



DIGITAL MUSIC SERVICE INTERACTIVE MUSIC PERFORMANCE LICENSE AGREEMENT

This AGREEMENT (the “**Agreement**”) is by and between BROADCAST MUSIC, INC[®] (“**BMI**”[®]), a Delaware corporation with its principal offices at 7 World Trade Center, 250 Greenwich Street, New York, New York 10007 and entity described on the Signature Page attached hereto and referred to herein as “**LICENSEE**” or “**You**” for the public performance of BMI Works through LICENSEE’s Service (all capitalized terms as defined below). BMI and LICENSEE are referred to herein individually as a “**Party**” and collectively as the “**Parties**”.

NOW, THEREFORE, intending to be legally bound, the Parties hereby agree as follows:

1. **TERM:**

A. This Agreement begins on the first day of (month/year) September, 2020 (customarily, the launch date of your Music Service or the first date music was used as part of your Music Service) (the “**Start Date**”) and, unless and until it is earlier terminated in accordance with the provisions hereof, continues through December 31, 2020 and thereafter automatically renews on a calendar year-to-year basis (the “**Term**”).

B. Either Party may terminate the Agreement effective at the end of any calendar year beginning with December 31, 2020, upon prior written Notice to the other Party no later than December 1st of such year.

C. In the event that during the Term LICENSEE ceases permanently to publicly perform music in connection with the Music Service (as opposed to temporarily disabling the Music Service and/or the music made available through the Music Service), LICENSEE may terminate this Agreement by sending written notice to BMI within thirty (30) days after the date LICENSEE ceases to publicly perform music in connection with the Music Service. The Agreement shall be deemed to be terminated and any application for a BMI license withdrawn, retroactive to the effective date of termination; provided, however that within sixty (60) days after the effective date of termination, LICENSEE shall submit to BMI all reports and payments due under the Agreement through the effective date of termination. In the event that LICENSEE fails to provide such reports and payments within such sixty (60) day period, the Agreement shall continue to govern the Term prior to LICENSEE’s termination, and (1) with respect to any outstanding payments (including those that may be due as a result of an audit conducted pursuant to Paragraph 7 below) and/or reports required under this Agreement, LICENSEE shall be required to pay interest to BMI at a rate of 1.5% per month until such payments are made and reports submitted to BMI; (2) with respect to any outstanding financial reports, BMI shall have the right to conduct an audit pursuant to Paragraph 7 except that such audit shall be at LICENSEE’s sole cost and expense, and LICENSEE shall not have the right to postpone such audit; and (3) with respect to outstanding music use reports, BMI shall have the right on thirty (30) days’ notice, at LICENSEE’s sole cost and expense, to examine LICENSEE’s usage logs and other data reasonably expected to assist BMI in identifying what music was played through the Music Service during any unreported period during the Term.

2. **DEFINITIONS:**

As used in this Agreement, the following terms shall have the following respective meanings:

A. “**Application(s)**” shall mean LICENSEE’s branded software application(s) owned, operated and controlled by LICENSEE and made available through distribution channels, including, but not limited to, mobile app stores or desktops for the sole purpose of making available the Music Service to end-user consumers. LICENSEE may license “**Additional Applications**” owned, operated and/or controlled by LICENSEE by listing such Additional Applications on Exhibit A hereto, and may amend Exhibit A by written agreement signed by both Parties. LICENSEE must comply separately with all reporting requirements and pay separate License Fees under this Agreement, for each Additional Application listed on Exhibit A. References to Applications shall include those Additional Applications listed on Exhibit A.

B. **"BMI Works"** shall mean the musical compositions for which BMI has the right to license the non-dramatic public performance on or through the Music Service at the time of performance of such musical compositions via the Music Service during the Term.

C. **"Execution Date"** shall mean the date on which BMI countersigns this Agreement as indicated in BMI's signature block to this Agreement.

