

BACKGROUND MUSIC LICENSE AGREEMENT

THIS AGREEMENT (“**Agreement**”) is made as of **MMM DD, YYYY** by and between SEE MUSIC (HONG KONG) INTERNATIONAL LIMITED (hereinafter referred to as "**See Music**") and **COMPANY NAME** (hereinafter referred to, individually and collectively, as "**Licensor**").

See Music and Licensor shall hereinafter be severally referred to as "**Party**" and, collectively, as "**Parties**".

NATURE OF EXPLOITATION

See Music wishes and Licensor agrees to allow third-parties (“**Licensee(s)**”) to supply background music services to locations such as (but not limited to) retail shops, commercial businesses, airplanes, pubs and hotel rooms, covering the supply of music services to a customer or, where the Licensee appoints an authorized intermediary, a customer of such intermediary of the Licensee, solely for the purposes of playing to members of the public at the clients’ premises by means of any physical or digital media. This license offers a generic framework for Licensees supplying audio and/or music video content for playing to members of the public, regardless of whether members of the public have the ability to select the music they hear or if indeed they are required to pay to select such music.

See Music cannot guarantee that a Licensee will utilize the music content licensed by the Licensor for the purposes of this Agreement.

1. DEFINITIONS

“**Applicable Revenue**” shall mean the Gross Revenue less the agreed Permitted Deductions and less the Withholding Taxes.

“**Audio-Only Recording**” means any audio-only recording embodying a Musical Work whether or not such recording was originally made by or for the Licensee.

“**Audio-Visual Material**” shall mean any specific presentation of Musical Works and Recordings in synchronization or otherwise with images, whether moving or still.

“**Authorized Exploitation**” shall mean only the provision of a Music Service.

“**Catalog Number(s)**” shall mean the identifying mark(s) applied by the Licensee for the purposes of clause 14.4.

“**Copyright Owner**” shall mean in relation to any Musical Work or Recording each person firm or company wholly or partially owning or controlling the right to grant the license

“**Electronic Means**” shall mean any distribution of data in an electronic form and not in a physical hard copy, whether wire or wireless and shall include without limitation, public and private telecommunication networks and, for the avoidance of doubt, what is known as the Internet.

“**End Customer**” shall mean a customer of the Licensee or, where the Licensee appoints an authorized intermediary, a customer of such intermediary.

"**Gross Revenue**" shall mean the gross revenue of whatsoever nature relating to the Music Service, which shall be calculated in the following manner:

- i. the gross consideration paid by Licensee to See Music relating to the Music Services.
- ii. INTENTIONALLY DELETED

"**Hard Disc**" shall mean a computer or server based storage medium which can store sound recordings or other material and which is not primarily intended to be a means of physically distributing such material.

"**License**" shall mean the license granted by Licensor to See Music under clause 2(a) of this Agreement.

"**Master Copy**" shall mean:

- iii. a master tape (whether magnetic or digital, reel to reel or endless loop and in cassette or cartridge form); or
- iv. a laser read disc (including for the avoidance of doubt compact discs and DVDs); or
- v. a Hard Disc; or
- vi. such other format as Licensee shall have specified in writing in advance;

embodying a Recording (or Recordings) made for the purposes of duplication therefrom of copies to be supplied NOT solely for the purposes of the Authorized Exploitation.

"**Music Service**" shall mean a service consisting of the provision of Recordings by Licensees to End Customers (whether directly or through an authorized intermediary) for the sole purpose of the playing thereof by End Customers as background music or background audio-visual material by means of loudspeakers and/or monitors installed in and only intended to be viewed/heard within Sites owned or occupied by such End Customer.

"**Musical Work(s)**" shall mean any work consisting of music and/or any lyrics or words written to be used with music. It includes any part of such work.

"**Permitted Deductions**" shall mean the administrative and exploitation expenses with respect to the License in accordance with clause 2(a) consisting of ten percent (10%) of the Gross Revenue.

