

GENERAL LICENSE AGREEMENT – WINERIES

This **GENERAL LICENSE AGREEMENT** (the “Agreement”) is entered into as of _____ (the “Effective Date”) by and between the American Society of Composers, Authors and Publishers (“ASCAP”), located at 2 Music Square West, Nashville, TN 37203 and _____ (“Licensee”), located at _____.

(ASCAP and Licensee individually referred to as a “Party” and collectively referred to as the “Parties”).

1. Definitions.

1.1 “ASCAP Repertory” means Musical Works (as hereinafter defined) for which ASCAP has the right to license public performances now or hereafter during the Term (as hereinafter defined) of this Agreement. All Musical Works written and copyrighted by ASCAP members and in the repertory on the date this Agreement is executed are included for the full Term of this Agreement. Musical Works written or copyrighted by ASCAP members during the Term are included for the full balance of the Term.

1.2 “Dramatico-Musical Work” means a work such as, but not limited to, a musical comedy, opera, play with music, revue, or ballet.

1.3 “Governmental Entities” means states, territories, dependencies, possessions or political subdivisions.

1.4 “Gross Revenue” means all monies received by Licensee or on Licensee’s behalf from the sale or distribution of tickets for each live concert, as well as monetary contributions from sponsors and all other payments received by Licensee for each live concert.

1.5 “Licensee’s Website” means Licensee’s Internet website with the principal Universal Resource Locator (URL) of <<Account_Website>> that is owned, controlled, operated and maintained by Licensee solely in connection with, and for the promotion of, Licensee’s winery, where (a) the website has no independent purpose but for the promotion of Licensee’s winery; (b) access to the website or any transmission therefrom is made available to Users (as hereinafter defined) on a free-of-charge basis and without any direct or indirect payment; (c) no direct or indirect revenue is earned or realized from the website by Licensee or a third-party other than revenue earned or realized by Licensee from the sale of tickets to Licensee’s concerts at the Premises (as hereinafter defined); (d) the website is not bundled with other web services, products or applications; and (e) the transmissions of Musical Works in the ASCAP Repertory from the website are limited to Promotional Uses (as hereinafter defined).

1.6 “Mechanical Music” means Musical Works performed without charge to customers or viewers at the Premises (as hereinafter defined) by: (a) the reception of radio or television broadcasts and further transmission of those broadcasts over a loudspeaker or system of loudspeakers; (b) the use of Licensee’s (as distinguished from a background music service’s) audio records, tapes, discs or digital files by means of Licensee’s audio-only record, tape, disc or digital file player; or (c) non-live audiovisual uses of music (such as the use of a large-screen television or video tapes, discs or digital files played via an audiovisual device). Mechanical Music does not include any performance by means of a coin-operated or similar phonorecord player (i.e., jukebox) for which a license is otherwise available from the Jukebox License Office.

1.7 “Musical Work” means any musical composition, including any lyrics or words written to be used with such composition.

1.8 “Operating Policy” means all of the factors that determine the total license fee applicable to the Premises under the rate schedule.

1.9 “Premises” shall have the meaning ascribed in Paragraph 2.1.

1.10 “Promotional Uses” means the usage of Musical Works in the ASCAP Repertory (or any part thereof) in or via Licensee’s Website solely in a background or ambient manner, and not as the focus of a User’s attention, to further the promotional nature of Licensee’s Website and excludes all other transmissions and uses including, but not limited to, transmissions that are (a) comprised, or made part, of an Internet radio, webcasting or similar streaming program or segment; (b) made on an on-demand basis, where transmissions are of specific Musical Works (or portions thereof) selected by or on behalf of the User or upon the User’s request or at the User’s direction; (c) comprised, or made part, of a background or foreground music service; and (d) a part of music videos or other audiovisual works other than promotional videos created and transmitted specifically for the purpose of promoting Licensee’s winery.

1.11 “Term” has the meaning ascribed in Paragraph 7.1.

1.12 “Users” means all individual persons and entities accessing or receiving transmissions of content from Licensee’s Website in the United States and its territories.

