

Cheermp3, LLC Music License Agreement

- 1) By downloading and using our music, YOU ("THE BUYER")(the person or entity digitally signing, submitting or agreeing to these unmodifiable terms), are agreeing to be bound by the terms set out herein.
- 2) The songs and tracks in this download (each, a "Track") are licensed to you ("THE BUYER") not sold to you. All rights not expressly granted to you, hereinafter referred to as the "Licensee", below are reserved by Cheermp3, LLC, Inc. ("Licensor"). This limited license is only granted to the original Licensee.
- 3) WHEREAS Music Service has rights to a vast library of audio recordings and original works, to which they may grant licenses to both master recordings and the underlying musical compositions to third parties, and is engaged in the business of providing the limited, non-exclusive right to use their catalog of recorded music for a variety of purposes as set forth below:
 - a) Licensed Works. The musical compositions (the "Compositions"), covered by this Agreement are all those available on Music Services website (www.Cheermp3.com) (hereinafter referred to as the "Website"), incorporated by this reference. The particular Compositions which are the subject of this license shall be referred to collectively as the "Licensed Works".
 - b) Provided Licensee has paid Licensor the applicable license fees for the Track, Licensor grants (the "Grant") to Licensee, the non-exclusive, non-transferrable, non-sub licensable right and license to publically perform the Track only on a synchronized basis with Licensee's performances of nonprofit use in connection with public performance; cheerleading, gymnastics, or dance routine to live audiences of cheerleading or dance competitions or exhibitions (and the necessary "*through-to-the-viewer*" music performance rights with respect to such synchronization). Licensee may not make or distribute copies (except to the extent necessary for Licensee's disaster recovery purposes), sell, rent or otherwise display, distribute or perform the Track (or any part thereof) in any manner other than set forth in the Grant above and no more than 40 copies of the recordings may be made for any purpose. Licensor dose not grants Licensee the right to edit and/or sample the Track for a derivative works.
 - c) Term. The rights granted by Music Service to Licensee hereunder shall be for a set term (the "License Term"). The License Term, and payment therefore, shall be based on either a monthly, quarterly, semiannual, annual, number of uses of the Compositions or other basis, as mutually agreed by the parties. Once the License Term runs out, either by virtue of the length of time or number of uses of the Licensed Works, this license shall cease.
 - (1) Territory. The territory covered by this license shall be the world (the "Territory").
 - (2) Any use by Licensee of the License Work without payment of the License Fee shall constitute a material breach of this Agreement, entitling Music Service to all available remedies under Federal law and the State of California.
- 4) Notwithstanding the foregoing, Licensee shall use the Licensed Works for any and all of the purposes set forth herein, subject to the terms and conditions hereunder. Notwithstanding the foregoing, Licensee shall have no right to resell, publicly perform, transfer or hypothecate the unaltered version of the Licensed Work.

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- 5) Any public performance by Licensee of the Licensed Works is subject to the clearance of the applicable public performance rights in force from time to time applied by the performing rights society in each part of the Territory in accordance with their respective prevailing terms and conditions. Licensee shall attribute and credit the Licensed Works in at each exhibition for all purposes.
- 6) Any alteration or modification by Licensee of the Licensed Work, including but not limited to Licensee's remix, addition or change of any recordings or lyrics, shall be at Licensee's sole risk, and Music Service shall have no responsibility regarding any such alteration or modification.
- 7) Licensee acknowledges and agrees that all rights in and to the Licensed Works, whether now known or hereafter in existence, that are not granted to Licensee hereunder are specifically reserved by Music Service. Licensee acknowledges that it shall have no right or access to the Master and may only use the phonographic copy provided by the Music Service as enumerated herein. Music Service retains all ownership and rights to the Master and does not hereby grant any right, except the non-exclusive right of the Licensee to use the Licensed Works for its purposes as per Paragraph 3) (b) above.
- 8) Licensee warrants and represents that: (i) it has the right to enter into this Agreement and has not entered into any other agreement that would interfere with your grant of rights hereunder; (ii) not under any disability, restriction or prohibition, whether contractual or otherwise, with respect to its right to execute this Agreement; (iii) all information provided by Licensee herein and during the Term hereof shall be accurate, complete and not misleading in any material respect; (iv) it shall only use the Compositions for the purposes set forth in Paragraph 3) (b) above, as determined by Licensee, in accordance with the terms of this Agreement; (v) it shall not, except to the extent allowed by Music Service hereunder and solely in connection with its authorized use of the Site, copy or otherwise duplicate directly or indirectly any portion of the Site including without limitation, any of the information, trademarks, logos, designs, graphics, systems, Tracks or otherwise contained therein for any purpose, and shall not use any software that enables the copying or duplication of such materials; (vi) it shall abide by all copyright notices, information, or restrictions applicable to any Music Service's materials or otherwise published on the Site; (vii) Licensee will comply with all requirements of the applicable performing rights societies as set forth hereunder; (viii) no usage by Licensee shall encourage or be associated with illegal or illicit activities allowed; and (ix) Licensee agrees to not transfer its rights in any Compositions licensed under this agreement to third parties without the express written consent of Music Service.
- 9) Music Service warrants and represents that: (i) it has the right to enter into this Agreement and has not entered into any other agreement that would interfere with your grant of rights hereunder; (ii) it is under no disability, restriction or prohibition, whether contractual or otherwise, with respect to its right to execute this Agreement and to grant the rights granted hereunder; (iii) it has obtained from the owner and publisher of the original Compositions (and has obtained rights to arrangements of public domain compositions) identified in the Checkout section of the Website sufficient to grant the rights to Licensee hereunder; and (iv) no Composition nor any other selections, materials, ideas or other properties contained in the Licensed Works shall violate or infringe upon any common law or statutory right of any person, firm or corporation, including, without limitation, contractual rights, copyrights, trademarks and rights of privacy.

