

# 9 STAR MEDIA LICENSING AND DISTRIBUTION AGREEMENT

LAST REVISED 01/13/2013

VERSION 1.2

BY CLICKING "AGREE & CONTINUE" YOU, ON BEHALF OF YOURSELF IN AN INDIVIDUAL CAPACITY OR THE ENTITY THAT YOU REPRESENT, AGREE TO BE BOUND BY ALL TERMS OF THIS LICENSE AND DISTRIBUTION AGREEMENT ("AGREEMENT"), INCLUDING THE 'MEDIA CONSIGNMENT SERVICES ADDENDUM' THAT IS INCORPORATED BY REFERENCE HERETO. THE EFFECTIVE DATE ("EFFECTIVE DATE") OF THIS AGREEMENT WILL BE THE DATE YOU CLICK "AGREE & CONTINUE". PLEASE REVIEW THIS ENTIRE AGREEMENT CAREFULLY BEFORE CLICKING "AGREE & CONTINUE".

This agreement sets forth the terms under which you grant Next Movement Records LLC D/B/A 9 Star Media ('9 Star', "we", or "us") the right to distribute, sell, and promote your audio, video, or audio book media ("Media") in the formats you specified above throughout the authorized territory. ("Territory") Among other things, you grant rights to distribute the Media on the 9 Star website (9starmedia.com), its affiliate sites, licensees, and any successor site ("9 Star"). Our distribution of your Media is non-exclusive.

## 1. Rights.

You represent and warrant that:

- a. You own or control distribution rights to the Media you are submitting and have the full right, power and authority to enter into and fully perform this agreement;
- b. You have obtained all rights necessary for 9 Star to exercise the rights granted under this Agreement;
- c. The sale and distribution of the Media as permitted under this Agreement will not violate any applicable law or infringe upon or otherwise violate the intellectual property, proprietary or other rights of any person or entity, including contractual rights, copyrights, trademarks, common law rights, rights of publicity or privacy or moral rights;
- d. The Media does not contain any unlicensed samples, cover songs, clips, or 3<sup>rd</sup> party media which have not had all appropriate rights obtained.
- e. The Media does not contain any defamatory or libelous material as defined by the laws applicable in the Territory;
- f. You will be solely responsible for, and will pay, any third parties any royalties that they are owed with respect to the exercise of the rights granted under this Agreement.
- g. Your media must meet at least one (1) of the following criteria:
  - o Your media has passed review by the National Spiritual Assembly of the country where you reside OR in which the media was released.
  - o Your media does not contain any overtly Bahá'í content (quotes, prayers, etc.) or direct reference to the Faith which would require it to be submitted for review,
  - o You are willing to have your media reviewed by the NSA of the United States if deemed necessary by 9 Star Media.

You agree to provide proof of such approval from the review committee of the NSA if requested.

## 2. Distribution By 9 Star Media.

- a. You grant the non-exclusive license to use, reproduce, display, market, sell and distribute the Media throughout the Territory in all formats now know or hereafter invented from the date you accept this Agreement for a minimum of 6 months. (such 6 month period, the "Initial Distribution Period"). As full consideration for the non-exclusive license granted by

you, 9 Star will pay you royalties on its sales of the digital and physical Media based as set forth in 'Exhibit A'. After the Initial Distribution Period, this Agreement will renew automatically for additional 6 month terms (each, a "Renewal Distribution Period") unless either party provides notice of termination to the other party at least 60 days prior to the end of the Initial Distribution Period in accordance with the notice provisions provided below.

- b. The Initial Distribution Period and each Renewal Distribution Period (if any), in either of the above cases, is the "Distribution Period."

