

## LICENSE AGREEMENT

This Agreement dated November 5, 2014 made between

**BC Electronic Library Network (BC ELN)**, Vancouver, British Columbia, hereinafter referred to as the Licensee

**AND**

**Audio Cine Films Inc.**, a corporation duly constituted, incorporated under the laws of Quebec and having an office at #210, 1955 Ch. Cote de Liesse, in the city of Montreal, Quebec H4N 3A8, hereinafter referred to as the Licensor

Licensor and Licensee agree to the terms specified on the pages following and in the schedules outlined below:

1. **License:**  
Subject to the terms and conditions of this Agreement, the Licensor grants to the Licensee the right to conduct public non-theatrical, non-commercial screenings of the feature film videos, DVD, and BlueRays produced by the studios and producers contained in Schedule A by the institutions under its jurisdiction (see Schedule B) for use in the Term and manner by the persons and for the purposes described in this Agreement, pursuant to terms and conditions of this Agreement.
2. **Term:** From: October 1, 2014 To: September 30, 2015
3. **Covers:** Titles by certain Feature Film Producers and Studios (see Schedule A)
4. **a) License Fee BC Participants:**  
(See Schedule B)  
**b) License Fee non-BC Participants:**  
(See Schedule B)
5. **Insurance:** Licensor will maintain General Liability Insurance

Signed and delivered on behalf of the Licensee by an authorized signatory of the Licensee

\_\_\_\_\_  
**Anita Cocchia**  
**Executive Director, BC ELN**

\_\_\_\_\_  
**Date**

Signed and delivered on behalf of the Licensor by an authorized signatory of the Licensor

\_\_\_\_\_  
**Jean-Francois Cormier**  
**Sales Manager**

\_\_\_\_\_  
**Date**

## GENERAL TERMS OF THE AGREEMENT

### Definitions

6. a) **Expiry Date** means the end date of the Term as set out in Schedule B.
- b) **Term** means the period set out in Schedule B.
- c) **Media Programs** means any commercially available media from the studios and producers listed under Schedule A.

### The Licensor

7. Regardless of the date of execution of this Agreement, The Licensor will provide the services (described in Schedule A), during the Term at the License fee (described in Schedule B), in accordance with this Agreement.
8. The Licensor represents and warrants that it has the rights and authority to grant to the Licensee the rights and licenses granted by this Agreement. The Licensor further represents and warrants that it has the right to license Canadian public performance of the Media Programs owned by the producers and studios listed in Schedule A.
9. The License hereby is solely for the Media Programs to which the Licensor holds Canadian Public Performance Rights, and for which it is the authorized and licensed distributor for the film producers and studios listed on the attached Schedule A (which may be modified as necessary from time to time).
10. The Media Programs may be obtained (rented, leased or purchased) from any retailer or any library. They must, however, be legally obtained copies. Copies that have been dubbed from broadcast or cable, or transferred from another copy, are not covered by this Agreement.
11. The Licensor will comply with all applicable municipal, provincial, federal and state laws.
12. The Licensor will be an independent contractor and not the servant, employee, agent or partner of the Licensee.
13. It is further understood that this agreement shall not be deemed an exclusive licensing agreement.
14. The Licensor will treat as confidential the records or any information which comes to the knowledge of the Licensor, its servants, employees and agents as a result of any inspection or audit of the Licensee's records, and will not publish, release or disclose any of the information, except if such disclosure is necessary to enable the Licensor to fulfill its obligations or enforce its rights under this Agreement. This obligation shall survive the termination of this Agreement.
15. The Licensor will indemnify and save harmless the Licensee, its employees and agents, from and against any and all losses, claims, damages, actions, causes of action, costs and expenses that the Licensee may sustain, incur, or suffer at any time either before or after the expiration or termination of this Agreement, where the same or any of them are based upon, arise out of or occur, directly or indirectly, by reason of any act or omission of the Licensor or of any agent, employee, officer, director or subcontractor of the Licensor pursuant to this Agreement, and/or by reason of any breach of representation or warranty by the Licensor under this Agreement, excepting always liability arising out of the independent negligent acts of the Licensee.
16. The Licensor will maintain and pay for General Liability Insurance.
17. At the request of the Licensee, the Licensor will provide proof of this insurance to the Licensee.

18. Throughout the term of the Agreement, the Licensor shall operate a toll-free telephone number (1-800-289-8887) which shall be available to the Licensee in order that it may obtain information concerning the availability of any specific title(s) within the governance of this Agreement.

### **License Fee**

19. The Fees and Expenses payable to the Licensor for the Services will not exceed, in total the amount of the License Fee.
20. The Licensee shall remit within thirty (30) days of the signature by all parties of these presents, the sum in Schedule B. Fees are based on the Licensee's population.

