



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

≡ FEB 26 2014

SESAC LLC
55 Music Square East
Nashville, TN 37203

Attention: Kathryn L. Neely, Music Licensing Specialist

Reference: SESAC Performance License

Dear Ms. Neely:

Acceptance Agreement

Contract Number: 4400004516

This acceptance agreement signifies a contract award to SESAC for a non-exclusive rights and license to publicly perform live or recorded non-dramatic renditions of musical compositions. The period of the contract shall be from January 1, 2013 through December 31, 2014, with renewal options, as agreed upon.

The contract award shall be in accordance with:

- 1) This Acceptance Agreement;
- 2) The Attached Music License Agreement.

All questions in regards to this contract shall be directed to the Contract Specialist, Kristy D. Apperson, at 703-324-3217 or via e-mail at kristy.apperson@fairfaxcounty.gov.

Sincerely,

Cathy A. Muse, CPPO
Director/County Purchasing Agent

CM

Department of Purchasing & Supply Management

12000 Government Center Parkway, Suite 427

Fairfax, VA 22035-0013

Website: www.fairfaxcounty.gov/dpsm

Phone 703-324-3201, TTY: 1-800-828-1140, Fax: 703-324-3228

CONTRACT FORM ADDENDUM

This addendum, duly executed by the parties, The County of Fairfax and the Contractor ("SESAC"), is attached and hereby an element of the contract.

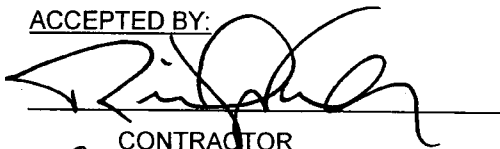
The Contractor's License is acceptable to the County of Fairfax with exceptions and revisions noted herein. Certain standard clauses may appear in the Contractor's License Agreement that cannot be accepted by the County of Fairfax. In consideration of convenience, use of this form and the Contractor's License Agreement negate the necessity of negotiating a separate contract document line by line.

1. Delete Section 4(B) and replace with the following provision: "It is acknowledged that Licensee is a political subdivision of the Commonwealth of Virginia and, therefore, is exempt from taxation.";
2. The County is unable to agree to collection costs and attorney's fees as set forth in Section 4(C) and as such the language shall be deleted.;
3. The obligation of the County to pay compensation due the Contractor under the contract or any other payment obligations under any contract awarded pursuant to this contract is subject to appropriations by the Fairfax County Board of Supervisors to satisfy payment of such obligations. ;
4. During the performance of the contract, the Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. ;
5. Contractor certifies that it does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986. ;
6. CONTRACTUAL DISPUTES-Any dispute concerning a question of fact as a result of a contract with the County which is not disposed of by agreement shall be decided by the County Purchasing Agent, who shall reduce his decision to writing and mail or otherwise forward a copy to the Contractor within ninety (90) days. The decision of the County Purchasing Agent shall be final and conclusive unless the Contractor appeals within six (6) months of the date of the final written decision by instituting legal action as provided in the Code of Virginia. A Contractor may not institute legal action, prior to receipt of the County Purchasing Agent's decision on the claim, unless the County Purchasing Agent fails to render such decision within the time specified. Contractual claims, whether for money or other relief, shall be submitted in writing no later than sixty days after final payment; however, written notice of the Contractor's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.;
7. LEGAL ACTION-No Contractor shall institute any legal action until all statutory requirements have been met.

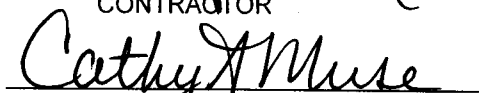
8. For record purposes, this Contract Form Addendum and the Attached License Agreement shall be referred to as contract number 44000004516.

The Contractor's License Agreement and this Contract Form Addendum constitute the entire agreement between the parties and may not be waived or modified except by written agreement between the parties.

