



HOME TO THE LEGENDS OF TENNIS

INTERNATIONAL TENNIS HALL OF FAME INCORPORATED d/b/a
International Tennis Hall of Fame & Museum (ITHF&M)
194 Bellevue Avenue
Newport, RI 02840

Artifact / Photograph / Archival / Film / Audio-Visual Archives License Agreement

THIS AGREEMENT ("Agreement") is made and entered into by and between the International Tennis Hall of Fame, Incorporated, not-for-profit corporation organized under the laws of the State of Rhode Island and Providence Plantations, located at 194 Bellevue Ave, Newport, RI 02840 (hereinafter referred to as "ITHF&M"), and **[INSERT NAME]** (hereinafter referred to as "Publisher").

Publisher Data:

INSTITUTION: _____

ADDRESS: _____

CONTACT PERSON: _____ **TITLE:** _____

PHONE: _____ **FAX:** _____

EMAIL: _____ **WEBSITE:** _____

WITNESSETH:

WHEREAS, as an outreach service to individuals who cannot travel to the International Tennis Hall of Fame & Museum, the ITHF&M is willing to allow Publisher to reprint specific artifact, photographic, archival, film, and/or audio archives materials held by ITHF&M (the "Materials"), as defined in Schedule A;

WHEREAS, the Publisher wishes to reprint specific Materials held by ITHF&M in the publication (the "Work");

NOW THEREFORE, in consideration of the foregoing and of the mutual promises, covenants and conditions hereinafter set forth and other good and valuable considerations, the parties hereto agree as follows:

1. Term.

The term of this Agreement shall commence on _____ (insert date) and shall terminate on the day the expiration of any copyright of Publisher or its assigns in the Work. ("Term")

2. License to use of ITHF&M Materials.

The License applies to (the "Work"), defined as follows:

Title: _____

Owner of Copyright to the Work: _____

Publisher: _____

Co-Publisher / Local Publisher: _____

Distributor: _____

Method(s) of distribution: _____

Expected date of release: _____

The License applies to the Materials (“Materials”) listed in Schedule A

The ITHF&M grants to Publisher a non-exclusive royalty-free license during the Term of this Agreement for the Permitted Use, defined as:

(i) use of reproductions of the Materials in the making of the Work, subject to the conditions elsewhere in this agreement and

(ii) use of the reproductions of the Materials to exhibit, publish, copy, distribute or transmit by any other means now current or to be invented reproductions of the Materials as they appear in the Work, subject to the conditions below.

Use of this agreement or the reproductions created under terms of this agreement for any purpose other than that stated above will be deemed a violation of this agreement.

3. Disclaimer of ITHF&M Ownership of or License to Assign Third Party Rights

Except for items of the Materials listed in Schedule C, ITHF&M makes no representation that it owns or has the right to assign any intellectual property, copyright, or rights of publicity of any third parties in the Materials or whose property or reproductions thereof appear in the Work. Publisher agrees that it is the responsibility of the Publisher to secure permission from any such third party. ITHF&M is only obligated to provide contact information for such third party, if known to ITHF&M.

4. Fees

Publisher shall pay to ITHF&M the Fees as set forth in Schedule B attached.

All fees shall be due when specified on Schedule B. Interest shall accrue at the rate of 18% per year, or the maximum allowable by law, whichever is lower, on all invoices not paid by the date specified on Schedule B.

Failure to pay fees within one year of invoicing shall result in automatic termination of the license granted by this Agreement.

5. Working on the Materials

All sites and areas required for reproducing the Materials will be approved in advance by ITHF&M.

Security restrictions and instructions as defined and required by the ITHF&M must be fully observed. All lighting and other restrictions for conservation reasons, as defined by Museum staff, must be fully observed.

Publisher assumes responsibility for and will compensate the ITHF&M for any damage to the Materials or other property of ITHF&M that may occur as a result of the handling of the Materials.

6. Publicity and Credit.

(a) Promotion of the Work is the responsibility of Publisher at its sole cost. The ITHF&M will provide sample press releases and media information to Publisher concerning ITHF&M. The Publisher may develop new press materials or adapt the ITHF&M’s press materials upon written approval by the ITHF&M. Press coverage documentation developed by Publisher must be submitted to the ITHF&M by no later than thirty (30) days following the release of such documentation. The Publisher agrees to make every effort to provide ITHF&M with copies of any press coverage related to the Work.

