

Custom Channels General Terms & Conditions

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Effective: August 1, 2019

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1. Introduction; Acceptance

Thank you for choosing Custom Channels as your business music service!

These are our General Terms and Conditions (“**GTC**” or “**Terms**”) governing the use of Custom Channels’ website and service. In this document,

- “**Company**”, “**Custom Channels**”, “**We**”, or “**Us**” refers to CustomChannels.net, LLC, located at 2569 Park Ln., Suite 104, Lafayette, CO 80026, and
- “**Client**” or “**You**” refers to you, the subscriber and/or user of the Service (defined below).

By ordering, activating, installing, accessing, or using the Services (including any trial, demo, or paid Subscription), you accept these GTC on behalf of the entity you represent and warrant that you have authority to bind that entity. If you do not agree, do not use the Services and cancel any Subscription as provided herein.

Please take the time to read these terms, so you can properly understand the policies and procedures governing your use of Custom Channels. If you have any questions, please contact Custom Channels via the contact information at the bottom of this document.

2. Definitions

You will see a handful of specific terms used throughout this document, defined as follows:

- **“Supplemental Terms”** refers to any additional terms and conditions contained in materials mutually agreed upon by Company and you, your parent company, franchisor, franchisees, or other affiliates. Such materials may include, but are not limited to, any online order form, statement of work, services agreement, or separate master services agreement.
- **“Agreement”** refers to the terms and conditions of this GTC and any Sales Order (defined below) or Supplemental Terms. These materials collectively constitute a legally binding Agreement that governs the terms and conditions by which our services are provided to you. In the event of any conflict between these GTC and your Supplemental Terms, the provisions in your Supplemental Terms shall prevail.
- **“Channel”** refers to one discrete collection of audio programming, created for you by us, that is transmitted over the internet by streaming technologies as part of a subscription to, or demo or free trial of, the Business Music Service, as defined below.
- **“Service” or “Services”** refers to Company’s bundled offering(s) provided to Client, which may include: (a) the Business Music Service; (b) Messaging; (c) Digital Signage; (d) Hardware Players; (e) installation and support services; and (f) ancillary features and components such as the customer portal (including client.customchannels.net), dashboards, APIs, Company-approved software applications, and advertising modules,. Company may present the Services at a single, all-inclusive subscription price. Each Service component has substantial independent value; any internal allocations Company makes for regulatory compliance are handled solely in Company’s books and records, are not itemized to customers, and do not constitute component pricing.
- **“Business Music Service” or “Music Service”** refers to Company’s noninteractive business-establishment music programming (custom, semi-custom, or stock) delivered for background/foreground ambience to Client’s commercial locations via streaming and/or cached delivery through authorized hardware and/or software. The Music Service is operated under (i) Company’s Through-to-the-Audience Licenses for non-dramatic musical works (e.g., ASCAP, BMI, SESAC, GMR), and (ii) applicable sound recording licenses.
- **“Excluded Activities”** refers to uses where music is integral to the activity, including but not limited to family entertainment centers, skating rinks, dance clubs, instructed fitness

classes, dance instruction, or events where admission is charged to hear the music, all of which require additional licenses beyond those included with the Services.

- **“Subscription”** refers to your ongoing monthly or annual subscription to and payment for the Services, as defined by your Agreement.
- **“Subscribing Location”** refers to one of any number of physical commercial establishments belonging to you that are approved by us for use of the Service.
- **“Sales Order”** refers to your verbal, written, or “click through” acceptance of a service order, subscription plan, one-time purchase of equipment, or any other Supplemental Terms providing for the purchase of services or equipment.
- **“Hardware Player”** refers to a physical streaming decoder device provided to a Client by Custom Channels and configured for use of our Service.
- **“Third-Party Player”** refers to any pre-approved physical or digital platform, provided by anyone other than Company, that is used to decode the Channel to an audio signal that can then be delivered to an analog audio system.
- **“Music Players”** refers collectively to Hardware Players and Third-Party Players.
- **“Direct-Licensed/Excluded Recordings”** refers to sound recordings delivered by Company under direct sound-recording licenses or otherwise excludable from statutory royalty calculations to the extent permitted by applicable regulations.
- **“Royalty-Free Music”** refers to sound recordings and/or production music delivered under Company-owned/controlled or direct licenses for which no additional per-use royalties are owed (notwithstanding that other rights may still apply).
- **“Messaging”** refers to promotional or informational audio spots, announcements, or advertisements inserted into a Music Service stream or delivered as part of the Services.
- **“Digital Signage”** refers to visual display content and related software/services that may be bundled with the Services but do not themselves deliver music.
- **“Through-to-the-Audience License”** refers to public-performance licenses from ASCAP, BMI, SESAC, and GMR (and any successor or additional performing rights organizations, as applicable) authorizing Company to deliver non-dramatic musical works via the Service for on-premise playback by subscribers at Subscribing Locations.

- **“Client Content”** refers to any audio or visual material (e.g., announcements, ads, jingles, logos, images) supplied by Client for use in Messaging, Digital Signage, or other parts of the Services.

3. Use of the Service

Requirements for Use

In order to utilize the service, you—at your own expense and independent of this agreement—will need to provide at your Subscribing Location(s) all necessary equipment to meet the minimum network and audio requirements for the Business Music Service, including:

- Internet service with a full-time connection and sufficient bandwidth to facilitate a minimum of 128 Kbps of continuous data throughput and periodic peak data throughput of at least 1.5 Mbps;
- An audio system capable of routing a standard RCA signal from a Hardware Player to connected loudspeakers, or an analogous audio system suited to the needs of a Third-Party Player;
- A pre-approved player, in the form of either a Hardware Player purchased directly from Company or a Third-Party Player furnished by you, as specified in your Supplemental Terms (collectively, “Music Players”);
- Any additional routers, switches, patch cables, or power strips needed to provide a wired internet connection over Ethernet to the Music Player within 5 feet of the audio system; and
- Any configurations to firewalls, switches, routers, or other network devices necessary to provide a consistent local network connection and Internet service to the Music Player.