ACCEPTED BY:



CONTRACTOR



Cathy A. Muse, CPPO
Director/County Purchasing Agent

1/30/14
DATE

2/21/2014
DATE

SESAC PERFORMANCE LICENSE for MUNICIPALITIES

Agreement made in New York by and between SESAC LLC ("SESAC"), a Delaware limited liability company, with offices at 55 Music Square East, Nashville, TN 37203 and

Fairfax County ("LICENSEE")
(Legal Name of Entity)

(Billing Address) _____

(City, State, ZIP) _____

Telephone: _____ Fax: _____ E-mail: _____

SESAC and LICENSEE hereby mutually agree as follows:

1. GRANT OF RIGHTS: Effective as of **January 1, 2013** (the "Effective Date") SESAC grants to LICENSEE the non-exclusive right and license to publicly perform live or recorded non-dramatic renditions of the musical compositions, the performance rights to which SESAC controls and/or is empowered to license (the "Compositions") solely on and in connection with the following:

Name **Fairfax County**
Location **Fairfax, VA** (the "Municipality")

As used herein, "Municipality" shall include those locations owned, operated, and/or leased by LICENSEE which are used as governmental offices or for related purposes; those locations at which events are held under LICENSEE's sole control and attended by LICENSEE's employees, their families, social acquaintances, citizens, and other members of the public; and those areas owned, operated, and/or leased by LICENSEE which are under LICENSEE's sole control.

2. LIMITATIONS OF RIGHTS: The Rights granted pursuant to Paragraph 1 above shall specifically exclude:

A. the right to perform, broadcast, televise or otherwise transmit the Compositions to any location (unless and to the extent otherwise expressly permitted in Schedule "A");

B. the right to grant the Rights to any third party;

C. "Grand Rights" in and to the Compositions ("Grand Rights" include, but are not limited to, the right to perform in whole or in part, dramatico-musical and dramatic works in a dramatic setting);

D. performances of the Compositions (i) which are part of a background music service originating from any location including the Municipality, for which SESAC performance license fees are otherwise paid, regardless of the means by which such performances are transmitted on or to the Municipality, and/or (ii) by coin-operated phonorecord players ("jukeboxes"), as defined in 17 U.S.C. § 116.

E. This license shall specifically exclude concerts. "Concerts" are those performances by an entertainer, group, or performer for which an admission or other fee is charged and which are not solely promoted by LICENSEE.

F. This license shall specifically exclude "Sporting events." "Sporting events" are professional, semi-professional, major or minor league athletic competitions.

G. This license shall specifically exclude Colleges and/or Universities.

3. TERM OF LICENSE:

A. The term of the Agreement shall be for an initial period that commences upon the Effective Date and continues for a period of one (1) year (the "Initial Period"). Thereafter, the Agreement shall automatically continue in full force and effect for successive additional periods of one (1) year ("Renewal Period(s)"). SESAC and /or LICENSEE shall have the right to terminate this Agreement as of the last day of the Initial Period or as of the last day of any Renewal Period(s) upon giving written notice to the other party by certified mail, return receipt requested, at least thirty (30) days prior to the commencement of any Renewal Period(s). The Initial Period and Renewal Period(s) are sometimes collectively referred to herein as the "Term."

B. Notwithstanding anything to the contrary contained herein, SESAC shall have the right to terminate this Agreement upon thirty (30) days written notice by reason of any law, rule, decree, or other enactment having the force of law, by any authority, whether federal, state, local, territorial or otherwise, which shall result in substantial interference in SESAC's operation or any substantial increase in the cost of conducting its business.

4. LICENSE FEE:

A. As consideration for the Rights granted herein, LICENSEE shall pay to SESAC the annual "License Fee" then in effect in accordance with the "Fee Schedule" set forth in Schedule "A" attached hereto.

B. In the event that SESAC is determined by the taxing authority or courts of any state, territory, or possession in which LICENSEE conducts its operation to be liable for the payment of a gross receipts, sales, use, business use or other tax which is based on the amount of SESAC's receipts from LICENSEE, then LICENSEE shall reimburse SESAC, within thirty (30) days of notification therefor, for LICENSEE's pro rata share of any such tax derived from receipts received from LICENSEE, unless by constitution or statute, LICENSEE is exempt from any such tax whether applied directly or indirectly to LICENSEE.

