

**SESAC Internet Performance License**

This License Agreement, including any attached and referenced Schedules (the "Agreement"), is made in New York by and between SESAC LLC ("SESAC"), a Delaware limited liability company, with offices at 35 Music Square East, Nashville, TN 37203, and

LICENSEE Information			
("LICENSEE")			
<i>(Legal Entity Name)</i>			
Business Entity(select one): <input type="checkbox"/> Corporation <input type="checkbox"/> LLC <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Other: _____			
<i>(State of Incorporation, if applicable)</i>		<i>(Taxpayer ID #)</i>	
<i>(Street Address)</i>	<i>(City)</i>	<i>(State)</i>	<i>(Zip)</i>
<i>(Telephone #)</i>	<i>(Fax #)</i>	<i>(Email)</i>	
Billing Information			
<input type="checkbox"/> Same as LICENSEE Information			
<i>(Street Address)</i>	<i>(City)</i>	<i>(State)</i>	<i>(Zip)</i>
<i>(Telephone #)</i>	<i>(Fax #)</i>	<i>(Email)</i>	
New Media Information			
<i>(Name of Service (the "Service Mark"))</i>		<i>(primary Universal Resource Locator (the "Licensed Web Site"))</i>	

**This Agreement shall be effective as of \_\_\_\_\_ 1, 20\_\_\_\_ (the "Effective Date").**

**1. Term**

- a) The term of this Agreement shall be for an initial period that commences on the Effective Date and continues for a period of twelve (12) calendar months (the "Initial Period"). Thereafter, this Agreement shall automatically continue in full force and effect for successive additional periods of twelve (12) calendar months (each, a "Renewal Period"). Either party may terminate this Agreement effective as of the last day of the Initial Period or as of the last day of any Renewal Period, upon advance notice to the other party specifically referencing this Paragraph at least thirty (30) days prior to the commencement of the upcoming Renewal Period. The Initial Period and any Renewal Period(s) shall be collectively referred to herein as the "Term."
- b) Notwithstanding anything to the contrary contained herein, SESAC shall have the right to terminate this Agreement: (i) at any time upon notice to LICENSEE in the event LICENSEE is adjudicated bankrupt, or a petition in bankruptcy is filed with respect to LICENSEE, or LICENSEE is declared or becomes insolvent; or (ii) upon thirty (30) days' notice to LICENSEE by reason of any law, rule, decree or other enactment having the force of law, by any authority, whether federal, state, local, territorial or otherwise, which results in substantial interference in SESAC's operation or a substantial increase in the cost of conducting its business.
- c) In the event LICENSEE is in default or breach of any provision of this Agreement, including failure to make any payment when due hereunder, and LICENSEE has not cured such default or breach within thirty (30) days following SESAC's notice to LICENSEE thereof, then SESAC shall have the right to terminate this Agreement in addition to pursuing any and all other rights and/or remedies.

## 2. Selected Definitions

For the purposes of this Agreement only, the following terms shall have the following meanings:

- a) "App" means a software application that is downloaded to a consumer electronics device (e.g., a wireless telephone, a tablet computer).
- b) "Compositions" means all of the musical works for which SESAC is authorized to license the public performance right.
- c) The "Licensed Properties" means the Licensed Web Site and/or LICENSEE's proprietary, Service Mark-branded Apps.
- d) The "Licensed Service" means LICENSEE's digital media service whereby LICENSEE transmits audio or audiovisual content to end users via the Licensed Properties.
- e) "Web Page" means a set of associated computer files transmitted sequentially from a Web Site to a browser program that simultaneously renders them to an end user.
- f) "Web Site" means a series of interrelated Web Pages comprising an Internet domain currently registered with a domain name registration service and located at its assigned URL.

## 3. Grant of Rights

Subject to the terms and conditions set forth in this Agreement, SESAC grants to LICENSEE the nonexclusive right and license to publicly perform non-dramatic renditions of the Compositions within and as part of the Licensed Service.