Non-Interactivity; Territory; Prohibited Uses

You will use the Business Music Service only as background, noninteractive music in on-premise business locations within the applicable territory(ies). You will not enable on-demand track selection, downloads, consumer redistribution, time-shifting for take-home use, or other features that would render the Business Music Service interactive. You will not retransmit the Business Music Service beyond Client’s premises or publish advance playlists that provide reasonable foreknowledge of tracks. You authorize Company to confirm, with your reasonably available personnel, the existence, addresses, and service dates of Subscribing Locations if required by a licensor or regulator.

Excluded Activities & Business Types

The licenses included with the Services do not cover certain business types and activities that require additional licenses from performing rights organizations (collectively, “**Excluded Activities**”):

(a) Family Entertainment Centers. Any facility where entertainment activities constitute the primary business purpose or more than incidental use, including but not limited to arcades, laser tag facilities, bowling alleys, skating rinks, trampoline parks, indoor playgrounds, go-kart facilities, mini golf, escape rooms, or similar entertainment-primary venues. Client shall obtain separate licenses directly from ASCAP, BMI, SESAC, and GMR for such uses.

(b) Fitness and Dance Activities. Any use of the Services during or in connection with instructed fitness classes, dance instruction, aerobics, yoga with music, cycling classes, choreographed group fitness, or similar activities where music serves as integral accompaniment to physical activity rather than background ambiance. Client acknowledges that such uses require separate fitness facility licenses.

(c) Event and Entertainment Venues. Any use of the Services for special events, private parties, live performances, or gatherings where (i) admission is charged specifically to hear music, (ii) music serves as primary entertainment rather than background ambiance, or (iii) the venue operates primarily as an entertainment destination or dance club.

(d) Dramatic and Synchronized Uses. Any use of the Services as accompaniment to dramatic performances, theatrical productions, synchronized with visual content, or in conjunction with live musicians.

(e) Hospitality and Residential Uses. The Services may not be transmitted to any private home, apartment, guest room in a hotel or motel, or other similar residential or transient-lodging location.

Client represents and warrants that it has accurately identified its business type and primary activities, that its use shall not include any Excluded Activities, and shall be solely responsible for determining whether additional licenses are required and obtaining such licenses at its own expense.

Connectivity & Data

You will maintain network connectivity and permit the collection of device/channel/usage information reasonably necessary for Company to comply with licensing and reporting obligations (e.g., monthly Statements of Account/Reports of Use). You will not disable telemetry required for such compliance and will, upon request, provide reasonable factual information within ten (10) business days to support Company’s reporting.

Online Client Dashboard

While you do not need a computer to play the Service at your Subscribing Location, some of our offerings require the use of an internet-connected computer in order to manage your account and Service through a web browser. Please see the requirements for each Service on our website or in your Supplemental Terms.

Hardware Player Installation

The Hardware Player and our Service is designed to be self-installed with basic setup instructions and, if needed, telephone and email support provided by Custom Channels. Any additional or alternative equipment needs your Subscribing Location may have should be discussed with a reputable Information Technology or Audio/Visual services provider.

Devices (Hardware Player & Third-Party Player)

You will use only Hardware Players or Third-Party Players that are approved by Company. You are responsible for providing power, network connectivity, and permitted network access for updates and telemetry required for proper Service operation. Except as stated in §5 (Player Warranty), players are provided as-is and may be repaired or replaced with new or refurbished units of equal or better specifications. Company may deploy software/firmware updates that alter features or functionality where reasonably necessary to maintain compliance or security.

Messaging (Company-Produced, Third-Party, or Client-Provided)

Messaging may be (a) Company-Produced (created by Company using in-house talent and/or vendors), (b) Third-Party Produced (created by a production house engaged by you or facilitated by Company as a pass-through), or (c) Client-Provided (you upload finished assets) (each, “**Messaging**”):

(a) Company-Produced. Unless your Sales Order expressly states “work-made-for-hire/assignment,” Company (or its licensors) owns all recordings, scripts, session files, and project files. Company grants you a non-exclusive, non-transferable license to have that Messaging publicly performed solely within the Service at your Subscribing Locations, in the territories and for the term stated in your Sales Order (default: during your active subscription; U.S. and, if stated, Canada). Export, reuse outside the Service, paid media, or editing requires a separate license. Voice talent, music beds, and SFX in Company-Produced Messaging are licensed for use only within the Service unless your Sales Order says otherwise.

(b) Third-Party Produced. If Company facilitates third-party production, your rights are limited to the pass-through license Company receives from that producer and specified in your Sales Order; otherwise, you are responsible for securing and honoring all third-party license terms.

(c) Client-Provided. You retain ownership of your assets and grant Company a non-exclusive, worldwide license to use, reproduce, encode/transcode, adapt (e.g., loudness normalization), publicly perform, and insert your Messaging into streams and signage solely to provide the Services and comply with law.

All Messaging must be accurate, lawful, non-infringing, brand-safe, and compliant with applicable advertising/consumer-protection rules (including U.S. FTC endorsement rules and Canadian equivalents) and sector restrictions (e.g., alcohol, health, children). Company may reject, require modification of, or remove Messaging it reasonably believes violates these standards or third-party rights.

If Messaging contains music (beds/stings/tracks) not supplied by Company, you are responsible for clearing all rights (musical-work and sound-recording/neighborhood rights). For Canada, musical works are licensed via SOCAN and sound recordings via Re:Sound/Entandem.

To allow Company to treat music within Messaging as Direct-Licensed/Excluded Recordings or Royalty-Free Music for internal accounting purposes, you will provide upon request (within ten (10) business days) cue-sheet-level details sufficient to confirm rights and identify content (work/recording titles, writers/publishers/PRO, ISRC/owner, durations, placement dates, territory, and whether the music is Royalty-Free Music or a Direct-Licensed/Excluded Recording). Upon Company's request, you will also provide copies of relevant licenses or vendor confirmations. If documentation is incomplete, late, or unclear, Company may, in its sole discretion: (i) decline to ingest or play the Messaging; or (ii) run the Messaging and treat any music therein as licensable content for royalty purposes, with all incremental royalties, surcharges, penalties, interest, and reasonable admin/processing fees (up to 10% of such incremental costs) charged through to you; or (iii) temporarily disable the Messaging until adequate documentation is received. You must retain Messaging rights records for three (3) years and, upon request, provide them within ten (10) business days. Company may make good-faith estimates for any period lacking adequate support and may true-up charges when documentation is later provided or amended.

