

## Terms and Conditions for Grant of License for Supplier/Brand Owner

Subject to the terms and conditions herein, M. Shanken Communications Inc., a New York corporation with offices at 825 Eighth Avenue, 33rd Floor, New York, NY 10019 ("Licensor"), grants to this supplier or brand owner ("Licensee") a limited, revocable, non-exclusive, non-transferable license during the term to display the Wine Spectator and Whisky Advocate ratings and tasting notes and the Trademarks associated therewith (collectively, the "Licensed Material") on Licensee's website and in Licensee's sales materials. The foregoing license shall not extend to any other time, place, use or purpose, and Licensor retains all rights not expressly granted herein. Licensee will not use any Licensed Material in a manner which can be reasonably construed as derogatory, defamatory, or slanderous of any person or entity. Licensee shall not sublicense any of the rights granted hereunder.

**Term of Grant and Termination.** The term of this grant of license shall be for one year, and shall automatically renew for additional one-year periods unless written notice of non-renewal is given by either party to the other at least 30 days prior to the end of any term; provided, this grant may also be terminated at any time by either party upon 30 days written notice; provided further, that if either party violates any provision of these Terms and Conditions, then the other party shall have the right to terminate this grant of license immediately upon written notice to that effect. See additional information in the "Effect of Termination" section.

### **Licensor's Representations and Warranties.**

Licensor hereby represents and warrants that:

- i. Licensor exclusively owns and retains all such rights, title, and interest in and to the Licensed Material, including copyright, as well as trademark rights in the marks WINE SPECTATOR, WS, WHISKY ADVOCATE and all stylizations and fonts comprised thereof, whether registered with the United States Patent and Trademark Office or as common law trademarks, as well as any logos, graphics or images reflecting Licensor's point system (collectively referred to as the "Trademarks").
- ii. The Licensed Material and Trademarks do not and will not during the term in the Territory infringe upon, misappropriate or otherwise conflict with the rights, including, but not limited to, the intellectual property, or other proprietary, rights of any person or entity, and will otherwise comply with all state, federal, local (and, if applicable) international laws and regulations. For purposes hereof, "Territory" is defined as the U.S. and any other country or jurisdiction in which Licensor owns registered or common law trademarks.
- iii. Licensor is not aware of any threatened or pending claim, proceeding, challenge or objection by any person or entity asserting that Licensed Material or Trademarks infringe upon, misappropriates or otherwise conflicts with the rights, including, but not limited to, the intellectual property, or other proprietary, rights of any person or entity.

### **Ownership Rights.**

A. Licensee acknowledges Licensor's ownership and exclusive right, title and interest in and to the Licensed Material, and will not at any time do or cause to be done any act or thing contesting or in any way impairing or tending to impair such right, title and interest.

B. Licensee shall not in any manner represent that it has any ownership in the Licensed Material or in any application or registration for the Trademarks. Licensee agrees that it will not contest, oppose or challenge Licensor's ownership, use, applications to register or registration of the Trademarks. Licensee agrees that it will not register or attempt to register the Trademarks or any confusingly similar marks in any jurisdiction in which Licensor has rights.

C. Licensee agrees to use the Licensed Material only in the form and manner and with the appropriate legends as prescribed from time to time by Licensor.

D. Licensee agrees not to use, modify, copy or in any way create a derivative work of the Licensed Material without express prior written permission from Licensor.

E. Licensee agrees to advise Licensor of any unauthorized use of the Licensed Material by others, during the Term, about which Licensee knows. Licensor shall have the sole right, option and discretion to bring actions to enforce its rights in the Licensed Material; however, Licensor may delegate such responsibilities to Licensee. Licensee agrees to cooperate fully with Licensor, at Licensor's expense, in any and all enforcement actions that Licensor may take; provided, however, that if an enforcement action is caused by Licensee, then Licensee shall be responsible for such expenses.