### **The Licensee**

21. The Licensee will indemnify and save harmless the Licensor, its employees and agents, from and against any and all losses, claims, damages, actions, causes of action, costs and expenses that the Licensor may sustain, incur or suffer at any time either before or after the expiration or termination of this Agreement, where the same or any of them are based upon, arise out of or occur by reason of any act or omission of the Licensee or of any agent, employee, officer, director or subcontractor of the Licensee pursuant to this Agreement, excepting always liability arising out of the independent negligent acts of the Licensor.
22. Notwithstanding Section 21 above, in no event shall the Licensee nor its directors, officers, employees or agents be liable for indirect, special, consequential, incidental or punitive damages, even if it has been advised of the possibility of such loss, including but not limited to any acts or omissions of another Post-Secondary Education Institution.
23. All presentations are for the sole benefit of participating colleges and university's students Note: since this is a License that covers a number of post-secondary institutions, the Licensee's only obligation is to notify the institutions of the terms and conditions. THE LICENSEE HAS NO OBLIGATION BEYOND THAT OBLIGATION.
24. It is understood that the Licensee shall be responsible for all rental or purchase fees for Media Programs covered by the Licensor and that the Licensor is not liable for the availability of any feature films. Under special arrangements and agreements, the Licensor agrees to supply covered institutions with titles not easily obtainable in their location(s). Acquisitions and transport fees shall be applicable for any such demand.
25. This agreement covers and allows for the presentation of Media Programs covered by the Licensor within an entertainment context. Student Associations and other such groups may conduct on-campus, not-for-profit presentations for non-educational purposes. Presentations must be limited to students and faculty enrolled or employed at said institution. Event advertising must be limited to media targeted at the licensed Post-Secondary Institution and its students and staff. In the case of print advertising, the advertisements may only appear in campus media (e.g. a student newspaper) and not in general community newspapers

Limited "outside" participation to on-campus entertainment presentations is acceptable, so long as no direct advertising is done outside campus boundaries and the event is not open to the general public.

### **Modification of License**

27. It is agreed that a thirty (30) day written notice shall be given by either party in the event of a modification to the licensing Agreement between the Licensee (and the institutions it represents) and the Licensor.

### **Termination by Licensee**

28. Licensee may terminate this Agreement
- a) if any warranty, representation or undertaking made by the Licensor in this Agreement (or given in any document related to this Agreement), is false or misleading in any material respect;
  - b) if the Licensor has breached any term or condition of this Agreement;
  - c) if the Licensor goes into liquidation or bankruptcy, or makes an assignment for the benefit of creditors, or makes any compromise with creditors, or a proceeding is commenced by or against the Licensor in the event of insolvency;
  - d) if any other legal proceeding involving the Licensor is instituted that in the reasonable opinion of the Licensee impairs in any way the ability of the Licensor to discharge its obligations hereunder.
29. The Licensor will forthwith notify the Licensee in writing if the circumstances described in paragraph 27 (c) or (d) materialize and in so doing will provide the Licensee with full particulars thereof.
30. Where the Licensee terminates this Agreement it will do so subject to the following conditions:
- a) the Licensee will send a written notice of the breach to the Licensor;
  - b) the Licensor will have 30 working days within which to cure the breach;
  - c) if the Licensor is unable or unwilling to cure the breach, the Licensee may send the Licensor a written notice of termination;
  - d) this Agreement will terminate 30 days after the date on which the Licensee sends a written notice of termination; and
  - e) subject to a "set off" for any claim for loss or damages to which the Licensee may be entitled as a result of any act or omission of the Licensor relating to this Agreement, the Licensee will make any payments due prior to termination within 30 days of termination.

### **Termination by Licensor**

31. The Licensor may terminate this Agreement at any time if the Licensee has breached any term or condition of this Agreement, subject to the following conditions:
- a) the Licensor will send a written notice of the breach to the Licensee;
  - b) the Licensee will have 30 working days within which to cure the breach;
  - c) if the Licensee is unable or unwilling to cure the breach, the Licensor may send the Licensee a written notice of termination;
  - d) this Agreement will terminate 30 days after the date on which the Licensor sends a written notice of termination; and
  - e) subject to a "set off" for any claim for loss or damages to which the Licensee may be entitled as a result of any act or omission of the Licensor relating to this Agreement, the Licensee will make any payments due prior to termination within 30 days of termination.

### **General**

32. Time is of the essence in this Agreement.
33. Any notice, waiver, statement, other document or payment and all or any part of the Media Programs

that either party may be required or may desire to give or deliver to the other will be conclusively deemed validly given or delivered to and received by the addressee, if delivered personally on the date of delivery, or if mailed, on the third business day after the mailing of the same in British Columbia by prepaid post addressed if to the Licensee:

Attention: Anita Cocchia, Executive Director,  
**BC Electronic Library Network**  
8888 University Drive  
Burnaby, BC Canada  
V5A 1S6

And if to the Licensor:

Attention: Jean Francois Cormier, Sales Manager  
**Audio Cine Films Inc.**  
#210, 1955 chemin Cote de Liesse Road  
Montreal, Quebec Canada  
H4N 3A8

34. The Schedules are part of this Agreement.
35. All modifications, amendments, or waivers to this Agreement must be made in writing and signed by the parties.
36. Every reference to the Licensee in this Agreement includes a person duly authorized to act for or on behalf of the Licensee with respect to this Agreement.
37. This Agreement is binding upon the Licensee and its assigns and the Licensor, its successors and permitted assigns.
38. This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia, the Province of Quebec and Canada and the parties hereby submit to the jurisdiction of the courts sitting in the Province of British Columbia, including, subject to its own rules, the Federal Court of Canada.
39. All disputes between the parties will be resolved as follows: Either party may apply to a court of competent jurisdiction in British Columbia for interim or injunctive relief. Except for such injunctive relief, all disputes arising out of or in connection with this Agreement will be referred to and finally resolved by arbitration administered by the British Columbia International Commercial Arbitration Centre, pursuant to its Rules of Procedure.