

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	SECURITY INTEREST		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
Fresh Music, LLC		06/04/2008	LIMITED LIABILITY COMPANY: MASSACHUSETTS
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	NEWALLIANCE BANK		
<b>Street Address:</b>	255 Park Avenue		
<b>City:</b>	West Springfield		
<b>State/Country:</b>	MASSACHUSETTS		
<b>Postal Code:</b>	01089		
<b>Entity Type:</b>	Banking Corporation: CONNECTICUT		
<b>PROPERTY NUMBERS Total: 2</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
Registration Number:	1894969	FRESH THE MUSIC LIBRARY	
Registration Number:	2722290	AIRTIME	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	(413)734-3910		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
<b>Phone:</b>	413.733.3111		
<b>Email:</b>	dbasile@dwpm.com		
<b>Correspondent Name:</b>	Deborah A. Basile		
<b>Address Line 1:</b>	One Monarch Place, 1414 Main Street		
<b>Address Line 2:</b>	Suite 1900		
<b>Address Line 4:</b>	Springfield, MASSACHUSETTS 01144-1900		
<b>ATTORNEY DOCKET NUMBER:</b>	99891-1		
<b>NAME OF SUBMITTER:</b>	Deborah A. Basile		
<b>Signature:</b>	/Deborah A. Basile/		

OP \$65.00 1894969

Date:

06/05/2008

**Total Attachments: 10**

source=freshsecurity#page1.tif

source=freshsecurity#page2.tif

source=freshsecurity#page3.tif

source=freshsecurity#page4.tif

source=freshsecurity#page5.tif

source=freshsecurity#page6.tif

source=freshsecurity#page7.tif

source=freshsecurity#page8.tif

source=freshsecurity#page9.tif

source=freshsecurity#page10.tif

**COPYRIGHT AND TRADEMARK  
COLLATERAL SECURITY AND PLEDGE AGREEMENT**

COPYRIGHT AND TRADEMARK COLLATERAL SECURITY AND PLEDGE AGREEMENT ("Agreement") dated as of June 4 2008, between FRESH MUSIC, LLC, a Massachusetts limited liability company having a principal place of business at 320 South Street, Agawam, Massachusetts 01001 (the "Assignor"), and NEWALLIANCE BANK, a banking association with a place of business at 255 Park Avenue, West Springfield, Massachusetts 01089 (the "Bank" or "Assignee" or "Lender").

WHEREAS, the Assignor and the Bank are parties to certain Loan Documents dated June 4, 2008 (the "Loan Documents") between the Assignor and the Bank, evidencing and securing a Term Loan in the principal amount of THREE HUNDRED TWENTY EIGHT THOUSAND and 00/100 (\$328,000.00) DOLLARS executed in connection therewith (the "Obligations"); and

WHEREAS, it is a condition precedent to the Bank's making any loans or otherwise extending credit to the Assignor that the Assignor execute and deliver to the Bank this Agreement; and

WHEREAS, the Assignor has executed and delivered to the Bank an All-Asset Security Agreement, pursuant to which the Assignor has granted to the Bank a security interest in all of the Assignor's personal property and fixture assets, including, without limitation, the copyrights and trademarks listed on **Schedule A** attached hereto (collectively, the "Intellectual Property"), all to secure the payment and performance of the Obligations.

NOW, THEREFORE, in consideration of the premises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

**Section 1. Definitions.** Capitalized terms used herein and not otherwise defined herein shall have the respective meanings provided therefor in the Loan Documents. In addition, the following terms shall have the meanings set forth in this Section 1 or elsewhere in this Agreement referred to below:

**Associated Goodwill.** All goodwill of the Assignor and its business, products and services appurtenant to, associated with or symbolized by the Intellectual Property and the use thereof.

**Intellectual Property.** All of the copyrights, and trademarks used or associated with or appurtenant to the services and business of the Assignor, that (a) are set forth on **Schedule A** hereto, or (b) have been adopted, acquired, owned, held or used by the Assignor or are now owned, held or used by the Assignor, in the Assignor's business, or

with the Assignor's products and services, or in which the Assignor has any right, title or interest, or (c) are in the future adopted, acquired, owned, held and used by the Assignor in the Assignor's business or with the Assignor's products and services, or in which the Assignor in the future acquires any right, title or interest.

**Intellectual Property Rights.** Any and all past, present or future rights in, to and associated with the Intellectual Property throughout the world, whether arising under federal law, state law, common law, foreign law or otherwise.

**Pledged Intellectual Property.** All of the Assignor's right, title and interest in and to all of the Intellectual Property, the copyrights, the trademarks, Intellectual Property Rights, the Associated Goodwill, the Related Assets, and all accessions to, substitutions for, replacements of, and all products and proceeds of any and all of the foregoing.