**Licensee's Permitted Use of Licensor's Content.** As a condition of the ability to access and use any site owned by Licensor or its digital applications, Licensee agrees that it will not violate any intellectual property rights of Licensor. All information, content, services and software displayed on, transmitted through, or used in connection with the sites or digital applications, including for example, articles, reviews, directories, guides, text, photographs, images, illustrations, audio clips, video, html, source and object code, trademarks, logos, and the like (collectively, the "Content"), as well as its selection and arrangement—is licensed or owned by Licensor and/or its affiliated companies, licensors and suppliers, and is protected by U.S. and international intellectual property laws. If Licensee operates a website and wishes to link to any site of Licensor, it may do so provided it agrees to cease such link upon request from Licensor. All rights not expressly granted are expressly reserved. No other use is permitted without prior written permission of Licensor. The permitted use described in this paragraph is contingent on Licensee's compliance at all times with these Terms and Conditions.

**Licensee's Restricted Use of Licensor's Content.** Licensee may not distribute or participate in the distribution of any Content to others, whether or not for payment or other consideration, and may not modify, copy, frame, cache, reproduce, sell, publish, transmit, display or otherwise use any portion of the Content. Licensee may not scrape, cut and paste or otherwise copy any of the Content without permission. Licensee agrees not to decompile, reverse engineer or disassemble any software, digital application or other products or processes accessible through the sites and digital applications of Licensor, not to insert any code or product or manipulate the Content in any way that affects the user's experience, and not to use any data mining, data gathering or extraction method.

**Quality Control.** Licensee agrees that the nature and quality of the Licensed Material and all related advertising, promotion and other uses of the Licensed Material by Licensee shall conform to the standards of usage set or approved by Licensor. Without limiting the foregoing: (a) Licensee's use of the Licensed Material shall be under the sole ultimate control of Licensor, and (b) Licensee agrees to cooperate with Licensor in facilitating Licensor's control of such nature and quality and to cooperate fully in any efforts by Licensor, at Licensor's expense, to conduct reasonable inspection of the use of the Licensed Material. Licensee agrees to cause Licensor to be supplied with a reasonable number of specimens of all uses of the Licensed Material upon request, such number to be mutually agreed to by both parties at the time of request.

**Fees.** In connection with Licensor's grant of rights hereunder, Licensee agrees to pay Licensor an annual fee for the Licensed Material. Such fees will begin at the time membership is commenced.

**Effect of Termination.** Upon termination of this Grant of License, Licensee shall cease using the Licensed Material, and shall destroy any and all copies of the Licensed Material. Upon written request from Licensor, Licensee shall certify in writing to the destruction of all Licensed Material. Efforts at destruction will be made in good faith and

using commercially reasonable procedures, provided that under no circumstances shall such information be actively used by Licensee after termination or expiration.

**Warranties.** Licensor makes no guarantees expressed or implied with regard to the accuracy of the information supplied to the Licensee. Licensor warrants that any reported deficiencies will be fixed in a timely manner. Licensor will not be responsible for any consequential damages arising out of the Licensee's use of such data. Licensor will also not make any guarantees with respect to number of matches supplied in its data feeds.

**Use Inures to Benefit of Licensor.** Licensee's use of the Licensed Material will inure to the benefit of Licensor. Licensee will not, at any time, acquire any ownership rights in the Licensed Material by virtue of any use it may make of the Licensed Material.

**Licensee Indemnity.** Licensee hereby agrees to indemnify, defend and hold harmless Licensor, its affiliates and their respective officers, directors, employees, attorneys and agents (collectively, the "Licensor Indemnified Parties") from and against all damages, costs, expenses and losses (including reasonable attorneys' fees and costs) (collectively, "Damages") in connection with third party claims brought against or incurred by a Licensor Indemnified Party (i) resulting from any breach by Licensee of this Agreement, or (ii) related to the acts or omissions of Licensee, its employees, agents, subcontractors or Representatives.

**Entire Agreement.** These terms herein evidence the complete understanding and agreement of the parties with respect to the subject matter hereof and supersedes and merges any prior understandings or agreements.

**Assignment.** Neither party may assign or sublicense without the prior written consent of the other Party, its rights, duties or obligations under this Agreement to any person or entity, in whole or in part. Any purported assignment in violation of this section shall be void and of no effect.

**General.** If any provision is deemed to be unlawful or unenforceable, that shall not affect the validity and enforceability of the remaining provisions. Any failure of M. Shanken Communications, Inc. to enforce or exercise any provision of these terms and conditions or related right shall not constitute a waiver of that right or provision. Neither the course of conduct between the parties nor trade practice shall act to modify any provision of these Terms. The section titles used in this Agreement are purely for convenience and carry with them no legal or contractual effect.