### 3. Other Rights Granted to 9 Star Media

- a. **Right to Transcode.** 9 Star Media may reformat, encode, adapt and edit the Media to make the Media compatible with the 9 Star service, including but not limited to by (a) adding 9 Star's standard meta-data to digital media, and (b) adding any digital rights management (DRM) that we may at a later date decide to use.
- b. **Excerpts / Clips / Trailers.** You will provide 9 Star an excerpt of your Video (trailer or teaser) not exceeding 5 minutes in length or 10% of the total duration of the Media's total length, whichever is shorter. During the term of this Agreement, 9 Star will have the right to use, reproduce, display and distribute such excerpt or any other excerpts from the Media in any format or media now known or hereafter invented for purposes of advertising and promoting the Media and the 9 Star Media service. For all music related products, 9 Star will have the right to select and edit excerpts (Clips) for preview on the site. The duration of said Clips and the content they contain are at the sole discretion of 9 Star.
- c. **Streaming Rights.** You grant 9 Star the right to publicly perform, publicly display, communicate to the public, stream your content, and otherwise make available your Media, and portions thereof as embodied in Clips, throughout our Website(s) and licensees sites to identify your Media for license, sale, or distribution and to promote your Media *without the payment of any fees or royalties to* (i) the songwriters, composers, or music publishers owning any rights in and to your Media; (ii) any performing artist(s) (including non-featured vocalists, musicians and actors) on your Media; (iii) any other person involved in the creation of or owning any portion of your Media, including but not limited to a record label or production company, and (iv) any agents for any of the foregoing, including, without limitation, performing rights organizations ("PROs") and unions or guilds, whether U.S.-based (such as ASCAP, BMI, SESAC, Sound Exchange, AFTRA, AFM, SAG) or foreign (e.g., PRS for Music, PPL, CMRRA, CSI, GEMA, etc.)
- d. **Podcasts.** Reproduce, distribute, and publicly perform and communicate to the public your Media (including Clips) as part of a downloaded program that may include multiple sound recordings and other content, commonly known as a "podcast;".
- e. **Cover Art.** During the Distribution Period, 9 Star will have the right to use and distribute any cover art, graphics, images, video stills, or other artwork related to the Media that you provide to 9 Star ("Artwork") and the title of the Media in any media now known or hereafter invented for purposes of advertising and promoting the Media and the 9 Star Media service. You will provide Artwork to 9 Star Media via the 9 Star Media online Content Submission Form or as otherwise instructed by 9 Star Media. The Artwork must be the same cover art, graphics, images, or other artwork used for the print version of the Media. 9 Star Media may modify and/or reformat the Artwork.
- f. **Right of Publicity Grant.** During the Term of this agreement, you grant 9 Star and licensees it authorizes the right to use your name, approved likeness, and approved biographical information in the Territory in any media now known or hereafter invented for

purposes of sale, advertising and promoting the Media and the 9 Star Media service. This may include placing your content in magazines, web sites, 9 Star Media advertisements, and any and all other media, whether now known or hereafter developed, but specifically excluding television and movies, to promote the 9 Star Media Service. You will, promptly, on request, provide 9 Star an image and brief written biography suitable for use by 9 Star in the marketing of the Media. Any image or biographical information you provide will be deemed approved by you upon submission to 9 Star. If you are not the author of the Media, you agree to obtain for 9 Star the right to use, during the Distribution Period, the author's (or artist's) name, likeness, and biographical information in the Territory in any media now known or hereafter invented for purposes of advertising and promoting the Media and the 9 Star service.

- g. Promotion.** You hereby grant to Us and our Licensees the right to market, promote, and advertise Your Content as available for purchase or license, in any and all media, whether now known or hereafter developed, as we and they determine in our and their discretion.
- h. Exercise of Rights and Sublicense.** 9 Star Media may exercise any of the rights granted to it under this Agreement or discharge any of its obligations under this Agreement through one or more of its Affiliates. 9 Star may sublicense any of the rights granted to it under this Agreement to any of its Affiliates or to any third party and may permit any sublicensee to sublicense the rights 9 Star grants to it. 9 Star will remain responsible for each sublicensee's compliance with this Agreement. "Affiliate" means any entity that directly or indirectly controls, is controlled by, or is under common control with 9 Star or you, as appropriate.
- i. Pricing.** 9 Star Media reserves the right to set prices for Media at its own discretion. This may include, but it not limited to retail pricing, wholesale pricing, and promotional pricing. Your sales royalties will be unaffected by pricing set by 9 Star Media. See Sales Royalties below for details on sales payments and royalties. For a description of our basic pricing structure see 'Exhibit A' or the 'Pricing' page on the 9 Star Media website.