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- 10) Music Service shall indemnify, save and hold Licensee harmless from any and all damages, liabilities, costs, losses and expenses directly related to any claim, demand or action which is inconsistent with the warranties, representations or covenants made by Music Service hereunder, which such claim results in a final, non-appealable judgment in a court of competent jurisdiction or which is settled with Music Service's consent. Notwithstanding the foregoing, Licensee shall notify Music Service within five (5) days of any such claim, demand, or action against Licensee. Licensee shall have the right, at its sole expense, to participate in the defense thereof with counsel of its choice, provided, however, Music Service shall have the right at all times, in its sole discretion, to retain and resume control of such action and proceedings.
- 11) Licensee shall indemnify, save and hold Music Service, its licensees, successors, assigns, employees, officers, directors and representatives harmless from any and all damages, liabilities, costs, losses and expenses (including costs and reasonable attorney's fees) arising out of or connected with any claim, demand or action which is inconsistent with any of the warranties, representations or covenants made by Licensee hereunder. Music Service shall have the right to participate in the defense of any claim, demand, or action with counsel of its choice, at its sole cost and expense.
 - a) Limitation on Liability. Notwithstanding the foregoing, Music Service shall not be liable for any indirect, special or consequential damages including but not limited to loss of anticipated profits, in connection with or arising from this Agreement and shall not be liable for any loss, damage, claim or liability arising from or related to any software program, data errors, digital transmission errors, failures, interruptions or delays, regardless of cause. In no event shall Music Service 's total liability exceed the License Fee paid by Licensee hereunder. Licensee shall hereby indemnify, save and hold Music Service, its licensees, successors, assigns, employees, officers, directors and representatives harmless from any damages in excess of the License Fee.
- 12) Assignment. Music Service shall have the right to assign this Agreement to any party with whom they shall merge, consolidate, or which acquires a substantial, interest in the assets of Music Service's business. Licensee shall have the limited right to assign this Agreement to any party with whom they shall merge, consolidate, or which acquires a substantial, interest in the assets of Licensee's business, provided such person or form shall continue to pay the License Fee for the subscription service hereunder, or a flat fee ("buyout") for the right to use any specific Licensed Work for a particular purpose.
- 13) Arbitration. Any controversy, claim or dispute arising out of or relating to this Agreement, shall be settled solely and exclusively by binding arbitration in the County of Riverside, State of California. Such arbitration shall be conducted in accordance with the then prevailing commercial arbitration rules of the American Arbitration Association. Each party shall bear its own attorneys fees and expenses. The parties agree to abide by all decisions and awards rendered in such proceedings. Such decisions and awards rendered by the arbitrator shall be final and conclusive. All such controversies, claims or disputes shall be settled in this manner in lieu of any action at law or equity; provided however, that nothing in this subsection shall be construed as precluding the bringing of an action for injunctive relief or other equitable relief.
- 14) Miscellaneous. The parties intend that this be the final expression of their agreement and a complete and exclusive statement of its terms, and that no extrinsic evidence whatsoever may be introduced in any judicial, administrative, or other legal proceeding involving this Agreement. This

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license is binding upon and shall inure to the benefit of the respective successors or assigns of the parties hereto. This Agreement may not be modified, amended, or terminated except by an instrument in writing, signed by the parties. Music Service shall not be deemed to be in breach of any of the obligations hereunder unless and until they shall have been given specific written notice from Licensee by certified or registered mail, return receipt requested, of the nature of such breach and shall thereafter fail to commence the cure of such breach within thirty (30) days after receipt of such written notice. If any provision of this Agreement, or the application thereof to any person, place, or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable, or void, the remainder of this agreement and such provisions as applied to other persons, places, and circumstances shall remain in full force and effect. The validity, interpretation, enforceability, and performance of this Agreement shall be governed by and construed in accordance with the law of the State of California.

- 15) This license and grant of rights made hereunder are irrevocable and are granted for one year from the date of receipt of the order confirmation and license issued via email.
- 16) Licensors will not hesitate to take legal action against any person, agent, party, company or individual who fail to adhere to the terms of this agreement. Licensee agrees to defend, indemnify, and hold harmless Licensors, its affiliates and their respective officers, directors, shareholders, employees, subcontractors, agents and suppliers (collectively, "Licensors Parties") harmless from and against any and all claims, losses, damages and associated legal expenses arising out of or relating to (i) Licensee's breach of any provision of this agreement; (ii) Licensee's activities or other conduct of its business; (iii) the violation by Licensee of any statutory or regulatory obligation; or (iv) any claim or action for personal injury, death, property damage or other cause of action in connection with Licensee's activities.
- 17) All liability of the Licensors Parties collectively for claims arising under this Agreement or otherwise howsoever arising shall be limited to the money paid to Licensors by Licensee for the applicable Track during the three (3) month period preceding the event or circumstances first giving rise to such liability. This limitation of liability is cumulative and not per-incident (i.e., the existence of two or more claims will not enlarge this limit). In no event shall any Licensors Party be liable for any special, incidental, indirect or consequential damages, or lost revenue, lost profits, damages or liability based on the other party's revenue, or lost or damaged data, or damages or liability based on the amount or duration of use of a Track, arising from any type of claim whatsoever, whether arising in contract, tort (including negligence), or otherwise, even if such party has been informed of the possibility thereof.

Please direct all inquiries and any reports of violations to the terms of this agreement to us info@Cheermp3.com. Thank You.