2. License Grant

2.1 Scope of License. Subject to the terms and conditions of this Agreement, ASCAP hereby grants to Licensee, and Licensee hereby accepts, a non-exclusive, non-transferable, non-sublicensable right and

license, solely during the Term to make non-dramatic public performances of the ASCAP Repertory (or any part thereof) solely (a) at the winery located at the address specified above (the “Premises”) solely by means of live musicians or Mechanical Music and solely to the public located within the Premises; (b) via transmissions from Licensee’s Website to Users; and (c) via a music-on-hold telephone system operated by Licensee at the Premises.

2.2 Precedence. This license is being entered on a non-precedential basis, and the terms and conditions herein may not be used as precedent in any proceeding or hearing of any kind.

3. Limitations on License

3.1 This license is limited to Licensee in connection with its winery and to the specific grant set forth in Paragraph 2.1 herein and does not permit or authorize any other uses of the ASCAP Repertory, including specifically, but not limited to:

(a) any performance as part of any conference, festival, consumer show, fair, meeting, public show, seminar, trade show or other similar activity;

(b) any performance at events at the Premises sponsored or organized solely by persons or entities other than Licensee;

(c) any performance at a winery that is not open to the general public;

(d) any performance at a winery that is used primarily as a restaurant, bar or similar establishment or as an event, concert or similar venue; and

(e) any dramatic performance. For purposes of this Agreement, a dramatic performance shall include, but not be limited to, the following: (i) performance of a Dramatico-Musical Work in its entirety; (ii) performance of one or more musical compositions from a Dramatico-Musical Work accompanied by dialogue, pantomime, dance, stage action, or visual representation of the work from which the music is taken; (iii) performance of one or more musical compositions as part of a story or plot, whether accompanied or unaccompanied by dialogue, pantomime, dance, stage action, or visual representation; or (iv) performance of a concert version of a Dramatico-Musical Work.

4. No Right to Sublicense or Redistribute.

4.1 In no event shall Licensee sublicense, transfer, convey or assign the rights granted to Licensee herein or license others to perform publicly or redistribute in any way any Musical Work in the ASCAP Repertory (or part thereof), and nothing in this Agreement shall be deemed to grant to any party other than Licensee any right to perform publicly by any means, method or process whatsoever, any Musical Work in the ASCAP Repertory (or part thereof) licensed pursuant to this Agreement including any transmission, retransmission, or further transmission of any of those Musical Works.

5. License Fees and Payments

5.1 License Fees. In consideration for the license granted herein, Licensee shall pay ASCAP the applicable license fee set forth in the rate schedule annexed hereto and made a part hereof based upon Licensee’s Operating Policy at such time: (a) upon entering into this Agreement, the license fees due for the first license year of the Agreement; (b) within 30 days of the commencement of each “Renewal Term” (as hereinafter defined), the license fees due for the then current Renewal Term; and (c) license fees for live concerts pursuant to Paragraph 5.2.

5.2 Concert Fees and Reports. Within 30 days of each live concert occurring during the Term, Licensee shall submit to ASCAP license fee payment for such live concert based upon the rate schedule annexed hereto and made a part hereof, and a report in printed or computer readable form stating: (a) the date the live concert was presented; (b) the name of the attraction(s) appearing; (c) the Gross Revenue of the live concert; and (d) the license fee due for the live concert.

5.3 Finance Charge. In the event Licensee shall be delinquent in payment of license fees due to ASCAP by 30 days or more, Licensee shall pay a finance charge on the license fees due of 1.5% per month, or the maximum rate permitted by law, whichever is less, from the date such license fees should have been paid.

5.4 Examination of Books and Records. ASCAP shall have the right to examine annually Licensee’s books and records at Licensee’s place of business during normal business hours to such extent as may be necessary to verify the reports required by Paragraph 5.2 above.

