

## CUSTOMER AGREEMENT FOR MUSIC FOR BUSINESS SERVICES

**Effective: February 1, 2018**

This customer agreement (this "**Agreement**") between you ("**Subscriber**," "**you**" or "**your**") and Sirius XM Radio Inc. (the "**Company**," "**us**," "**our**" or "**we**") applies to your paid, trial or other subscription ("**Subscription**") to our music for business service ("**Music for Business**") in the United States. It also applies to the Equipment Technology (as defined below) you use to enjoy your Music for Business Subscription. The Business Establishment Subscription and Equipment Technology will be collectively referred to herein as the "**Service**."

**If you purchase a Subscription, it will continue under this Agreement for the length of your selected Plan, and will automatically renew for additional periods of the same length, on a monthly basis, or the length described in our offer at the rates in effect at that time, unless you cancel it. To cancel your Subscription you must call us at the applicable number below.**

**Trial subscriptions to our Service, if any, will automatically stop at the end of your trial period, unless you decided to purchase a paid subscription.**

**Any dispute between us may be resolved by binding arbitration on an individual basis. By agreeing to this Agreement and binding arbitration you are waiving your right to go to court, including the right to a jury.**

**IF YOU DO NOT CANCEL YOUR SUBSCRIPTION WITHIN SEVEN (7) DAYS OF THE START OF YOUR SUBSCRIPTION, THIS AGREEMENT WILL BE LEGALLY BINDING ON YOU.**

Our Privacy Policy governs the treatment by us of both anonymous and personally identifiable information that we collect when you use the Service, our apps or our website (the "**Site**"), and can be found at [www.siriusxm.com/privacy](http://www.siriusxm.com/privacy).

Subscriptions are available in two programming packages, "Business Streaming" and "Business Satellite," and we refer to them in this Agreement as "**Packages**." Subscriptions are also available in two recurring payment plans, "Monthly" and "Annual" and we refer to them in this Agreement as "**Plans**." You have the right to change your Package (e.g., from Business Streaming to Business Satellite). You also have the right to change your Plan (e.g., from a Monthly Plan to an Annual Plan). We reserve the right to change, rearrange, add, or delete content on the Service or in any Package at any time, without notice.

### **A. HOW TO CANCEL:**

**1.** You may cancel your Subscription at any time. You must call us to cancel your Subscription. Our contact number is below:

**Service**  
Music for Business Subscriptions

**Care Phone Number**  
1-888-539-7474

Your cancellation will be effective on the date we receive your notification or on another date that you request. In certain circumstances, a cancellation fee may apply.

**2.** We may cancel the Service if you fail to pay for your Subscription, breach this Agreement, or for any other reason in our sole discretion. **IF YOUR SUBSCRIPTION IS CANCELLED, YOU ARE RESPONSIBLE FOR PAYMENT OF ANY OUTSTANDING BALANCES ON YOUR ACCOUNT, INCLUDING ANY FEES YOU MAY INCUR OR MAY HAVE INCURRED, AS DESCRIBED HEREIN.**

#### **B. CONTACT INFORMATION FOR ISSUES OTHER THAN CANCELLATION:**

**1. By Phone:** To contact us with Service related issues, call Music for Business Listener Care at 1-888-539-7474. The call center hours (Eastern Time) are: Monday through Friday 8:00 AM, ET through 10:00 PM, ET, and Saturday and Sunday 8:00 AM, ET through 8:00 PM, ET. These hours of operation are subject to change without notice.

**2. By Mail:** For all Services, write to: Sirius XM "Music for Business" Care, P.O. Box 33174, Detroit, MI 48232. Please note "Attention: SiriusXM Music for Business Listener Care."

**C. AUTOMATIC RENEWAL:** Your Subscription will continue for the length of your selected paid Plan ("**Subscription Term**") and will automatically renew for additional like periods or any other length described in our offer, unless you cancel prior to that renewal, your Service is cancelled by us, or you select a different Plan. Your account will automatically be charged (or you will be billed, as applicable) at the rates in effect at the time of each renewal. If you do not accept the change in pricing, you have the right to reject the change by unsubscribing prior to the change taking effect. Changes in pricing will take effect at the start of the next subscription period following the date of the price change. We may, at our option, process your renewal on a month-to-month basis instead of your chosen Subscription Term.