Messaging must not render the Service interactive or provide reasonable foreknowledge of specific tracks (e.g., announcing upcoming songs, on-demand requests, countdowns tied to particular recordings).

Company may normalize loudness, transcode, adjust run-patterns, or temporarily disable Messaging that in Company's reasonable judgment risks non-compliance with licenses, the BES Rules, or these Terms.

For any Messaging not Company-Produced, you will defend and indemnify Company against third-party claims arising out of such Messaging or your failure to secure required rights, except to the extent caused by Company's willful misconduct. For Company-Produced Messaging used within the licensed scope, Company warrants it has obtained or will obtain necessary talent/library rights for that scope.

Digital Signage

Digital Signage is provided under these Terms and any applicable supplemental terms. Visual content is supplied by you or by Company as agreed; you are responsible for third-party rights in signage materials you supply. Audio attached to Digital Signage is treated as Messaging under this §3. Any music playback associated with signage is part of the Business Music Service and remains subject to §6 (Licenses & Regulatory Compliance).

Resellers/Integrators

If you obtain the Business Music Service through an approved reseller or integrator, these Terms govern your end use. Company may require the reseller to meet applicable PRO/statutory obligations or to obtain separate licenses as appropriate. Reseller terms may not modify these Terms unless expressly agreed by Company in Supplemental Terms.

Operational Telemetry

To operate and support the Services (including uptime, troubleshooting, and compliance reporting), Company may collect limited device/channel/usage telemetry from Music Players and the portal/apps. Telemetry is used to deliver and support the Services and to prepare regulatory submissions under §6; handling of confidential information is governed by the confidentiality provisions of these Terms and any master agreement.

If a licensor or governmental authority lawfully requests information relating to your use of the Business Music Service, you will reasonably cooperate (for example, confirming locations, player IDs, and dates of service) within ten (10) business days of request.

Verification; Audit Cooperation & Defense; Records

Upon reasonable request, you will provide factual information in your possession reasonably necessary for Company to prepare or substantiate prepare or substantiate regulatory reports, royalty calculations,, or to respond to a royalty verification/audit or regulator inquiry, within ten (10) business days. If a licensor or regulator audits Company regarding the Business Music Service, Company will manage the audit. Company will not seek reimbursement from you for routine audits; however, costs caused by your breach of these Terms are your responsibility. Company will retain royalty reports and related allocation workpapers for at least three (3) years (or longer if required by law). You will retain Messaging rights documentation for three (3) years. Verification/audit materials are Company Confidential. You will not disclose such materials except to your professional advisers under confidentiality.

Compliance-Driver Service Modifications

To maintain compliance with licenses and applicable law, Company may modify features, channel line-ups, encoding/bitrate, telemetry, and scheduling; substitute content (including greater use of

Direct-Licensed/Excluded Recordings or Royalty-Free Music); and implement reasonable usage, device, or territorial controls. Such changes are not a breach of any service commitment.

4. Term, Fees, Payment, and Billing

Initiating a Subscription

By submitting a Sales Order for Service, you are agreeing to begin an ongoing Subscription to the Services, and to set into motion the following, pursuant to the terms of your Sales Order:

- The establishment of an account with Custom Channels, including a valid credit card or other agreed-upon payment method;
- Authorization of payment for the Service via your payment method of any amounts due on your account; and
- Delivery by Custom Channels of the Service at your Subscribing Location(s).

Agreement Term and Automatic Renewal

Unless otherwise agreed to as part of your Supplemental Terms, we provide Monthly and Annual Subscription terms (each a “**Subscription Term**”). Monthly Subscriptions are invoiced or charged in advance on a calendar monthly basis or, where specified, on a three-month-at-a-time quarterly basis. Annual Subscriptions are invoiced or charged in advance every twelve (12) months in exchange for a discounted rate.

The “**Effective Date**” of your Subscription is whichever first day of a calendar month is closest to the activation of Services at the Subscribing Location. By default, your Subscription will renew automatically on the first day of each calendar month thereafter or, in the case of Annual Subscriptions, on the first day of the 12th calendar month after your Effective Date (“**Subscription Renewal Date**”).

All Subscriptions renew automatically at the end of the current Subscription Term unless and until terminated by you or Custom Channels according to the cancellation policy below. We will issue an invoice or charge your authorized credit card account on or about your Subscription Renewal Date.

Standard Fees and Payment

One-time fees for equipment will be invoiced and payable prior to shipment of equipment. Recurring monthly, quarterly or annual fees will be invoiced or charged according to your Subscription plan and payments are due 30 days from invoice date. You are responsible, at all times during the term of your Subscription, for maintaining a valid credit card or other mutually-agreed-upon payment method associated with your account. Custom Channels reserves the right to suspend or terminate Service at any time as a result of non-payment. Our suspension or termination of service for non-payment does not release you from any obligations specified in this

Agreement including payment of all fees owed as of the suspension or termination date. Fees for Subscriptions are always charged by the full rate of your Subscription Term and will not be prorated. Custom Channels reserves the right to change rates for month-to-month Subscriptions upon written notice to you.

Price Presentation

The Service may be presented to you at a single, all-inclusive subscription price. Company does not itemize pricing for individual components of the Service unless required by law or expressly agreed in Supplemental Terms.

Changes in Law; Regulatory Adjustments

If any music licensing organizations (including but not limited to ASCAP, BMI, SESAC, GMR, or sound recording collectives), SOCAN, Re:Sound/Entandem, or other governmental authority changes rates, definitions, reporting requirements, minimums, or impose operational restrictions that materially affect the Services or Company's cost to provide them, Company may adjust pricing or add a reasonable regulatory surcharge on 30 days' notice (or sooner if required by law). If you do not agree, you may terminate the affected Services before the effective date with no early-termination fee and receive a pro-rated refund of prepaid, unused fees.

Free Trial

You have the option before starting a Subscription to register for a Free Trial of the Service. Custom Channels reserves the right to determine which Service(s) will be made available for your Free Trial, as well as the length of your Free Trial period. The full terms of your Free Trial, should you register for one, will be detailed in a corresponding Supplemental Terms, and shall supersede any conflicting provisions in the GTC.

45-Day Money Back Guarantee

For a period of 45 days from the Effective Date of your Subscription—or 30 days from a shipper's delivery confirmation of your Music Player to your shipping address, whichever is later ("**Guarantee Period**")—you may cancel this agreement for a full refund of all service and equipment fees charged by Custom Channels, subject to the provisions that follow.