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5.5 Governmental Fees. Governmental Entities may impose special taxes or levies on ASCAP related to the licensing of public performances. Accordingly, in the event that Licensee's payment of fees under this Agreement causes ASCAP to incur a liability to pay a gross receipts, sales, use, business use, or other tax which is based on the amount of ASCAP's receipts from Licensee, the number of licensees of ASCAP, or any similar measure of ASCAP's activities, then Licensee agrees to pay to ASCAP the full amount of such tax, provided that (a) ASCAP has taken reasonable steps to be exempted or excused from paying such tax; and (b) ASCAP is permitted by law to pass through such tax to its licensees.

6. Change in Operating Policy

6.1 Reporting. Licensee agrees to give ASCAP notice of any change in Licensee's Operating Policy and shall, at such time, furnish to ASCAP a current statement of Licensee's Operating Policy and shall certify that it is true and correct. For purposes of this Agreement, a change in Licensee's Operating Policy shall be one in effect for at least 30 days.

6.2 Increase in Fee. Upon any change in Licensee's Operating Policy resulting in an increase in the applicable license fee based upon the rate schedule, Licensee agrees to pay ASCAP the increased license fee, effective as of the initial date of such change, whether or not written notice of such change has been given pursuant to Paragraph 6.1 hereof.

6.3 Credits. Upon any change in Licensee's Operating Policy resulting in a reduction in the applicable license fee based upon the rate schedule, Licensee shall be entitled to the reduction, effective as of the initial date of such change, and to a *pro rata* credit for any unearned license fees paid in advance, provided Licensee has given ASCAP written notice of such change. If Licensee fails to give ASCAP such written notice within 30 days of such change, any reduction and credit shall be effective 30 days after Licensee gives ASCAP written notice of the change. ASCAP reserves the right to verify the basis for any reduction and/or credit and may reject or reverse any such reduction and/or credit if no basis for such reduction and/or credit exists.

7. Term and Termination

7.1 Term. This Agreement shall have an initial term commencing on the Effective Date and continuing for a period of one year (the "Initial Term") after which the Agreement shall renew automatically for additional successive periods of one year (each such renewal period, a "Renewal Term") (the Initial Term and all Renewal Terms, if any, are collectively, the "Term") unless a Party gives notice to the other Party on or before 30 days prior to the expiration of the Initial Term or any Renewal Term that it does not wish the Agreement to renew for a Renewal Term. If such notice is given, this Agreement shall expire on the last day of such Initial Term or Renewal Term. This Agreement may be terminated in accordance with the terms and conditions of this Agreement.

7.2 Termination for Breach. If Licensee breaches any provisions of this Agreement, ASCAP may (reserving cumulatively all other remedies and rights pursuant to this Agreement and in law and in equity) terminate this Agreement, in whole or in part, by providing at least 30 days' notice to Licensee; provided, however, that (a) such termination shall not be effective if such breach has been cured prior to the expiration of such 30-day period and (b) ASCAP may terminate this Agreement immediately, without the obligation to provide Licensee with such notice and the right to cure, if (i) it shall be reasonably deemed necessary by ASCAP to avoid imminent harm to ASCAP's businesses, reputation or goodwill, (ii) such breach was caused by willful acts and/or omissions of Licensee or (iii) such breach is incapable of being cured prior to the expiration of the notice period.

7.3 Termination for Insolvency. Either of ASCAP or Licensee may terminate immediately this Agreement in the event the other Party (a) admits in writing its inability to pay its debts as they become due, fails to satisfy any enforceable, final and material judgment against it, or otherwise ceases operations of its business in the ordinary course, (b) is adjudicated bankrupt or becomes insolvent, (c) winds up or liquidates its business voluntarily or otherwise, (d) applies for, consents to or suffers the appointment of, or the taking of possession of by, a receiver, custodian, assignee, trustee, liquidator or similar fiduciary of itself or of all or any substantial portion of its assets, (e) makes a general assignment for the benefit of creditors other than in the ordinary course of financing its ongoing operations, (f) commences a voluntary case under any state or federal bankruptcy laws (as now or hereafter in effect), (g) files a petition seeking to take advantage of any other law providing for the relief of debtors, (h) acquiesces to, or fails to have dismissed, within 30 days, any petition filed against it in any involuntary case pursuant to such bankruptcy laws or (i) takes any action for the purpose of effecting any of the foregoing.