D. **"Gross Revenue"** shall mean all revenue generated and recognized by LICENSEE in accordance with U.S. GAAP in connection with the operation of the Licensed Service (subject to this Paragraph 2.D), including: (i) access to and/or use of the Music Service or portions thereof (including LICENSEE's Applications) by end users in the Territory, including revenue received in consideration of time spent on the Music Service (e.g., subscription revenue or other fees); (ii) third-party advertising (including sponsor "hot links") on, or sponsorship of, all or any part of the Music Service in the Territory, including, but not limited to, in-stream and banner advertising generated in connection with LICENSEE's player (including revenue generated from banners ads on a Web Page from which the Music Service is made available from), revenue from third parties for including their programming on LICENSEE's web site, and revenues generated from sponsors; (iii) commissions, referral fees and any revenue generated from third parties on all transactions initiated through the Music Service in the Territory; (iv) music-product placement or promotion of music, artists and/or labels, in both cases, within the Music Service; and (v) sales of proprietary software used to access the Music Service in the Territory; *provided, however*, that revenue from the sale of proprietary software shall only be considered Gross Revenue for purposes of this Agreement to the extent that the software is required in order to access the Music Service and LICENSEE packages or includes access to the Music Service with the license for such software. Gross Revenue shall also include the fair market value of merchandise, services or anything of value (i.e., trade and barter), which LICENSEE may receive in lieu of cash consideration, which LICENSEE treats as revenue for accounting purposes. LICENSEE represents and warrants that it does not currently solicit for itself or receive donations and/or charitable contributions for itself in connection with the Music Service, and will include any such charitable revenue specifically contributed to advance the Music Service as Gross Revenue in the event that it receives any such revenue during the Term. LICENSEE can deduct from the above revenues, solely to the extent it recognizes as expenses in accordance with U.S. GAAP, (x) advertising agency commissions from the applicable advertising revenue, but only up to 15% of such advertising revenue, actually incurred to a third party advertising agency that you do not own or control, and (y) bad debts that you write off during a reporting period which are related to any billings that you previously reported, provided you include any recoveries of bad debts that were previously written off. LICENSEE will not account for the same specific deduction or exclusion more than once. Furthermore, if LICENSEE is required under U.S. GAAP to exclude any fees paid by LICENSEE to third parties prior to recognizing revenue, and such exclusion exceeds a limitation on an applicable deduction set forth above, Gross Revenue for purposes of the calculation of License Fees will be increased by the amount such exclusion exceeded the limitation (e.g., with respect to the 15% limitation on the deduction for advertising agency commissions, if U.S. GAAP requires LICENSEE to exclude \$40 of commissions prior to recognizing what would be \$100 in revenue before such exclusion, then Gross Revenue would nevertheless be \$85 for purposes of the License Fees calculation). In the event that LICENSEE or a third party chooses to bundle the Music Service with other products and services for one bundle fee (the **"Bundle"**) with access to the Music Service, the total retail revenue received for the Bundle (**"Music Service Allocated Retail Value"**) shall be allocated among the Music Service and the other products and services in proportion to the stand-alone retail price of each product. For example, if LICENSEE sells the Music Service on a stand-alone basis for \$10.00/month and sells a data plan or hardware device on a stand-alone basis for \$5.00/month, and LICENSEE sells them together as a bundle for \$12.00/month, then \$8.00/month shall be attributed to the Music Service, and \$4.00/month shall be attributed to the LICENSEE data plan or hardware device. If the Parties are unable to arrive at a stand-alone retail price point for any of the individual elements of the Bundle, the Parties shall negotiate in good faith to determine the appropriate Music Service Allocated Retail Value for the Bundle, and failing to reach an agreement, may go to an arbitration request a determination of the Music Service Allocated Retail Value for the Bundle.

E. **"Music Service"** shall mean the digital music service, solely as described in Exhibit C, that LICENSEE produces and/or packages and then makes available to users in the Territory via transmissions delivered over the Internet, mobile and/or wireless networks through LICENSEE's (i) Web Site (and/or LICENSEE's player that is accessed and launched solely from LICENSEE's Web Site) and (ii) Applications (as may be limited in Exhibit C) to such users' devices that are capable of receiving such transmissions.

F. **“Music Service Play”** shall mean each and every transmission of a musical composition (including any portion thereof) to each and every user of the non-subscription component of the Music Service (e.g., ten (10) different musical compositions transmitted to one user is ten (10) Music Service Plays; one musical composition transmitted to ten (10) users is ten (10) Music Service Plays); provided, however, that LICENSEE shall not be required to count as Music Service Plays transmissions of musical compositions made during a user’s free trial period of up to thirty (30) days, so long as such transmissions are not monetized (ad-supported or otherwise) in any way during such free trial period. However, commencing on the thirty-first (31st) day of such user’s free trial period, each transmission of a musical composition to such user shall be counted as a Music Service Play.

G. **“Subscriber”** shall mean each individual user account for which initial or continued access to and/or use of the Music Service is specifically granted by LICENSEE for a specified period (i) in consideration of a fee or other payment (e.g., payment of a subscription fee) (each instance of an assessment for fee or payment, a **“Billing Event”**, provided that if an assessment for fee or payment covers a period longer than one (1) month, a Billing Event will be deemed to have occurred on the first day of each subsequent thirty (30) day period during the period to be covered by such fee or payment), or (ii) pursuant to a free trial or other grant of limited access to the Music Service without requirement or assessment of payment, to the extent such access extends beyond thirty (30) days without a Billing Event being triggered (the first day of each subsequent thirty (30) day period following the first thirty (30) days of free access, a **“Free Access Event”**). For the avoidance of doubt, a user account during a free trial period shall be considered a Subscriber commencing on the thirty-first (31st) day of such free trial period (i.e., the first Free Access Event) even if the free trial period extends beyond thirty (30) days, and shall be subject to the License Fee set forth in Paragraph 4.A.(i) below.

