

Music Video Race LLC  
1108 Howard St., Level 3  
San Francisco CA 94103

# Music Licensing and Performance Agreement

(BAND LEADER'S AGREEMENT)

This Music Licensing and Performance Agreement (this "Agreement") effective \_\_\_\_\_, 2014 is between \_\_\_\_\_ ("Band Leader") who is the authorized representative of the musical group professionally known as \_\_\_\_\_ (referred to hereinafter, individually and collectively, as the "Band") and Music Video Race LLC ("MVR").

Whereas, MVR desires to use Band's music and performance in connection with the Music Video Race 2014 ("Project") for the purpose of creating a music video, "behind the scenes" and "making of" footage related to the Project, and any trailers, promotional films, clips and excerpts or any version thereof (the "Film"), and the Band desires to perform and license music for the Project in accordance with the terms of this Agreement.

THUS, for good and valuable consideration, it is agreed as follows:

(1) The Band agrees to participate in the Project being presented and produced by MVR and presently scheduled to occur in \_\_\_\_\_(city) from \_\_\_\_\_(filming weekend). The Band has read and agrees to abide by the official rules of the Project as posted at [www.musicvideorace.com](http://www.musicvideorace.com), and which may be amended from time to time ("Official Rules"). The Official Rules are deemed to be incorporated herein by reference. It is understood that MVR reserves the right to disqualify from screening or exhibition, and remove from consideration for awards and prizes, any material which does not adhere to the Official Rules. Throughout the Band's participation in the Project, including without limitation, travel to and from Project locations and events, the Band will be solely responsible for the Band's instruments, gear and equipment and all costs and expenses relating to the use and transport of the Band's instruments, gear, and equipment. MVR is not and will be not be responsible for any loss, damage, injury, or claims which may arise from the use or transport of the Band's instruments, gear, and equipment during the course of Band's participation in the Project. Band Leader hereby acknowledges that participation in the Project is without remuneration or monetary compensation. Rather, the consideration for participating in the Project is the screening of the Band's completed Film at the conclusion of the Project and the possibility, although not the obligation by MVR, for future screenings and distribution, and the opportunity for publicity and/or exposure as a result of participating in the Project.

(2) GRANT OF RIGHTS: The musical work(s) licensed by Band to MVR shall consist of original music composition(s) and lyrics (the musical composition(s) and lyrics are hereinafter collectively referred to as

“Composition(s)”, and sound recordings (the “Masters”) presently entitled [REDACTED] (altogether or any component thereof, referred to as (“the Work”) composed, recorded, and performed by Band are hereby licensed, on a nonexclusive basis, for use according to the terms hereto in connection with the Project, including without limitation, theatrical exhibition, television exhibition (including without limitation, free, pay, cable and satellite television), all forms of electronic distribution, including without limitation online streaming, trailers, promotional material, clips and excerpts thereof.

(3) LICENSE: The Band hereby irrevocably grants to MVR and its successors, assigns, and licensees the non-exclusive right, license, privilege, and authority to use and include the Work in the Film and Project and in promoting, advertising and publicizing the same. This license shall continue in perpetuity and be effective for any and all media, whether now known or hereafter devised, throughout the universe. The license shall include, but shall not be limited to, the following:

(a) Use of the Work in synchronized or timed relation to the Film and Project for exploitation in any and all media now known or hereafter devised (including, but not limited to, audio-visual devices), including the recording and distribution of the Film and Project online, on DVD, videocassette, videodisc, by television (including cable, pay-TV, and broadcast T.V.), electronic publishing rights, theatrical and non-theatrical exhibition, and in advertisements in context and out-of-context, trailers, “music videos” and other promotional and ancillary uses of the Film and Project or such other audio-visual work. The Band hereby grants to MVR a limited videogram license for purposes of manufacture in any and all video format(s) for purposes of transmission of the Film and Project for those performances authorized and set forth in this Agreement. Further, the Band hereby grants to MVR the license to perform the Work publicly; and to commit to public performance thereof online, by radio and/or television, or by any other media now known or hereafter devised, and the right to make, import and export copies of the Work in the Film and Project.

(b) MVR shall have the right to re-record, edit, mix and re-mix, dub and re-dub the Work for inclusion in the Film and Project, and nothing contained herein shall be construed to obligate MVR to employ Band in connection with same.

