

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