H. **“Subscriber Month”** shall mean each and every calendar month period that triggers a Billing Event or a Free Access Event for each and every Subscriber during each and every calendar quarter of the Term. For example, for a service that does not offer a free trial period, if one user signs up as a Subscriber on January 28 and is assessed a subscription fee on January 28 and the 28th of each subsequent month, such Subscriber’s total Subscriber Months for the first calendar quarter of the year will equal three (3) (i.e., the Billing Events during such calendar quarter that would be triggered on January 28, February 28 and March 28). However, if that Subscriber ended their subscription on March 2, such Subscriber’s total Subscriber Months for the calendar quarter will equal two (2) (i.e., the Billing Events during such calendar quarter that would be triggered on January 28 and February 28). As another example, for a service that offers a 60 day free trial period, if a user signs up as a Subscriber for the free trial period on January 15, such Subscriber’s total Subscriber Months for the first calendar quarter of the year will equal two (2) (i.e., the first Subscriber Month during such calendar quarter corresponds to the Free Access Event that would be triggered on February 15, which is the 31st day of the free trial period, and the second Subscriber Month during such calendar quarter corresponds to the Billing Event that would be triggered on March 15).

I. **“Territory”** shall mean the U.S. and its commonwealths, territories, and possessions, including the commonwealth of Puerto Rico.

J. **“Web Page”** means a set of associated files transferred sequentially from the Web Site to, and rendered more or less simultaneously by, a browser. For purposes of this Agreement, ‘pop-up’ windows, proprietary media players, and/or ‘daughter’ windows with embedded media players that launch when accessing performances of music or upon loading the Web Page are considered part of the Web Page from which they were launched and not a separate Web Page.

K. **“Web Site”** shall mean the Internet domain owned, operated and/or controlled by LICENSEE comprising a series of interrelated Web Pages currently registered with a domain name registration service and located exclusively at the URL (i.e., the root domain of LICENSEE’s Web Site): www.audiodio.com. LICENSEE may license **“Additional Web Sites”** owned, operated and/or controlled by LICENSEE by listing such Additional Web Sites on Exhibit A hereto, and may amend Exhibit A by written agreement signed by both Parties. LICENSEE must comply separately with all reporting requirements and pay separate License Fees under this Agreement, for each Additional Web Site listed on Exhibit A. References to Web Site shall include those Additional Web Sites listed on Exhibit A.

3. GRANT OF RIGHTS:

A. BMI hereby grants to LICENSEE, for the Term, a non-exclusive through-to-the-user license to perform publicly BMI Works within the Territory, in and as part of LICENSEE's Music Service transmitted or caused to be transmitted by LICENSEE. This Agreement does not cover public performances outside of the Territory which may be subject to appropriate separate licensing.

B. This Agreement grants only public performing rights in musical works to LICENSEE, and does not grant any reproduction, distribution, or any other intellectual property right(s) in such musical works, or any digital performance, reproduction, distribution, or any other intellectual property right(s) in sound recordings, to any person or entity.

C. This Agreement does not include dramatic rights or the right to perform dramatico-musical works in whole or in substantial part. This Agreement also does not license public performances in any commercial establishments, including, but not limited to, where all or a portion of the Music Service is used as a commercial music service (as that term is customarily understood in the industry); such performances of BMI music shall be subject to appropriate separate licensing.

D. Except as encompassed in the through-to-the-user nature of the license as provided in this Agreement, nothing herein shall be construed as the grant by BMI of any license in connection with any transmission which is not part of the Music Service transmitted or caused to be transmitted by LICENSEE to users of the Music Service, or as authorizing LICENSEE to grant to others (including, but not limited to, third-party web sites, online services, broadband ISPs and mobile operators) any license or right to perform publicly by any means, method or process whatsoever, any of the musical compositions licensed hereunder. It is expressly understood and agreed that while this grant of rights in this Agreement covers the transmission of BMI Works via the Music Service and through LICENSEE's Applications, this Agreement does not include or extend to any other uses of BMI Works on any third-party web site, service or platform that it is not directly made through the Music Service. Such excluded uses of BMI Works shall be subject to separate licensing between BMI and the relevant third-party service, platform or user.