Guarantee Period Refund Policy

To receive a refund for a cancellation within the Guarantee Period, you must first contact us by phone or email before the end of the Guarantee Period to confirm the service cancellation. If you have purchased a Hardware Player, you must return the device to us, in its original packaging, in like-new, working condition with all cables and power supply to receive a refund. We will provide a pre-paid shipping label valid for all equipment to be returned to us under the terms of your cancellation. Your refund will not be disbursed to you until we receive the equipment at our office

and verify that it is in acceptable condition, at which time we will refund any pre-paid Service and equipment charges and discontinue delivery of the Service to your cancelled Subscribing Location(s). Restocking or other fees may apply to equipment returned with damage, missing parts or cables or without original packaging.

Cancellation Policy

Unless otherwise specified in your Supplemental Terms, you may cancel your Subscription at any time. Your cancellation will be effective at the end of the last calendar month of your Subscription Term. You are responsible for all fees due through this effective cancellation date. If you cancel outside of the Guarantee Period, no credit or refund will be due from Custom Channels for costs related to switching vendors, purchasing Players or other equipment, or prepayment of unused days of Service, except, however, that refunds may be given for unused, pre-paid calendar months on Monthly Subscriptions that pay on a quarterly basis. Pre-paid Annual Subscriptions are not refundable.

Taxes; In-Kind Considerations; Discounts & Credits

Fees for Services exclude any applicable taxes. You are responsible for the reporting and payment of any sales or use tax that may be imposed on the sale of services or equipment, by any jurisdiction, in respect to the provision or use of the Service(s) at any of your Subscribing Locations. We reserve the right to add such amounts to invoices for Services when required by law. Any in-kind value or consideration provided in exchange for the Business Music Service that is derived from the use of sound recordings may be treated by Company as part of the royalty base for regulatory reporting, as applicable under music licensing regulations. Unless otherwise specified in Supplemental Terms, discounts, coupons, and credits applied to a bundled price are internally allocated by Company across the Service components in proportion to their internal allocation for the relevant period.

5. Client Services

Customer and Technical Support

Custom Channels will provide written instructions and telephone or email assistance regarding installation, operation, and troubleshooting of our Hardware Players and Services. Office support hours are Monday through Friday, 9:00 a.m. to 5:00 p.m. Mountain Time (excluding Company holidays). For assistance outside of those hours, you may contact our technical support team at support@customchannels.net or leave a message at [303.444.7700 x7](tel:303.444.7700); after-hours help may be available on a commercially reasonable-efforts basis. Company aims to acknowledge support requests promptly during support hours and will use commercially reasonable efforts to commence troubleshooting as resources permit. Any timing references (including that issues are typically addressed within twenty-four (24) hours) are estimates only, are not guarantees or service levels, and do not entitle you to credits or refunds.

You are responsible for (a) stable power and broadband at each Subscribing Location; (b) permitting the outbound Internet access, firewall rules, ports, and DNS settings required by the Hardware Player; (c) reasonable physical/environmental protection (temperature, ventilation); (d) installing updates and following our instructions; and (e) providing on-site personnel to perform basic steps (e.g., power-cycle, cable reseal, factory reset) when requested. You authorize Custom Channels, its contractors, and the Hardware Player to use secure remote management/telemetry to diagnose issues, update firmware, and verify compliance with these Terms. Failure to install or allow updates may affect performance and may void support obligations for the affected unit.

Company is not responsible for and has no obligation to support customer networks, ISP outages, third-party platforms, wiring, amplifiers/speakers, or non-approved devices/apps.

Hardware Player Warranty

Subject to this §5, and your active, paid Subscription, each Hardware Player purchased from Company is warranted only against defects in materials and workmanship under normal, intended use (the “**Hardware Player Warranty**”). The Hardware Player Warranty does not cover damage or failures resulting from misuse, abuse, neglect, accident, liquid ingress, power surge, improper installation or cabling, use of non-approved power supplies, unauthorized repair or modification, use with non-approved hardware/software, operation outside environmental specs, acts of God/force majeure, or any cause not attributable to a defect in materials or workmanship. Consumables and cosmetic wear are excluded. The warranty is non-transferable and applies only to the original purchaser/account.

All warranty claims require a Company-issued RMA, which will be issued by our technical support personnel after appropriate troubleshooting the Hardware Player by phone or email. If a Hardware Player Warranty claim is approved, Company will ship replacement equipment (“**Replacement Equipment**”) using a commercially reasonable expedited method (typically two-business-day) at Company’s cost within the U.S./Canada; next-day/AM options are available for an additional expense. Carrier and customs delays are outside our control. We may place a temporary deposit/credit-card hold equal to the list price of the replacement until the returned unit is received and verified. Replacement Equipment may be new, refurbished, or repaired.

Regardless of whether new, refurbished, or repaired, Replacement Equipment will continue to be covered by your Hardware Player Warranty until you cancel or transfer service.

Hardware Players replaced under the Hardware Player Warranty (“**Return Equipment**”) must be shipped back within ten (10) days, or such other period stated in the RMA, using the label provided and including all required accessories. Risk of loss for Return Equipment remains with you until received by our designated facility. If the Return Equipment is not received timely, is missing components, or shows non-warranty damage, we may invoice or charge your account/credit card for the Replacement Equipment at then-current rates plus reasonable shipping/handling.

Repair or replacement under this Hardware Player Warranty is your sole and exclusive remedy for hardware defects. Loss or theft of equipment, and damage not covered by the Hardware Player Warranty, are your responsibility. We may, at our option, offer out-of-warranty repair or replacement at then-current rates.