**D. CHANGES IN TERMS:** WE RESERVE THE RIGHT TO CHANGE THIS AGREEMENT AT ANY TIME. ANY CHANGES WILL BE EFFECTIVE UPON POSTING OF THE REVISIONS AT [WWW.SIRIUSXM.COM/BUSINESSCUSTOMERAGREEMENT](http://WWW.SIRIUSXM.COM/BUSINESSCUSTOMERAGREEMENT) REFLECTING THE NEW EFFECTIVE DATE. YOUR CONTINUED USE OF THE SERVICE FOLLOWING THE POSTING OF THE CHANGES WILL CONSTITUTE YOUR ACCEPTANCE OF SUCH CHANGES.

#### **E. PACKAGES AND PLANS:**

**1. Multiple Subscriptions:** You may have multiple radios and multiple Subscriptions. Each Subscription to the Satellite Radio Service is tied to one radio. A separate Subscription is required for each radio. If you have more than one Subscription on your account for your business establishment, the additional Subscriptions are not currently eligible for reduced rates.

**2. Business Establishment Subscriptions:** Details for commercial subscribers and the Sirius XM Music for Business Services, including FAQs, can be found at [siriusxm.com/business](http://siriusxm.com/business).

**F. FINANCIAL MATTERS:** In return for receiving the Service, you agree to pay us in advance as follows:

## 1. Subscription Billing Payments:

- **Credit Card Billing:** You may pay by credit card, debit card, a Sirius XM Prepaid Service card or a gift card. We do not accept gift cards for recurring payments. Your card will be charged on the day you select the Subscription offer and on the day of each renewal of your Plan, or according to the payment terms in any offer you accepted.
- **Invoice Billing:** You may request to receive an invoice, either paper or electronically, with payment to be made through a check mailed to the address on the invoice. All payments should include your SiriusXM Music for Business Account Number on your check. If you have not selected credit card or debt card billing for your charges, a paper invoice will automatically be mailed to you. A paper invoice may include an Invoice Administration Fee.

**2. Payments:** All payments must be made in U.S. Dollars. If you do not pay your balance, we will deactivate your service for non-payment and charge a late fee. If you choose to reactivate your Service we will apply payments first to any past due amounts and then to your current and future obligations.

**3. Taxes:** All amounts charged to your account may be subject to tax, which will vary according to your billing address, and are your responsibility.

**4. Fees:** We may charge you one or more of the following fees, all of which are subject to change without notice:

- **Activation Fee:** For each radio on your account, we may charge you a fee to activate, reactivate, upgrade or modify your Service.
- **Invoice Administration Fee:** If you request to receive a paper invoice by mail, we may charge you an invoice administration fee on each paper invoice rendered, except where prohibited.
- **Late Fee:** If payment is not received in a timely manner, we may charge you a late fee. This fee is not an interest charge, finance charge, or other charge of a similar nature.
- **Returned Payment Fee:** If any financial institution refuses to honor your payment, we may charge you a fee. This fee is not an interest charge, finance charge, or other charge of a similar nature and it is reasonably related to the actual expense we incur due to unsatisfied payment.
- **Cancellation Fee:** Cancellation fees may be applied to Subscriptions purchased in conjunction with a radio purchased from us.

For further details on our fees please see the FAQs at <https://listenercare.siriusxm.com>. We reserve the right to waive any of these fees at our discretion.

**5. Credits:** If you change an existing Package or Plan, we will charge you the difference for the new Subscription. If the new fee is less than the fee you already paid for your current Package or Plan, you may request a refund or leave the credit on your account and it will be automatically applied to the next charge. If you make changes to a Trial Subscription, and certain promotional Subscriptions, no credits will be due.

IF LISTENER CARE PUTS A SERVICE CREDIT ON YOUR ACCOUNT (THAT IS A CREDIT PROVIDED AS AN ACCOMMODATION, AND NOT DUE TO A CHANGE IN SERVICE), SUCH UNUSED SERVICE CREDITS WILL EXPIRE UPON TERMINATION OF YOUR SUBSCRIPTION AND MAY NOT BE REFUNDED OR TRANSFERRED TO ANOTHER PERSON.