E. The Grant of Rights set forth in this Agreement for a through-to-the-user license is experimental, non-precedential, and without prejudice. BMI reserves the right to dispute in any future legal proceeding or negotiation between the Parties or any third-party the legal requirement of a through-to-the-user scope of license grant and the license fees relating thereto, and neither Party shall cite or rely upon the fact that no separate or additional fee has been ascribed to the through-to-the-user scope of license grant as precedent for the value thereof in any future legal proceeding or negotiation.

4. LICENSE FEES:

A. In consideration of the license granted herein for the Music Service, LICENSEE shall calculate and pay to BMI "**License Fee(s)**" on a calendar quarterly basis which shall be equal to the sum of the amounts set forth in (i) and (ii):

- (i) With respect to any subscription component of the Music Service, the greater of:
 - (a) 2.5000% of all Gross Revenue generated during the applicable calendar quarter in connection with such subscription component of the Music Service, **and**
 - (b) the amount of 25 cents (\$0.25) multiplied by the total number of Subscriber Months for every Subscriber during the applicable calendar quarter.
- (ii) With respect to any non-subscription free-to-the-user component of the Music Service, the greater of:

- (a) 2.5000% of all Gross Revenue generated during the applicable calendar quarter in connection with such non-subscription free-to-the-user component of the Music Service, **and**
- (b) the amount of \$0.00006 multiplied by the total number of Music Service Plays during the applicable calendar quarter.

B. License Fees are due on or before the 30th day after the end of each calendar quarter when LICENSEE is required to file its Financial Reports (see Paragraph 6 below).

C. Acceptance by BMI of any License Fee payments or any Music Use Report shall not preclude BMI from subsequently questioning or auditing any aspect of such amounts or any such Music Use Report.

5. ANNUAL MINIMUM LICENSE FEE:

A. Upon signing this Agreement, and by January 30 of each calendar year of the Term thereafter, LICENSEE shall pay to BMI an “**Annual Minimum License Fee**” for each calendar year of the Term, which Annual Minimum License Fee shall be credited and recoupable against any License Fees due hereunder, but which shall be nonrefundable. The Annual Minimum License Fee for calendar year 2020 is \$381.00 for each Web Site and Application listed on Exhibit A. LICENSEE may prorate the Annual Minimum License Fee due for the initial calendar year of the Agreement based on the number of months of the initial calendar year that will be covered under the Agreement (e.g., if the Start Date is July 1, 2020, the prorated Annual Minimum License Fee would be \$190.50 to cover the period from July through December 31, 2020).

B. For each year of the Term after 2020, the Annual Minimum License Fee shall be increased to reflect the percentage change increase in the United States Consumer Price Index (All Urban Consumers, All Items) between October of the preceding year and October of the next preceding year, rounded to the nearest dollar amount.

6. FINANCIAL REPORT FORMS: LICENSEE shall submit to BMI financial reports in connection with the Music Service as follows:

A. For each calendar quarter of this Agreement, a report, signed by an officer of LICENSEE confirming such report is complete and accurate, in a form and format and containing such information as set forth on the “**Financial Report**” attached as Exhibit B hereto, due at the same time as the applicable quarterly License Fee as set forth in Paragraph 4. Such Financial Report form shall include information sufficient to verify the accuracy of the License Fee, as defined in Paragraph 4 above. LICENSEE agrees to use commercially reasonable efforts to use (i) software which BMI may provide to LICENSEE to prepare and deliver such reports electronically, or (ii) such other commercially reasonable alternative method upon which the Parties agree.

B. In addition to any other remedy that BMI may have, BMI shall have the right to estimate the License Fee due for a given calendar quarter on the basis of the quarterly License Fee for the previous quarter and bill LICENSEE therefor in the event that LICENSEE fails to report as required. Neither BMI’s estimation of the fee for a reporting period nor anything else shall relieve LICENSEE of the obligation to report and make actual fee payments for the reporting period. If BMI’s estimate was less than the actual License Fees due, LICENSEE shall pay BMI, at the time the report is rendered, the difference between the actual fee due and the estimated fee paid, plus any Late Payment Charges on such difference. If LICENSEE’s report reflects that the actual fee for the calendar quarter was less than the estimated fee paid, BMI shall credit the overpayment to LICENSEE’s account.