C. SESAC shall have the right to impose a late payment charge of one and one-half percent (1.5%) per month for any License Fee payment that is more than thirty (30) days past due. In the event that SESAC incurs any costs or fees in connection with the collection of any amounts past due to SESAC hereunder, including without limitation reasonable attorney's fees, then LICENSEE shall be responsible for paying such amounts to SESAC unless by constitution or statute, LICENSEE is exempt from any such charge whether applied directly or indirectly to LICENSEE.

D. Effective January 1 of each calendar year the License Fee Schedule may be increased by an amount (rounded to the nearest dollar) equivalent to the percent increase in the Consumer Price Index - All Urban Consumer (CPI-U) as published by the Bureau of Labor Statistics, U.S. Department of Labor, between the most recent October and the preceding October or five percent (5%), whichever amount is greater.

5. MISCELLANEOUS:

A. In the event LICENSEE fails to pay the License Fee when due or is otherwise in default of any other provision of this Agreement, then SESAC shall have the right to terminate this Agreement in addition to pursuing any and all other rights and/or remedies available if LICENSEE has not cured such breach within thirty (30) days following SESAC's written notice of such default.

B. SESAC shall have the right to withdraw from the scope of this License, upon written notice, the right to perform any musical composition licensed hereunder as to which any action has been threatened, instituted, or a claim made that SESAC does not have the right to license the performance rights in such composition.

C. This Agreement shall be binding upon and inure to the benefit of SESAC's and LICENSEE's legal representatives, successors, and assigns, but no assignment shall relieve SESAC or LICENSEE of their obligation under this Agreement.

D. This Agreement supersedes and cancels all prior negotiations and understandings between SESAC and LICENSEE in connection with the Municipality. No modification of this Agreement shall be valid or binding unless in writing and executed by SESAC and LICENSEE. If any part of this Agreement shall be determined to be invalid or unenforceable by a court of competent jurisdiction or by any other legally constituted body having the jurisdiction to make such determination, the remainder of this Agreement shall remain in full force and effect. No waiver of any breach of this Agreement shall be deemed a waiver of any preceding, continuing or succeeding breach of the same, or any other provision of this Agreement.

IN WITNESS THEREOF, the parties have caused this Agreement to be duly signed as of 2/21/2014
Please insert today's date

LICENSEE

BY:

Cathy A. Muse
(please sign here)

Cathy A. Muse

(Type or print name)

TITLE:

Purchasing Agent

SESAC LLC

BY:

[Signature]

TITLE:

Senior Vice President
Licensing Operations

Please mail signed license to:

SESAC
55 Music Square East
Nashville, TN 37203

Schedule "A"
MUNICIPALITY - 2013

I. Municipality. "Municipality," as used in the SESAC Performance License effective **January 1, 2013** (the "Agreement") to which this Schedule "A" is attached, shall be defined as the following Municipality:

Name **Fairfax County**
Location **Fairfax, VA** (the "Municipality")

II. Fee Schedule/License Fee.

A. The annual License Fee shall be based upon the "Population" of the Municipality as noted below:

<u>"Population"</u>		<u>License Fee for calendar year 2013</u>
25,000	or less	\$ 327
25,001	- 50,000	\$ 652
50,001	- 100,000	\$ 1,062
100,001	- 150,000	\$ 1,549
150,001	- 250,000	\$2,117
250,001	- 500,000	\$2,769
500,001	And over	\$3,504 + \$327 for each additional 100,000 population

Population: **1,109,725**

This license will authorize **audio and/or audio/visual musical performances** (radio, records, tapes, compact discs, videocassettes, laser discs, television, and similar media), and **live musical performances**. This license will also authorize performances via **music on hold** systems operated by LICENSEE.

B. As used herein, "Population" shall mean the total population of the Municipality as of the most recent United States Census.

C. LICENSEE shall pay the License Fee to SESAC upon execution of this Agreement, with license fees due and payable in advance. The initial License Fee payment shall be a pro-rated amount calculated using the then current License Fee rate(s) from the Effective Date through the end of the current billing period. Subsequent payments shall be made annually in one (1) payment on or before the first day of January, for the billing period of January 1 through December 31 of each calendar year of the Term.