**PTO.** The United States Patent and Trademark Office.

**Related Assets.** All assets, rights and interests of the Assignor that uniquely reflect or embody the Associated Goodwill, including the following:

(a) all music cd's, copyrights, trade secrets, confidential information, methods or processes, know-how, operating systems, manufacturing and production and delivery procedures, quality control procedures, product and service specifications, catalogs, price lists, and advertising materials, relating to the manufacture, production, delivery, provision and sale of goods or services under or in association with any of the Intellectual Property; and

(b) the following documents and things in the possession or under the control of the Assignor, or subject to its demand for possession or control, related to the production, delivery, provision and sale by the Assignor, of products or services sold by or under the authority of the Assignor in connection with the Intellectual Property or Intellectual Property Rights:

(i) all lists, contracts, ancillary documents and other information that identify, describe or provide information with respect to any customers, dealers or distributors of the Assignor, for products or services sold under or in connection with the Intellectual Property or Intellectual Property Rights.

(ii) all documents and agreements relating to the identity and locations of all sources of supply, all terms of purchase and delivery, for all materials, components, and other supplies and services used in the manufacture, production, provision, delivery and sale of products or services under or in connection with the Intellectual Property or Intellectual Property Rights; and

(iv) all agreements and documents constituting or concerning the present or future, current or proposed advertising and promotion by the Assignor (or any of its affiliates, franchisees, licensees or contractors) of products or services sold under or in connection with the Intellectual Property or Intellectual Property Rights.

**Use.** With respect to any Intellectual Property, all uses of such Intellectual Property by, for or in connection with the Assignor or its business or for the direct or indirect benefit of the Assignor or its business, including all such uses by the Assignor itself, by any of the affiliates of the Assignor, or by any franchisee, licensee or contractor of the Assignor.

Unless otherwise provided herein, the rules of interpretation set forth in the Loan Documents shall be applicable to this Agreement.

## **Section 2. Grant of Security Interest.**

(a) As collateral security for the payment and performance in full of all of the Obligations, to the greatest extent permitted by law and/or applicable contracts, the Assignor hereby unconditionally grants to the Bank a continuing first priority security interest in and first priority lien on the Pledged Intellectual Property, and pledges, assigns and mortgages (but does not transfer title to) the Pledged Intellectual Property to the Bank.

(b) In addition to, and not by way of limitation of, the grant, pledge and mortgage of the Pledged Intellectual Property provided in Section 2(a), the Assignor grants, assigns, transfers, conveys and sets over to the Bank the Assignor's entire right, title and interest in and to the Pledged Intellectual Property; provided that such grant, assignment, transfer and conveyance shall be and become of force and effect only (a) upon or after the occurrence and during the continuance of an Event of Default and (b) either (i) upon the written demand of the Bank at any time during such continuance or (ii) immediately and automatically (without notice or action of any kind by the Bank) upon an Event of Default or upon the sale or other disposition of or foreclosure upon the Collateral (including the transfer or other disposition of the Collateral by the Assignor to the Bank or its nominee in lieu of foreclosure).

(c) Pursuant to the Security Agreement, the Assignor has granted to the Bank a continuing security interest in and lien on the Collateral (including the Pledged Intellectual Property). The Loan Documents, and all rights and interests of the Bank in and to the Collateral (including the Pledged Intellectual Property) thereunder, are hereby ratified and confirmed in all respects. In no event shall this Agreement, the grant, assignment, transfer and conveyance of the Pledged Intellectual Property hereunder, or the recordation of this Agreement (or any document hereunder) with the PTO, adversely affect or impair, in any way or to any extent, the security interest of the Bank in the Collateral (including the Pledged Intellectual Property) pursuant to this Agreement, the

attachment and perfection of such security interest under the Uniform Commercial Code (including the security interest in the Pledged Intellectual Property), or any present or future rights and interests of the Bank in and to the Collateral under or in connection with this Agreement or the Uniform Commercial Code. Any and all rights and interests of the Bank in and to the Pledged Intellectual Property (and any and all obligations of the Assignor with respect to the Pledged Intellectual Property) provided herein, or arising hereunder or in connection herewith, shall only supplement and be cumulative and in addition to the rights and interests of the Bank (and the obligations of the Assignor) in, to or with respect to the Collateral (including the Pledged Intellectual Property) provided in or arising under or in connection with the Loan Documents and shall not be in derogation thereof.