7. AUDIT:

A. BMI has the right to require that you provide BMI with data or information sufficient to ascertain the License Fee due under this Agreement. BMI (and its duly authorized representatives) may, at BMI’s expense and during customary business hours, examine the books and records of account of LICENSEE relating to any and all statements, accountings and reports required under this Agreement (including Music Use Reports) in order to verify their accuracy and the calculation of License Fees (including, but not limited to, the calculation of the Music Service Allocated Retail Value, Music Service Plays, Subscribers, Subscriber Months, Billing Events and Free Access Events) and/or ascertain the License Fee due BMI for any unreported period, and verify the

compliance with the representations and warranties contained in Paragraph 11 below. BMI will only conduct such an examination once (if at all) with respect to each year of the Term (or portion thereof) and will provide you with 30 days prior written notice before conduction such an examination. The audit rights specified herein shall survive the termination of this Agreement.

B. In addition to any other remedy that BMI may have, in the event that BMI's audit reveals that LICENSEE has underpaid license fees to BMI, LICENSEE shall immediately pay the amount owed. If an audit conducted pursuant to the terms of this Agreement reveals an underpayment of less than ten percent (10%), then BMI may assess and impose a Late Payment Charge as defined below if payment in full is not made within ten (10) days after the conclusion of the audit. If such underpayment amounts to ten percent (10%) or more, LICENSEE shall immediately pay BMI the amount LICENSEE owes BMI as determined by the audit plus a Late Payment Charge, as defined below, commencing from the actual date such monies were due.

8. LATE CHARGES: BMI may impose a "**Late Charge**" on the following bases:

A. Late Payment Charge. BMI may impose a "**Late Payment Charge**" of one and one-half percent (1½%) per month from the date payment was due for any payment (e.g., License Fees, Annual Minimum License Fee, or any portion thereof) that is received by BMI more than ten (10) days after the due date as set forth in this Agreement; and

B. Late Reporting Charge. If LICENSEE fails to submit a Financial Report when due as set forth in this Agreement, BMI may impose a "**Late Reporting Charge**" equal to the greater of:

- (i) A flat fee of \$50 per month starting from the first month in which the Financial Report was due; and
- (ii) One and one-half percent (1½%) per month starting from the first month in which the Financial Report was due, calculated against the total License Fee as reflected in the Financial Report when it is ultimately submitted to BMI.

9. MUSIC USE REPORTS:

A. LICENSEE shall provide to BMI, in electronic form, separate quarterly "**Music Use Reports**" for each of the types of programming offered through the Music Service, which reports shall include, on a per-track basis, the title of each musical work performed during the applicable reporting period, the featured artist who recorded each such work, and the number of times each such work was performed by the Music Service in the applicable calendar quarter. LICENSEE's obligations regarding the Music Use Reports specified in this paragraph shall survive the termination or cancellation of this Agreement.

B. LICENSEE shall deliver to BMI Music Use Reports on or before the thirtieth (30th) day following the end of each calendar quarter of the Term. LICENSEE shall deliver the reports to BMI in a mutually agreed method. Additionally, LICENSEE also agrees to make available to BMI such reports in real time and online through a secured web site or other online device such that BMI can log in and access the data twenty-four (24) hours a day, seven (7) days a week, solely in the event and to the extent that LICENSEE develops such a site or device and offers its other licensors the ability to access information through such a site or device.

C. Notwithstanding anything in this paragraph to the contrary, if LICENSEE provides additional data to any other licensor of musical work performance rights with respect to the use of music in connection with the Music Service, including, but not limited to, more detailed information about the identity and/or use of music in connection with the Music Service or more frequent reports, LICENSEE shall also provide such information and/or more frequent information to BMI.

10. INDEMNIFICATION:

BMI shall indemnify, save and hold harmless and defend LICENSEE from and against any and all claims, demands and suits that are first made after the Execution Date and that are brought within the Territory alleging copyright infringement under U.S. Copyright Law that may be made or brought against you or them solely with respect to the public performance within the Territory during the Term of BMI Works as licensed

hereunder. BMI's obligations under this Paragraph, however, are limited to those claims, demands or suits that are made or brought within the Territory under U.S. Copyright Law, and shall in no way extend to any (i) performances of BMI Works that occurred prior to the Start Date of this Agreement, and/or (ii) claims, demands or suits made or brought before the Execution Date of this Agreement or after the termination of this Agreement where such termination is the result of your failure to cure a breach within the Cure Period specified in Paragraph 12 below. BMI has no obligation to indemnify LICENSEE for any claim, demand or suit that is made or brought against LICENSEE when LICENSEE's account is not in good standing. For purposes hereof, if LICENSEE fails to cure a breach within the **Cure Period**, then LICENSEE's account is not in good standing as of the beginning of the Cure Period through the time that BMI accepts a cure of such breach. BMI's acceptance of a cure of such breach does not serve to revive BMI's indemnification obligation for the period during which the account was not in good standing as of the beginning of the Cure Period. This indemnity also shall not apply to transmissions of any musical work by LICENSEE commencing immediately after written request from BMI that LICENSEE refrain from performance of such work. LICENSEE agrees to give BMI prompt Notice of any such claim, demand, or suit, to deliver to BMI with such Notice any and all communications and documents pertaining thereto, and to cooperate with BMI with respect thereto, and BMI shall have full charge of the defense and/or settlement of any such claim, demand, or suit; provided, however, that LICENSEE may retain counsel on LICENSEE's behalf and at LICENSEE's own expense and participate in the defense of such claim, demand or suit. LICENSEE represents and warrants to BMI that it is not currently aware of any claims, demands or suits threatened against LICENSEE in connection with the performance of BMI Works on the Music Service prior to the Execution Date of this Agreement, nor is LICENSEE aware of any facts or circumstances that would serve as a basis for such a claim, demand or suit.