"**Physical Media**" shall mean physical media (such as, without limitation, tape, compact disc, DVD, CD-Rom) used for the physical distribution of content to users.

"**PRC**" or "**China**" means the People's Republic of China, which for the purpose of this Agreement, does not include the Hong Kong Special Administrative Region, the Macao Special Administration Region and Taiwan.

"**Quarter**" shall mean each of the periods 1 January to 31 March, 1 April to 30 June, 1 July to 30 September and 1 October to 31 December.

"**Recording**" means any audio-only or audio-visual recording embodying a Musical Work whether or

not such recording was originally made by or for the Licensee.

"**Royalty Fee**" shall mean the sum referred to in clause 4(a)ii.

"**Sites**" shall mean premises to which members of the public have access including shops, restaurants, public houses, shopping malls, hotels, night clubs, aircraft, ships, trains, coaches and similar premises. Sites shall include all forms of public transport.

"**Term**" shall mean the period starting on the Commencement Date until the first (1st) anniversary of the date hereof, with successive automatic renewals for one (1) year each, unless terminated earlier in accordance with clause 7.

"**Territories**" in relation to Music Services shall mean China and such other countries or territories (if any) as are notified by See Music from time to time, provided such other countries are approved in advance in writing by Licensor.

"**Withholding Taxes**" shall mean the tax payable on the amounts due to Licensor, in accordance with the tax regulation of PRC and in accordance with the trade treaty between PRC and Licensor's country of tax residence, this being XXXX% for COUNTRY NAME, in accordance with the tax residence certificate provided by Licensor on the Commencement Date and at the beginning of each subsequent calendar year.

2. LICENSE

- (a) Subject to and conditional on compliance with the terms and conditions contained herein and in particular subject to the exclusions and restrictions set out in clauses 3 to 6, Licensor grants See Music the non-exclusive rights and license to do the following in the Territory during the Term:
- i. the creation of a digital database of audio-only or music video tracks to source for supplying Music Services.
 - ii. the making of a copy of a work for the purpose of inclusion within a licensed Music Service.
 - iii. the creation of copies at the End Customer end on Physical Media or Hard Disk when Recordings are downloaded to an End Customer site by Electronic Means (and any intermediate copies).
- all for the sole purpose of the Authorized Exploitation.
- (b) All rights in each Musical Work or Recording other than those expressly granted to See Music herein are reserved to Licensor. In particular See Music shall not reproduce or authorize or permit the reproduction of any Musical Work or Recording or import or authorize or permit the importation of any Musical Work or Recording except as specifically set out herein or for any purpose other than the Authorized Exploitation.

3. EXCEPTIONS AND LIMITATIONS

- (a) For the avoidance of doubt, the License shall not permit See Music (or any other party, including, without limitation, the Licensee or the End Customer) to:
- i. reproduce Recordings within the Territories onto Master Copies and
 - ii. import Master Copies into the Territories which reproduce Recordings (except when the manufacture of such Master Copies was duly licensed by the Copyright Owner in the country of manufacture); and
 - iii. make copies of Master Copies within the Territories in the form of Physical Media or Hard Discs; and
 - iv. distribute by means only of rental, Physical Media to End Customers within the Territories.
- all for any other purpose than the Authorized Exploitation.
- (b) For the avoidance of doubt, the License does not extend to the graphic representation of lyrics of Recordings in any format whatsoever.
- (c) Without prejudice to the generality of clause 3(b), the License shall not apply to any Master Copy or copy thereof in which one or more Recordings are presented in a form such that the lyrics of that Recording are reproduced graphically on the screen as the music plays, for the purpose of viewers being able to sing along to the Recording as the music plays.
- (d) The License shall not extend to or permit any adaptation of any Recording unless Licensor has consented thereto. By way of example only, this applies to:
- i. making any arrangement of the music; or
 - ii. making any alteration to the lyrics; or
 - iii. any sampling (meaning the taking of part of the music and/or lyrics of a Recording and incorporating such part into another Musical Work) or the distribution or reproduction in the form of a sample of such part of a Recording; or
 - iv. using with music lyrics other than those written to be used with the music or authorized for use with the music; or
 - v. using with lyrics music other than that written to be used with the lyrics or authorized for use with the lyrics.
- (e) The License shall not extend to:
- i. the reproduction of any Recording or part thereof in the form of a parody or burlesque of any Recording or of any composer or writer of any Recording or any band or other group of artists which includes any composer or writer of any Recording; or
 - ii. the use of any Recording in any context which Licensee ought reasonably to consider as being likely to be insulting or detrimental to the composer or artist featured on the commercially