#### **4. Delivery and 9 Star Review of Media**

- a. Delivery.** You will deliver the completed digital Media via the 9 Star online Content Submission Form system or as otherwise instructed by 9 Star Media.
- b. 9 Star Review of Media for Quality.** Upon receipt, 9 Star Media, or its assignees, may review the submitted Media for consistency with industry standard high-quality music, video, and audio books. 9 Star will have the right to accept or reject the Media in its discretion or provide you instructions on how to meet 9 Star's standards for professional quality media. If 9 Star rejects the Media, this Agreement will terminate.
- c. 9 Star Review of Media for Questionable Content.** Upon receipt, 9 Star Media, or its assignees, will review the Media for questionable content. Questionable content may include, but is not limited to, profanity, misogynistic lyrics, pornographic imagery, or any other content deemed at 9 Star Medias sole discretion to be contrary to our standard of decency and modesty. 9 Star will have the right to accept or reject the Media at its sole discretion or provide you instructions on how to meet 9 Star's standards for appropriate content. If 9 Star rejects the Media, this Agreement will terminate.
- d. Review by the National Spiritual Assembly.** In the event that your media has not been submitted for review, you grant 9 Star the right to submit it for review to the National Spiritual Assembly of the Bahá'is of the United States. Upon completion of the review process 9 Star will supply you with the results of said review.

- e. **Upon Approval Of Your Media.** Once we have approved your media for distribution on 9 Star we will send you notification via email. If you have elected to have 9 Star provide physical distribution for your Media, you will need to send 10 copies of your physical media to 9 Star at the address below. These 10 copies will be considered the initial shipment. All costs for said shipment will be your own responsibility.

After this initial shipment has been sold, 9 Star may request that you send additional physical media in a similar or higher quantity based on the rate of sales. The quantity of re-order will be decided by 9 Star Media at its own discretion.

9 Star Media  
708 Earlham St.  
Pasadena, CA 91101  
U.S.A.

## **5. Sales, Accounting and Sales Royalty Payments**

- a. All sales on 9 Star Media are made on a consignment basis based on the rules and practices established in the 'Media Consignment Services Addendum'.
- b. Once a sale has occurred and payment has been received by 9 Star Media you will be paid according to the sales royalty schedule according to our standard accounting schedule which are both listed in 'Exhibit A'.
- c. Sales Royalty Payments will be made via our regular accounting schedule listed in 'Exhibit A'.

## **6. Withholding and Offset of Sales Royalty Payments.**

If you are in breach of any of your obligations to 9 Star ("Breach") or if a third party has asserted that you did not have all rights required to grant the rights that you grant in this Agreement ("Third Party Claim"), royalties rightfully due to you on the Media will continue to accrue, but 9 Star is entitled to withhold the sales royalty payments until you cure the Breach or fully resolve the Third Party Claim. You will notify 9 Star of any Breach or Third Party Claim of which you are aware within 5 days after you learn of the Breach or Third Party Claim. You will not be considered in Breach of agreement until written notice has been issued to you via mail or email.

## **7. Termination.**

In addition to the termination rights described in Section 2 above, Either party may terminate this Agreement for any reason at any time after the initial distribution period with 60 days written notice. In the event of termination or expiration of this Agreement: (a) all rights granted under this Agreement will revert to the you; and (b) 9 Star will, within 120 days after the end of the calendar quarter in which the termination or expiration occurred, issue a final accounting report together with payment for any amounts that may be due to you under this Agreement in connection with the sale of the Media during the Distribution Period. Notwithstanding anything else set forth herein, you acknowledge that after the termination or expiration of this Agreement for any reason, 9 Star will retain all the rights necessary for customer support and maintenance, including continuing access and ability to download copies of the Media that customers purchased during the Distribution Period. Upon termination or expiration of this Agreement, all rights and obligations of the Parties under this Agreement will be extinguished, except that Sections 1, 5, 6, 10, 11, 12, 14, 15, 16 and 17 shall survive termination.