**6. Billing Disputes:** If you have a question about your bill, please contact us by mail, phone, or by chat at [www.siriusxm.com/contactus](http://www.siriusxm.com/contactus). If you contact us in writing, please include the following information: Your name, service address, account number; the details of your question. If you wish to dispute any charge, you must contact us within thirty (30) days after the date of the charge in question. OTHERWISE YOU WAIVE YOUR RIGHT TO DISPUTE THE CHARGE.

**7. Refunds:** TRIAL SUBSCRIPTIONS AND CERTAIN PROMOTIONAL SUBSCRIPTIONS FOR BUSINESSES ARE NONREFUNDABLE. If you cancel a paid Subscription prior to its renewal date or expiration (excluding the aforementioned types of Subscriptions), we will refund amounts paid in advance, on a pro-rated basis, less any applicable fees, unless stated otherwise in the specific offer for Service that you accepted. Fees attributable to certain promotional offerings or Service received during trial periods may not be refunded.

**G. NO RIGHT TO TRANSFER A MUSIC FOR BUSINESS SUBSCRIPTION:** SiriusXM Music for Business Service Subscriptions are not transferrable.

#### **H. USE OF SERVICE:**

**1. Eligibility:** You must be at least 18 years old to subscribe to the Service.

**2. Service Area:** We offer the Music for Business Service in the United States, the District of Columbia, and also Alaska, Hawaii and Puerto Rico (the "**Service Area**").<sup>1</sup> Please consult our FAQs at [www.Siriusxm.com/FAQs](http://www.Siriusxm.com/FAQs) or contact us to find out what other Services are available in your area.

**3. Streaming Service:** You may use the Streaming Service on one device at a time per Subscription, unless otherwise described in our offer. The Streaming Service is intended to be enjoyed within the Service Area only. Your manipulation of the Service or "spoofing" of a web device or any other activities undertaken to deliver to our servers a false geographical location is a violation of this Agreement.

**4. Service Interruptions:** The Service may be unavailable or interrupted for a variety of reasons, many of which we cannot control. The Service might also not be available in certain places (e.g., in tunnels, parking garages, or within or next to buildings) or near other technologies. The Service may be unavailable or interrupted from time to time as a result of difficulties with the Internet generally or with your web browser, computer, business establishment wiring or network, cellular data service, or Internet service provider and/or other things we cannot control.

**5. Business Uses of the Service:** The Service may only be used as foreground/background music in your business or in on-hold messaging on your business telephone system. More specifically, the Service may only be used as an accompaniment to routine activities at your business, such as work, shopping, conversation, dining and relaxation. The Service is not authorized for use as an accompaniment to dancing, use by a DJ or use in connection with a business that charges an admission fee (such as nightclubs, bowling alleys, fitness centers, skate parks, etc.). You may not make any recordings of, or duplicate, stream, or make available for download, the content of the Service. You shall not amplify, transmit or retransmit the broadcast of the Service so as to be audible outside of

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<sup>1</sup> Satellite radio audio reception for receivers in Puerto Rico is best in the Greater Metropolitan Area of San Juan and may not be available in other areas. Puerto Rico business establishments using a satellite receiver should consult SiriusXM Listener Care for the most current satellite audio reception information.

the business (beyond ordinary patio or other outdoor speaker usage) or otherwise retransmit the Service beyond your business. You may not charge admission for listening to or distribute play lists of our programming. Should your username and/or password be lost or stolen, contact us by phone at Listener Care to change it immediately. You can also call 1-866-345-7474 for this purpose.

**6. Advisory Nature of Services; User Responsibility; User Safety/Reliance;**

**Parental Control:** You assume the entire risk related to your use of the Service. The content and emergency alert information and data on the Service is not for "safety for life," but is merely advisory in nature. You should not rely on such information. We are not responsible for any errors or inaccuracies in the Service. Impose listening restrictions that you consider appropriate on your family members and guests. We are not responsible for content that you or anyone else may find inappropriate.

