

## AFFILIATE PROGRAM LETTER OF AGREEMENT

The **Affiliate Program Letter of Agreement** (“Agreement”), effective as of **September 1, 2019** (the “Effective Date”), is made by and between the **San Francisco Early Music Society, Inc.** (the “Society” or the “Fiscal Sponsor”), a 501(c)(3) nonprofit organization, having a business address at **P.O. Box 27495, San Francisco, CA 94127**, and **[Affiliate Name]**, having a business address at **[Address]** (“Affiliate” and together with the Society, the “Parties”).

### RECITALS

- A. **Fiscal Sponsor** is an organization exempt from taxation under Internal Revenue Code Section 501(c)(3) and the corresponding provisions of California state law. Fiscal Sponsor’s charitable purpose is to increase public appreciation for historically-informed performance of early music through concert presentations, education programs and services to the community.
- B. **Affiliate** is an organization or individual having an existence entirely separate from the Fiscal Sponsor that desires to increase public appreciation of early music through its projects (“Project”), in accordance with the Society’s Articles of Incorporation and mission statement.
- C. The Society’s Board of Directors has determined that financial support of the Affiliate will further the Fiscal Sponsor’s tax-exempt purposes.

NOW THEREFORE, the Parties agree as follows:

### AGREEMENT

1. The Society will act as fiscal sponsor for the Affiliate for an initial term of one (1) year from the date hereof and shall automatically renew sponsorship for successive one (1) year terms, unless either party gives three (3) months’ notice of cancellation to the other prior to the expiration of the term then in effect. Renewal will be conditional upon a yearly review of the required reports from the Affiliate (see below) and its activities, at which time the Society may elect to renew, revise, or terminate this Agreement, immediately, pursuant to the terms of paragraph 10, below. During the initial term and each succeeding renewal term, by virtue of the affiliate relationship, Affiliate may solicit gifts, contributions and grants earmarked for its Project. Affiliate shall maintain on its website, if any, substantially the following notice: “San Francisco Early Music Society is the fiscal sponsor for Affiliate.”
2. The Society will administer all donated funds, whether public or private, that are solicited and/or received by the Affiliate through employment of the Society’s tax-exempt status, and the Society will retain complete control and discretion over all such funds so solicited and/or received. The Affiliate agrees that any funds received from the Society will be applied only toward projects and purposes approved in advance by the Society. Affiliate agrees that it will appoint a project leader and liaison for each project, herein named as **[NAME] ([email])**, who will serve as authorized representative of Affiliate (“Authorized Signatory”) for receipt of disbursed funds. Affiliate may designate one (1) additional Authorized Signatory, or change the Authorized Signatory, in a writing signed by an existing Authorized Signatory and the new Authorized Signatory and showing, for security reasons, each Authorized Signatory’s Social Security Number and email address.

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3. The Society will provide to each donor, acknowledges of the tax-deductible nature of the contributions as required by law. Such acknowledgements will be based on information supplied by Affiliate regarding any benefits provided to such donors in exchange for their contribution, including the fair market value of such benefits. Affiliate will hold harmless the Society for liabilities arising from any claims that the acknowledged value of such benefits was over- or under- stated. Any failure by Affiliate to disclose benefits provided to donors in exchange for contributions shall be grounds for immediate termination of this Agreement at the Society's sole discretion.

4. The Society agrees that it will not impose its artistic viewpoints or decisions upon the Affiliate or its projects. Any tangible or intangible property, including copyrights, obtained or created by the Affiliate by means of this Agreement will remain the property of the Affiliate.

5. The Affiliate agrees to maintain complete and accurate records, including receipts, of all revenues and expenses, as well as a complete file of production subcontracts and other documents, rights arrangements, and property acquisitions. Further, the Affiliate agrees to provide copies of these materials to the Society as and when required by the Society. These records should be retained by the Affiliate for at least five years from the end of the year of the completion of the project, as required by the Internal Revenue Service. Affiliate shall also communicate on a regular, reasonable basis with society concerning the matters in this paragraph, and otherwise.

6. In addition, the Affiliate agrees to furnish the following program and fiscal reports to the Society, as and when required:

- a. Status reports of all projects, provided quarterly, commencing three months from the date of this Agreement.
- b. Final reports provided within sixty days of the completion of the project.
- c. Additional status and funding reports as required by the Society and individual funding sources.

7. The Affiliate agrees to notify the Society of all public and private grant applications and/or requests before they are submitted, to provide copies of all grant proposals and donation solicitations to the Society for review and approval before they are submitted or distributed, and to cooperate with the Society in arranging mutually beneficial dates and times for such submission and distribution. The Affiliate also agrees to submit all reports made to public and private funding agencies for Society approval.

8. The Affiliate agrees to periodic audits and/or examinations by the Society of its financial and accounting systems as required by the Society.

9. The Affiliate agrees that no funds raised through the Society's auspices will be used to engage in electioneering or lobbying activities or in an attempt to influence legislation. It further agrees that no such funds will be used to participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office, to induce or encourage violations of law or public policy, to cause or permit any private inurement or improper private benefit to occur, nor to take any other action inconsistent with Internal Revenue Code (IRC) Section 501(c)(3).

10. The Affiliate agrees that the Society retains the right to terminate this Agreement and the fiscal sponsorship relationship at any time if, in the opinion of the Society, the terms of the Agreement are not complied with, and that the Society may, in such circumstance, retain all unused funds raised through the Society's auspices.

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11. The Affiliate acknowledges that it has its own legal, tax, and accounting identity. The Affiliate bears full responsibility for preparation and filing of its own tax returns, tax reports (including Forms 1099 and W-2), insurance, debts, liabilities, and other legal obligations. The Affiliate understands that it may be responsible for reporting to the Internal Revenue Service and/or other agencies any funds received through the Society's auspices. The Affiliate's EIN is [XX-XXXXXXX].
12. The Affiliate agrees to be responsible for all pertinent and project-related payroll taxes, as well as SDI and workers' compensation costs. It is agreed that neither the Affiliate, its members, nor anyone employed or contracted by the Affiliate to work on its projects will be considered an employee of the Society, nor will such persons be authorized to make any claim against the Society for unemployment compensation, workers' compensation, or disability benefits.
13. Nothing in this Agreement shall constitute the naming of the Affiliate as an agent or legal representative of the Society for any purpose whatsoever except as specifically and to the extent set forth herein. This Agreement shall not be deemed to create any relationship of agency, partnership, or joint venture between the parties hereto, and the Affiliate shall make no such representation to anyone.
14. It is agreed that all publicity and promotional materials, including press releases, printed materials, brochures, flyers, posters, programs, and advertisements related to the Affiliate's projects will contain proper credit to the Society, including the phrase "[Project] made possible by the fiscal sponsorship of the San Francisco Early Music Society, with funding provided by [agency or agencies]," or an alternative phrase acceptable to the Society.
15. It is also agreed that the Society may use the title and description of projects of the Affiliate, as well as listings of grants and donations that the Society has received on the Affiliate's behalf, for the purposes of information, publication, and promotion. The Affiliate agrees to provide the Society with copies of reviews and other press materials, distribution brochures, notices of performances, exhibits, and other pertinent information, as and when requested.
16. The Affiliate agrees to defend, indemnify, and hold the Society, its Board of Directors, and its employees harmless against any and all claims, liabilities, or judgments that may be made against the Society or the Affiliate as a result of any project undertaken by the Affiliate. The Affiliate further agrees to provide proof of liability insurance coverage, if any, and to name the Society as an additional insured in its liability insurance policy, if any.
17. The Affiliate agrees to pay to the Society an annual administrative fee of \$100, and it further agrees that the Society may deduct from the Affiliate's revenues received under the Society's auspices a sum equal to 7.5% of those revenues as an additional administrative fee, unless a lesser fee is mandated by a granting agency, in which case that lesser fee may apply. The Affiliate further agrees either a) to provide proof of its liability coverage and to name the Society as an additional insured; or b) to use the Society's policy of liability insurance and to obtain a certificate of insurance under the Society's policy. In the latter event, the Affiliate shall pay to Society an additional \$100 per year, at the same time that the Affiliate's annual administrative fees are due, as provided in paragraph 17.



**THE SAN FRANCISCO EARLY MUSIC SOCIETY**

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**WHEREFORE**, each Party has caused its authorized representative to execute this Agreement as of the Effective Date.

**For the Society:**

**Name** Derek Tam

**Title** Executive Director

**Date** September 1, 2019

**For the Affiliate:**

**Signature**

**Name**

**Title**

**Date**