7.4 Termination for Interference. ASCAP may terminate immediately this Agreement in the event of either (a) any major interference with the operations of ASCAP in the Governmental Entity in which Licensee is located, by reason of any law of such Governmental Entity; or (b) any substantial increase in the cost to ASCAP of operating in such Governmental Entity, by reason of any law of such Governmental Entity, which is applicable to the licensing of performing rights.

7.5 Effect of Termination. Upon the termination or expiration of this Agreement for any reason all rights and licenses granted by ASCAP to Licensee herein shall terminate. Upon a termination of this Agreement pursuant to Paragraph 7.4, ASCAP shall refund to Licensee any unearned license fees paid in advance.

8. Indemnification

8.1 ASCAP Indemnification. ASCAP agrees to defend and handle at its own cost and expense any claim or action against Licensee, its officers, directors, employees, representatives, and agents (each a "Licensee Indemnitee") based upon or in connection with any action or claim by a third party arising out of Licensee's use of the ASCAP Repertory as specifically permitted pursuant to this Agreement, but specifically excluding any claim or action caused by or based upon any unauthorized act or omission of Licensee or its respective employees, contractors, representatives or agents. ASCAP agrees to indemnify and hold the Licensee Indemnitees harmless from and against any and all liabilities, losses, damages, costs and expenses (including reasonable attorneys' fees) associated with any such claim or action. ASCAP shall have the right to conduct the defense of any such claim or action and all negotiations for its settlement or compromise; provided, however, that (a) that no settlement or compromise affecting the financial or legal obligations of any Licensee Indemnitee shall be entered into or agreed to without the applicable Licensee Indemnitee's prior approval and unless such settlement contains an unconditional release by the claimant or the plaintiff of the Licensee Indemnitee, its officers, directors, employees, representatives and agents from all liability in respect of such claim or action and (b) each Licensee Indemnitee has the right to participate, at its own expense, in the defense and/or settlement of any such claim or action in order to protect its own interests. ASCAP's liability under this Paragraph 8.1 shall be strictly limited to the amount of license fees actually paid by Licensee to ASCAP under this Agreement.

8.2 Licensee Indemnification. Licensee agrees to defend and handle at its own cost and expense any claim or action against ASCAP, its respective officers, directors, employees, representatives, members and agents (each an "ASCAP Indemnitee") based upon or in connection with any action or claim by a third party arising out of (a) any actual or alleged breach of Licensee's representations, warranties and covenants contained in this Agreement and (b) operation of Licensee's winery and Licensee's Website, but specifically excluding any claim or action caused by or based upon Licensee's use of the ASCAP Repertory as specifically permitted pursuant to this Agreement or any unauthorized act or omission of ASCAP, its employees, contractors, representatives or agents. Licensee agrees to indemnify and hold the ASCAP Indemnitees harmless from and against any and all liabilities, losses, damages, costs and expenses (including reasonable attorneys' fees) associated with any such claim or action. Licensee shall have the right to conduct the defense of any such claim or action and all negotiations for its settlement or compromise; provided, however, that (y) that no settlement or compromise affecting the financial or legal obligations of any ASCAP Indemnitee shall be entered into or agreed to without the applicable ASCAP Indemnitee's prior approval and unless such settlement contains an unconditional release by the claimant or the plaintiff of the ASCAP Indemnitee, its officers, directors, employees, representatives, members and agents from all liability in respect of such claim or action and (z) each ASCAP Indemnitee has the right to participate, at its own expense, in the defense and/or settlement of any such claim or action in order to protect its own interests.

9. Representations and Warranties.

9.1 Mutual. Each Party represents, warrants and covenants to the other Party that: (a) it has the full corporate right, power and authority to enter into this Agreement and to perform the acts required of it pursuant to this Agreement, (b) the execution of this Agreement and performance of its obligations pursuant to this Agreement do not and shall not violate any other agreement to which it is a party, (c) this Agreement constitutes the legal, valid and binding obligation of such Party when executed and delivered and (d) any and all activities it undertakes in connection with this Agreement shall be performed in compliance with all applicable laws, rules and regulations.