D. Upon execution of this Agreement, LICENSEE shall provide SESAC with a report detailing the Population as of the Effective Date. Thereafter, on or before October 1 of each calendar year, in the event that a change in the Population results in a change in fee category, LICENSEE shall submit an updated report of the Population. License fees will be adjusted effective the following January 1. SESAC retains the right to obtain these figures through United States Census Data and make appropriate adjustments to the License Fee.

E. Notwithstanding anything to the contrary contained in this Agreement, upon written notice to LICENSEE, SESAC shall have the right to adjust the rates set forth in the Fee Schedule. In the event that LICENSEE's License Fee increases as a result of such adjustment to the Fee Schedule, LICENSEE shall have the right to terminate this Agreement as of the date such increase is to take effect. LICENSEE must give SESAC written notice of such termination by certified mail, return receipt requested, not later than thirty (30) days after written notice of such increase is sent to LICENSEE by certified mail. This paragraph shall not apply to paragraph 4.D of the Agreement.

III. This Schedule is incorporated and made part of the Agreement. Unless otherwise indicated, all capitalized terms in this Schedule "A" shall have the same meaning as set forth in the Agreement.

Please do not detach, must accompany license

Please mail completed license to: SESAC, 55 Music Sq. E., Nashville, TN 37203

Fairfax County / 63-45-01025 / KN ID# 248933

V1207SM

Schedule "A"
MUNICIPALITY - 2014

I. Municipality. "Municipality," as used in the SESAC Performance License effective **January 1, 2013** (the "Agreement") to which this Schedule "A" is attached, shall be defined as the following Municipality:

Name **Fairfax County**
Location **Fairfax, VA** (the "Municipality")

II. Fee Schedule/License Fee.

A. The annual License Fee shall be based upon the "Population" of the Municipality as noted below:

<u>"Population"</u>		<u>License Fee for calendar year 2014</u>
25,000	or less	\$ 343
25,001	- 50,000	\$ 685
50,001	- 100,000	\$ 1,115
100,001	- 150,000	\$ 1,626
150,001	- 250,000	\$2,223
250,001	- 500,000	\$2,907
500,001	And over	\$3,679 + \$343 for each additional 100,000 population

Population: **1,109,725**

This license will authorize **audio and/or audio/visual musical performances** (radio, records, tapes, compact discs, videocassettes, laser discs, television, and similar media), and **live musical performances**. This license will also authorize performances via **music on hold** systems operated by LICENSEE.

B. As used herein, "Population" shall mean the total population of the Municipality as of the most recent United States Census.

C. LICENSEE shall pay the License Fee to SESAC upon execution of this Agreement, with license fees due and payable in advance. The initial License Fee payment shall be a pro-rated amount calculated using the then current License Fee rate(s) from the Effective Date through the end of the current billing period. Subsequent payments shall be made annually in one (1) payment on or before the first day of January, for the billing period of January 1 through December 31 of each calendar year of the Term.

D. Upon execution of this Agreement, LICENSEE shall provide SESAC with a report detailing the Population as of the Effective Date. Thereafter, on or before October 1 of each calendar year, in the event that a change in the Population results in a change in fee category, LICENSEE shall submit an updated report of the Population. License fees will be adjusted effective the following January 1. SESAC retains the right to obtain these figures through United States Census Data and make appropriate adjustments to the License Fee.

E. Notwithstanding anything to the contrary contained in this Agreement, upon written notice to LICENSEE, SESAC shall have the right to adjust the rates set forth in the Fee Schedule. In the event that LICENSEE's License Fee increases as a result of such adjustment to the Fee Schedule, LICENSEE shall have the right to terminate this Agreement as of the date such increase is to take effect. LICENSEE must give SESAC written notice of such termination by certified mail, return receipt requested, not later than thirty (30) days after written notice of such increase is sent to LICENSEE by certified mail. This paragraph shall not apply to paragraph 4.D of the Agreement.

III. This Schedule is incorporated and made part of the Agreement. Unless otherwise indicated, all capitalized terms in this Schedule "A" shall have the same meaning as set forth in the Agreement.

Please do not detach, must accompany license

Please mail completed license to: SESAC, 55 Music Sq. E., Nashville, TN 37203

Fairfax County / 63-45-01025 / KN ID# 248933

V1207SM