

Attachment B

RE:SOUND Licence Agreement

RE:SOUND LICENCE AGREEMENT

THIS AGREEMENT is made as of December 18, 2024

BETWEEN:

RE:SOUND, a not-for-profit corporation incorporated under the laws of Canada, having its principal and registered office at 703 - 175 Bloor Street E., South Tower, Toronto, ON M4W 3R8

- and -

CITY OF NEW WESTMINSTER, a corporation incorporated under the laws of British Columbia, having its principal and registered office at 511 Royal Avenue, New Westminster, BC V3L 1H9 (**Licensee**)

RECITALS

- A. Re:Sound is the sole collective society authorized under Part VII.1 of the Canada Copyright Act to collect royalties on behalf of performers and makers as equitable remuneration for the performance in public and communication to the public by telecommunication of their sound recordings.
- B. Licensee, among other things, operates recreational facilities where it performs in public published sound recordings in Re:Sound's repertoire (each a "**Facility**" and collectively, the "**Facilities**").
- C. Licensee desires to obtain Re:Sound licenses and pay all royalties payable under the applicable Re:Sound tariffs for all the Facilities and, for the purpose of administrative simplicity, desires to pay a fixed amount once a year for all such licences for 2025 onward.
- D. Re:Sound has appointed Entandem Inc. (**Entandem**) as its agent to, among other things, invoice, collect and receive licence fees payable under this Agreement.

THEREFORE, in consideration of the mutual covenants herein, Re:Sound and Licensee agree as follows:

1. LICENCE AND LIMITATIONS

- 1.1. When paid in full, the licence fees payable pursuant to this Agreement shall satisfy the Licensee's obligations to pay royalties to Re:Sound for the performance in public of published sound recordings in Re:Sound's repertoire in the Facilities under the applicable tariffs as listed in **Schedule A** to this Agreement. Any public performances

of recorded music in the Facilities which are not specifically listed in **Schedule A** (including by third party renters of the Facilities for whom the license fees are not being remitted by the Licensee) are outside the scope of this Agreement and subject to additional royalties in accordance with the applicable tariff(s).

- 1.2. **Schedule A** lists all the Facilities that are or will be in operation sometime during the first year of the Term and, for each of these Facilities, the applicable Re:Sound tariff(s) and current licence fee. The Facilities may change from time to time during the Term due to the opening and closing of facilities by Licensee, which change is addressed below. The licence fees may also change from time to time during the Term, which change is addressed below.
- 1.3. The licence fees payable pursuant to this Agreement do not include royalties for the public performances of sound recordings at or during concerts or other shows (including comedy shows, magic shows and similar events). Such uses of music, and any other uses of music in the Facilities not listed in Schedule A, shall require additional licenses from Re:Sound.

2. LICENCE FEES AND REPORTING

- 2.1. Subject to Sections 2.2 and 2.5, for each year in the Term, Licensee shall pay a licence fee of \$3,798.81 (**Annual Licence Fee**), plus applicable taxes, for the Facilities and the Re:Sound tariffs listed in **Schedule A**. The Annual Licence Fee is calculated based on the current applicable tariff rates and information regarding the Facilities in Re:Sound's and/or Entandem's database, as well as documents or information provided by Licensee or available on Licensee's website, and is subject to adjustment as provided in Sections 2.2 and 2.5.
- 2.2. In the event of a change in the certified rates of any of the applicable Re:Sound tariffs listed in Schedule A, the Annual Licence Fee will be adjusted to reflect the new tariff rates effective retroactively as of the date the new tariff rate(s) take effect.
- 2.3. Licensee shall pay the Annual Licence Fee and applicable taxes to Entandem as follows:
 - (a) for the year 2025: within ten (10) business days of receiving an invoice from Entandem, together with written confirmation that **Schedule A** remains current and accurate as of the date of payment of that invoice (it being understood by Re:Sound and Licensee that Entandem will issue such an invoice promptly after both parties have executed this Agreement); and
 - (b) for each year thereafter: by no later than January 31 of that year, together with a list of any and all new Facilities opened by Licensee and Facilities closed by Licensee in the previous year, which list shall set out such Facilities' names, addresses and phone numbers.
- 2.4. With respect to Paragraph 2.3(b):

(a) for each new Facility opened by Licensee in the previous year, Licensee shall pay the licence fee(s) for the royalties payable under the applicable Re:Sound tariff(s) and applicable taxes to Entandem as follows:

(i) for both the previous year and the current year: within ten (10) business days of receiving an invoice from Entandem; and

(ii) for each year thereafter: by no later than January 31 of that year.

Similar to the Annual Licence Fee, the licence fee(s) payable pursuant to this Paragraph for a new Facility are calculated based on documents or information provided by Licensee or available on Licensee's website; and

(b) for any Facility closed by Licensee in the previous year, for avoidance of doubt, licence fee(s) and applicable taxes paid to Entandem for that year shall not be credited or refunded to Licensee.

2.5. At Re:Sound's or Entandem's request, Licensee and Re:Sound or Entandem shall jointly review the music uses in all the Facilities that are in operation at the time of review to ensure Licensee continues to be properly licensed under the applicable Re:Sound tariffs for the Facilities. The licence fee amount calculated by Re:Sound or Entandem for all such Facilities at the conclusion of such review shall become the Annual Licence Fee for each year following the review until the next review is conducted. Any such review shall not occur more than once every **four** years.

2.6. Licensee may pass on or recover the applicable portion of the Annual Licence Fee or the licence fee(s) referred to in Paragraph 2.4(a), as applicable, to or from any Facility but in doing so, shall not charge any additional monies in connection with such fees (such as an administrative fee or a processing fee).