In addition, after termination, any physical media which remains in the possession of 9 Star will be returned to you at your own cost. All shipping, customs, duties, insurance and other

associated costs to return said media can either be paid out of royalties you have remaining in your account or by payment made via check or credit card.

#### **8. 9 Star Controls its Distribution Decisions.**

9 Star will have sole discretion over all decisions related to its distribution of the Media. You understand that 9 Star is under no obligation to sell the Media or, if 9 Star commences sale of the Media, to continue to sell the Media and that Media makes no assurance to you that 9 Star will sell any minimum number of units of any Media.

#### **9. Ownership.**

As between you and 9 Star Media, except for the license you grant to 9 Star in this Agreement, you retain all right, title, and interest in and to the Media, including the copyright in the Media. All rights in the Media not granted in this Agreement to 9 Star are expressly reserved by you.

#### **10. Indemnification.**

You will defend 9 Star, its Affiliates, and its sub-distributors, and their respective officers, directors, employees, and agents (the "9 Star Parties") from any losses, costs, or liabilities incurred by any of them (a) as a result of a breach by you of any of your representations or warranties in this Agreement, (b) as a result of your failure to meet any of your other obligations set forth in this Agreement or with respect to 9 Star generally or (c) as a result of your negligence, strict liability or intentional misconduct (individually, a "Claim", and collectively, the "Claims"). You will indemnify each 9 Star Party against any liability (including reasonable attorneys' fees) incurred by that 9 Star Party relating to any Claim, except to the proportional extent the liability is caused by the negligence or intentional misconduct of that 9 Star Party as determined by a final, non-appealable order of a court having jurisdiction. You will not consent to the entry of a judgment or settle without the 9 Star Parties' prior written consent, which may not be unreasonably withheld. You will use counsel reasonably satisfactory to the 9 Star Parties, and the 9 Star Parties will cooperate in the defense. If any 9 Star Party reasonably determines that any Claim might have an adverse effect, that 9 Star party may take control of the defense at its expense (without limiting your indemnification obligations). Your obligations under this Section 10 are independent of its other obligations under this Agreement.

#### **11. LIMITATION OF LIABILITY.**

NEXT MOVEMENT RECORDS LLC, D/B/A 9 STAR MEDIA ITS LICENSEES, EMPLOYEES, AND OWNERS ARE NOT LIABLE TO YOU UNDER ANY CIRCUMSTANCE FOR ANY CONSEQUENTIAL, SPECIAL, PUNITIVE, OR INDIRECT DAMAGES OF ANY NATURE, FOR ANY REASON, INCLUDING, WITHOUT LIMITATION, THE BREACH OF THIS AGREEMENT OR ANY TERMINATION OF THIS AGREEMENT, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE, EVEN IF WE HAVE BEEN WARNED OF THE POSSIBILITY OF SUCH DAMAGES. NEXT MOVEMENT RECORDS LLC D/B/A 9 STAR MEDIA SHALL ALSO NOT BE LIABLE FOR ANY ROYALTIES, FEES, PAYMENTS OR DAMAGES ARISING OUT OF THE FAILURE OF ANY LICENSEE TO PAY 9 STAR OR YOU ANY ROYALTIES THAT ARE DUE FOR ANY USE OR MISUSE OF YOUR CONTENT, WHETHER PURSUANT TO AN EXISTING, EXPIRED OR TERMINATED AGREEMENT WITH 9 STAR OR OTHERWISE. 9 STAR'S TOTAL LIABILITY TO YOU FOR ANY BREACH OF THIS AGREEMENT SHALL IN ALL INSTANCES BE LIMITED TO THE AMOUNT OF MONIES ACTUALLY PAID TO YOU BY 9 STAR FOR THE DISTRIBUTION OR LICENSING OF YOUR CONTENT DURING THE SIX (6)-MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF YOUR CLAIM AGAINST 9

STAR.