### **Section 3. Representations, Warranties and Covenants.**

The Assignor represents, warrants and covenants that: (a) **Schedule A** sets forth a true and complete list of all Intellectual Property now owned, licensed, controlled or used by the Assignor; (b) the Intellectual Property and Intellectual Property Registrations are subsisting and have not been adjudged invalid or unenforceable by a court, in whole or in part, and there is no litigation or proceeding pending concerning the validity or enforceability of the Intellectual Property or Intellectual Property Registrations; (c) to the best of the Assignor's knowledge, each of the Intellectual Property and Intellectual Property Registrations is valid and enforceable; (d) to the best of the Assignor's knowledge, there is no infringement by others of the Intellectual Property, Intellectual Property Registration or Intellectual Property Rights; (e) to the best of the Assignor's knowledge, no claim has been made that the use of any of the Intellectual Property does or may violate the rights of any third person, and to the best of the Assignor's knowledge, there is no infringement by the Assignor of the trademark rights of others; (f) the Assignor is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to the Intellectual Property (other than ownership and other rights reserved by third party owners with respect to Intellectual Property that the Assignor is licensed to use), free and clear of any liens, charges, encumbrances and adverse claims, including pledges, assignments, licenses, registered user agreements and covenants by the Assignor not to sue third persons, other than the security interest and assignment created by the Loan Documents and this Agreement; (g) the Assignor has the unqualified right to enter into this Agreement and to perform its terms and has entered and will enter into written agreements with each of its present and future employees, agents, consultants, licensors and licensees that will enable them to comply with the covenants herein contained; (h) the Assignor has used, and will continue to use, proper statutory and other appropriate proprietary notices in connection with its use of the Intellectual Property; (i) the Assignor has used, and will continue to use for the duration of this Agreement, consistent standards of quality in its manufacture and provision of products and services sold or provided under the Intellectual Property.

**Section 4. No Transfer or Inconsistent Agreements.** Without the Bank's prior written consent the Assignor will not (a) mortgage, pledge, assign, encumber, grant a security interest in, transfer, license or alienate any of the Pledged Intellectual Property other than in the ordinary

course of business and upon prior written notice to Assignee, or (b) enter into any agreement that is inconsistent with the Assignor's obligations under this Agreement or the Loan Documents.

**Section 5. Remedies.** Upon the occurrence and during the continuance of an Event of Default, the Bank shall have, in addition to all other rights and remedies given it by this Agreement (including, without limitation, those set forth in Section 2, the Loan Documents, those allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in the Commonwealth of Massachusetts and, without limiting the generality of the foregoing, the Bank may immediately, without demand of performance and without other notice (except as set forth next below) or demand whatsoever to the Assignor, all of which are hereby expressly waived, sell or license at public or private sale or otherwise realize upon the whole or from time to time any part of the Pledged Intellectual Property, or any interest that the Assignor may have therein, and after deducting from the proceeds of sale or other disposition of the Pledged Intellectual Property all reasonable expenses incurred by the Bank in attempting to enforce this Agreement (including all reasonable expenses for legal services), shall apply the residue of such proceeds toward the payment of the Obligations as set forth in or by reference in the Loan Documents. Notice of any sale, license or other disposition of the Pledged Intellectual Property shall be given to the Assignor at least ten (10) days before the time that any intended public sale or other public disposition of the Pledged Intellectual Property is to be made or after which any private sale or other private disposition of the Pledged Intellectual Property may be made, which the Assignor hereby agrees shall be reasonable notice of such public or private sale or other disposition. At any such sale or other disposition, the Bank may, to the extent permitted under applicable law, purchase or license the whole or any part of the Pledged Intellectual Property or interests therein sold, licensed or otherwise disposed of.

**Section 6. Collateral Protection.** If the Assignor shall fail to do any act that it has covenanted to do hereunder, or if any representation or warranty of the Assignor shall be breached, the Bank, in its own name or that of the Assignor (in the sole discretion of the Bank), may (but shall not be obligated to) do such act or remedy such breach or cause such act to be done or such breach to be remedied), and the Assignor agrees promptly to reimburse the Bank for any reasonable cost or expense incurred by the Bank in so doing.

**Section 7. Further Assurances.** The Assignor shall, at any time and from time to time, and at its expense, make, execute, acknowledged and deliver, and file and record as necessary or appropriate with governmental or regulatory authorities, agencies or offices, such agreements, assignments, documents and instruments, and do such other and further acts and things (including, without limitation, obtaining consents of third parties), as the Bank may reasonably request or as may be necessary or appropriate in order to implement and effect fully the intentions, purposes and provisions of this Agreement, or to assure and confirm to the Bank the grant, perfection and priority of the Bank's security interest in the Pledged Intellectual Property.

