

LICENSE AGREEMENT

THIS AGREEMENT is entered into this 16th day of February, 2022 (the "Effective Date") by and between **THE SAKYONG POTRANG**, a Colorado nonprofit corporation (the "Licensor") and **SHAMBHALA USA**, a Colorado nonprofit corporation (the "Licensee");

WITNESSETH

WHEREAS, Licensor owns all right, title and interest in and to the following described service marks:

Shambhala (U.S. Reg. No. 2499500);
Shambhala Center (U.S. Reg. No. 2467099);
Shambhala Meditation Centers (U.S. Reg. No. 2460982);
Shambhala Training (U.S. Reg. No. 2468864);
Way of Shambhala (U.S. Reg. No. 3912908);
Shambhala Mountain Center (U.S. Reg. No. 2819624); and
Shambhala Art (U.S. Reg. No. 2906535).

and all U.S. registrations that have or may hereafter issue therefrom, and any associated goodwill (collectively referred to as the "Marks"); and

WHEREAS, each and all of the Marks are identified with the international association of churches and religious organizations within which both Licensor and Licensee were established and continue to support; and

WHEREAS, Licensee has been using the Marks since August 2018 with the consent and agreement of Licensor; and

WHEREAS, the Licensee desires to continue its use of the Marks in connection with its operation as a church and religious organization in the United States and in a manner consistent with its charitable purposes set forth in its Articles of Incorporation (the "Charitable Purposes");

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

SECTION 1: TERM. The term of this Agreement shall commence on the Effective Date. The term shall be perpetual, unless earlier terminated as provided herein.

SECTION 2: LICENSE FEE. In consideration of the grant of rights contained herein, Licensee shall pay to Licensor a one-time license fee of \$100.00 upon the commencement of the term. No other royalty or fee shall be required to be paid by Licensee.

SECTION 3: GRANT OF LICENSE

3.1 Subject to the terms and conditions of this Agreement, Licensor hereby grants to Licensee the nonexclusive, nontransferable, royalty-free, perpetual right and license to use the Marks, and each of them, together with any related designs and logo types, in connection with the Charitable Purposes. Licensor reserves all rights in and to the Marks not expressly granted herein.

3.2 Licensee shall indicate that the Marks are being used by Licensee pursuant to a license granted by Licensors by placing a notice on its website.

3.3 Licensee shall have the right to use the Marks solely in a manner consistent with the Charitable Purposes. The parties agree that Licensee's use of the Marks in a manner consistent with the Charitable Purposes is a material condition of this Agreement and of the license and rights herein granted.

3.4 The rights granted herein are granted to Licensee only; provided, however, that Licensee may, in its sole discretion, grant sublicenses for the use of any of the Marks to its subsidiaries, affiliates, Shambhala Centers, and other Shambhala organizations in the United States, provided that any such sublicensee agrees to use the Marks in a manner consistent with the Charitable Purposes. Licensee shall not have the right to license, sublicense, or otherwise grant the right to use any of the Marks to any other person or entity.

SECTION 4: OWNERSHIP OF MARKS

4.1 Licensee acknowledges that Licensors is the sole and exclusive Owner of the Marks. Licensee agrees that it is not acquiring any right, title or interest in and to the Marks other than the right to use the Marks in accordance with this License Agreement. Licensee agrees that it will not collaterally attack Licensors's claim to the Marks or the validity of this license.

4.2 Licensors shall use reasonable commercial efforts, at its sole cost and expense, to maintain the registration of the Marks.

4.3 For the purposes of this Agreement, Licensee agrees that any marks, logotypes or other commercial symbols using or comprising the Marks will be deemed to be colorable variations of the Marks and any use that has been, is, or will be made in the future of such marks, logotypes, or other commercial symbols by Licensee or its sublicensees shall be deemed a use for and on behalf of Licensors, and such use shall inure to the benefit of Licensors and be subject to the terms and conditions of this Agreement.

4.4 If Licensors determines that the use of the Marks, or any of them, by Licensee or its sublicensees does not conform to the Charitable Purposes, Licensors may notify Licensee of such determination in a written notice which specifies the particular deficiencies. Licensee shall be afforded a period of thirty (30) days following receipt of such written notice in which to (i) demonstrate to Licensors's satisfaction that the use of the Mark or Marks is consistent with the Charitable Purposes, (ii) alter the use of the Mark or Marks to bring them into conformity with the Charitable Purposes, or (iii) discontinue the use of the Mark in connection with Licensee's operation until such time as Licensee accomplishes either or both of the tasks described in the foregoing clauses (i) and (ii).