(b) The credit line “International Tennis Hall of Fame & Museum, Newport, RI”, the ITHF&M logo, and recognition of lead sponsors of the Work must be used in all publicity materials in any medium, including print,

video, audio and electronic. Such publicity materials include but are not limited to acknowledgments, press releases, publications, leaflets, printed matter, announcements, invitations, and catalogues. Details regarding lead sponsors of any event or exhibit appearing in the Work will be communicated by the ITHF&M in writing to the Publisher and shall become part of this agreement. Any alteration in or addition to the credit line the Publisher wishes to make, including credit for local support, must be approved by ITHF&M in writing. Usage of the credit line and ITHF&M logo in any medium must be submitted to the ITHF&M for prior written approval in accordance with the procedures set forth in paragraph (d) below.

(c) Publisher agrees to give credit to ITHF&M within the Work or the credits accompanying the Work itself. Credit appearing in printed or text form and/or the audio and/or video versions of credit, time length of such credit, and frequency of such credit must be approved in writing by ITHF&M prior to any exhibition, publication, distribution or release by any means of the Work, in accordance with the procedures set forth in below. Such written permission shall become part of the Agreement. Failure to obtain such written permission, or failure to include the approved credit in any exhibition, publication, distribution or release by any means of the Work, shall automatically terminate the license granted to Publisher under this Agreement. The parties agree that monetary damages will not be sufficient should this section be breached by Publisher, and that ITHF&M has the right to obtain a court order or injunction to provide a remedy for any such breach.

(d) To obtain the approval required under this section, Publisher shall submit to ITHF&M the material to be approved. The ITHF&M has the sole authority and discretion to approve or reject any material. All such material must receive the written approval of the ITHF&M prior to any publication and/or distribution thereof in any medium. In the event Publisher has provided a written request for approval to the ITHF&M, failure by the ITHF&M to respond to such request within ten (10) business days shall constitute consent by the ITHF&M.

7. Restrictions on Sponsorship.

In the event that the Publisher shall enter into a sponsorship agreement to which the Work is to be associated with a third-party sponsor, the Publisher shall give the ITHF&M reasonable prior notice of such sponsorship arrangement (including the name of the sponsor). In the event that the ITHF&M determines, in its sole discretion, that such sponsorship agreement could have an adverse effect on the business or reputation of the ITHF&M, the ITHF&M shall have the right to terminate this Agreement. In the event Publisher has provided a written request for approval to the ITHF&M, failure by the ITHF&M to respond to such request within ten (10) business days shall constitute consent by the ITHF&M.

8. Unauthorized Use.

Publisher shall not make or permit others to make any reproductions of or from the Photograph(s), in whole or in part, except as required for Permitted Use. Publisher will provide security adequate to prevent the theft, pirating, unauthorized exhibition, duplication, or copying of the Photograph(s). In the event of any loss, destruction, or unauthorized use of the Photograph(s), Publisher shall give ITHF&M prompt notice accompanied by a written explanation of the circumstances.

ITHF&M does not grant the right to reproduce the picture, name, voice or likeness of any person or property for commercial purposes and any such use is not authorized except to the extent permitted by law or to the extent secured by Publisher.

Publisher will not permit others to exhibit, except as may be specifically approved in writing by ITHF&M, the Materials in whole or in part by any means, and shall not alter, abridge, copy, or duplicate, the Materials in any manner except as required for the Permitted Use.

In the event the Work is utilized by Publisher in a manner not permitted under this Agreement, the Publisher shall be liable to the ITHF&M for any and all injuries, damage or losses sustained as a result of such improper use, including any attorney's fees incurred by ITHF&M. The parties agree that monetary damages will not be sufficient

should this section be breached by Publisher, and that ITHF&M has the right to obtain a court order or injunction to provide a remedy for any such breach.

9. Indemnification.

Publisher shall indemnify, defend and hold harmless the ITHF&M, and its respective directors, officers, employees, members and agents (collectively, the "Indemnified Parties") against and from, and will provide the Indemnified Parties defense for: (i) any and all claims arising from Publisher's breach of any representation or obligation required by the terms of this Agreement; (ii) any and all claims of Publisher's infringement or violation of copyright, intellectual property rights, right of publicity, or right of privacy, (iii) any and all claims of libel or slander; (iv) any and all claims arising from any act or omission of any agent, employee, or invitee of Publisher which occurs in connection with this Agreement, including but not limited to claims for personal injury and/or property damage; (v) any and all claims arising from any act of any vendors acting for or on behalf of Publisher in connection with this Agreement, including but not limited to claims for personal injury and/or property damage; and (vi) any and all claims arising from Publisher's failure to comply with any federal, state, local or foreign rule, regulation, ordinance, permit or law .