## **12. Assignment.**

You may not assign any of your rights and obligations under this Agreement without 9 Star's prior written consent. 9 Star may assign any of its rights and obligations under this Agreement. Subject to the foregoing, this Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and assigns. Any attempted assignment in violation of this Section 14 will be null and void.

## **13. Confidentiality.**

You will (a) protect 9 Star's information that is identified as confidential or that reasonably should be considered confidential; (b) use such information only to fulfill your obligations under this Agreement; and (c) return such information to 9 Star promptly when this Agreement terminates.

## **14. Entire Agreement; Enforceability.**

This Agreement constitutes the entire agreement between you and us regarding the matters covered in it and supersedes any and all prior or contemporaneous understanding, agreement, or communication between you and us, whether written or oral, regarding the matters covered in it and may not be modified or amended except by a writing agreed to by you and us. If any provision of this Agreement is found to be invalid, void, or for any reason unenforceable, that provision will be deemed severable and will not affect the validity and enforceability of any other provision.

## **15. Notices.**

Any notice provided for in this Agreement will be in writing addressed to the other party. Your notice address will be the physical and electronic addresses you have indicated on your 9 Star Media account. 9 Star's address will be 708 Earlham St. Pasadena CA 91101, Attn: Legal Department, Fax: 561.209.5446, info@9starmedia.com or to such other address as 9 Star may designate by notice. All notices will be given in writing via messenger, overnight courier, confirmed facsimile transmission, email, or by first class mail, certified, return receipt requested, provided that from the email notice sent by you must be sent from the address you have on file with 9 Star Media. All notices will be deemed given on the date of receipt.

## **16. Governing Law and Disputes**

This Agreement is governed by the laws of the State of California. All disputes with respect to this Agreement will be subject to the exclusive jurisdiction of courts sitting in the County of Los Angeles, California in accordance with the rules and procedures of such courts.

All disagreements which are unable to be resolved without 3<sup>rd</sup> party assistance will be referred to the Local Spiritual Assembly of the Bahá'ís of Los Angeles for consultation. Both parties agree to exercise the utmost endeavor to resolve the conflict based on the results and feedback from the LSA.

In the event that resolution is still not reached, both parties agree to submit to binding third party arbitration. All costs associated with such binding arbitration shall be paid for by the losing party.

## **17. Modification of Agreement.**

We reserve the right to change, modify, add to, or remove all or part of this Agreement, in our

sole discretion, at any time and from time to time. Notice of any material change will be sent to you by electronic mail at least fifteen (15) days prior to its effective date. If the e-mail you have provided to us is no longer functioning, then, in addition to any other remedies we may have with respect to your Account and use of the Services, we shall be authorized to communicate with you via any other reasonable manner we may choose in our sole discretion, including through notice on the web page through which you access your Account information or via any accounting statement. The most recent date of this Agreement shall be identified on the first page hereof. In the event that you do not consent to any such proposed changes in the Agreement, your sole recourse shall be to terminate this Agreement by notice to us, and your failure to submit a Termination Notice within fifteen (15) days of the date of our notice to you shall constitute your acceptance of such changes to the extent Your Content is still available through the Services. To terminate your Agreement, you must send a Termination Notice [info@9starmedia.com](mailto:info@9starmedia.com) and include in the subject line of your e-mail "Termination of Artist Agreement."

#### 18. Misc Terms and Conditions.

- a. **Duplication.** If you elect to have 9 Star Media duplicate your physical media you acknowledge that you are responsible for any and all mechanical royalties arising from such service and that the Royalties which you are paid are the entirety of any money's that 9 Star is responsible to pay you.
- b. **Maintaining You Contact Information.** You are responsible to notify 9 Star anytime your contact information. Any costs associated with reissuing checks, statements, or other notifications because of outdated contact information will be your responsibility.
- c. **Out-Of-Stock Media.** You will notify 9 Star Media in the event that your stock of physical media is running low. Our relationship with customers depends on the ability to be able to ship product when it is ordered. If you neglect to inform us that you are out of physical media and orders are taken it reflects badly on the company and you. Repeated offenses may result in 9 Star canceling all physical distribution of your products and selling your Media in digital form exclusively.
- d. **Disclaimer.** The website and any third-party content, software, services, or applications made available in conjunction with or through the website, are provided on an "As Is", "As Available", "With All The Faults" basis without representations and warranties of any kind, either express or implied, including, but not limited to, in terms of correctness, accuracy, reliability, or otherwise.