## 4. Limitation of Rights

- a) Except as specifically described in Paragraph 3, above, nothing contained herein shall be construed as permitting LICENSEE to publicly perform, transmit, re-transmit or reproduce any Composition by any means, medium, method, device or process now or hereafter known, or as permitting LICENSEE to grant any such right to others.
- b) The rights granted pursuant to Paragraph 3, above, shall exclude "Grand Rights" in and to the Compositions ("Grand Rights" include, but are not limited to, the right to perform, in whole or in part, dramatico-musical and dramatic works in a dramatic setting).
- c) The transmissions licensed hereunder may be accessed at any physical location, whether or not such location is licensed to publicly perform the Compositions. However, nothing in this Agreement shall be deemed to grant a license with respect to any such location, including without limitation commercial and non-commercial establishments where all or any portion of the transmissions licensed hereunder are audible.
- d) Nothing in this Agreement authorizes LICENSEE to publicly perform the Compositions by transmissions hosted by LICENSEE and accessed on any Web Site or App, other than a Licensed Property, by means of an embedded media player, pop-out player or any similar technology.
- e) This Agreement shall specifically exclude authorization in connection with any person or entity that, in addition to making available internet transmissions via Web Sites and/or Apps, broadcasts or otherwise transmits content using any other medium (e.g., over-the-air television or radio broadcasts, transmissions via cable or satellite television systems).

## **5. License Fee**

- a) In consideration of the rights granted herein, LICENSEE shall pay to SESAC a license fee (each, a "License Fee") for each calendar semi-annual period during the Term (each, a "License Fee Period") in accordance with Schedule "A" attached hereto and incorporated herein.
- b) Effective each January 1 during the Term following the Effective Date, the Semi-Annual Minimum Fee shall be increased by the amount of the percent increase in the Consumer Price Index - All Urban Consumers (CPI-U) as published by the Bureau of Labor Statistics, U.S. Department of Labor, between the most recent August and the preceding August.
- c) In the event SESAC is determined by any taxing authority or court to be liable for the payment of a gross receipts, sales, use, business use or other tax which is based on the amount of SESAC's receipts from LICENSEE, then LICENSEE shall reimburse SESAC, within thirty (30) days of notification to LICENSEE therefor, for any such tax derived from receipts received from LICENSEE.
- d) SESAC shall have the right to impose a late payment charge of one and one-half percent (1.5%) per month for any License Fee payment that is more than thirty (30) days past due. SESAC shall also have the right to impose a charge of \$35.00 for each dishonored check or other form of payment. In the event SESAC incurs any expenses in connection with the collection of any amounts past due to SESAC hereunder, including but not limited to attorney's fees, LICENSEE shall be responsible for promptly paying such amounts to SESAC.

## **6. Verification**

- a) LICENSEE agrees to maintain all necessary information in its books and records to allow SESAC to verify LICENSEE's reports, payments, statements and computations required by this Agreement. SESAC shall have the right, on at least thirty (30) days prior written notice, to examine LICENSEE's books and records during customary business hours to such extent as may be necessary to verify any and all reports, payments, statements and computations made or required hereunder. In connection with such an examination, LICENSEE agrees to furnish all pertinent books and records, including electronic records in industry standard format, to SESAC's authorized representatives. Such books and records shall be kept by LICENSEE for at least three (3) years following any termination of this Agreement.
- b) In the event an examination reveals that LICENSEE has underpaid any License Fee due SESAC, LICENSEE shall submit the additional amount due within forty-five (45) days from SESAC's written request for such payment. Should such an examination reveal that LICENSEE has underpaid SESAC any License Fee by five percent (5%) or more, LICENSEE shall pay the reasonable costs and expenses of the examination, including travel expenses.
- c) SESAC's rights and LICENSEE's obligations arising from this Paragraph 6 shall survive any termination of this Agreement. SESAC agrees that any non-public information discovered by SESAC as part of any examination instituted under this Paragraph 6 shall be treated as confidential and shall not be disclosed to any third party (other than SESAC's attorneys, accountants and other professional advisors) without LICENSEE's prior written consent, except as may be required by law. SESAC's exercise of any rights under this provision shall not prejudice any of SESAC's other rights or remedies, including the right to dispute any amounts owed to SESAC under this Agreement.

## **7. Territory**

The authorization provided in this Agreement shall be limited to public performances made in the United States of America, its territories, possessions and the Commonwealth of Puerto Rico.

## **8. General**

- a) LICENSEE represents and warrants that the Licensed Service is operated with the primary purpose of producing Revenue (defined below).