(c) The Band hereby grants to MVR the non-exclusive license to use, reuse, film, and photograph the Band's voices, actions, likeness, name, sobriquet, picture, photograph, silhouette, appearance, performances and other reproductions of Band's likeness individually and collectively (as the same may appear in any still camera photograph and/or motion picture film or tape) and biographical information (collectively “Likeness”) in and in connection with the production, exhibition, distribution, and/or exploitation of the Film and Project, promotion, publicity, advertisement, merchandising for the Film and Project and all other commercial and non-commercial purposes relating to the Film and Project. The Band agrees that MVR may use all or any part of the Band's likeness, and may alter or modify it, regardless of whether or not the Band is recognizable.

(d) For the avoidance of doubt, the Band will retain all rights in and to the Work, and the Band, the Film's filmmakers, and MVR shall jointly own, in equal percentage, the copyright in and to the Film, subject to the terms and conditions of this Agreement.

(4) WARRANTIES: The Band, on its own and on MVR's behalf, hereby warrants and represents that:

(a) it has the full right, power and authority to enter into this Agreement and to grant all rights granted herein, that it is not under nor will it be under, any disability, restriction or prohibition with respect to its rights to fully perform in accordance with the terms and conditions of this Agreement and that there shall be no liens, claims or other interests, which may interfere with, impair or be in derogation of the rights granted herein;

(b) The Work shall be freely available for use by MVR in the Film and Project in any and all media (whether now known or hereafter devised) in which the Film and Project is to be distributed (and in any and all publicizing, promoting and advertising therefore), throughout the universe including, without limitation, online, in theaters, free and pay television, in home video devices, and in radio, television and theatrical trailers, except as set forth herein;

(c) MVR shall not be required to make any payments of any nature for, or in connection with, the acquisition, exercise or exploitation of rights granted or transferred pursuant to this Agreement except as specifically provided in this Agreement;

(d) The Work nor any other material supplied by the Band will violate or infringe upon any common law or statutory right, including, without limitation, contractual rights, copyrights, and rights of privacy, of any person, firm or corporation, including any record company and/or publishing company.

(e) The Band owns or controls 100% in and to all rights of the Work, or otherwise has obtained all necessary and proper clearances therein.

(5) INDEMNITY: The Band hereby agrees to indemnify MVR, and its successors, distributors, sub-distributors and assigns, and the respective officers, directors, agents and employees of each of the foregoing, from and against any damages, liabilities, costs and expenses, including reasonable attorneys' fees actually incurred, arising out of or in any way connected with any claim, demand or action arising from the Band's participation in the Project or that is inconsistent with this Agreement or any warranty, representation or agreement made by the Band herein. The Band knowingly and voluntarily assume any and all risks, known or unknown, associated with participation in the Project and all actions and undertakings in connection with the Project and Film, including, without limitation, the risk of physical or mental or emotional injury, minor or severe bodily harm, or illness, which may arise by any means, including, without limitation: acts, omissions, recommendations or advice given by Project participants and/or MVR or their agents, employees, or other persons or entities affiliated with the Project; participation in inherently dangerous activities, latent or apparent defects or conditions in any equipment used in the Project; weather or other natural conditions; human error; my physical and mental condition; my own acts or omissions; first aid, emergency treatment or other services rendered to me or others. Notwithstanding the foregoing, the Band hereby agrees to voluntarily accept and assume any and all such risks as well as any risks not mentioned herein that are in any way associated with my participation in the Project and Film and the subsequent or simultaneous exhibition or other exploitation of the Film or any portion thereof. Without limiting the foregoing, it is understood that MVR's total liability for any claims and/or causes of action shall not exceed, and is limited to, the total amount paid to MVR in entry fees by Band under this Agreement.

(6) DISTRIBUTION: From the date the Film is completed and submitted to MVR and continuing until 14 days after the film is completed ("End Date") MVR shall have exclusive right to exhibit and distribute the Film, be it on MVR's website, online streaming sites such as Youtube or Vimeo, and other outlets in MVR's sole discretion. Throughout this exclusive period, the Band may embed or link to MVR's official uploaded videos, however, the Band agrees not to independently upload, exhibit, or distribute, or allow any third party to upload, exhibit, or distribute the Film or any part thereof in any media, in any territory, prior to the End Date. After the End Date, MVR and the Band shall have the following rights:

(a) MVR will have the non-exclusive right, but not the obligation, to exhibit the Film or part thereof on the official MVR website or any third party website determined by MVR;

(b) MVR shall have the exclusive right, but not the obligation, to sell, distribute, or otherwise exploit the Film on DVD and video on demand. Net Proceeds (as defined below) from such sales shall be divided in the following manner: 34% of Net Proceeds to MVR, and a pro rata share of 33% to the Band and 33% to the Film's filmmaker. In the event that the Film is sold as a part of compilation in which several Project Films are

packaged and sold together, then the above profit sharing will be prorated accordingly based on the number of royalty-bearing Films contained on said compilation.