11. REPRESENTATIONS AND WARRANTIES:

LICENSEE represents and warrants that: (i) it owns, operates, and/or controls the Music Service for the primary purpose of generating Gross Revenue, (ii) the information provided in Exhibit C is true and correct and does not omit any material facts that would be necessary to make such information not misleading. To the extent that LICENSEE engages in activities with respect to the Music Service that are not, as described in Paragraph 3, covered by this Agreement, LICENSEE will inform BMI of such activities. LICENSEE understands and acknowledges that BMI has relied on the accuracy and completeness of LICENSEE's description of the service to be licensed in agreeing to the terms of this Agreement.

12. BREACH OR DEFAULT:

BMI has the right to terminate this Agreement, effective as of the date of BMI's first Notice to you of a breach of any term under this Agreement, if you do not cure the breach within thirty (30) days after receiving the first Notice from BMI (such thirty (30) day period, the "**Cure Period**"). Additionally, any attempt by you to cure a breach after the Cure Period is voidable by BMI if, after the Cure Period and before your attempt to cure such breach, you become aware of any claims, demands, or suits, for which you may seek indemnity from BMI under Paragraph 10 above. BMI hereby expressly reserves the right to refund any payment it may receive from you and terminate this Agreement under such circumstances in lieu of indemnifying you for such claims, demands, or suits. The right to terminate is in addition to any other remedies BMI may have, and no waiver by BMI of full performance of this Agreement in any one or more instances shall be a waiver of the right to require full and complete performance of this Agreement for the remainder of the Term. Notices of breach pursuant to this paragraph may be sent by BMI via email to LICENSEE.

13. TERMINATING THE AGREEMENT:

If BMI terminates its agreements with all other customers in your class and category, BMI can terminate this Agreement at any time during the Term by notifying you in writing at least thirty (30) days before the effective date of termination.

14. ARBITRATION:

All disputes of any kind, nature or description arising in connection with the terms and conditions of this Agreement (except for matters within the jurisdiction of the BMI rate court) shall be submitted to "**Arbitration**" in the City, County, and State of New York under the then prevailing rules of the American Arbitration Association by an arbitrator or arbitrators to be selected as follows: Each of the Parties shall, by written notice

to the other, have the right to appoint one arbitrator. If, within ten (10) days following the giving of such notice by one Party the other shall not, by written notice, appoint another arbitrator, the first arbitrator shall be the sole arbitrator. If two arbitrators are so appointed, they shall appoint a third arbitrator. If ten (10) days elapse after the appointment of the second arbitrator and the two arbitrators are unable to agree upon the third arbitrator, then either Party may, in writing, request the American Arbitration Association to appoint the third arbitrator. The award made in the arbitration shall be binding and conclusive on the Parties and judgment may be, but need not be, entered in any court having jurisdiction. Such award shall include the fixing of costs, expenses, and attorneys' fees of arbitration, which shall be borne by the unsuccessful Party.

15. REMOVAL OF WORKS:

BMI reserves the right at its discretion to withdraw from the license granted hereunder any musical work as to which legal action has been instituted or a claim made that BMI does not have the right to license the performing rights in such work or that such work infringes another composition.

16. NOTICE:

All notices and other communications under this Agreement (“**Notice**”) must be in writing and sent to the address(es) or fax number(s) designated by LICENSEE or BMI as designated in this paragraph (each address or fax number, hereinafter, a “**Notice Address**”), and to BMI’s Notice Address(es). Either Party may change one or more of its Notice Addresses during the Term of the Agreement by providing Notice to the other, and both Parties have an obligation to keep their Notices Addresses current throughout the Term, since Notice that is sent to a Notice Address will be deemed received: (i) when sent electronically to the email address designated for such purpose by the Parties; (ii) when delivered in person; (iii) upon confirmed transmission by facsimile device; (iv) five (5) days after postmarked by ordinary first class, registered, or certified, postage prepaid U.S. mail; or (v) as of the date of confirmed delivery by private courier service. Notwithstanding the foregoing, Notices from LICENSEE to BMI requesting cancellation under Paragraphs 1.B or 1.C of the Agreement, or advising BMI of a claim, demand, or suit under Paragraph 10 of the Agreement, cannot be sent by email.