- b) This Agreement and its interpretation and validity shall be governed by the substantive law of the State of New York applicable to contracts made and to be performed therein and without regard to any conflicts of laws, rules, or principles that would result in the application of the laws of any other jurisdiction. The parties consent to the exclusive jurisdiction and venue of the federal and/or state courts located in New York County, State of New York in any action arising out of or relating to this Agreement and hereby waive any other venue to which either might be entitled by domicile or otherwise. This Agreement supersedes and cancels all prior negotiations and understandings between SESAC and LICENSEE in connection with the subject matter hereof. If any part of this Agreement is determined invalid or unenforceable by a court of competent jurisdiction or by any other legally constituted body having the jurisdiction to make such determination, the remainder of this Agreement shall remain in full force and effect. No waiver of any breach of this Agreement shall be deemed a waiver of any preceding, continuing or succeeding breach of the same, or any other provision of this Agreement.
- c) SESAC shall have the right, upon notice to LICENSEE, to withdraw from the scope of this Agreement the right to publicly perform any Composition (or collection of Compositions) as to which any action has been threatened, instituted or a claim made that SESAC does not have the right to license the performance rights in such Composition (or collection of Compositions).
- d) This Agreement shall not be assignable by LICENSEE without SESAC's prior written permission. Subject to the preceding sentence, this Agreement shall be binding upon and inure to the benefit of SESAC's and LICENSEE's successors and assigns, but no assignment shall relieve SESAC or LICENSEE of its respective obligations under this Agreement. LICENSEE shall notify SESAC within thirty (30) days of any change of ownership or control of LICENSEE's operations.
- e) This Agreement shall not be valid until executed by an authorized signatory of SESAC and LICENSEE. This Agreement has been read and is understood by both parties and contains their entire understanding with regard to the subject matter hereof. No waiver, addition or modification shall be valid unless in writing, executed with the same formality as this Agreement.
- f) All notices required or permitted herein shall be in writing and deemed given to the other party hereto when sent to an address for such party set forth in this Agreement or such other address as such party may designate by written notice, provided that delivery to LICENSEE's email address set forth above shall satisfy the preceding notice requirements.

## **9. Music Usage Reports**

- a) On or before January 15, April 15, July 15 and October 15 of each calendar year during the Term, LICENSEE shall provide to SESAC the information contained in Paragraph 9.a.(i) below; and LICENSEE shall use reasonable efforts to provide to SESAC the information contained in Paragraph 9.a.(ii) below. In each event, LICENSEE shall provide such information with respect to all audio content and all audiovisual programs performed via the Licensed Service during the preceding calendar quarter.
  - (i) For audio content and music videos -- on a per-track basis, the title of each sound recording performed, the featured artist who recorded each such sound recording, the ISRC for each such sound recording, the title of the album on which each such sound recording is embodied and the number of times each such sound recording was performed.
  - (ii) For audiovisual programs (other than music videos) -- (1) The unique number assigned to each such program by LICENSEE which identifies the source of each such program; (2) The name of the source of each such program; (3) The unique number assigned to each such program by LICENSEE which identifies the particular program; (4) The title of each such program (e.g., the title of the series, movie, sporting event); (5) The number assigned to each performed episode of the program by the program producer; (6) The name assigned to each such episode of the program by the program producer; (7) The date each such performance occurs; (8) The number of performances that occurred during the reporting period summarized by source/program/episode/date.

b) LICENSEE shall submit any reports required under this Paragraph 9 electronically in a file format compatible with SESAC's computer system (e.g., an Excel spreadsheet) or, in the alternative, via such other commercially accepted reporting method upon which the parties agree prior to LICENSEE's submission of a report. SESAC may require LICENSEE to submit reports under this Paragraph 9 to a third party designee in a standard format compatible with such third party designee's computer system. Upon any termination of this Agreement, LICENSEE shall remain obligated to submit such materials to SESAC for the period from the Effective Date through the last day of the calendar month when such termination becomes effective and this obligation shall survive any termination of this Agreement.