3. TERM AND TERMINATION

3.1. The initial term of this Agreement shall commence on the date of this Agreement and end on December 31, 2027 (**Initial Term**). At the end of the Initial Term, this Agreement shall be automatically extended for successive one (1)-year periods (each, a **Renewal Term**), unless either party gives the other party notice no later than sixty (60) days prior to the expiration of the Initial Term or the then-current Renewal Term, as applicable, that it does not wish to extend this Agreement. The Initial Term and any and all Renewal Terms are collectively, the **Term**. This Agreement is subject to termination at any time during the Term in accordance with Section 3.2.

3.2. If Licensee breaches any provision of this Agreement, Re:Sound or Entandem on Re:Sound's behalf, shall give Licensee notice of the breach, and Licensee shall have thirty (30) days from the delivery of that notice to cure the breach. If the breach is not cured by the end of that thirty (30)-day period, Re:Sound may terminate this Agreement by giving a notice of termination to Licensee. Any such termination shall be effective immediately upon the delivery of that notice.

- 3.3. As of the effective date of termination, Licensee shall pay all royalties owing and comply with the reporting provisions and other terms of the applicable Re:Sound tariff(s).

4. OTHER TERMS OF LICENCE

- 4.1. Re:Sound shall have the right to audit Licensee's books and records, on reasonable notice and during normal business hours, to verify the licence fees payable by Licensee.
- 4.2. Any amount payable under this Agreement that is not received by Entandem by the applicable due date shall bear interest from that due date until the amount is received by Entandem. Interest shall be calculated daily at the Bank Rate effective on the last day of the month previous to the due date (as published by the Bank of Canada) plus 1%. Interest shall not compound.
- 4.3. Licensee shall keep confidential at all times the provisions of this Agreement (including the licence fee amounts) and the negotiations leading up to its execution and shall not disclose any of the foregoing without the prior written consent of Re:Sound, except as required by law.
- 4.4. Re:Sound and Licensee acknowledge and agree that: (a) nothing in this Agreement shall constitute an acknowledgment or admission by either party as to the extent or value of the royalties payable for, any music use in any Facility; (b) this Agreement is made without prejudice to either party's right to take any position and introduce any evidence before the Copyright Board of Canada as to the royalties payable to Re:Sound, or any related terms and conditions, or the applicability of any Re:Sound tariff, for or to any music use in any Facility; and (c) this Agreement is entirely non-precedential in nature and shall not be adduced or accepted as evidence of any matter in any proceeding (including any proceeding before the Copyright Board to set tariff rates), other than a proceeding to enforce its provisions.
- 4.5. In the event of a conflict or inconsistency between the provisions of this Agreement and the provisions of the applicable Re:Sound tariff, this Agreement shall govern and prevail. References to Re:Sound tariffs in this Agreement include all corresponding successor tariffs.
- 4.6. Any notice required or permitted by this Agreement shall be given in writing and shall be sent by registered prepaid mail to the address listed below:

In the case of Licensee:

City of New Westminster
511 Royal Avenue, New Westminster, BC V3L 1H9
Attention: Jay Young, Manager, Recreation Services and Facilities

In the case of Re:Sound:

703 -175 Bloor Street E., South Tower,
Toronto, ON M4W 3R8
Attention: Legal Department

- 4.7. Any delay or failure on the part of Re:Sound to exercise or enforce any right conferred upon it under this Agreement shall not be deemed to be a waiver of any such right or operate to bar the enforcement of such right, or the enforcement of this Agreement, at any time or times thereafter.
- 4.8. No partnership, joint venture or alliance between the parties is intended by this Agreement, and neither party may act as an agent of the other party or make any representation or incur any obligation on behalf of the other party.
- 4.9. This Agreement (which includes the Recitals and any and all schedules referred to) is the entire agreement between the parties with respect to the subject matter herein and may only be modified by a written document executed by both parties.
- 4.10. This Agreement is a contract made under, and shall be governed by and construed in accordance with, the laws of the Province of British Columbia and the laws of Canada applicable therein. The parties attorn to the exclusive jurisdiction of the courts of the Province of British Columbia for any dispute arising out of or in connection with this Agreement.
- 4.11. This Agreement may be executed in counterparts, each of which when so executed and delivered (including delivery by email or fax) shall be an original, and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF the parties have caused this Agreement to be duly executed.

RE:SOUND

CITY OF NEW WESTMINSTER

I have authority to bind the corporation.

I have authority to bind the corporation.

By: _____

By: _____

Name (print): _____

Name (print): _____

Title: _____

Title: _____

Date: _____

Date: _____

**SCHEDULE A
FACILITIES, TARIFFS AND FEES**

Facility Name	Address & Phone No.	Tariff(s)	Licence Fee
New Westminster Parks & Recreation	511 Royal Ave, New Westminster, BC V3L 1H9 604.521.3711	5B Receptions	
Moody Park Arena	701 8th Ave, New Westminster, BC V3M 2R2, (604) 525-5301	6B Skating	
Queensborough Community Centre	920 Ewen Ave, New Westminster, BC V3M 5C8, (604) 525-7388	6B Fitness	
təməsewtx ^w Aquatic and Community Centre	65 E Sixth Ave, New Westminster, BC V3L 4G6 (604) 777-5100	6B Fitness	
Century House	620 8th St, New Westminster, BC V3M 3S6, (604) 519-1066	6B Fitness	
Total fees before applicable taxes:			\$3,798.81