released sound recording of the music or Licensor.

- (f) All rights not specifically granted under this Agreement are hereby reserved, and the parties hereby agree that no implied licenses are to be construed hereunder.
- (g) Nothing in this Agreement affects the moral rights of authors of Musical Works or Recordings whether subsisting in the PRC or any other territory.

4. LICENSE FEES

- (a) In consideration of the License granted hereunder, See Music shall pay to Licensor:
 - i. INTENTIONALLY DELETED
 - ii. subject to clause 4(b), the Royalty Fee, this being fifty percent (50%) of the Applicable Revenue.
- (b) INTENTIONALLY DELETED
- (c) Annex A contains an example of Royalty Fee calculation.

5. PAYMENT

- (a) INTENTIONALLY DELETED
- (b) Within 45 days of the end of each Quarter See Music shall provide to Licensor (electronically) a fully and accurately completed self-accounting royalty statement (in the form attached in annex A).
- (c) Within 7 days of receipt of the royalty statement referred to in clause 5(b), Licensor shall raise an invoice for the due amount, and See Music shall pay such amount to Licensor no later than 15 days after the invoice is delivered to See Music (such delivery to be deemed to have occurred in accordance with clause 9(m)).
- (d) The Parties agree that in the event that Licensor fails to raise an invoice in accordance with clause 5(c), such invoice shall be raised in the next Quarter.
- (e) The Parties agree that See Music shall pay NO interest on any delayed payments pursuant to clause 5(d).
- (f) If the amount of the Royalty Fee due and payable with respect to any Quarter is less than USD Two Hundred (USD200) (the “**Threshold**”), then the payment of such Royalty Fee shall be deferred to the next Quarter until the aggregate amount of the Royalties due and payable for all related prior Quarters exceeds the Threshold, provided, however, all amount of the Royalties due and payable (regardless whether it exceeds the Threshold) shall be paid to Licensor upon termination of this Agreement.
- (g) Licensor hereby authorizes See Music to, and See Music shall, in accordance with the terms of this Agreement and subject to the applicable laws, report, pay or withhold any tax payable on the Royalty Fee in the Territory.

- (h) See Music shall be responsible for completing PRC tax and foreign exchange procedures relating to the payments of the Royalty Fees to Licensor. Licensor shall promptly provide See Music with all documents and information as requested by See Music or the tax authorities for paying taxes on the Royalty Fees.
- (i) For the purpose of the calculation and payments of the Royalty Fees, the Parties agree to use the intermediate exchange rate between USD and RMB published by the People's Bank of China or its agent on the date on which the relevant PRC tax authorities approve the payable taxes on the Royalty Fees.
- (j) Licensor's bank account information for all purposes under this Agreement is:

Bank Name: **BANK NAME**
Bank Address: **BANK ADDRESS**
Routing/SWIFT Number: **ROUTING/SWIFT NUMBER**
Account Number: **ACCOUNT NUMBER**
IBAN: **IBAN**
Account Name: **ACCOUNT HOLDER NAME**

See Music invoicing addresses are:

By email: dg_statements@kanjian.com
By mail: Room A 118, No. 160 Harbin Road, HongKou District, Shanghai, China
Attention: Accounting Department