BMI Notice Address: Executive Vice President, Creative & Licensing
7 World Trade Center
250 Greenwich Street
New York, New York 10007-0030

with a separate copy to:

Senior Vice President and General Counsel (sent to the address above)
BMI email address: digitalaccount@bmi.com

17. ASSIGNMENT:

This Agreement may not be assigned or otherwise transferred (whether by change of control, merger, operation of law or otherwise) without the prior written consent of BMI, not to be unreasonably withheld. For the avoidance of doubt, it is reasonable for BMI to withhold such consent if LICENSEE has failed to submit any payments or reports due under this Agreement.

18. MISCELLANEOUS:

A. Reports and/or payments that are due on a weekend day (or a nationally recognized holiday on which the U.S. Postal Service is not providing service) and received by BMI before the close of business on the next business day following the weekend day or holiday, will not be considered late under the Agreement.

B. BMI shall, upon reasonable written request, advise LICENSEE whether particular musical works are available for performance as part of BMI's repertoire. LICENSEE shall provide the title, publisher(s) and the writer/composer(s) of each musical composition requested to be identified.

C. In the event that the payment of any license fee to BMI by LICENSEE pursuant to this Agreement causes BMI to become liable to pay any state or local tax, other than income tax, which is based upon the license fees received by BMI from LICENSEE, LICENSEE agrees to pay BMI the full amount of such tax together with LICENSEE's fee payment(s) as invoiced by BMI, within normal payment terms; provided, that BMI is permitted by law to pass through such tax to LICENSEE; and that BMI will make reasonable efforts to seek to be exempt from the tax.

D. BMI and LICENSEE shall treat the terms of this Agreement as each other's, and BMI shall treat LICENSEE's financial, web site traffic, and music usage information that you provide under this Agreement (or that BMI obtains through an audit) as LICENSEE's, "**Confidential Information.**" Confidential Information may be made available to the Parties' respective agents and employees who need to know such information in order to administer this Agreement, and who are required to protect the Confidential Information on terms at least as restrictive as those set forth in this Agreement. LICENSEE's Confidential Information may also be made available to BMI-represented songwriters, composers, music publishers, as well as foreign rights organizations, but only to show the royalties generated from your use of their works (e.g., song X was played Y times and earned \$Z in royalties). Neither Party will otherwise disclose the other Party's Confidential Information, provided that if a Party is required to do so by law or legal process or if BMI seeks to do so in connection with any claim, demand or suit in which BMI is involved pursuant to Paragraph 10 above, such Party may make such disclosure so long as it provides the other Party prompt prior notice of its intended disclosure so as to allow the other Party to seek a protective order or other remedy to limit the disclosure of its Confidential Information. BMI may, however, use the information in LICENSEE's Financial Reports and Music Use Reports and the financial and music use reports from other customers to compile aggregate financial and market data, and may disclose such aggregate market data publicly so long as BMI does not specifically identify your Confidential Information as coming from you.

E. This Agreement constitutes the entire understanding between the Parties with respect to the subject matter hereof. This Agreement is not binding on any Party to this Agreement until it has been signed by both Parties. This Agreement cannot be waived, added to or modified orally and no waiver, addition or modification shall be valid unless in writing and signed by the Parties. This Agreement, its validity, construction, and effect, shall be governed by the laws of the State of New York, without regard to choice of law rules. A finding by a court of competent jurisdiction that any provisions herein are void or unenforceable shall not affect the validity or enforceability of any other provisions.

F. The Parties to this Agreement agree that any applicable law that would require interpretation of any claimed ambiguities in this Agreement against BMI, the Party that drafted it, has no application and is expressly waived. If any claim is made by a Party relating to any conflict, omission or ambiguity in the provisions of this Agreement, no presumption or burden of proof or persuasion will be implied because this Agreement was prepared by BMI.

G. All exhibits and attachments to this Agreement are hereby made a part hereof and incorporated by reference herein. The Parties to this Agreement agree that this Agreement will be considered signed when the signature of a Party is delivered by facsimile or email transmission to the other Party. Such facsimile or email signature shall be treated in all respects as having the same effect as an original signature. This Agreement may be executed in one or more counterparts and delivered by facsimile or email, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.