4.5 Licensee agrees to use the symbol " ® " in connection with the Marks as reasonably directed by Licensors.

4.6 Licensee agrees not to materially modify the Marks in any manner inconsistent with past usage without the prior written consent of Licensors.

SECTION 5: INFRINGEMENT CLAIMS

Licensee Infringement Claims

5.1 Subject to the terms of this Section 5, Licensee has the primary responsibility and will take commercially reasonable steps, at its sole cost and expense, to defend and protect against any third party claims and to prosecute any claims relating to any third party's infringement of or unauthorized use of the Marks that has a material adverse effect on the Marks ("Infringement Claims"). In the event Licensor becomes aware of any Infringement Claims, Licensor shall provide Licensee with prompt written notice of the same.

5.2 Licensee shall control the defense or prosecution of any Infringement Claims in any manner and on any terms that Licensee deems appropriate in its sole discretion. Licensor agrees not to interfere and shall cooperate with Licensee's defense or prosecution of any Infringement Claims. Counsel shall be selected by Licensee and Licensee shall pay all costs and expenses relating to such defense or prosecution, including, without limitation, attorneys' fees and costs.

5.3 Licensee shall have the right to settle any Infringement Claims without the consent of Licensor so long as such settlement does not have a material adverse effect on the rights of Licensor in the Marks. Any recovery from any Infringement Claims, whether by judgment or settlement, shall be retained by Licensee. Licensor assigns to Licensee all of its right, title and interest in and to any Infringement Claims that are subject to this Section 5 and any recovery therefrom.

5.4 Licensor shall provide Licensee with reasonable assistance to enable Licensee to defend or prosecute such Infringement Claims (at Licensee's sole cost and expense), provide all documents and information in Licensor's possession or control necessary to defend or prosecute any such Infringement Claims, and take any steps necessary to authorize and enable Licensee to proceed as contemplated herein, including by serving as a party plaintiff in any such action at Licensee's request.

5.5 Notwithstanding the foregoing, nothing in this Section 5 shall obligate Licensee to take any action to defend, protect or prosecute any Infringement Claim that: (i) arises out of or relates solely to a use of the Marks by Licensor; or (ii) arises out of or relates to any separate license, agreement, or authorization to use the Marks between Licensor and any third party ("Licensor Claims").

Licensor Claims

5.6 Licensor shall have the primary responsibility and will take commercially reasonable steps, at its sole cost and expense, to defend and protect against any third party claims and to prosecute any Licensor Claims. In the event Licensee becomes aware of any Licensor Claims Licensee shall provide Licensor with prompt written notice of the same.

5.7 Licensor shall control the defense or prosecution of any Licensor Claims in any manner and on any terms that Licensor deems appropriate in its sole discretion. Licensee agrees not to interfere and shall cooperate with Licensor's defense or prosecution of any Licensor Claims. Counsel shall be selected by Licensor and Licensor shall pay all costs and expenses relating to such defense or prosecution, including, without limitation, attorneys' fees and costs.

5.8 Licensor shall have the right to settle any Licensor Claims without the consent of Licensee so long as such settlement does not have a material adverse effect on the rights of Licensee in the Marks under this Agreement. Any recovery from any Licensor Claims, whether by judgment or settlement, shall be retained by Licensor.

5.9 Licensee shall provide Licensor with reasonable assistance to enable Licensor to prosecute such Licensor Claims (at Licensor's sole cost and expense), provide all documents and information in Licensor's possession or control necessary to defend or prosecute any such Licensor Claims, if any.

5.10 In the event Licensor declines to prosecute such Licensor Claims within 30 days of receipt of Licensee's written notice, Licensee shall then have the right, but not the obligation, in its sole discretion and at its sole cost and expense, to prosecute any such Licensor Claims, on behalf of both Licensor and Licensee. In the event of any such prosecution of any Licensor Claims by Licensee the terms of this Section 5 relating to the prosecution of Infringement Claims shall apply.

