

MECHANICAL LICENSE AGREEMENT, dated November 14, 2011, between _____ (“Licensor”), and _____ (“Licensee”).

This Agreement provides for the grant of a mechanical license allowing Licensee to make and distribute phonorecords of the copyrighted work identified in Schedule A of this Agreement.

The parties agree as follows:

ARTICLE 1: DEFINITIONS

1. Definitions. Terms defined in the preamble have their assigned meanings and each of the following terms shall have the following meaning in this Agreement:

1.1 “Account” means providing written financial statements created in the ordinary course of Licensee’s business which are true and accurate in all material respects, and which identify the number of Copies made and distributed during the pertinent time period.

1.2 “Agreement” means this mechanical license agreement, as amended from time to time.

1.3 “Calendar Quarter” refers to the following time periods:

- Q1: January 1-March 31
- Q2: April 1-June 30
- Q3: July 1-September 30
- Q4: October 1-December 31.

1.4 “Copy” means one single fixation of the Recording in any of the following media forms:

- a) all phonorecords,
 - b) streaming downloads,
- and
- c) all other consumer audio-media now known or hereafter invented.

1.5 “Day” means calendar day, not business day.

1.6 “Recording” means the particular recording of the Work identified in Schedule A of this Agreement.

1.7 “Termination Date” means the date Licensee provides the accounting and payments described in §§3.2 (b) and (c) of this Agreement.

1.8 “Termination Period” means the time period between

- a) the last Day of the Calendar Quarter for which Licensee’s default in accounting or payment results in termination pursuant to §3.1 of this Agreement
- and
- b) the Termination Date.

- 1.9** “**Territory**” means the United States and its territories and possessions as may change or be enlarged from time to time.
- 1.10** “**Work**” means the particular musical composition identified in Schedule A of this Agreement.

ARTICLE 2: GRANT; TERM; ACCOUNTING; ROYALTIES

- 2.1 Grant.** By signing this Agreement, Licensor grants Licensee a mechanical license to make and distribute the Recording in the Territory during the Term of this Agreement; licensee shall have all rights and be subject to all obligations provided in 17 U.S.C. §115, except as otherwise provided in this Agreement.
- 2.2 Term.** This Agreement shall continue in perpetuity unless terminated pursuant to §3.3 of this Agreement.
- 2.3 Prior Agreements.** This Agreement does not supersede, nor in any way affect, any prior agreements now in effect respecting phonorecords of the Recording.
- 2.4 Accounting.**
- (a) **Accounting Schedule.** Not later than forty-five (45) Days after the last Day of each Calendar Quarter, Licensee shall Account to Licensor for the following:
 - (i) The number of Copies made during the most recently ended Calendar Quarter
 - and
 - (ii) the number of Copies distributed during the most recently ended Calendar Quarter.
 - (b) **Accounting Default.** If Licensee fails to Account to Licensor as provided in §2.4(a) of this Agreement, Licensor may provide written notice of default to Licensee and Licensee shall cure the default no later than forty-five (45) Days from the day notice is given.
- 2.5 Royalties.**
- (a) **Royalty Rate.** Licensee shall pay Licensor \$.06 per Copy distributed during each Calendar Quarter, except as otherwise provided under §§3.2(c)(i) and (ii).
 - (b) **Payment Schedule.** Licensee shall pay royalties at the rate specified in §2.5(a) of this Agreement not later than forty-five (45) Days after the last Day of each Calendar Quarter.
 - (c) **Payment Default.** If Licensee fails to pay the full amount of royalties to Licensor as provided in §§2.5(a) and (b) of this Agreement, or if Licensee’s method of payment is deficient or fails for any reason, Licensor may provide written notice of default to Licensee, and Licensee shall cure the default no later than forty-five (45) Days from the date notice is given.