**Section 8. Termination.** At such time as all of the Obligations have been finally paid and satisfied in full, this Agreement shall terminate and the Bank shall, upon the written request

and at the expense of the Assignor, execute and deliver to the Assignor all deeds, assignments and other instruments as may be necessary or proper to reassign and reconvey to and revest in the Assignor the entire right, title and interest to the Pledged Intellectual Property previously granted, assigned, transferred and conveyed to the Bank by the Assignor pursuant to this Agreement, as fully as if this Agreement had not been made, subject to any disposition of all or any part thereof that may have been made by the Bank pursuant hereto or the Loan Agreement.

**Section 9. Course of Dealing.** No course of dealing between the Assignor and the Bank, nor any failure to exercise, nor any delay in exercising, on the part of the Bank, any right, power or privilege hereunder or under the Loan Documents or any other agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other. or further exercise thereof or the exercise of any other right, power or privilege.

**Section 10. Expenses.** Any and all reasonable fees, costs and expenses, of whatever kind or nature, including the reasonable attorneys' fees and expenses incurred by the Bank in connection with the preparation of this Pledge Agreement and all other documents relating hereto, the consummation of the transactions contemplated hereby or the enforcement hereof, the filing or recording of any documents (including all taxes in connection therewith) in public offices, the payment or discharge of any taxes, counsel fees, maintenance or renewal fees, encumbrances, or otherwise protecting, maintaining or preserving the Pledged Intellectual Property, or in defending or prosecuting any actions or proceedings arising out of or related to the Pledged Intellectual Property, shall be borne and paid by the Assignor.

**Section 11. Overdue Amounts.** Until paid, all amounts due and payable by the Assignor hereunder shall be a debt secured by the Pledged Intellectual Property and other Collateral and shall bear, whether before or after judgment, interest at the rate of interest for overdue principal set forth in the Loan Agreement.

**Section 12. No Assumption of Liability; Indemnification.** NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, THE BANK ASSUMES NO LIABILITIES OF THE ASSIGNOR WITH RESPECT TO ANY CLAIM OR CLAIMS REGARDING THE ASSIGNOR'S OWNERSHIP OR PURPORTED OWNERSHIP OF, OR RIGHTS OR PURPORTED RIGHTS ARISING FROM, ANY OF THE PLEDGED INTELLECTUAL PROPERTY OR ANY USE, LICENSE OR SUBLICENSE THEREOF, WHETHER ARISING OUT OF ANY PAST, CURRENT OR FUTURE EVENT, CIRCUMSTANCE, ACT OR OMISSION OR OTHERWISE. ALL OF SUCH LIABILITIES SHALL BE EXCLUSIVELY THE RESPONSIBILITY OF THE ASSIGNOR. AND THE ASSIGNOR SHALL INDEMNIFY THE BANK FOR ANY AND ALL REASONABLE COSTS, REASONABLE EXPENSES, DAMAGES AND CLAIMS, INCLUDING LEGAL FEES INCURRED BY THE BANK WITH RESPECT TO SUCH LIABILITIES.



**Section 13. Notices.** All notices and other communications made or required to be given pursuant to this Agreement shall be in writing and shall be delivered in hand, mailed by United States registered or certified first-class mail, postage prepaid, or sent by telegraph, telecopy or telex and confirmed by delivery via courier or postal service, addressed as follows:

(a) if to the Assignor, at 320 South Street, Agawam, Massachusetts 01001, ATTENTION: Robert Casinghino, or at such other addresses for notice as the Assignor shall last have furnished in writing to the person giving the notice; and

(b) if to the Bank, at NEWALLIANCE BANK, 255 Park Avenue, West Springfield, Massachusetts 01089, ATTENTION: Commercial Loan Department, or at such other address for notice as the Bank shall last have furnished in writing to the person giving the notice.

Any such notice or demand shall be deemed to have been duly given or made and to have become effective (i) if delivered by hand to a responsible officer of the party to which it is directed, at the time of the receipt thereof by such officer, (ii) if sent by registered or certified first-class mail, postage prepaid, two (2) Business Days after the posting thereof, and (iii) if sent by telegraph, telecopy, or telex, at the time of the dispatch thereof, if in normal business hours in the country of receipt, or otherwise at the opening of business on the following Business Day.

**Section 14. Amendment and Waiver.** This Agreement is subject to modification only by a writing signed by the Bank and the Assignor, except as provided in Section 5(b). The Bank shall not be deemed to have waived any right hereunder unless such waiver shall be in writing and signed by the Bank. A waiver on any one occasion shall not be construed as a bar to or waiver of any right on any future occasion.