H. LICENSEE represents that: (i) the person executing this Agreement on its behalf is duly authorized to do so and that this Agreement is and shall be a binding obligation on the LICENSEE on behalf of whom it is executed, and (ii) that the execution and performance of this Agreement is not barred, prohibited or impaired by any existing law, rule, regulation, court or administrative order, decree, contract or agreement to which the LICENSEE is now a party or by which it is bound.

SIGNATURE PAGE

EXECUTION DATE OF AGREEMENT: (To be entered by BMI upon Execution) _____

<u>LICENSEE</u>	<u>FINANCIAL CONTACT</u>
Audiodio	President & CEO
Name	Contact Name
www.audiodio.com	Title
URL	Contact Phone
Please complete the Legal Information Below:	Contact Phone 2
Legal Name: _____	Email Address
Legal Structure: _____	
State of Inc: _____	<u>MUSIC USE REPORT CONTACT</u>
Names of Partners (if Partnership)	President & CEO
1. _____	Contact Name
2. _____	Title
3. _____	Contact Phone
<u>ADDRESS OF PRINCIPAL OFFICES</u>	Contact Phone 2
Street	Email Address
Nashville TN	
City State Zip	
Phone Phone 2	
Company Email Address	
<u>BILLING ADDRESS (if different from Principal Address)</u>	
Street	
Nashville TN	
City State Zip	
President & CEO	
Contact Name Title	
Contact Phone Contact Phone 2	

<p align="center">TO BE COMPLETED BY LICENSEE</p> <p>By signing this Agreement, you represent that you have the authority to bind this LICENSEE and that you have read, understood and agree to all of the terms and conditions herein.</p>	<p align="center">FOR ADMINISTRATIVE USE ONLY TO BE COMPLETED BY BMI BROADCAST MUSIC, INC.</p>			
Signature				
Print Name / Title				
Signatory Email Address* (if different from above)	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%; text-align:center;">FOR BMI USE ONLY</td> <td style="width:33%; text-align:center;">IMS-PPR17</td> <td style="width:33%; text-align:center;">LI-2019/DEC</td> </tr> </table>	FOR BMI USE ONLY	IMS-PPR17	LI-2019/DEC
FOR BMI USE ONLY	IMS-PPR17	LI-2019/DEC		
<p>Please Sign & Return this Entire License Agreement & Payment to: BMI, Licensing Dept 10 Music Square E., Nashville, TN 37203</p>	<p>Customer Number</p>			



**DIGITAL MUSIC SERVICE INTERACTIVE
MUSIC PERFORMANCE LICENSE AGREEMENT**

EXHIBIT A

Service Name (List each separately)	URL	Software Distribution Platforms	Start Date	Customer # (To Be Completed by BMI)
Audidio	www.audidio.com		September, 2020	[REDACTED]

RF - 12/19 – IMS-PPR17 - Exhibit A



**DIGITAL MUSIC SERVICE INTERACTIVE MUSIC PERFORMANCE LICENSE AGREEMENT
QUARTERLY FINANCIAL REPORT FORM**

Report Period Beginning _____ Ending _____

Company/Service Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

URL: _____

<u>Your Gross Revenue</u>	Subscription	Free to the User No Subscription
1. Subscriber Revenue and other fees		N/A
2. Advertising Revenue (including music-product placement or promotion of music, artists and/or labels)		
3. Commissions, Referral Fees, and any Revenue Generated from Third Parties on All Transactions		
4. Donations and/or Charitable Contributions		
5. Trade, Barter and/or Proprietary Software		
6. Plus Bad Debts Recovered (+)		
7. Less Bad Debts (-)		
8. Less Third-Party Advertising Agency Commissions (-) (up to 15% of such advertising revenue)		
Total Gross Revenue (add lines 1 through 8)		
License Fee Calculation		
Total Gross Revenue (add lines 1 through 8)		
(i) Total Gross Revenue * 2.5000%		
Total Subscriber Months		N/A
(ii) Total Subscriber Months *\$0.25		N/A
Total Music Service Plays (Free to the User Plays)	N/A	
(ii) Total Music Service Plays \$0.00006	N/A	
License Fee = Greater of (i) and (ii) Above		
Total License Fee Due (Sum of Subscription & Free-To-The User License Fee)	_____	

I hereby certify on _____ that the above is true and correct.

Signature

Print Name of Signatory

Title of Signatory

Please return report to:

Attn: Digital Licensing
 BMI
 10 Music Square East
 Nashville, TN 37203-4399

Please email any questions to: digitalaccount@bmi.com



**DIGITAL MUSIC SERVICE
MUSIC PERFORMANCE LICENSE AGREEMENT
DESCRIPTION OF MUSIC SERVICE**

EXHIBIT C

RF - 12/19 - IMS-PPR17 - Exhibit C