#### 19. Certain Definitions.

- a. **"Authorized Territory"** or **"Territory"** means the universe.
- b. **"Consignment"** means that you shall be paid for all sales of your media only after said media, in physical or digital media, has been sold and payment received from purchaser.
- c. **"Licensee"** means any third party licensee that we may authorize to carry out the marketing, distribution, licensing, and sale or other use of Your Content pursuant to the terms of this Agreement. 9 Star may chose it's licensee's at its sole and absolute discretion.
- d. **"Media"** means Your audio, video, or audio book content as fixed in physical product such as CDs, DVDs, LPs, etc. or digital product.

## EXHIBIT A

### MEDIA ROYALTY PAYMENT TERMS AND PROCEDURES

These **Media Royalty Payment Terms and Procedures for 9 Star Media's Non-Exclusive Distribution Rights** ("Royalty Terms") set forth the terms by which 9 Star will calculate and pay royalty payments owed to you in connection with 9 Star's distribution of the Media ("Royalties"). These Royalty Terms form a part of your Media License and Distribution Agreement with 9 Star ("Agreement"). Capitalized terms used in these Sales Royalty Terms but not defined have the meaning assigned to them in the Agreement.

9 Star will pay Royalties to you only on 9 Star Ala Carte Net Sales Receipts (as defined below) it receives from sales of the Media. 9 Star will calculate Royalties using the variable Royalty Rate below.

#### **ROYALTY RATES**

<b>TYPE OF SALE</b>	<b>YOU GET</b>	<b>WE RETAIN</b>
Digital Downloads / Video Rental	65% of the retail price	35% of the retail price
Physical Sales	50% of the retail price	50% of the retail price
Wholesale Physical Sales	50% of the retail price	Our retail partners all purchase from us at varying discounts ranging from 20-50% off retail. If they purchase from us at a 40% discount from the retail price we retain 10%. If they purchase at 50% off of retail we retain 0%, if they purchase at 30% off retail then we retain 20% to cover our costs
Promotional Physical Sales	50% of the retail price	We get whatever is left over from the sale. If we sell a CD (normally \$15) at a promotional price of \$10 we will keep \$2.50. If we sell a CD (normally \$15) for \$1.00 we lose \$6.50 per CD... but you always keep your cut of retail price. Nice!

**Digital Download Added-Value Option.** 9 Star may, at its discretion add the option for customers to receive with or without charge an instant download of album which they purchase in physical format. This would act as an added value for customers. Instant downloads, when offered for free in conjunction sales of the physical format of the same title would result in no additional income for either 9 Star or the artist and no sales royalties would be payable. If there a fee is charged for this instant download which would be in addition to the cost of the physical product, the digital download rates listed above would apply to said additional income.

**Royalty Calculation.** During the Distribution Period, Royalties for each Unit will be calculated by multiplying the Royalty Rate for the Unit set forth in the chart above by "9 Star's Net Sales Receipts," which consist of A La Carte Net Sales Receipts (as defined below) for all a la carte sales of the Media during the immediately preceding monthly period. No Royalty will be paid on the transmission or distribution of downloads or other copies of the Media distributed for free for purposes of review, sample, advertising, publicity or promotion.

**"Ala Carte Net Sales Receipts"** means the monetary amount received by 9 Star from a la carte sales of each Unit, less any cash incentives, promotional discounts, sales or use taxes, excise taxes, value-added taxes, duties, and returns.

**Samples for Bookstores.** Digital downloads may be provided to bookstores that request it. There is no payment made to you for use of such downloads. In rare circumstances, bookstores may request sample Media in physical format (CD's & DVD's). We will make our best effort to

minimize offering bookstores free samples, but occasionally it will be required. These CD's will appear on your sales statement for your records, but no payments will be made to you for these promotional samples. All sample CD's will be marked "NOT FOR RESALE" prior to shipping.