ARTICLE 3: TERMINATION

3.1 Termination of License. If Licensor sends notice of default as described by §§2.4(b) and/or 2.5(c) of this Agreement and fails to remedy the default within forty-five (45) Days of the date notice is given, the license granted by this Agreement will automatically terminate.

3.2 Effect of Termination of License.

(a) **Infringement Liability.** Notwithstanding the release of liability provided in §4.1 of this Agreement, termination of the license under the provisions of §3.1 of this Agreement shall render the following activities actionable as acts of infringement under the Copyright Act (17 U.S.C. §§101-801), and shall fully entitle Licensor to statutory remedies, and all other remedies available at law or at equity:

- i) The making of new Copies;
- and
- ii) the distribution of any and all Copies for which royalties have not yet been paid.

(b) **Final Accounting.** If the license terminates pursuant to §3.1 of this Agreement, Licensee shall Account to Licensor for the following:

- (i) The total number of all existing Copies which have been made but not yet distributed;
- and
- (ii) the total number of Copies distributed during the most recently ended Calendar Quarter and during the Termination period.

(c) **Payment of Outstanding Royalties.** If the license terminates pursuant to §3.1 of this Agreement, Licensee shall pay Licensor the unpaid outstanding royalties for all Copies distributed during the most recently ended Calendar Quarter and during the Termination Period at the following rate:

- (i) \$.06 per Copy
- plus**
- (ii) Compound interest on the entire outstanding royalty balance at a rate of 2% per month accruing from the first Day of the Termination Period until the Termination Date.

(d) **Existing Undistributed Copies.** If any undistributed Copies remain in Licensee's possession at the Termination Date, Licensee shall either destroy those Copies, or shall contact Licensor within thirty (30) Days to negotiate a mutually agreeable course of action.

3.3 Termination of Agreement. If the license terminates pursuant to §3.1 of this Agreement, this Agreement will terminate as of the Termination Date.

ARTICLE 4: GENERAL PROVISIONS

- 4.1 Release of Liability.** Licensor explicitly releases and indemnifies Licensee from all liability for copyright infringement arising from Licensee's failure to provide timely notice of a compulsory license as required by 17 U.S.C. §115(b)(2).
- 4.2 Indemnification.** Licensee shall assume all responsibility for, and shall indemnify Licensor against, all damages, losses, claims, or other expenses arising from Licensee's business operations, including Licensor's reasonable attorney fees incurred in the defense of any action against Licensor resulting from Licensee's business conduct.
- 4.3 Sublicensing.** Licensee shall not sublicense any of the rights granted in this Agreement without Licensor's prior written consent.
- 4.4 Assignment.** This Agreement shall not be assigned by Licensee without the prior written consent of Licensor. This Agreement shall inure to the benefit of the Licensor, its successors and assigns.
- 4.5 Notice.** The notice provided for in §§2.4(b) and 2.5(c) shall be in writing and shall be deemed to be duly given when mailed by United States first class, certified, or registered mail, or when delivered by a nationally recognized delivery service.
- 4.6 Amendments.** This Agreement may only be amended by the parties' written agreement.
- 4.7 Waiver.** Licensor's waiver of Licensee's breach of any provision of this Agreement will not operate as Licensor's waiver of any subsequent breach.
- 4.8 Merger.** This Agreement is the final, complete, and exclusive statement of the parties' agreement on the matters specifically contained in this Agreement, and supersedes all previous negotiations and agreements.
- 4.9 Severability.** If any provision of this Agreement is illegal or unenforceable, that provision is severed from this Agreement and the other provisions remain in force.
- 4.10 Choice of Law.** This Agreement shall be interpreted under the laws of Pennsylvania.

IN WITNESS OF THEIR AGREEMENT, the parties have signed and delivered
it this __ day of _____, 20__.

LICENSOR

LICENSEE

SCHEDULE A

Publisher: _____
Composition: _____ ([TIME])
Composer: _____
Product #: INN741
Artist: _____
Naxos Label: _____
Release date: October 4, 2011
Royalties: \$.06/copy