6. Licenses & Regulatory Compliance

Scope of Licenses

The sound recordings and musical compositions provided as part of the Business Music Service (“**Third-Party Content**”) are owned or controlled by third-party rights holders and are made available through licensing arrangements (the “**Licenses**”). Company maintains and will maintain all Licenses necessary to deliver the Business Music Service in the United States and, if specified in your Sales Order, Canada, including (a) Company’s Through-to-the-Audience Licenses from ASCAP, BMI, SESAC, and GMR in the U.S. and SOCAN in Canada authorizing delivery of non-dramatic musical works via the Service for on-premise playback at Subscribing Locations, and (b) the applicable sound recording licenses in the U.S. in the U.S., and, where applicable in Canada, the relevant Canadian Neighbouring Rights Licenses (e.g., Re:Sound) for the public performance of sound recordings. These licenses apply only to playback of the Business Music Service as delivered by Company and do not cover other music uses at your premises (for example, live music, DJs, fitness classes, TV, or third-party streams) or any Excluded Activities

Compliance Condition; Acceptable Use (§3 Cross-Reference)

Coverage under Company’s Licenses is conditioned on your ongoing compliance with § 3 (Use of the Service), including, without limitation, the Non-Interactivity; Territory; Prohibited Uses, Devices, and Operational Telemetry requirements.

In addition to the foregoing, and without limiting § 3, the following license-bound conditions apply:

(a) Authorized Players & Premises. You will access the Business Music Service only via Company-authorized Music Players and publicly perform the audio solely via loudspeakers within approved Subscribing Locations that are physically located within the geographic scope of the applicable licenses (the United States, Canada, and their respective territories, as applicable to your Sales Order). Use is limited to background/foreground ambience accompanying routine activities (including, without limitation, work, shopping, conversation, dining, and relaxation).

(b) No Excluded Activities. The Business Music Service may not be used for any Excluded Activities, including but not limited to, by a VJ/DJ, or as an integral part of an event, activity, or venue where admission is charged, or as accompaniment to any dramatic performance, dance, musicians, skate, cycle, aerobic/fitness, or other similar activity.

(c) No Reproduction/Editing/Rebroadcast. You may not record, reproduce, edit, adapt, repurpose, retransmit, broadcast, or otherwise exploit Third-Party Content except as expressly permitted in these Terms.

(d) No Residential/Private Uses. The Business Music Service may not be transmitted to any private home, apartment, guest room in a hotel or motel, or other similar residential or transient-lodging location.

(e) No Foreknowledge/Programming Disclosure. You may not publish advance playlists or otherwise provide reasonable foreknowledge of particular tracks to be played, except where expressly permitted in writing by Company and the relevant licensors.

Company may suspend the Business Music Service at any Subscribing Location if, in Company's reasonable judgment, continued use is outside the scope of this § 6 or creates material license non-compliance or infringement risk.

Statutory License Administration (Sound Recordings; U.S.)

Company—not you—will prepare and submit any required regulatory reports and remit applicable royalties to the appropriate music licensing organizations for the Business Music Service.. Company may collect, store, and use device/channel/usage data reasonably necessary to comply with these obligations and will retain records used to prepare such reports for at least three (3) years (or longer if required by law).

Internal Allocation for Regulatory Compliance

Company internally allocates portions of any subscription or service fee among the Service components solely for purposes of complying with music licensing and regulatory obligations. Such allocations reflect the economic substance and fair market value of each distinct Service component. The Business Music Service represents one component, alongside Messaging, Digital Signage, Hardware Players installation and support services; and ancillary features and components such as the customer portal (including client.customchannels.net), dashboards, APIs, Company-approved software applications, and advertising modules. These allocations are made in good faith, supported by contemporaneous documentation in Company's books and records, are applied consistently across customer accounts, and are not representations to you of component prices. Your commercial price remains a single bundled fee unless otherwise agreed in Supplemental Terms. You acknowledge that the non-music Service components provide substantial value independent of the music content and would have utility as standalone services.

Direct-Licensed/Excluded Recordings; Royalty-Free Music; Program Curation

Company curates the Business Music Service using content from various sources, including PROs, sound recording collectives, and Direct-Licensed/Excluded Recordings and Royalty-Free Music. All content is properly licensed for delivery through the Service, with Company managing all

associated royalty obligations... Company maintains commercially reasonable, contemporaneous documentation contemporaneous documentation of content sources and licensing for regulatory compliance purposes.. Delivery of Direct-Licensed/Excluded Recordings or Royalty-Free Music as part of the Service does not grant you any right to use such content outside the Service or to copy, edit, synchronize, or redistribute any recording. Availability of alternative repertoires may vary by territory, channel, or device and may change without notice to reflect licensing constraints.

Territory; Cross-Border Controls

The Business Music Service is licensed only for Subscribing Locations in the territory(ies) listed in your Sales Order (U.S. and, if expressly stated, Canada) (the “**Territory**”). You will not circumvent geofencing, IP filtering, or other territorial controls (including via VPNs, proxies, or location-spoofing). You will promptly notify Company before adding or relocating Subscribing Locations to a new jurisdiction. Uses outside the licensed territory require you to obtain all necessary local licenses at your cost; Company may suspend access where coverage is not in place. For Canadian locations, musical-work rights are licensed through SOCAN and neighboring rights through Re:Sound (including any successor/affiliate such as Entandem); repertoire and availability may differ from the U.S.

Other Uses Not Covered; Your Responsibility for Additional Licenses

Without limiting the foregoing, you acknowledge and agree that Company’s licenses cover only acceptable use of the Business Music Service as delivered by Company and expressly exclude all Excluded Activities. You are solely responsible for obtaining and maintaining any additional licenses required for other uses at your premises (e.g., live music, DJs/dancing, classes/fitness, television, third-party streams), for Excluded Activities, and for any uses outside the licensed territory. If you have questions about compliance, consult counsel or the relevant PROs/collectives directly.

Messaging & Advertising; License Alignment (§3 Cross-Reference)

Ownership/licensing mechanics, brand-safety, takedown, and indemnity for Messaging are governed by §3 (Messaging).

In addition to the foregoing, and without limiting § 3, the following license and royalty alignment requirements apply:

(a) Company-Produced Messaging. Where Company supplies any music bed, sting, sound effect, or other audio element within Messaging, those elements are treated as Royalty-Free Music or Direct-Licensed/Excluded Recordings for regulatory purposes; Company may exclude them from certain royalty calculations and track such usage for internal accounting purposes.