6. CONFIDENTIALITY

- (a) The Parties hereby agree to use all reasonable efforts to take such actions as may be necessary and appropriate to prevent the unauthorized use and disclosure of the same and to keep and maintain all such confidential information in strict confidence, including but not limited to:
 - i. Ensuring that such confidential information is disclosed only to responsible employees of the respective Parties who have a bona fide need to know such confidential information and who have been properly instructed to maintain such confidential information in strict confidence;
 - ii. Not disclosing to any third party the terms and conditions of this Agreement or any confidential information;
 - iii. To safeguarding all documents and/or information against theft, damage, loss or access by unauthorized persons.
- (b) The Parties hereto agree that the confidential information disclosed to either party has been developed and acquired by the disclosing party over many years at great costs and expense.
- (c) The Parties agree that in the event of any violation of the duty of confidentiality, such violation constitutes a fundamental breach of this Agreement and shall result in grave and serious injury and damage to th Bank e other Party that no monetary damages can compensate such injury and damage.
- (d) The Parties agree that money damages are not a sufficient remedy for any breach of the confidentiality information by the recipient and that the discloser shall be entitled to specific performance or injunctive relief as a remedy for any breach or threatened breach thereof, in addition

to any other remedies available at law or in equity.

- (e) The Parties agree that, notwithstanding the termination of this Agreement for any reason whatsoever, the provisions in relation to the confidential information shall survive this Agreement and shall be continuing obligations for a period of five (5) years from the date of termination of this Agreement.
- (f) The Parties' duty of confidentiality herein shall not apply however to any part of the confidential information which:
 - i. Was already obtained in good faith by the receiving Party prior to the receipt thereof from the disclosing Party.
 - ii. Was already in the public domain or became so through no fault of the receiving Party.
 - iii. Was acquired by the receiving Party from a third party having the absolute right to convey the confidential information to the receiving Party without violating any duty of confidentiality;
 - iv. Is independently developed by the receiving Party; or
 - v. Is approved for the release of disclosure by prior written authorization by the owner of the confidential information.

7. TERMINATION

- (a) By written agreement of the Parties.
- (b) Each party shall have the right to terminate this Agreement by notifying the other Party in writing not less than three (3) months prior to the date on which the initial Term or any successive renewal Term expires.
- (c) Each party shall have the right to terminate this Agreement forthwith where the other party:
 - i. commits a material breach of this Agreement which is capable of remedy and fails to remedy such breach within thirty (30) clear days after receipt of notice of such breach; or
 - ii. commits a material breach of this Agreement which is not capable of remedy; or
 - iii. commits a breach of confidentiality.

Without limitation to the generality of the above, late payment of the Royalty Fee shall be deemed to be material breach of this Agreement.

- (d) Each party shall have the right to terminate this Agreement forthwith if Licensor:
 - i. is dissolved (other than pursuant to a consolidation, amalgamation or merger);
 - ii. becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;

- iii. makes a general assignment, arrangement or composition with or for the benefit of its creditors;
 - iv. institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition:
 - a. results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its administration, winding-up or liquidation; or
 - b. is not dismissed, discharged, stayed or restrained in the case of a winding-up petition within 14 days or in the case of an administration petition within 2 days, of the institution or presentation thereof;
 - v. has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
 - vi. seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets;
 - vii. has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter; or
 - viii. causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clause 7(c)i to 7(c)viii (inclusive).
- (e) Any such termination shall be without prejudice to any rights or remedies arising under this Agreement in respect of such breach or any other antecedent breach and subject to clause 7(e) the terms and conditions contained in this Agreement shall continue to have effect without limitation in time in relation to Recordings or copies thereof to which this Agreement has applied.
- (f) Upon termination of this Agreement and howsoever occurring for any reason, See Music shall cease to supply any Recording to any third party and the License and any approval granted under clause 2(a) shall forthwith be of no further effect.