SECTION 6: INDEMNITY

6.1 Licensee shall indemnify, hold harmless and defend Licensor against any claims, suits, or proceedings ("Claims") and resulting damages, losses, liabilities, costs, reasonable attorneys' fees and expenses ("Losses"), which Licensor becomes obligated to pay to a third party by reason of: (i) any third party Claim of infringement relating to Licensee's use of the Marks as permitted under this Agreement; or (ii) any breach of this Agreement by Licensee. Licensor shall notify Licensee in writing of any such Claims within a reasonable time after Licensor first learns thereof. The parties shall provide each other with such assistance and cooperation as may reasonably be requested from time to time in connection with the prosecution or defense of any such Claims.

6.2 Licensor shall indemnify, hold harmless and defend Licensee against any Claims and resulting Losses, which Licensee becomes obligated to pay to a third party by reason of: (i) any lien or encumbrance on the Marks, or other Claim that affects the ability of Licensee to use the Marks as permitted under this Agreement; (ii) third party Claim of infringement relating to Licensor's use of the Marks; (iii) any Claim relating to any separate license, agreement, or authorization to use the Marks, between Licensor and any third party; and (iv) any breach of this Agreement by Licensor. Licensee shall notify Licensor in writing of any such Claims within a reasonable time after Licensee first learns thereof. The parties shall provide each other with such assistance and cooperation as may reasonably be requested from time to time in connection with the prosecution or defense of any such Claims.

6.3 In the event that Licensee's right to use the Mark or Marks is enjoined by a court of competent jurisdiction, Licensee shall immediately cease using the Mark or Marks.

SECTION 7: DEFAULT AND TERMINATION

7.1 For the purposes of this Agreement, a default by Licensee shall be deemed to arise upon the occurrence of any of the following:

- a. Licensee has violated any term or condition of this Agreement or if Licensee or any of its sublicensees is otherwise in breach of a provision

hereof, which breach remains uncured for a period of thirty (30) days after receipt of written notice from Licensor;

7.2 This Agreement shall terminate upon the occurrence of any of the following:

- a. The occurrence of a default by Licensee as defined in Section 7.1 above;
- b. The sale by Licensee of all or substantially all of Licensee's assets;
- c. The making by Licensee of any assignment for the benefit of creditors;
- d. The filing by or against Licensee of a proceeding for bankruptcy, dissolution or liquidation, unless such proceeding is dismissed within thirty (30) days from the date of filing.
- e. The insolvency, winding up, sale, consolidation or merger of Licensee.

7.3 During the term of this Agreement, Licensee shall have the exclusive right of first refusal to purchase the Marks from Licensor. In the event of a proposed sale or other disposition to a third-party of all or any portion of the Marks by Licensor, whether voluntary or involuntary (i.e. bankruptcy), advance written notice thereof shall be given to Licensee specifying the name of the prospective purchaser or transferee, identifying the Mark(s) proposed to be sold or otherwise transferred or disposed of, and the price and all other terms and conditions of the proposed transaction. For a period of thirty (30) days after receipt of such said notice, Licensee shall hold the first right and option to acquire all such Mark(s) on the same terms as are set forth in the notice, or at fair market value in the event of a bankruptcy or involuntary transfer where no price is specified.

7.4 Upon termination of this Agreement, Licensee shall immediately discontinue all use of the Marks or any term confusingly similar thereto, delete the same from its corporate and business name, destroy all printed materials bearing or using the Marks, and all rights in the Marks and the goodwill associated therewith shall remain the sole and exclusive property of Licensor. Licensee further agrees to sign all documents and do all things reasonably required by Licensor to give effect to termination or expiration of this Agreement. Upon termination, Licensee agrees to refrain from doing any act or thing which may, in the sole opinion of Licensor, have the effect of leading any third party to believe that Licensee has any legal right or interest in the Marks.

SECTION 8: MISCELLANEOUS

8.1 Limited Relationship. Nothing in this Agreement shall be construed to constitute either party as the agent of the other for any purpose whatsoever, and neither party shall bind or attempt to bind the other party to any contract or the performance of any other obligation, or represent to any third party that it has any rights to enter into binding obligation on the other party's behalf.