(b) Third-Party/Client-Provided Messaging Documentation. Absent adequate, timely documentation, Company may, in its sole discretion: (i) decline to ingest or play the Messaging; or

(ii) run the Messaging and treat any music therein as fully licensable content with all incremental royalties, surcharges, penalties, interest, and reasonable admin/processing fees (up to ten percent (10%) of such incremental costs) charged through to you; or (iii) temporarily disable the Messaging until adequate documentation is received. Company has no obligation to apply exclusion or reduction without adequate documentation and Company's confirmation. You must retain Messaging rights records for three (3) years and, upon request, provide them within ten (10) business days; Company may make good-faith estimates and later true-up when documentation is provided or amended. (Canada note: documentation must identify SOCAN (works) and Re:Sound/Entandem (neighboring rights) coverage or the direct/royalty-free basis.)

(c) Non-Interactivity; Foreknowledge. Messaging must not render the Service interactive or provide reasonable foreknowledge of particular recordings (e.g., announcing upcoming songs, on-demand requests, countdowns tied to specific tracks) and must comply with §3's Non-Interactivity; Prohibited Uses requirements.

(d) Operational Controls. To maintain license compliance or satisfy requests of PROs, SOCAN, Re:Sound/Entandem, or music licensing organizations, Company may normalize loudness, transcode, adjust schedules/run-patterns, substitute or pause Messaging, or take other commercially reasonable steps.

(e) Digital Signage Audio. Audio associated with Digital Signage is treated as Messaging; if it contains music, subsections (a)–(d) apply.

Regulatory Change Authority

If music licensing regulations or any relevant licensing authority (PROs, SOCAN, Re:Sound/Entandem, or sound recording collectives) changes requirements, Company may take the actions described in §§ 3 and 4. This clause confirms the licensing basis for those adjustments.

Suspension; Mitigation; Termination for License Risk

Company may suspend the Business Music Service (in whole or for specific Subscribing Locations) immediately upon notice if Company reasonably determines your use falls outside §3 or this §6, infringes rights, or creates material license non-compliance risk. Where practicable, Company will describe remedial steps. Upon your cure and written confirmation, Company will restore service within a commercially reasonable timeframe. If the suspension results from your breach or because you failed to provide timely, complete rights/clearance documentation needed for royalty processing, fees may continue to accrue. Company may also pass through any incremental royalties, surcharges, penalties, and interest assessed by collecting societies or licensors together with a reasonable administrative/processing fee (up to ten percent (10%) of such incremental amounts). Repeated, material, or uncured violations constitute cause for termination of the affected Services or the Agreement, without liability, in addition to any other remedies.

Reservation of Rights; No Implied Licenses; Survival

Except for rights expressly granted, all rights in and to the Business Music Service and Third-Party Content are reserved by Company and/or the applicable rightsholders. No implied licenses are granted. No right to copy, edit, synchronize, export, or otherwise exploit Third-Party Content outside the Service is granted or may be implied. You remain solely responsible for licenses for other uses at your premises (e.g., live music, DJs/dancing, classes/fitness, television, third-party streams) and for any uses outside the licensed territory. This §6 (including allocation, audit, and compliance provisions) survives termination or expiration. These Terms confer no third-party beneficiary rights on any person or entity (including rights holders) except to the extent such rights cannot be disclaimed by law.

7. Warranty; Disclaimers; Limitation of Liability; Force Majeure

Limited Service Warranty

In the event of a disruption of Services, we will make commercially reasonable efforts upon discovery or notification to restore service within twenty-four (24) hours. This limited undertaking is not a guarantee or service level commitment, and is the sole warranty provided with respect to Service continuity. Without limiting the foregoing, Custom Channels is not responsible for any issues, interruptions, or failures caused by: (a) Internet congestion, ISP outages, or other connectivity problems; (b) customer networks, wiring, devices, software, or configurations not approved by us; (c) power failures or electrical disturbances; (d) third-party platforms or services; or (e) any cause beyond our reasonable control.

Any recommendations we may provide regarding third-party audio or network equipment or services are made solely as a convenience, to the best of our ability, and without warranty or guarantee as to their validity or viability.

Disclaimers

EXCEPT AS EXPRESSLY PROVIDED IN THESE GTC OR IN ANY SIGNED SUPPLEMENTAL TERMS, THE SERVICES, PORTAL/APIS, SOFTWARE, COMPANY-PRODUCED MESSAGING, DIGITAL SIGNAGE SOFTWARE, AND ALL COMPANY MATERIALS ARE PROVIDED "AS IS" AND "AS AVAILABLE." TO THE MAXIMUM EXTENT PERMITTED BY LAW, CUSTOM CHANNELS AND ITS LICENSORS DISCLAIM ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, WE DO NOT WARRANT THAT THE SERVICES OR ANY OUTPUT WILL BE UNINTERRUPTED, ERROR-FREE, SECURE, FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR THAT DEFECTS WILL BE CORRECTED. THESE DISCLAIMERS APPLY REGARDLESS OF THE THEORY OF LIABILITY AND EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

Limitation of Liability

TO THE MAXIMUM EXTENT PERMITTED BY LAW: (a) NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES, OR FOR LOST PROFITS, REVENUE, GOODWILL, OR DATA, EVEN IF ADVISED OF THE POSSIBILITY; and (b) CUSTOM CHANNELS' TOTAL LIABILITY ARISING OUT OF OR RELATING TO THE SERVICES (WHETHER IN CONTRACT, TORT, OR OTHERWISE) WILL NOT EXCEED THE AMOUNTS PAID BY YOU TO CUSTOM CHANNELS FOR THE AFFECTED SERVICES IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO LIABILITY, IN THE AGGREGATE. THIS LIMITATION APPLIES EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

The foregoing does not limit your payment obligations or your indemnity obligations. For clarity, the liability cap does apply to Custom Channels' indemnity obligations unless prohibited by law.

Force Majeure

Neither party is liable for delay or failure due to causes beyond its reasonable control, including acts of God, natural disasters, terrorism, war, civil unrest, labor disputes, power or Internet failures, third-party platform outages, or governmental actions. The affected party will promptly notify the other and use commercially reasonable efforts to mitigate. If a force majeure event continues for thirty (30) days, either party may terminate the affected Services without penalty; we will provide a pro-rated refund of prepaid, unused fees for the terminated portion.

8. Indemnification

For purposes of this Section, each party may be referred to as the "Indemnifying Party" or the "Indemnified Party."