(c) After the End Date, The Band shall have the following non-exclusive, non-assignable rights:

(i) to enter the Film into film festivals & competitions;

(ii) to screen the Film at events;

(iii) to stream the Film or any portion thereof for free on the Band's website or for free on any third party website for internet viewing, provided that the Film or the portion thereof contains an initial full screen title card stating "This Film was created for the Music Video Race 2014" (or similar attribution as designated by MVR). MVR will supply this title card or otherwise make the title card available for download;

(iv) to distribute the film for free via DVD;

(v) to use the Film on a professional reel to promote the Band; and

(vi) any other use agreed to in writing by MVR.

(d) Net Proceeds for the purposes of this section shall be defined, computed, paid and accounted for pursuant to MVR's standard definition, which shall include allowances for the deduction from gross receipts of MVR's customary deductions including, without limitation, distribution fees, distribution expenses, and overhead. MVR shall make semi-annual (i.e., twice per year) reports to the Band, provided, however, that MVR need not issue a report if the Band has not accumulated revenue to report. MVR shall issue checks to the Band on a semi-annual basis so long as total revenue for the Band has reached a minimum of \$25. For the avoidance of doubt, Net Proceeds shall not include revenues received by MVR as the result of so-called "monetization" from YouTube, Vimeo, and other advertising-supported distribution outlets.

(7) REMEDIES FOR BREACH: The Band's rights and remedies in the event of a breach or alleged breach of this Agreement by MVR shall be limited to an action at law for damages, if any, and in no event shall the Band be entitled by reason of any such breach or alleged breach to enjoin, restrain, or to seek to enjoin or restrain, the distribution or other exploitation of the Film or Project or other work which may embody the Work and the Band shall not have the right to rescind this Agreement. This Agreement shall not be deemed to give any right or remedy to any third party whatsoever unless the right or remedy is specifically granted by the parties hereto in writing to the third party. The Band shall execute any further documents necessary to fully effectuate the intent and purposes of this Agreement.

(8) ASSIGNMENT: MVR shall have the right, at MVR's election, to freely assign any or all of MVR's rights hereunder, in whole or in part, to any person, firm, corporation, or entity including, without limitation, any distributor or subdistributor of the Film and Project, or other work which may embody the Work. The Band shall not assign its rights hereunder without MVR's prior written consent and any attempted assignment without such consent shall be void and shall transfer no rights to the purported assignee. The Band acknowledges and agrees that the relationship between the parties is one of independent contractors and that nothing contained in this Agreement shall be construed as creating a partnership, employee, or joint venture relationship of any kind.

(9) MISCELLANEOUS: This Agreement sets forth the entire understanding of the parties thereto relating to the subject matter hereof and supersedes all prior agreements, whether oral or written, pertaining thereto. No modification, amendment, or waiver of this Agreement or any of the terms or provisions hereof shall be binding upon either party unless confirmed by a written instrument signed by authorized representatives of both parties. If any provision of this Agreement is determined to be invalid, unenforceable or illegal in whole or in part, it shall not affect or impair the validity or enforcement of any other provision of this Agreement, and this Agreement shall be read as if the invalid, unenforceable or illegal provision had never formed a part hereof. No waiver by either party of any terms or provisions of this Agreement or of any default hereunder shall affect their respective rights thereafter to enforce such term or provision or to exercise any right or remedy upon any other default, whether or not similar.

This Agreement has been entered into in the State of California and its validity, construction, interpretation and legal effect shall be governed by the laws of the State of California. In the event any dispute should arise with respect to this Agreement, the parties agree to submit such disputes to exclusive and binding arbitration, and each shall bear his/her own costs, including legal fees incurred in connection with any such arbitration.

Agreed to and Accepted By:

Signature: \_\_\_\_\_ (Band Leader or authorized representative)  
Print Name: \_\_\_\_\_ Date: \_\_\_\_\_  
Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
\_\_\_\_\_ Email: \_\_\_\_\_

If Signatory is under 18:

I represent and warrant that I am the parent or guardian of the minor whose name appears above, that I have read and approve of the foregoing agreement, and consent to its execution by my child/ward. Signature: \_\_\_\_\_ (Parent/Guardian) Print  
Name: \_\_\_\_\_ Date: \_\_\_\_\_  
Address: \_\_\_\_\_

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Music Video Race LLC:

By: \_\_\_\_\_ Its: \_\_\_\_\_  
Date: \_\_\_\_\_