8.2 Attorneys' Fees. In the event there is any litigation or arbitration between the parties concerning this Agreement, the successful party shall be awarded reasonable attorneys' fees and litigation or arbitration costs, including the attorneys' fees and costs incurred in the enforcement of any judgment.

8.3 Notices. All notices required or permitted hereunder shall be sufficient if delivered personally or mailed to the parties at the address set forth below or at such other address as either party may designate in writing from time to time. Any notice by mailing shall be effective 48 hours after it has been deposited in the United States certified mail, return receipt requested, duly addressed and with postage prepaid.

8.4 Partial Invalidity. If any provisions of this Agreement are in violation of any statute or rule of law of any state or district in which it may be sought to be enforced, then such provisions shall be deemed null and void only to the extent that they may be in violation thereof, but without invalidating the remaining provisions.

8.5 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the respective parties hereto, their heirs, personal representatives, successors and assigns.

8.6 Waiver. No waiver of any breach of any one of the agreements, terms, conditions or covenants of this Agreement by Licensor shall be deemed to imply or constitute a waiver of any other agreement, term, condition or covenants of this Agreement. The failure of either party to insist on strict performance of any agreement, term, condition or covenant, herein set forth, shall not constitute or be construed as a waiver of the rights of either or the other thereafter to enforce any other default of such agreement, term, condition or covenant; nor shall such failure to insist upon strict performance be deemed sufficient grounds to enable either party hereto to forego or subvert or otherwise disregard any other agreement, term, condition or covenant of this Agreement.

8.7 Dispute Resolution. If a dispute arises from or relates to this Agreement or the breach thereof, and if the dispute cannot be settled through direct discussions, the parties agree to endeavor first to settle the dispute by mediation to be agreed upon by the parties before resorting to arbitration. The parties further agree that any unresolved controversy or claim arising out of or relating to this Agreement, or breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, subject to the specific terms of this Section, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

Unless otherwise agreed upon by the parties, Claims shall be heard by a panel of three arbitrators. Within 15 days after the commencement of arbitration, each party shall select one person to act as arbitrator and the two selected shall select a third arbitrator within 15 days of their appointment. If the arbitrators selected by the parties are unable or fail to agree upon the third arbitrator, the third arbitrator shall be selected by the American Arbitration Association. The arbitrators shall be familiar with non-profit religious organizations and churches and shall possess demonstrable knowledge of and experience with the Buddhist religion as taught and practiced in the Tibetan tradition of the Vajrayana. The purpose of this requirement is to assure that the arbitrators are competent to assess compliance with the Licensee's Charitable Purposes. The place of arbitration shall be Denver, Colorado, unless otherwise agreed.

The arbitration shall be governed by the laws of the United States and the State of Colorado. The parties share equally in the costs of the arbitration. The failure or refusal of a party to pay its required share of the deposits for arbitrator compensation or administrative charges shall constitute a default by that party. Each party shall bear the cost of its own attorneys and experts. The prevailing party shall be entitled to an award of reasonable attorney fees. The award of the arbitrators shall be accompanied by a reasoned opinion.

8.8 Governing Law. This Agreement and the rights and duties of the parties shall be construed and enforced in accordance with the laws of the United States and the State of Colorado.

8.9 Counterparts. This Agreement may be executed simultaneously in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

8.10 Entire Agreement. This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof. There are no representations, warranties, conditions or obligations except as herein specifically provided. Any amendment or modification hereof must be in writing.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

LICENSOR:

THE SAKYONG POTRANG, a Colorado nonprofit corporation

By: 

Name: Landon Mallery

Title: Chairperson of the Board

Address: 1345 Spruce St.
2nd Floor,
Boulder, CO 80302

LICENSEE:

SHAMBHALA USA, a Colorado nonprofit corporation

By: _____

Name: Susan Ryan

Title: Chair of the Board of Directors

Address: 1345 Spruce Street
Boulder, CO 80302

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

LICENSOR:

THE SAKYONG POTRANG, a Colorado nonprofit corporation

By: _____

Name: _____

Title: _____

Address: _____

LICENSEE:

SHAMBHALA USA, a Colorado nonprofit corporation

By: Susan Ryan

Name: Susan Ryan

Title: Chair of the Board of Directors

Address: 1345 Spruce Street
Boulder, CO 80302