**7. FAQs for Music for Business Subscriptions (Internet Radio Service only):**

Additional details for our commercial subscribers can be found in the FAQs area of the Site.

**8. Service Suspension:** Subscribers to our business audio, consumer audio, data, marine weather and aviation weather services may request that their paid Subscription be placed into a "suspended" state one time in any calendar year for a duration of up to six months. You must call us to suspend service. Suspended subscriptions will receive no service, accrue no subscription fees, and be charged no fees to restore service to "active" status, provided that service is restored within the permitted six-month period. Services that are suspended will be automatically reactivated on the earlier of the date requested, or the six-month anniversary of the date the paid Subscription was "suspended." If you requested a service suspension while in a promotional period, this suspension will not change the end date of your promotional period.

**I. HARDWARE, TECHNOLOGY AND CONTENT:**

**1. Music for Business Radios and Other Equipment:** In order to enjoy your Music for Business Subscription, you must have a device to receive your Music for Business Service which may be a computer, laptop, mobile device, tablet, SiriusXM app, or dedicated SiriusXM Music for Business player with Internet access (referred to here as "**Receivers**") and streaming access service and/or any other appropriate hardware such as a satellite radio and/or software, from appropriate sellers, resellers, manufacturers or service providers. We are not responsible for and do not warrant any Receivers in any way whatsoever and are NOT responsible for the advertising, statements, practices, promises, services or warranties of such sellers, manufacturers or installers. If you have any complaints about your Receiver, you should direct them to the applicable seller, reseller, manufacturer, or service provider.

**2. Loss of Equipment:** If your Music for Business receiver or satellite radio is lost, stolen, sold or otherwise transferred you must cancel your Subscription or you will remain responsible for the payment obligations.

**3. Technology:** You agree not to copy, decompile, disassemble, reverse engineer, make derivative works of or manipulate any technology, data or content stored or incorporated in any radios, our apps, equipment or software used to receive the Service (collectively, "**Equipment Technology**"). You agree not to upload, post, transmit or otherwise make available any material that contains software viruses or any other computer code, files, or programs designed to interrupt, disable or limit the functionality of the Site or the Service.

**4. Content:** All music, programming, text, software (including source and object codes), data, information, visual, oral or other digital material, and all other content available on the Site or included in the Service (collectively, the "**Content**"), and all worldwide copyrights, trademarks, service marks, patents, patent registration rights, trade secrets, know-how, database rights and all other rights in or relating to the Content are owned by us or are the property of our licensors and suppliers who have given us permission to use it. Neither your access to and use of the Service or our apps, nor does this Agreement grant you any right, title or interest or license in or to any such Content, and you may not use such Content without the express written permission of the owner(s).

**5. Trademarks:** Sirius Satellite Radio®, the dog logo, Sirius®, SiriusXM Internet Radio®, SiriusXM®, XM® the XM logo, and Music for Business are trademarks, service marks or registered marks of Sirius XM Radio Inc. ("**Marks**"). Other trademarks, service marks, graphics, logos and domain names appearing on the Service or the Site may be the trademarks of third parties. Neither your access to and use of the Service or the Site grants you any right, title or interest or license to reproduce or otherwise use the Marks or any third-party trademarks, service marks, graphics, logos or domain names. Any goodwill in the Marks generated as a result of your use of the Service will inure to our benefit.

## **J. LIMITATION OF LIABILITY:**

**1. Disclaimers:** ALL OF OUR SERVICES, INCLUDING PROGRAMMING AND ON-AIR ADVERTISING, ARE PROVIDED "AS IS" AND "AS AVAILABLE." ALL WARRANTIES (INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT) ARE HEREBY DISCLAIMED.

UNDER NO CIRCUMSTANCES SHOULD A USER OF THE SERVICE MAKE DECISIONS BASED SOLELY OR IN PART ON INFORMATION CONTAINED WITHIN THE SERVICE OR OUR APPS. THE COMPANY ASSUMES NO RESPONSIBILITY FOR ACCIDENTS, DAMAGES OR OTHER LOSSES RESULTING FROM OR ASSOCIATED WITH USE AND/OR MISUSE OF THE SERVICE OR OUR APPS.

**2. Limitations of Liability:** IN NO EVENT ARE WE OR ANY THIRD PARTY LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, LOST PROFITS, OR LOSSES RELATING TO THE USE, LOSS OF USE OR DATA, OR PURCHASE OF ANY RADIO OR EQUIPMENT, OR YOUR PURCHASE OR USE OF THE SERVICE, YOUR USE OF THE SITE OR OUR APPS, OR FROM ANY CONTENT POSTED ON THE SITE BY US OR ANYONE ELSE, WHETHER BASED ON NEGLIGENCE OR OTHERWISE, AND WHETHER OR NOT WE HAVE BEEN ADVISED OF THE POSSIBILITY THEREOF, WHETHER ARISING OUT OF BREACH OF THIS AGREEMENT, TORT OR ANY OTHER CAUSE OF ACTION RELATING TO THE PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT.

IN NO EVENT WILL THE AGGREGATE OF EACH OF THE COMPANY AND ITS AFFILIATES' LIABILITY FOR ANY AND ALL OF YOUR CLAIMS, OR ANY THIRD PARTY CLAIMS, AGAINST US AND OUR PROGRAMMING OR DATA SUPPLIERS, SERVICE PROVIDERS, MARKETING/DISTRIBUTION SOFTWARE OR INTERNET SUPPLIERS OR HARDWARE OR SOFTWARE MANUFACTURERS, OR SUPPLIERS, CONTRACTORS AND LICENSORS, OR INDEPENDENT SELLERS, ARISING OUT OF OR RELATED TO, DIRECTLY OR INDIRECTLY, THE PERFORMANCE OR NONPERFORMANCE OF OBLIGATIONS PURSUANT TO THIS AGREEMENT OR BY THE NEGLIGENCE, ACTIVE OR PASSIVE, OF THE COMPANY, AND/OR ITS AFFILIATES, OR YOUR ACCESS TO OR USE OF OR INABILITY TO USE THE SERVICE OR SITE, EXCEED THE PRICE PAID BY YOU TO THE COMPANY HEREUNDER FOR THE MOST RECENT SIX

MONTHS OF SERVICE IMMEDIATELY PRIOR TO THE SPECIFIC EVENT WHICH GAVE RISE TO THE APPLICABLE DAMAGE OR LOSS. YOU AGREE THAT THIS LIMITATION OF LIABILITY REPRESENTS A REASONABLE ALLOCATION OF RISK. THIS ALLOCATION OF RISK AND THE DISCLAIMER OF WARRANTIES HEREIN ARE REFLECTED IN OUR PRICES AND ARE A FUNDAMENTAL ELEMENT OF THIS AGREEMENT. YOU MAY HAVE GREATER RIGHTS THAN DESCRIBED ABOVE UNDER YOUR STATE'S LAWS.

**3. Your Risk:** YOU AGREE THAT YOUR ACCESS TO AND USE OF, OR INABILITY TO ACCESS OR USE THE SERVICE, OUR APPS, OR THE SITE IS AT YOUR SOLE RISK. WE ARE NOT RESPONSIBLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, OR LOST PROFITS RESULTING FROM YOUR ACCESS TO OR USE OF, OR INTERRUPTIONS IN THE TRANSMISSION OR RECEPTION OF THE SERVICE OR SITE, INCLUDING ANY DAMAGE TO ANY OF YOUR COMPUTERS OR DATA, AND/OR ANY RADIO. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY ANY PERSON SHALL CREATE A WARRANTY OR GUARANTEE IN ANY WAY WHATSOEVER RELATING TO THE SERVICE OR SITE.

**4. State Law:** SOME JURISDICTIONS MAY NOT ALLOW THE EXCLUSION OF CERTAIN IMPLIED WARRANTIES OR THE LIMITATION OF CERTAIN DAMAGES, SO SOME OF THE ABOVE DISCLAIMERS, WAIVERS AND LIMITATIONS OF LIABILITY MAY NOT APPLY TO YOU.

**5. Miscellaneous:** UNLESS LIMITED OR MODIFIED BY APPLICABLE LAW, THE FOREGOING DISCLAIMERS, WAIVERS AND LIMITATIONS SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED, EVEN IF ANY REMEDY FAILS ITS ESSENTIAL PURPOSE.

**6. Indemnification:** EXCEPT FOR WILLFUL MISCONDUCT ON THE PART OF THE COMPANY, YOU AGREE TO DEFEND, INDEMNIFY AND HOLD HARMLESS COMPANY, ITS SUBSIDIARIES, SHAREHOLDERS, OFFICERS, AGENTS, EMPLOYEES, LICENSORS AND SERVICE PROVIDERS ("**INDEMNIFIED PARTIES**") FROM ANY AND ALL CLAIMS, LIABILITY AND EXPENSES (INCLUDING ATTORNEYS' FEES AND EXPENSES), WHETHER IN TORT, CONTRACT OR OTHERWISE, RELATING TO OR ARISING OUT OF YOUR USE OF THE SERVICE, OUR APPS, OR THE SITE, AND ANY BREACH OF THIS AGREEMENT, APPLICABLE LAW OR ANY RIGHT OF THE INDEMNIFIED PARTIES OR ANY THIRD PARTY. THIS INDEMNIFICATION OBLIGATION INCLUDES THE ACTS OR OMISSIONS OF ANYONE ACCESSING THE SERVICE, WITH OR WITHOUT YOUR PERMISSION.

## **K. RESOLVING DISPUTES:**

PLEASE READ THIS PROVISION OF THIS SECTION CAREFULLY. IT PROVIDES THAT ANY DISPUTE MAY BE RESOLVED BY BINDING ARBITRATION. BY AGREEING TO ARBITRATION, YOU ARE HEREBY WAIVING THE RIGHT TO GO TO COURT, INCLUDING THE RIGHT TO A JURY. IN ARBITRATION, A DISPUTE IS RESOLVED BY AN ARBITRATOR, OR A PANEL OF ARBITRATORS, INSTEAD OF A JUDGE OR JURY. THE PARTIES UNDERSTAND THAT THEY WOULD HAVE HAD A RIGHT OR OPPORTUNITY TO LITIGATE DISPUTES THROUGH A COURT AND TO HAVE A JUDGE OR JURY DECIDE THEIR CASE, BUT THEY CHOOSE (BY THEIR ACCEPTANCE OF THIS AGREEMENT, IN ACCESSING OR USING THE SERVICE OR THE SITE) TO HAVE ANY DISPUTES RESOLVED THROUGH ARBITRATION.

Any legal or equitable claim relating to the Service, the Site, your Subscription or this Agreement (a "**Claim**"), will be resolved as follows:

**1. Informal Claim Resolution:** To initiate an informal resolution to a Claim, you must send a notice by first class United States mail to Sirius XM Radio Inc., 1290 Avenue of the Americas, 11th Floor, New York, NY 10104, Attention: CRM (a "**Notice**"). Neither of us may start a formal proceeding (except for Claims described in subsection 3 below) for at least sixty (60) days after one of us notifies the other of a Claim in writing. If we initiate a Claim, we will send our notice to the billing address on file with us.

**2. Formal Resolution:** If we cannot resolve a Claim informally, including past, present, and future Claims and disputes, and including any dispute as to the validity or applicability of this arbitration clause, then these Claims shall be resolved, upon election by either party, exclusively and finally by binding arbitration.

The party initiating arbitration must follow the rules and procedures of the American Arbitration Association ("**AAA**") in effect at the time the Claim is filed, and the parties agree that the arbitration shall be administered by the AAA. You may obtain copies of the current rules, forms and instructions for initiating an arbitration by contacting:

American Arbitration Association  
1633 Broadway, 10th Floor  
New York, New York 10019  
Web site: [www.adr.org](http://www.adr.org)  
(800) 778-7879

This arbitration agreement is made pursuant to a transaction involving interstate commerce and shall be governed by the Federal Arbitration Act ("**FAA**"), and not by any state law concerning arbitration.

**3. Exceptions:** Notwithstanding the foregoing, any dispute involving a violation of the Communications Act of 1934, 47 U.S.C. §605, the Electronic Communications Privacy Act, 18 U.S.C. §§2510-2521, or a violation of our intellectual property rights may be decided only by a court of competent jurisdiction.