**Returns & Chargebacks.** Returns of physical media rarely occur, but when they do, any adjustments to sales royalties will be made to account for the returned sale items. i.e. If you had already been paid on the sale of an item that is returned the following month you will see a debit on your next sales royalty statement.

**Misc Adjustments To Sales Royalty Payments.** 9 Star Media offers certain services which are considered premium services, and as such, these services are ones which you would pay for separately. Some of these paid services offer the option of deducting the fees payable from your sales royalties. For all such services which are payable from your royalties you will be required to sign an addendum to this agreement for said service before those services can begin and said deductions from sales royalties be considered binding.

**Sales Royalty Statements and Payments.** 9 Star will provide you a statement of Sales Royalties each month for all income earned the previous month. Such statements will be issued on the 15<sup>th</sup> of the month unless that date falls on a weekend, national holiday, or Bahá'í Holy Day, in which case the statement will be issued on the 1<sup>st</sup> business day following said weekend, national holiday, or Bahá'í Holy Day. Your first statement will be issued on the 15<sup>th</sup> of the month following the first full month your Media is first offered for sale by 9 Star.

Payments for said sales royalties will be made via PayPal to the email address you specified or by Check to the address you provided when you signed up for your account. If you elect to have payments sent by check a \$2.50 fee will apply to cover processing fees for each check issued. This fee will be deducted from any sales royalties due. If a check is not redeemed after 180 days from the date it was issued, the funds (minus the fee) will be returned to your Account. If you have provided an undeliverable mailing address and two or more consecutive payments have been returned to 9 Star as undeliverable, we will send you written notification via the email we have on account and may stop sending future payments to you until you provide a deliverable mailing address.

Any sales royalty statements 9 Star provides you will be considered final and incontestable 3 months (90 days) from the date the statements are provided by 9 Star if you do not provide 9 Star notice of your objection to the statements within that period of time.

**Accounting Review.** We will maintain proper records which report the sales and all royalties payments or other licensed uses of your content. You may, but not more than once per year, at your own expense, engage a Certified Public Accountant ("CPA") to examine those books and records related to the sale and other licensed use of your content. These examinations can only be used for the purpose of verifying the accuracy of previously released accounting statements. Examination will take place at our Pasadena offices during regular business hours. You must provide us with 30 day written notice of prior to commencing an audit. In your notification please indicate your CPA's name, address, phone number, and email address. Any CPA you hire must be paid for services rendered and cannot be auditing the books on a contingency basis.

## **MEDIA CONSIGNMENT SERVICES ADDENDUM**

Welcome to the 9 Star Media Consignment Services Addendum between you and 9 Star Media. This Consignment Services Addendum is part of and incorporates the terms of the 9 Star Media Artist Agreement, and contains additional terms and conditions under which 9 Star offers the Consignment Service. By electing to use the Consignment Services, you are subject to the terms and conditions of this Consignment Services Addendum and the 9 Star Media Artist Agreement.

Any and all physical media that Artist submits or ships to 9 Star Media is considered consignment Merchandise. When sales are made Artist shall be paid based on the sales royalty sheet Exhibit A. 9 Star makes no guarantee of sales and has no liability if sales do not take place. Artists physical Media is the Artists property and can be removed from 9 Stars offices with 14 days written notice. Artist is responsible for all shipping, customs, handling, or other charges related to sending or receiving media.

9 Star will check and inspect media once it is received to make sure that it is in compliance and undamaged. In the event that Media arrives to our offices damaged 9 Star will be unable to sell it. We will send you written notification of said damage. You may request 9 Star to ship it back to you at your own cost or instruct 9 Star to use it as sample CD's for bookstores which prefer to have a physical copy on hand.

