

CONSENT TO REGISTER

This Consent to Register is made and entered into this 29th day of October 2019, by and between The Carnegie Hall Corporation, a not-for-profit corporation with an address at 881 Seventh Ave., New York, New York 10019 (“**Carnegie Hall**”) and Athena Education Group, Inc., a corporation with an address at 810 Seventh Avenue, Suite 2000, New York, New York 10019 (“**Athena**”) (collectively, the “**Parties**”).

WHEREAS, Carnegie Hall is a well-established cultural institution whose nonprofit mission is to present extraordinary music and musicians on its three stages, to bring the transformative power of music to the widest possible audience, to provide visionary education programs, and to foster the future of music through the cultivation of new works, artists, and audiences;

WHEREAS, Carnegie Hall was formed by an act of the New York State Legislature in 1960, and manages the historic building constructed by Andrew Carnegie which opened its doors in 1891, offering a variety of musical, theatrical, and dance performances and educational activities, among other goods and services;

WHEREAS, beginning as early as January 11, 2012, Carnegie Hall has used the marks NYO-USA, NYO2, and NYO JAZZ (collectively, the “**Carnegie Hall Marks**”) in connection with offering programs and performances related to music;

WHEREAS, after Carnegie Hall established rights in the Carnegie Hall Marks, on June 1, 2016, Athena began using, and thereafter on November 2, 2018, filed applications with the U.S. Patent and Trademark Office (the “**PTO**”) in International Class 41 for the word mark

NYO-CHINA and the design mark  for “Consultation and advice

regarding musical selections and arrangements for sound recordings and live performances; Entertainment services in the nature of live musical performances; Entertainment services in the nature of live audio performances by classical musicians; Entertainment services in the nature of live visual and audio performances by classical musicians; Entertainment services in the nature of live visual and audio performances, namely, musical band, rock group, gymnastic, dance, and ballet performances; Entertainment services in the nature of live visual and audio performances, namely, musical, variety, news and comedy shows; Entertainment services in the nature of live vocal performances by classical musicians; Entertainment services in the nature of live classical music performances; Entertainment services in the nature of presenting live musical performances; Entertainment services in the nature of classical music; Entertainment, namely, live performances by musical bands; Entertainment, namely, live performances by a musical band; Live performances by a musical group; Planning arrangement of showing movies, shows, plays or musical performances; Presentation of musical performances; Providing an Internet website portal featuring links to musical artist websites and music performance ticket information; Rental of facilities and equipment for the production of radio and television programs, musical and theatrical productions, namely, performance venues, studios, sets, dressing rooms; Theatrical and musical floor shows provided at performance venues,” which later matured into trademark registrations (Reg. Nos. 5,798,349 and 5,769,670) (collectively, the “Athena Marks”); and

WHEREAS, on July 2, 2019, Carnegie Hall filed applications with the PTO for NYO-USA and NYO2 in International Class 41 for “Organizing and conducting musical programs, namely, auditions, training and tour performances for young musicians who perform together as a symphony orchestra” (Ser. Nos. 88/497,640 and 88/497,644); and

WHEREAS, on July 2, 2019, Carnegie Hall filed an application with the PTO for NYO JAZZ in International Class 41 for “Organizing and conducting musical programs, namely, auditions, training and tour performances for young musicians who perform together as a jazz ensemble” (Ser. No. 88/497,647); and

WHEREAS, on September 26, 2019, the PTO issued a non-final Office Action refusing to register the Carnegie Hall Marks pursuant to Section 2(d) of the Trademark Act based on the Athena Marks;

NOW THEREFORE, for and in consideration of the mutual promises herein provided, and intending to be legally bound, the Parties agree as follows:

1. Athena consents to the registration of the Carnegie Hall Marks, as the Parties have conferred and determined that such registration will not cause a likelihood of confusion with the Athena Marks. The Parties agree that no likelihood of confusion exists because the differences in the Parties’ respective marks are sufficient to distinguish the marks and because the Parties have coexisted for years without any known instances of actual confusion.

2. Athena shall not file any Opposition to the Carnegie Hall Marks.

3. The Parties shall cooperate in good faith and take such further actions and execute such other instruments as may be reasonably necessary to effectuate fully the terms, spirit and intent of this Agreement. If, contrary to the Parties’ expectations, incidents of actual confusion between the Parties or their goods or services marketed under their respective marks occur, the Parties shall confer and use reasonable efforts in good faith to attempt to cure or remediate such confusion and ensure that such incidents do not recur.

IN WITNESS WHEREOF, the undersigned have executed this written agreement in one or more counterparts, each of which shall be an original and all of which shall constitute a single instrument, effective as of the latest date written below.

ATHENA EDUCATION GROUP, INC.



By: Vincent Accettola
Title: President & CEO

Dated: 10/29/2019

THE CARNEGIE HALL CORPORATION



By:
Title:

Dated: 10/29/19