Mutual Indemnification

The Indemnifying Party will defend (at the Indemnified Party's option), indemnify, and hold harmless the Indemnified Party and its parents, subsidiaries, affiliates, and representatives from and against any third-party claims, demands, actions, damages, liabilities, penalties, fines, costs, and expenses (including reasonable outside attorneys' fees) arising out of or related to: (i) the Indemnifying Party's material breach of this Agreement; (ii) inaccuracy or breach of the Indemnifying Party's representations or warranties in this Agreement; or (iii) the Indemnifying Party's violation of applicable law.

Your Indemnity (Client)

You further agree to defend (at Company's option), indemnify, and hold harmless Company and its affiliates and their officers, directors, employees, contractors, and agents from and against any third-party claims, demands, actions, damages, liabilities, fines, penalties, costs, and expenses (including reasonable outside attorneys' fees) arising out of or related to:

(a) Messaging/Digital Signage/Client Content. Any audio or visual content you supply, upload, request, create, select, or approve (including scripts, voice talent, music, trademarks, images, and schedules), including claims for copyright/trademark infringement, rights of publicity/privacy, union/talent payments, or advertising/consumer-protection violations;

(b) Use Outside the Licenses Scope. Any use of the Services in violation of §§3 or 6, including but not limited to Excluded Activities (e.g., use in guest rooms or private homes; DJ/VJ or admission-fee events; dance/fitness classes; dramatic or interactive uses; recording/retransmission; non-approved devices/apps; outside the Territory) and/or your failure to obtain and maintain licenses required for activities not covered by Company's licenses;

(c) Regulatory Data/Allocations/Documentation. Inaccurate, incomplete, or untimely information or documentation you provide or control— including Subscribing Location data, business type certifications, zone configuration, regulatory report inputs, internal revenue allocations, and proof for Direct-Licensed/Excluded Recordings, or Royalty-Free Music—and any royalties, assessments, or administrative costs that result from such issues;

(d) Downstream Relationships. Disputes or claims brought by your customers, franchisees, resellers, integrators, or other partners in connection with your offerings; and

(e) Premises Claims. Bodily injury or property damage occurring at your sites (except to the extent caused by Company's willful misconduct).

This indemnification specifically includes any claims by PROs (ASCAP, BMI, SESAC, GMR) or other licensing organizations arising from Client's engagement in Excluded Activities or use of the Services at locations requiring additional licenses.

Company Indemnity (IP Only)

Subject to §7, Company will defend (at your option), indemnify, and hold you harmless from third-party claims alleging that, as provided by Company and used by you in accordance with this Agreement within the licensed Territory, either of the following directly infringes a U.S. or Canadian copyright, trademark, or trade secret: (i) the Company-provided software/portal/APIs, firmware in Company Hardware Players, and Company-authored documentation (excluding open-source/third-party components used under their licenses); or (ii) Company-Produced Messaging solely created and supplied by Company using Company-owned/controlled assets (excluding any Client-supplied or directed content). For any claim covered under this subsection, Company may, at its option and expense: (1) procure the right for you to continue using the affected item; (2) modify or replace it so it becomes non-infringing while materially preserving functionality; or (3) terminate the affected item and provide a pro-rated refund of prepaid, unused fees for the terminated portion. The foregoing are your sole and exclusive remedies for such claims. Company's obligations under this subsection do not apply to claims to the extent based on: (a) Third-Party Content (including musical works and sound recordings furnished under PRO/collective/statutory licenses) or any Client-

provided materials; (b) combinations with items not provided by Company; (c) modifications not made by Company; (d) use outside scope/specifications/Territory or on non-approved devices/apps; (e) your failure to use updates or modifications provided to avoid a claim; or (f) patent claims (unless expressly agreed in a signed Supplemental Term).

Indemnification Procedure

The Indemnified Party must: (i) promptly notify the Indemnifying Party in writing of the claim (delay limits obligations only to the extent of material prejudice); (ii) grant the Indemnifying Party sole control of the defense and settlement (no settlement imposing admissions or non-monetary obligations on the Indemnified Party without its prior written consent); and (iii) provide reasonable cooperation at the Indemnifying Party's expense. The Indemnified Party may participate with separate counsel at its own cost.

All indemnity obligations are subject to §7 (Disclaimers; Limitation of Liability), except that your payment obligations and your indemnity obligations are not limited by §7's cap.

9. Use of Client Marks

By using the Services, you agree to grant us a non-exclusive, worldwide, royalty-free, transferable, sublicensable license to use, reproduce, display, and publicly perform your trade name, trademarks, and logos ("**Client Marks**") in connection with customer lists, websites, proposals and pitch decks, case studies/success stories, press releases, social media, advertising and promotional materials, investor or partner communications, co-marketing programs, and other referential uses, and to state non-confidential facts about our relationship and the Services.

Company may resize, format, and otherwise adapt the Client Marks for placement and will use commercially reasonable efforts to follow any written brand guidelines you provide. Use of the Client Marks does not create an endorsement or sponsorship. You may withdraw authorization for new marketing uses by written notice; Company will cease creating new materials that feature the Client Marks within a commercially reasonable period. Previously printed, distributed, archived, or cached materials need not be recalled, destroyed, or revised.

This Section survives termination. All goodwill arising from use of the Client Marks inures to your benefit. No ownership in the Client Marks transfers to Company.

10. Ownership

Company Materials

Custom Channels owns and retains all right, title, and interest in: (a) the Services, software, portals/APIs, firmware, documentation, templates, configurations, and audiovisual programming

created or supplied by Company; (b) all routines, libraries, tools, equipment, hardware designs, software, methodologies, processes, know-how, and other technology Company creates, adapts, or uses in its business; and (c) copyrighted works and other intellectual property, proprietary rights, or material created or produced by us while performing the Services, as well as those owned by Custom Channels prior to the effective date of your Subscription (collectively, “**Company Materials**”). Except for the limited licenses expressly granted here, no rights are granted to you by implication, estoppel, or otherwise.

Client License to Use

During your active Subscription, Company grants you a limited, non-exclusive, non-transferable license to access and use the Services and Company Materials solely for your internal business purposes at Subscribing Locations, within the Territory, and in accordance with this Agreement. You will not (and will not permit others to) sublicense, rent, copy (other than permitted backups), publicly post, reverse engineer, or create derivative works of Company Materials except as expressly allowed by law or this Agreement.

License to Client Content

You grant Company a non-exclusive, worldwide, royalty-free license (with the right to sublicense to Company’s subprocessors and service providers) to use, reproduce, adapt, transcode, cache, store, publicly perform, display, and distribute Messaging, signage assets, and other content you supply or approve (including your Client Marks therein) solely to provide the Services, including creation of ephemeral and cached copies necessary for streaming, scheduling, or delivery. This license terminates when Services involving such content end, except that Company may retain minimal archival copies as required by law, for audit/royalty reporting, or to enforce its rights.

Feedback

If you provide suggestions, ideas, or feedback, you grant Company a perpetual, irrevocable, worldwide, royalty-free license to use and exploit them without restriction or attribution.

Third-Party Content; Open Source

Rights in third-party content (including musical works and sound recordings) and open-source components remain with their owners and are licensed to you and/or Company subject to their terms. Nothing herein converts such rights to client ownership.

All rights not expressly granted to you are reserved by Company.

11. Changes to the GTC and Services

From time to time, Custom Channels may, at our sole discretion, make changes to our GTC or Services. Any updates to these GTC will be published on this page of our website, along with a date

by which those updates will go into effect. Additionally, we will make our best efforts to provide subscribing clients with prominent and advance notification of any material changes to these GTC or the Services, either broadly via a bulletin within an access point of the Service or directly through the affected clients' contact information on file. Your continued use of the Service beyond the effective date of any updates to the GTC or Services will constitute your acceptance of any such updates. If you do not wish to continue using the Service under the updated terms, you may terminate your Agreement by cancelling your Subscription, as provided herein.

12. Confidentiality

“Confidential Information” means non-public information disclosed by a party (**“Discloser”**) to the other (**“Recipient”**) that is marked or identified as confidential or that a reasonable person would understand to be confidential given the nature of the information and the circumstances of disclosure. Company's Confidential Information includes, without limitation, the Services, software, firmware, documentation, product roadmaps, pricing and commercial terms, security and architecture details, device telemetry and usage data, regulatory reporting workpapers, internal revenue allocations, channel/programming methods, and audit/risk assessments. Client's Confidential Information includes non-public business, technical, and marketing information you disclose to Company for the Services. Personal data is handled under Company's Privacy Policy and any separate DPA, if applicable. Recipient will: (a) use the Confidential Information solely to perform this Agreement; (b) not disclose it to any third party except as permitted below; and (c) protect it with at least the same care it uses to protect its own confidential information of like importance, and in any event no less than reasonable care. Confidential Information does not include information that Recipient can document: (i) is or becomes public through no fault of Recipient; (ii) was rightfully known to Recipient without restriction before receipt; (iii) is independently developed by Recipient without use of or reference to Discloser's Confidential Information; or (iv) is rightfully received from a third party without duty of confidentiality. Recipient may disclose Confidential Information to its and its affiliates' employees, contractors, professional advisors, and subprocessors/service providers who need to know it for this Agreement and who are bound by confidentiality obligations no less protective than this Section. Company may disclose Company workpapers and usage/telemetry data to licensing authorities or music licensing organizations solely to comply with reporting/audit obligations. If Recipient is legally compelled to disclose Confidential Information, it will (to the extent legally permitted) provide prompt written notice to Discloser and reasonably cooperate (at Discloser's expense) in seeking a protective order. Recipient will disclose only the portion required by law and will use reasonable efforts to obtain confidential treatment. Upon Discloser's written request or termination/expiration of this Agreement, Recipient will return or destroy Confidential Information and certify destruction upon request, except that Recipient may retain: (a) copies required by law or bona fide record-keeping policies (backups/archives), and (b) copies maintained in routine computer backups, all of which remain subject to this Section until destroyed in the ordinary course. A breach or threatened breach of this Section may cause irreparable harm for which monetary damages are inadequate. Discloser is entitled to injunctive and equitable relief (without bond) in addition to other remedies. This Section survives for three (3) years after termination or

expiration; trade secrets and workpapers expressly marked as trade secret survive for so long as they remain trade secrets under applicable law.

13. Miscellaneous

Entire Agreement

These GTC together with any Sales Order and Supplemental Terms constitute the complete and exclusive agreement between you and Company and supersede all prior or contemporaneous agreements regarding the subject matter. If there is a conflict, the following order of precedence applies (highest to lowest): (1) signed Supplemental Terms; (2) Sales Order; (3) these GTC; then (4) any online descriptive materials.

Amendments

Company may update these GTC under §11. Signed Supplemental Terms may be changed only by a writing signed by both parties.

Severability

If any provision is held invalid or unenforceable, it will be enforced to the maximum extent permitted, and the remaining provisions will remain in full force and effect.

Waiver

A waiver must be in writing and will not be a waiver of any other provision or future breach. Failure to enforce a provision is not a waiver.

Survival

Sections that by their nature should survive (including accrued payment obligations, ownership, license restrictions, disclaimers, limitations of liability, indemnities, and this §13) survive termination.

Governing Law; Venue; Jury Waiver

This Agreement is governed by the laws of the State of Colorado, USA, without regard to conflicts-of-laws rules. The parties consent to the exclusive jurisdiction and venue of the state and federal courts in Denver County, Colorado for any action not otherwise subject to mandatory arbitration (if applicable). Each party waives trial by jury. Either party may seek injunctive or equitable relief in any court of competent jurisdiction to protect its intellectual property, confidential information, or license restrictions.

Assignment

You may not assign, delegate, or transfer this Agreement—including by change of control—without Company’s prior written consent; any attempted assignment in violation of the foregoing is void. Company may assign this Agreement without consent to an affiliate or in connection with a merger, acquisition, reorganization, financing, or sale of all or substantially all assets or voting control. This Agreement binds and benefits the parties and their permitted successors and assigns.

Notices

Notices must be in writing and delivered by personal delivery, reputable courier, certified mail (return receipt requested), or email to the contacts on the applicable Sales Order or client portal profile. Notices are deemed given upon receipt (or, for email, when sent without bounce-back during normal business hours at the recipient’s location). Company may also provide general Service notices via in-product messages or the client portal.

Relationship of the Parties

The parties are independent contractors. This Agreement does not create a partnership, joint venture, agency, franchise, or fiduciary relationship. Neither party may bind the other.

Interpretation

“Including” means “including without limitation.” Headings are for convenience only. Ambiguities are not construed against the drafter.