### **1. Additional Grant:**

In addition to the rights granted in the 9 Star Media Artist Agreement, you hereby grant to us and our Licensees, the non-exclusive right, during the Term and throughout the Authorized Territory, to:

- (a) Promote, sell, distribute, and deliver Your Content as Physical Product to purchasers and resellers who may use such Physical Products in accordance with usage rules approved by us and pursuant to any limitations imposed by you in your distribution preferences (e.g., only Physical Product Sales, No Wholesale Sales);
- (b) Reproduce Your Content in Physical Product and as Clips;
- (c) Publicly perform, communicate to the public, and distribute Your Content, including as Clips, to promote the sale and distribution of your Physical Product, including as embodied in a podcast; and any other media in existence or hereinafter developed;
- (d) Reproduce and publicly display any visual elements of Your Content (e.g., album cover artwork, images, etc.) received in Physical Product in digital form in connection with the promotion, advertisement, sale, and distribution of Your Content as embodied in Physical Product.

### **2. Consignment Services:**

(a) **Delivery of Your Content and/or Physical Product.** You will ship or delivery to 9 Star Media all of Your Content that you want to use with the Consignment Service in accordance with the applicable instructions on the Website. You must also upload or deliver all materials required to package and market any of your Products (e.g., CD inserts, album artwork, etc.). 9 Star may, in its sole and exclusive discretion, determine whether all or any portion of Your Content complies with such instructions and is satisfactory for use with the Consignment Service.

(b) **Costs of Creation and Delivery.** You will be solely responsible for the creation of Your Content that you ship or deliver to 9 Star and for all Physical Product that is held on consignment by 9 Star on your behalf, and will pay all costs associated with its creation and any copies made

therefrom by you or on your behalf. Without limitation to the preceding sentence, you will be responsible for all shipping and handling charges and insurance on the Physical Product during shipment and delivery to 9 Star.

(c) **Maintaining Stock.** 9 Star will contact you at the current e-mail address on file to notify you of the exhaustion of Product stock on hand and request additional shipments at quantities that 9 Star Media feels is appropriate for your degree of sales. This quantity will be decided by 9 Star at its own discretion. You agree to comply with minimum stock levels for the Product as established by 9 Star from time to time.

(d) **Returning Stock.** 9 Star does not typically charge a storage fee for physical media, however it reserves the right to charge a fee to store any Physical Product you send to us in excess of any amounts we request. We reserve the right to return Physical Product to you from time to time, at your sole expense, as deemed appropriate by 9 Star in our sole discretion. 9 Star will notify you of its intent to return any Physical Product to you as authorized herein, as applicable. Any charges or fees that 9 Star is authorized to pass on to you pursuant to this paragraph may be debited against any amounts that 9 Star otherwise owes to you. If you do not respond to any return notice from 9 Star within 30 days of the date of the request, or if 9 Star's attempt to return Physical Product to you is unsuccessful because of an inaccurate address on file with us, then 9 Star shall have the right to recycle, destroy or discard the Physical Product without any compensation or liability to you.

(e) **Customer Returns.** Customer returns sent to 9 Star in new condition will be restocked, debited from your sales, and added back to active inventory. Any returned Physical Product that is defective or damaged will not be restocked, will be debited from your sales, and will be returned to you at your expense or recycled or destroyed, at 9 Star's discretion.

(f) **Insurance.** You acknowledge that 9 Star Media does not carry insurance relating to Physical Product stored by 9 Star under this Agreement, and agree that 9 Star shall have no responsibility or liability for any damage, destruction, loss or other impairment of any of Your Content absent 9 Star's gross negligence or intentional misconduct. If you desire for the your Media when embodied in Physical Product to be insured, then you must obtain such insurance at your expense.

### **3. Media Pricing:**

You may indicate the initial retail price of your Media as embodied in Physical Product when submitting your media on the Content Submission Form. 9 Star reserves the right, as established in the artist agreement, to set and changes prices for both physical and digital media at its own discretion.

### **4. Payment for Physical Product Sales:**

For each sale of your Physical Product through the Website (or sold by 9 Star through its distributors), 9 Star will pay you sales royalties based on the rate and schedule established in 'Exhibit A' of the '9 Star Media Licensing and Distribution Agreement'