8. REPRESENTATIONS AND WARRANTIES

- (a) Each Party hereby represents and warrants to the other Party that, as of the date hereof, the following representations and warranties are true, accurate and correct:
- i. such Party is duly incorporated and organized, and is validly existing in good standing, under the laws of its place of incorporation;
 - ii. the execution, delivery and performance of this Agreement and the performance by such Party of its obligations under this Agreement:

- a. are within the organizational power of such Party and has been duly authorized by all necessary corporate actions, and do not and will not contravene any provision of any applicable laws, such Party's constitutional documents or any contractual restriction binding upon or affecting such Party;
 - b. to such Party's knowledge, other than necessary approvals by and registrations with any competent approval authority in accordance with applicable laws, such Party's execution of this Agreement and the performance of its obligations hereunder do not require any other approval, authorization, license, exempt, consent or registration from or with any other governmental authorities, court or any other third party, and are not and will not be in contravention of the terms of the constitutional documents of such Party or any amendments thereto;
- iii. this Agreement has been duly executed by such Party and constitutes a legal, valid and binding obligation of such Party, enforceable against it in accordance with its terms;
 - iv. there are no actions, litigations, arbitrations, investigations or proceedings pending (or, to the actual knowledge of such Party, threatened or intended to be initiated) against such Party before any court or any governmental authorities challenging the legality, validity or legitimacy of this Agreement or the transactions contemplated thereunder or which may have material effect on such Party's ability to perform its obligations under this Agreement;
 - v. the person(s) executing this Agreement on behalf of such Party are duly authorized to do so; and
 - vi. such Party is financially sound and has no proceedings institutes against it for winding up or liquidation and has no receiver or any authority of the court appointed over its assets, and is in a position to clear its liabilities as and when they mature.
- (b) Licensor hereby represents and warrants to See Music that the following representations and warranties are true, accurate and correct:
- i. it has good and marketable title to, full ownership of or licensed rights to the Musical Works and Recordings and full power, right and authority to grant to See Music the rights and the License as contemplated hereunder;
 - ii. to the best of Licensor's knowledge all information provided by it to See Music with respect to the Musical Works and Recordings is true, correct and accurate ;
 - iii. Licensor is solely responsible for the payments of any and all amounts due to any underlying holders of any rights to the Musical Works and Recordings or any portion thereof, including, without limitation:
 - a. fees, income, monies, royalties or any other compensation due to artists, producers, copyright owners, and all other third parties whose performance is embodied in a Audio-Only Recording or Audio-Visual Material or is otherwise involved in the creation of the Audio-Only Recordings or Audio-Visual Materials;

- b. any other fees, compensation, royalties or other monies due and or payable with respect to the artwork, metadata, trademarks and logos in the Recordings or materials provided by Licensor.

9. MISCELLANEOUS

- (a) This Agreement shall be governed by, and construed in accordance with, the laws of the PRC.
- (b) In the event that any dispute arises in connection with the conclusion, performance or interpretation of this Agreement, the Parties shall attempt in the first instance to resolve such dispute through friendly consultations. If the dispute cannot be resolved in this manner within thirty (30) days after the dispute arises, any party shall be entitled to submit the dispute for arbitration to China International Economic and Trade Arbitration Commission (“CIETAC”) in Shanghai in accordance with the arbitration rules of CIETAC then in effect. The arbitral award shall be final and binding on the Parties. The arbitration tribunal shall consist of one (1) arbitrator to be agreed upon and appointed by the Parties. In the event the Parties cannot agree upon an arbitrator within twenty (20) days after the arbitration notice is served, the arbitrator shall be appointed by the Chairman of CIETAC. The arbitration proceedings shall be conducted in both English and Chinese.
- (c) Except as otherwise provided hereunder, each of the Parties shall pay for its own costs and expenses incidental to this Agreement and all transactions in connection therewith.
- (d) Except as otherwise provided hereunder, any and all tax liabilities arising in relation to this Agreement and related transactions shall be borne by each Party in accordance with relevant tax law applicable to such Party at the time such liabilities arise.
- (e) If at any time any one or more provisions hereof is or becomes invalid, illegal, unenforceable or incapable of performance in any respect, the validity, legality, enforceability or performance of the remaining provisions hereof shall not thereby in any way be affected or impaired.
- (f) This Agreement shall be binding on and shall inure for the benefits of the successors and assigns of the Parties hereto but shall not be assigned by any Party without the prior written consent of the other Party.
- (g) No failure of any Party to exercise and no delay on its part in exercising any right hereunder will operate as a release or waiver thereof, nor will any single or partial exercise of any right under this Agreement preclude any other or further exercise of it or the exercise of any right or prejudice or affect any right against others under the same liability whether joint, several or otherwise.
- (h) Any variation to this Agreement shall be binding only if it is pursuant to a document signed by all the Parties.
- (i) The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.
- (j) This Agreement constitutes the entire agreement and understanding between the Parties in connection with the subject-matter of this Agreement and supersedes all previous proposals, representations, warranties, agreements or undertakings relating thereto whether oral, written or otherwise and neither Party has relied on any such proposals, representations, warranties, agreements or undertakings.