**Section 15. Governing Law; Consent to Jurisdiction.** THIS AGREEMENT IS INTENDED TO TAKE EFFECT AS A SEALED INSTRUMENT AND SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE COMMONWEALTH OF MASSACHUSETTS. The Assignor agrees that any suit for the enforcement of this Agreement may be brought in the courts of the Commonwealth of Massachusetts, or any federal court sitting therein and consents to the nonexclusive jurisdiction of such court and to service of process in any such suit being made upon the Assignor by mail at the address specified in Section 13. The Assignor hereby waives any objection that it may now or hereafter have to the venue of any such suit or any such court or that such suit is brought in an inconvenient court.

**Section 16. Waiver of Jury Trial.** THE ASSIGNOR WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS AGREEMENT, AND ANY RIGHTS OR OBLIGATIONS HEREUNDER OR THE PERFORMANCE OF ANY SUCH RIGHTS OR OBLIGATIONS. Except as prohibited by law, the Assignor waives any right which it may have to claim or recover in any litigation referred to in the preceding sentence any special exemplary,

## **Schedule A**

### **Pledged Intellectual Property**

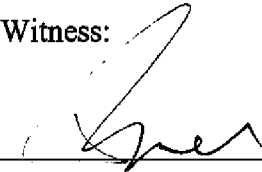
1. The url and domain names: www.freshmusic.com and www.freshmusiclibrary.com;
2. All rights to intellectual property including trade names, trade dress and copyrights used or useful in the operation of the Business and specifically, U.S. Trademark Registrations 1,894,969 and 2,722,290.
3. All goodwill, including the right to the exclusive use of the name “Fresh Music” and “Fresh Music Library”, and all variants thereof;
4. The website content, text graphics, color scheme, look and feel, layout, source code and object code;
5. The source code to the website www.freshmusic.com;
6. The layout look and feel of www.freshmusic.com;
7. The composer rights as assigned to the respective publishing companies (Joodle Music Publishing, Bejoodle Music Publishing, Buncha Punks Publishing and Concottal Music, all doing business as Fresh Music Partnership, LLP) as described in the schedule of Sale Assets attached to the Fresh Music Partnership Business Purchase Agreement dated June 2, 2008.

punitive or consequential damages or any damages other than, or in addition to, actual damages. The Assignor (a) certifies that neither the Bank nor any representative, agent or attorney of the Bank has represented, expressly or otherwise, that the Bank would not, in the event of litigation, seek to enforce the foregoing waivers, and (b) acknowledges that, in entering into the Loan Agreement and the other Loan Documents to which the Bank is a party, the Bank is relying upon, among other things, the waivers and certifications contained in this Section 16.

**Section 17. Miscellaneous.** The headings of each section of this Agreement are for convenience only and shall not define or limit the provisions thereof. This Agreement and all rights and obligations hereunder shall be binding upon the Assignor and its respective successors and assigns, and shall inure to the benefit of the Bank and its successors and assigns. If any term of this Agreement shall be held to be invalid, illegal or unenforceable, the validity of all other terms hereof shall in no way be affected thereby, and this Agreement shall be construed and be enforceable as if such invalid, illegal or unenforceable term had not been included herein. The Assignor acknowledges receipt of a copy of this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed as of the day and year first above written.

Witness:

  
\_\_\_\_\_

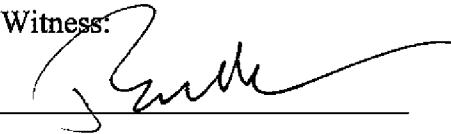
FRESH MUSIC, LLC

By:   
\_\_\_\_\_

Its

Manager

Witness:

  
\_\_\_\_\_

NEWALLIANCE BANK

By:   
\_\_\_\_\_

Its

Gary W. Gesser  
Vice President

COMMONWEALTH OF MASSACHUSETTS

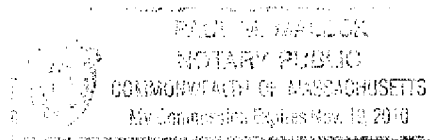
Hampden, ss.

On this 4 day of June, 2008, before me, the undersigned notary public, personally appeared ROBERT CASINGHINO, as Member of FRESH MUSIC, LLC, a corporation, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

[Signature] [official signature and seal of notary]

Notary Public:

My commission expires:



COMMONWEALTH OF MASSACHUSETTS

Hampden, ss.

On this 4 day of June, 2008, before me, the undersigned notary public, personally appeared Gary W. Besser as Vice President for NEWALLIANCE BANK, a banking association, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

[Signature] [official signature and seal of notary]

Notary Public:

My commission expires:

