

WGI CIRCUIT PARTNER LICENSE AGREEMENT

This LICENSE AGREEMENT (the "**Agreement**"), effective as of the date of the last execution signature below (the "**Effective Date**"), is made by and between

Circuit Name ("Licensee"), with offices located at

_____, and Winter Guard International, Inc. (WGI)
Circuit Address, City, State, Zip

("Licensor"), an Ohio not-for-profit corporation with offices located at 1994 Byers Road, Miamisburg, Ohio, 45342.

WHEREAS Licensor is the owner of the Work (as defined below) and wishes to grant to Licensee a license concerning the Work, and Licensee wishes to obtain a license to the Work for the uses and purposes described in this Agreement, each subject to the terms and conditions set forth below,

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth below, and for the other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. License.

1.1. Grant of Rights. Subject to the terms and conditions of this Agreement, Licensor hereby grants to Licensee during the Term (as defined below) a non-exclusive, non-transferable, non-sublicensable license in the country in which the Licensee is located (the "**Territory**"), to distribute the Work in its exact, original, unaltered form to Licensee's (a) employees, (b) event judges, and (c) performing groups registered to participate in Licensee's events, solely for the purpose of participation in, and evaluation of, indoor marching arts performances in events produced by Licensee during the Term.

1.2. Conditions on Grant of Rights. This grant is conditioned on (a) Licensee taking all necessary steps and imposing all necessary conditions to ensure that no recipient of the Work from Licensee uses the Work for any purpose, commercial or otherwise, other than participation in, and evaluation of, indoor marching arts performances in events produced by Licensee during the Term; (b) Licensee not selling, leasing, or otherwise deriving economic value from the Work other than incidental economic value that may arise through events produced by the Licensee during the Term; Licensee not making, or permitting to be made, any alterations of any kind to the Work, including without limitation the addition of any additional wording, logos, or other marks on the Work; and (c) Licensee not altering, obscuring, removing, or otherwise diminishing any of Licensor's copyright notices, trademark or service marks, or other proprietary legends on the Work.

1.3. Definition of the Work. The "**Work**" is defined as the various WGI Adjudication Manuals and Rulebooks and associated Score Sheets specified in the attached Schedule A, in the exact, unaltered form in which they are made available by Licensor to Licensee after the Effective Date of this Agreement.

1.4. Reservation of Rights. Licensor reserves all rights not expressly granted to Licensee under this Agreement. No use by Licensor of the Work in any medium or manner will be deemed to interfere with the limited grant of rights given to Licensee by Licensor in this Agreement.

2. No Modification of the Work. Licensee shall not translate, recast, edit, alter, modify, or create any derivative works of the Work without the express written permission of Licensor.

3. Payment. As consideration in full for the rights granted in this Agreement, Licensee shall pay Licensor an annual fee for each of the various pieces of the Work to be provided to Licensee, payable in full before Licensor provides the Work to Licensee.

4. Ownership and Protection.

4.1. Acknowledgment of Ownership. Except for the licenses expressly granted to Licensee in this Agreement, Licensee acknowledges that all right, title, and interest in and to the Work, as well as any modifications or improvements made thereto by Licensee in violation of this Agreement, are owned in their entirety by Licensor. If Licensee acquires any rights in the Work by operation of law or otherwise, Licensee irrevocably

assigns such rights to Licensor without further action by either party. Licensee agrees not to dispute or challenge or assist any person or entity in disputing or challenging, Licensor's rights in and to the Work.

4.2. Protection of the Work.

4.2.1. Notification. Licensee shall immediately notify Licensor in writing with reasonable detail of any: (i) actual, suspected, or threatened infringement of the Work; (ii) actual, suspected, or threatened claim that use of the Work infringes the rights of any third party; or (iii) any other actual, suspected, or threatened claim to which the Work may be subject.

4.2.2. Actions. With respect to any of the matters listed in Section 4.2.1: (i) Licensor has exclusive control over, and conduct of, all claims and proceedings; and (ii) Licensee shall provide Licensor with all assistance that Licensor may require in the conduct of any claims or proceedings.

5. Confidentiality. From time to time, Licensor may disclose or make available to Licensee information about its business affairs, confidential intellectual property, trade secrets, third-party confidential information, and other sensitive or proprietary information, including business operations and strategies, marketing, creative elements, artwork, visual representations, research material and data, specifications, processes, and technological developments, whether orally or in written, electronic, or other form or media, and whether or not marked, designated, or otherwise identified as "confidential" (collectively, "**Confidential Information**"). Confidential Information does not include information that, at the time of disclosure and as established by documentary evidence: (a) is or becomes generally available to and known by the public other than as a result of, directly or indirectly, any breach of this Section by Licensee; (b) is or becomes available to Licensee on a non-confidential basis from a third-party source, provided that such third party is not and was not prohibited from disclosing such Confidential Information; was known by or in the possession of Licensee before being disclosed by or on behalf of Licensor; or (d) was or is independently developed by Licensee without reference to or use, in whole or in part, of any of Licensor's Confidential Information. Licensee shall: (i) protect and safeguard the confidentiality of Licensor's Confidential Information with at least the same degree of care as Licensee would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care; (ii) not use Licensor's Confidential Information, or permit it to be accessed or used, for any purpose other than to exercise its rights or perform its obligations under this Agreement; and (iii) not disclose any such Confidential Information to any person or entity, except: (a) to Licensee's officers, employees, agents, consultants, and legal advisors who need to know the Confidential Information to assist Licensee, or act on its behalf, to exercise its rights or perform its obligations under the Agreement; or (b) pursuant to applicable federal, state, or local law or regulation, or a valid order issued by a court or governmental agency of competent jurisdiction, provided that Licensee shall first provide Licensor with: (a) prompt written notice of such requirement so that Licensor may seek, at its sole cost and expense, a protective order or other remedy; and (b) reasonable assistance, at Licensor's sole cost and expense, in opposing such disclosure or seeking a protective order or other limitations on disclosure.

6. Representations and Warranties

6.1. Mutual Representations and Warranties. Each party represents and warrants to the other party that:

6.1.1. it is duly organized, validly existing, and in good standing as corporation or other entity as represented herein under the laws of its jurisdiction of incorporation or organization;

6.1.2. it has the full right, power, and authority to enter into this Agreement and to perform its obligations hereunder;

6.1.3. the execution of this Agreement by its representative whose signature is set forth at the end hereof has been duly authorized by all necessary corporate or other organizational actions of the party; and

6.1.4. when executed and delivered by such party, this Agreement will constitute the legal, valid, and binding obligation of such party, enforceable against such party in accordance with its terms.

6.2. Licensee's Representations and Warranties. Licensee represents and warrants that:

6.2.1. Licensee will not engage or participate in any activity or course of action that could diminish or tarnish the image or reputation of the Work or Licensor, or cause confusion as to the ownership of the Work; and

6.2.2. Licensee's use of the Work will not infringe, misappropriate, or otherwise violate the intellectual property or other rights of any third party or violate any applicable regulation or law.

7. Term and Termination.

- 7.1. Term. The term of this Agreement commences with the Effective Date and unless terminated earlier as provided herein, will remain in force until either party terminates this Agreement (the “**Term**”).
- 7.2. Either party may terminate this Agreement on written notice to the other party if the other party materially breaches this Agreement and fails to cure such breach with seven days after receiving written notice thereof.
- 7.3. Either party may terminate this Agreement by written notice to the other party if the other party: (a) becomes insolvent or admits its inability to pay its debts generally as they become due; (b) becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (c) is dissolved or liquidated or takes any corporate action for such purpose; (d) makes a general assignment for the benefit of creditors; or (e) has a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.
- 7.4. Effect of Termination. Upon the expiration or termination of this Agreement for any reason, all rights licensed under this Agreement will revert immediately to Licensor and Licensee shall (a) cause to be inactivated and erased all digital copies of the Work in its control and possession, and (b) return or, at Licensor's written request, destroy, any tangible copies of the Work. Upon Licensor's request, Licensee shall provide an affidavit to Licensor attesting to such erasure or destruction.
- 7.5. Surviving Rights. Any rights or obligations of Licensor under this Agreement which, by their nature, should survive termination or expiration of this Agreement will survive any such termination or expiration.

8. Remedies.

- 8.1. Equitable Relief. Licensee acknowledges that a breach by Licensee of this Agreement may cause Licensor irreparable damages, for which an award of damages would not be adequate compensation, and agrees that, in the event of such breach or threatened breach, Licensor will be entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance, and any other relief that may be available from any court, in addition to any other remedy to which Licensor may be entitled at law or in equity. Such remedies are not exclusive but are in addition to all other remedies available at law or in equity, subject to any express exclusions or limitations in this Agreement to the contrary.
- 8.2. Limitation of Liability. LICENSOR WILL NOT BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, LIQUIDATED, SPECIAL, OR EXEMPLARY DAMAGES OR PENALTIES, INCLUDING LOSSES OF BUSINESS, REVENUE, OR ANTICIPATED PROFITS, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9. General.

- 9.1. Interpretation. This Agreement is intended to be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.
- 9.2. Entire Agreement. This Agreement, including and together with any related schedules, constitutes the sole and entire agreement of the parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter.
- 9.3. Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect the enforceability of any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or provision is invalid, illegal, or unenforceable, the court may modify this Agreement to effect the original intent of the parties as closely as possible in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.
- 9.4. Assignment. Licensee shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Licensor. Any purported assignment or delegation in violation of this Section 9.4 is null and void and is a material breach of this Agreement. Licensor may freely assign or otherwise transfer any of its rights or delegate any of its obligations under this Agreement. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective permitted successors and assigns.

- 9.5. Choice of Law; Venue. This Agreement and all matters arising out of or relating to this Agreement, including tort and statutory claims, are governed by the laws of Ohio, without giving effect to any conflict of laws provisions thereof that would result in the application of the laws of a different jurisdiction. Either party shall institute any legal suit, action, or proceeding arising out of or relating to this Agreement in the federal or state courts in each case located in Dayton, Ohio, and each party irrevocably submits to the exclusive jurisdiction of such courts in any legal suit, action, or proceeding.
- 9.6. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement will be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the parties, and neither party has authority to contract for nor bind the other party in any manner whatsoever.
- 9.7. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns, and nothing herein, express or implied, is intended to or will confer upon any third party any legal or equitable right, benefit, or remedy of any nature whatsoever, under or by reason of this Agreement.
- 9.8. Amendment and Modification. No amendment or modification to this Agreement is effective unless it is in writing and signed by an authorized representative of each party.
- 9.9. Waiver. No waiver by any party of any of the provisions hereof will be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement will operate or be construed as a waiver thereof; nor will any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof, or the exercise of any other right, remedy, power, or privilege.
- 9.10. Attorneys' Fees. In the event that any claim, suit, action, or proceeding is instituted or commenced by either party hereto against the other party arising out of or related to this Agreement, the prevailing party will be entitled to recover its reasonable attorneys' fees and court costs from the non-prevailing party.
- 9.11. Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Licensor and Licensee have caused this Agreement to be executed as of the dates written below by their respective duly authorized officers.

Winter Guard International, Inc.



October 1, 2023

Ron Nankervis
Chief Executive Officer

Circuit Name

Date

Signature

Printed Name

Title

SCHEDULE A

Available WGI Circuit Partner Adjudication Manuals, Score Sheets, and Digital Downloads and Pricing

COLOR GUARD

In Person Events

- WGI Adjudication Manual
- Independent World Score Sheets (EQ, MV, DA, GE)
- Scholastic World Score Sheets (EQ, MV, DA, GE)
- Open Class Score Sheets (EQ, MV, DA, GE)
- A Class Score Sheets (EQ, MV, DA, GE)
- Regional A Class Score Sheets (EQ, MV, DA, GE)
- Local A Class Score Sheets* (EQ, MV, DA, GE)
- Timing and Penalties

Virtual

- Solo Rules
- Solo Score Sheet
- Group Competitive Rules
- Group Competitive Score Sheets (Group Skills, Group Program)

PERCUSSION

In Person Events

- WGI Adjudication Manual
- Concert Score Sheets (Artistry, Music)
- Marching Score Sheets (Music, Visual, GE Music, GE Visual)
- Timing and Penalties

Virtual

- Solo Rules
- Solo Score Sheet
- Group Competitive Rules
- Group Competitive Score Sheets (Music, Visual)

WINDS

In Person Events

- WGI Adjudication Manual
- Score Sheets (Music Analysis, Visual Analysis, General Effect)
- Timing and Penalties

Virtual

- Solo Rules
- Solo Score Sheet
- Group Competitive Rules
- Group Competitive Score Sheets (Analysis (Music & Visual), Overall Effect)