**4. Small Claims:** Instead of proceeding to arbitration, either you or we have the option to pursue a Claim in small claims court (or the equivalent) so long as the Claim 1) remains in that court, and 2) is made solely on our behalf (if brought by us) or on your behalf. However, if that Claim is transferred or appealed to a different court, we reserve our right to elect arbitration.

**5. Cost Sharing:** Whoever files the arbitration pays the initial filing fee. If we file, we pay; if you file, you pay. If you have paid the initial filing fee and you prevail, we will reimburse you for that fee. If there is a hearing, we will pay any fees of the arbitrator and arbitration firm for the first day of that hearing. All other fees will be allocated as provided by the rules of the arbitration firm and applicable law. In no event will you be required to reimburse us for any arbitration filing, administrative, or hearing fees in an amount greater than what your court costs would have been if the Claim had been resolved in a state court with jurisdiction. However, we will advance or reimburse your fee if the arbitration firm or arbitrator determines there is good reason requiring us to do so, or if you ask us and we determine there is good reason for doing so. Each party will bear the expense of that party's attorneys, experts, and witnesses, and other expenses, regardless of which party prevails, but a party may recover any or all expenses from another party if the arbitrator, applying applicable law, so determines.



**6. Class Actions and Severability:** All Claims shall be arbitrated on an individual basis. There shall be no right or authority for any claims to be arbitrated on a class action basis or on bases involving Claims brought in a purported representative capacity on behalf of the general public, other Subscribers, or other persons similarly situated. No Claim submitted to arbitration is heard by a jury or may be brought as a private attorney general. You do not have the right to act as a class representative or participate as a member of a class of claimants with respect to any Claim submitted to arbitration ("**Class Action Waiver**"). The Class Action Waiver is material and essential to the arbitration of any disputes between the parties and is nonseverable from this agreement to arbitrate Claims. A "**Claim**" does not include any challenge to the validity and effect of the Class Action Waiver, which must be decided by a court. The parties acknowledge and agree that under no circumstances will a class action be arbitrated. If any portion of this arbitration agreement or the Class Action Waiver is limited, voided or cannot be enforced, then the parties' agreement to arbitrate (except for this sentence) shall be null and void with respect to such proceeding, subject to the right to appeal the limitation or invalidation of the Class Action Waiver, that portion will be severed, and the rest of the arbitration agreement will continue to apply. If this entire agreement to arbitrate shall be null and void, then the parties agree that any actions shall be brought in the State or Federal courts of New York, New York.

**7. Binding Effect:** In the arbitration proceeding, the arbitrator must follow applicable law, and any award may be challenged, as set forth in the FAA. Any court with jurisdiction may enter judgment upon the arbitrator's award. The arbitrator's decision is final and binding on all parties and may be enforced in any federal or state court with jurisdiction.

#### **L. MISCELLANEOUS:**

**1. Notices:** Notices to you will be deemed given when deposited in the mail, when sent by email or by telephone, which will be deemed given when a message is left with you, someone answering the telephone at your residence or a voice mail system at your phone number on record with us. Notices may be included in statements or other communications to you. Your notices to us will be deemed given when we receive them at the telephone number or, in writing at the address, in Section B. above.

**2. Full Agreement:** This Agreement constitutes the entire agreement between us concerning your access to and use of the Service, our apps, or the Site and may be modified by the unilateral amendment of this Agreement and the posting by us of such amended version. No salesperson or other representative is authorized to change it for you. If any provision is declared by a competent authority to be invalid, that provision will be deleted or modified to the extent necessary, and the rest of this Agreement will remain enforceable. Any specific terms that expressly or by their nature survive termination shall continue thereafter until fully performed. A waiver of any terms or any breach thereof, in any one instance, will not waive such term or condition or any subsequent breach thereof.

**3. Applicable Law:** The interpretation and enforcement of this Agreement shall be governed by the rules and regulations of the State of New York and other applicable federal laws. Notwithstanding the foregoing, Section K. shall be governed by the FAA without reference to state law.

**THANK YOU FOR CHOOSING SIRIUSXM MUSIC FOR BUSINESS.** -----