- (k) This Agreement may be entered into in any number of counterparts and by the Parties to it on separate counterparts, each of which when so executed and delivered shall be the original, but all the counterparts shall together constitute one and the same instrument.
- (l) The Parties shall use all commercially reasonable efforts to take or cause to be taken all necessary or appropriate actions and do, or cause to be done, all things necessary or appropriate to consummate and make effective the transactions contemplated hereunder, including the execution of any additional document or instrument that may be reasonably necessary or appropriate to carry out any of the provisions hereof.
- (m) Notices or other communications required to be given by a Party pursuant to this Agreement shall be written in English or Chinese and shall be delivered personally, sent by a recognized courier service or by email to the address of the other Party set forth below. The dates on which notices shall be deemed to have been duly received shall be determined as follows:
- i. Notices given by personal delivery shall be deemed duly received on the date of personal delivery.
 - ii. Notices given by courier shall be deemed duly received on the date indicated on the receipt.
 - iii. Notices given by email shall be deemed duly received on the first business day following the date of successful transmission and receipt.

Notices to Licensor:

Address: COMPLETE ADDRESS

Attention: FULL NAME OR DEPARTMENT

Telephone: PHONE NUMBER INCLUDING INTERNATIONAL AND AREA CODES

Email: EMAIL ADDRESS

Notices to See Music:

Address: Room A 118, No. 160 Harbin Road, HongKou District, Shanghai, China

Attention: Licensing Department

Telephone: +86 21-6357-0107

Email: copyright@kanjian.com

[Signature Page to Follow]

IN WITNESS WHEREOF, the Parties hereto have executed this agreement, effective as of the date below written.

LICENSOR:

COMPANY NAME

By: _____

Name: **FULL NAME**

Title: **JOB TITLE/POSITION**

SEE MUSIC:

SEE MUSIC (HONG KONG) INTERNATIONAL LIMITED.

By: _____

Name: Shen Jia

Title: CEO

Accounting Royalty Fee Form Example (Appendix A)

Company name / Licensor	Company Name				
Calendar period to which return relates e.g. 2017 Quarter 1 (01 January – 31 March 2017)	Quarter 1				
PAYMENT CALCULATIONS: in US Dollars		Month 1	Month 2	Month 3	TOTAL THIS QUARTER
Gross Revenue for this Quarter	(A)	1,000.00	1,000.00	1,000.00	3,000.00
Permitted Deductions (10% of A)	(B)	100.00	100.00	100.00	300.00
Applicable Revenue (A-B)	(C)	900.00	900.00	900.00	2,700.00
Royalty Fee (50% of C)	(D)	450.00	450.00	450.00	1,350.00
Withholding Tax (10% of D)	(E)	45.00	45.00	45.00	135.00
Total royalty fee this Quarter (D-E)					1,215
Date	April 27, 2017				