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9.2 Licensee. Licensee represents, warrants and covenants to ASCAP that (a) its operation of its winery and Licensee's Website, together with any and all information, content, products, materials and services made available through or in connection therewith (except for the ASCAP Repertory as used in the manner as specifically permitted hereunder), do not violate any applicable laws, rules or regulations or infringe the rights of any third party and (b) it has obtained or shall obtain and maintain during the Term all rights, licenses, consents and authorizations necessary to perform its obligations as set forth in this Agreement.

10. Confidentiality.

10.1 Non-Disclosure. The Parties agree to regard and preserve as confidential (a) all information related to the rights and obligations of the other Party pursuant to this Agreement, the business and activities of the other Party, its customers, clients, licensors, suppliers and other entities with whom such other Party does business, which may be obtained by such Party from any source or may be developed or disclosed as a result of this Agreement; and (b) each Party's trade secrets, proprietary and competitive information, financial information, the specific terms of this Agreement, past and present operations, activities, future plans and strategy (collectively, the "Confidential Information"). Each Party agrees to hold the Confidential Information of the other Party in trust and confidence and shall not disclose such information to any person, firm or enterprise, or use (directly or indirectly) any such information for its own benefit or the benefit of any other Party. Notwithstanding the foregoing, either Party may disclose the other Party's Confidential Information pursuant to applicable law or regulation or compulsion of proper judicial or other legal process; provided, however, that the disclosing Party shall provide prompt notice of the same prior to such required disclosure such that the other Party may seek a protective order or other appropriate remedy to safeguard, restrict and/or limit the disclosure of such Confidential Information unless such required disclosure is to a Governmental Entity or judicial entity that requires by law or otherwise a submission of identities of ASCAP licensees and/or copies of ASCAP agreements.

10.2 Exclusions. Information shall not be considered Confidential Information to the extent, but only to the extent, that such information (a) is or becomes publicly available through no fault, default or breach of or by the receiving Party, (b) is or was rightfully acquired by the receiving Party from another, to the receiving Party's knowledge, without restriction or obligation of confidentiality or (c) is or was independently developed by the receiving Party without use of or reference to Confidential Information of the other Party.

11. Miscellaneous.

11.1 Notices. Notices of termination under this Agreement shall be given only if mailed to the other Party by registered or certified U.S. Mail or sent by generally recognized same-day or overnight delivery service. Unless stated otherwise, all other notices required or permitted to be given by either Party to the other hereunder shall, in addition to the methods set forth above, also be given if sent by first

class U.S. Mail, facsimile or electronic mail (e-mail) transmission. Notices to ASCAP shall be sent to the attention of VP of General Licensing as follows: (a) if by U.S. Mail, to the ASCAP address set out above; (b) if by facsimile, to 615-691-7795; and (c) if by electronic mail, to glcs@ascap.com. Notices to Licensee shall be sent to the mailing address, facsimile number or electronic mail address set out above or last known to ASCAP. Each Party agrees to inform the other of any change of address and/or contact information.

11.2 Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties and their permitted successors and assigns except that neither this Agreement nor either Party's rights or obligations hereunder shall be assigned, conveyed or otherwise transferred, in whole or in part, by a Party without the other Party's prior written consent and any purported assignment without such consent shall be void *ab initio* and of no force and effect; provided, however, that no consent shall be necessary in the event of any one or more assignments by one Party of any and/or all of its rights or obligations hereunder to one or more Affiliates controlled by that Party or any successor entity(ies) resulting from a merger, acquisition or consolidation, spin-off, divestiture or otherwise succeeding to all or a substantial portion of the assets or business of such Party.