IN WITNESS THEREOF, the parties have caused this Agreement to be duly signed as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**LICENSEE**

**SESAC**

By: \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Type or Print Name)

\_\_\_\_\_  
(Type or Print Name)

Title: \_\_\_\_\_

Title: \_\_\_\_\_

## Schedule "A" to SESAC Internet Performance License

### 1. Fee Schedule

Revenue Multiplier	2020 Semi-Annual Minimum Fee
.006	\$345

### 2. Definitions

For the purposes of this Agreement only, the following additional terms shall have the following meanings:

- A. "Revenue" means any and all payments made in connection with the Licensed Service, including payments to LICENSEE (or any of its associates, affiliates, agents or representatives) as well as the fair market value of any and all goods and services provided to LICENSEE or any such other entity as barter instead of monetary payment
- B. "Advertising Revenue" means any and all Revenue in connection with advertising, sponsorship or promotional materials provided by means of the Licensed Service (including, without limitation, any and all display advertisements placed on any of the pages of the Licensed Properties as well as any and all "in-stream" advertisements).
- C. "Distribution Revenue" means any and all Revenue in connection with the provision of access to the Licensed Service or any of the content made available thereby, including, without limitation, subscription or transactional fees. In the event LICENSEE offers an "Extended Trial Period" or a "Bundle" the following shall apply:
  - i. "Extended Trial Period" means a free or discounted trial period to a subscription tier of the Licensed Service for a period longer than thirty (30) days. In such event, for each end user receiving an Extended Trial Period, the amount to be included as Distribution Revenue after such thirty (30) day period shall be: (x) the average standalone retail price of such tier; or (y) if applicable, the amount determined pursuant to paragraph 2.C.ii., below.
  - ii. "Bundle" means instances when the Licensed Service is bundled with other product(s) or service(s) for a single price. In such event, the amount to be included as Distribution Revenue shall be the total retail price of the Bundle multiplied by a fraction, the numerator of which is the standalone retail price of the Licensed Service and the denominator of which is the sum of all standalone retail prices of all components of the Bundle; provided that, if there is no standalone published price for a component of the Bundle, then LICENSEE shall use the average standalone published price for end users for the most closely comparable product or service in the U.S., or, if more than one comparable exists, the average of standalone prices for such comparables.
- D. "Other Revenue" means any and all Revenue other than Distribution Revenue and Advertising Revenue, including any and all donations made in connection with the Licensed Service.

### 3. Calculation and Payment of License Fees

- A. For each License Fee Period, LICENSEE shall submit to SESAC a license fee report in the form attached hereto as Schedule "B," which is incorporated herein (each, a "License Fee Report"). Each such License Fee Report shall set forth the amount of Distribution Revenue, Advertising Revenue and Other Revenue during the applicable Designated Period identified in the chart below. LICENSEE shall submit the initial License Fee Report upon the execution of this Agreement, and shall submit subsequent License Fee Reports at least forty-five (45) days prior to the License Fee Period concerned (with the exception that, for agreements with an Effective Date of December 1 or June 1, the License Fee Report for the second License Fee Period shall also be due upon execution).

<b>License Fee Period</b>	<b>Designated Period</b>
January 1 – June 30	immediately previous May 1 – October 31
July 1 – December 31	immediately previous November 1 – April 30

- B. For each License Fee Period, LICENSEE shall pay to SESAC a License Fee equal to the greater of:
- (i) The Revenue Multiplier times the total amount of Distribution Revenue, Advertising Revenue and Other Revenue during the applicable Designated Period; and
  - (ii) The then-current Semi-Annual Minimum Fee.

The License Fee for the initial License Fee Period shall be payable upon execution of this Agreement and prorated to represent the number of months in such License Fee Period; and the License Fee for each subsequent License Fee Period shall be payable on or before the first day of such License Fee Period.

- C. LICENSEE shall pay all License Fees and submit all License Fee Reports for the period from the Effective Date through the last day of the calendar month when any termination of this Agreement becomes effective. LICENSEE's obligation to pay such License Fees and submit such License Fee Reports shall survive any termination of this Agreement. In the event LICENSEE fails to submit a completed License Fee Report for any License Fee Period within thirty (30) days following the date such License Fee Report is due, then, without limiting any of SESAC's other rights or remedies (including SESAC's right to further adjust such amount pursuant to an audit under Paragraph 6), the License Fee for such License Fee Period shall be deemed to be equal to two and one half (2 ½) multiplied by the greater of: (i) the License Fee which was due hereunder for the immediately previous License Fee Period and (ii) the then-current Semi-Annual Minimum Fee.

**Schedule "B" to SESAC Internet Performance License  
License Fee Report Form**

A.	Designated Period	
B.	Distribution Revenue	
C.	Advertising Revenue	
D.	Other Revenue	
E.	Total Revenue	