11.3 Amendment; Waiver; Severability. This Agreement may not be amended, modified or terminated except by a written instrument signed by both of the Parties. No failure or delay by either Party to exercise any right or enforce any obligation shall impair or be construed as a waiver or on-going waiver of that or any other right or power, unless made in writing and signed by both Parties. If any term of this Agreement is held invalid, illegal or unenforceable in any respect, such provision shall be replaced by an enforceable provision that most closely meets the commercial intent of the Parties, and such holding shall not affect any other provision of this Agreement, which shall be and remain effective as though such invalid, illegal or unenforceable provision had not been contained herein.

11.4 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York pertaining to contracts made and fully performed therein, without regard to choice of law rules.

11.5 Entire Agreement. This Agreement, together with the attachments hereto which are incorporated herein by this reference, constitutes the entire agreement between the Parties and supersedes any prior or inconsistent agreements, negotiations, representations and promises, written or oral with respect to the subject matter hereof. Neither Party has made any representations or promises to the other in connection with this Agreement or its subject matter that are not expressly set forth in this Agreement.

11.6 Survival. The provisions of Section 5 (License Fees and Payments); Paragraph 7.5 (Effect of Termination); Section 8 (Indemnification); Section 9 (Representations and Warranties); Section 10 (Confidentiality) and this Section 11 (Miscellaneous) shall survive the expiration or termination of this Agreement.

IN WITNESS WHEREOF, this Agreement has been duly executed by ASCAP and LICENSEE, this _____ day of _____, 20_____.

AMERICAN SOCIETY OF COMPOSERS, AUTHORS
AND PUBLISHERS

BY: _____

LICENSEE

BY: _____

TITLE: _____

(Fill in capacity in which signed: (a) If corporation, state corporate office held; (b) If partnership, write word "partner" under signature of signing partner; (c) If individual owner, write "individual owner" under signature.)



Winery

Rate Schedule & Statement of Operating Policy for Year 2016

Account Name: _____

Address: _____

A. Area Open to the General Public for Wine Tasting and/or Selling Wine (total of all such areas, whether indoor and/or outdoor)

Annual Fee for Audio & Audiovisual Performances

Size of Area(*)	Without Live Music	With Live Music
Up to 25,000 Square Feet	\$360.00	\$668.00
25,000 Square Feet to 50,000 Square Feet	\$592.00	\$1,013.00
Over 50,000 Square Feet	\$771.00	\$1,316.00

(*) exclude the area devoted to the actual vineyards.

Square Feet: _____ Live Music in the General Public Area: _____

A Fee: _____

B. Area Dedicated to Entertainment and Food Service with Music (total of all such areas, whether indoor and/or outdoor)

Annual Fee for Audio & Audiovisual Performances

	Without Live Music	With Live Music
Fee per Distinct Area at the Premise(**)	\$376.00	\$643.00

ASCAP Number of Distinct Areas With Live Entertainment: _____

ASCAP Number of Distinct Areas Without Live Entertainment: _____

B Fee: _____

(**) For example, a premise with a restaurant, party room, and conference room has 3 (three) distinct areas for Entertainment and Food Services.

Annual License Fees (A + B): _____

Live Concerts with Admission

If Admission, cover or similar fee is Charged for Live Music and the Total Gross Revenue is Greater than \$100,000.00, a rate of 0.8% should be applied to the Total Gross Revenue to calculate the Live Concert Fee.

Seasonality

If the Premises is only open seasonally, the fees due for Schedules A and B, for periods up to four (4) months of operation, are one-half (1/2) the annual license Fee. For each additional month or partial month the Fee is increased by one twelfth (1/12) the annual license Fee.

Season Start Date: _____

Season End Date: _____

LICENSE FEES FOR 2017 AND THEREAFTER

The license fees for each calendar year commencing 2017 shall be the license fees for the preceding calendar year, adjusted in accordance with the increase in the Consumer Price Index, All Urban Consumers - (CPI-U) between the preceding October and the next preceding October.

ASCAP

Toll Free: 1-800-505-4052 Fax: 615-691-7795

Epayment Websites: <http://www.ascap.com/mylicense> or <http://www.ascap.com>