The ITHF&M or relevant Indemnified Party shall give Publisher written notice within fifteen (15) business days after the Indemnified Party's receipt of written notice of any claim, action, suit or proceeding against such Indemnified Party with respect to which indemnification is to be sought from Publisher, enclosing a copy of all papers served. Publisher shall be entitled to pay, compromise or defend any claim in good faith. Failing the defense, compromise, or payment of any claim by Publisher, the Indemnified Party shall be entitled to pay, compromise or satisfy the claim subject to the prior approval of Publisher. If there is any payment made or loss suffered by the Indemnified Party at any time from the date of this Agreement in respect to any liability, obligation or claim as to which such Indemnified Party is entitled to indemnification and for which the Indemnified Party has delivered satisfactory evidence of such payment or loss, Publisher shall reimburse the Indemnified Party on demand.

The terms set forth in this paragraph shall survive any termination or expiration of this Agreement.

10. Notices.

All notices, demands, waivers, consents and requests which may be or are required to be given by either party to the other under the terms of this Agreement shall be in writing and shall be delivered by hand or sent by the United States mail, registered or certified, postage prepaid, return receipt requested addressed as follows:

If to the ITHF&M:

Douglas Stark
Museum Director
International Tennis Hall of Fame & Museum
194 Bellevue Ave
Newport, RI 02840

If to Publisher:

[INSERT CONTACT INFORMATION OF PUBLISHER]

or such other persons or addresses as shall be furnished in writing by either party to the other party. Notices and requests shall be deemed to have been given three (3) days after the day when postmarked by the United States Post Office or on the day such notice and/or request is delivered by hand to the appropriate party.

11. Miscellaneous.

- a) **Governing Laws.** This Agreement shall be governed by and construed in accordance with the laws of the United States of America, the State of Rhode Island and Providence Plantations.
- b) **Execution in Counterparts.** For the convenience of the parties, this Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.
- c) **Assignment of Rights or Agreement.** Neither the Agreement nor any rights granted herein may be assigned, directly or indirectly, by any party hereto without the prior written consent of the other party, which may be denied in the other party's total discretion. This Agreement shall be binding upon and inure to the benefit of any assignee permitted hereunder.
- d) **Bankruptcy.** If either party shall become bankrupt or insolvent, or if either party's business shall be placed in the hands of a receiver or trustee, whether by voluntary act of such party or otherwise, this Agreement shall, at the option of the other party, immediately terminate. Upon termination of this Agreement and/or termination of the display of the Exhibit for any reason, ITHF&M may choose, at its sole discretion, to arrange and pay for packing and transportation of the Exhibit materials to ITHF&M, and Publisher shall reimburse ITHF&M for such expenses. The parties acknowledge that Exhibit materials may be of a unique nature and monetary damages would not fully compensate for their loss; therefore, ITHF&M may seek a court order allowing such packing and transport.
- e) **Severability.** If any clause, provision or term of this Agreement is declared illegal, invalid or unenforceable under applicable present or future laws, then it is the intention of the parties that the remainder of this Agreement shall not be affected and that, in lieu of any such clause, provision or term, there shall be added as a part hereof a substitute clause, provision or term as similar in substance to such illegal, invalid or unenforceable clause, provision or term as may be possible.
- f) **Waiver.** Any waiver by any party of any right arising from any breach of any term of this Agreement shall not be construed as a continuing waiver of any other breach of the same term or any other term of this Agreement by the other party.
- g) **No Joint Venture.** Nothing herein contained shall be construed to place the parties in the relationship of partners, joint venturers, or agents, and Publisher shall have no power to obligate or bind the ITHF&M in any manner whatsoever.
- h) **Amendment.** No amendment or modification of this agreement shall be valid and binding upon the parties unless made in writing and signed by an authorized officer of each of the Publisher and ITHF&M.
- i) **Entire Agreement.** This Agreement constitutes the entire understanding between the parties with respect to the subject matter discussed herein and supersedes all prior understandings and/or arrangements, including but not limited to any release form previously agreed to by ITHF&M, whether written or oral, between the parties with respect to such subject matter. In the event of any conflict between this agreement and any forms of the Publisher, the terms of this agreement shall take precedence.
- j) **No Promise of Future Licenses.** This Agreement does not constitute any promise or representation by ITHF&M that any future Agreement for licensing of archival materials will contain the same terms as herein. ITHF&M reserves the rights to change its requirements for any future license.

(Next page is signature page)

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed and duly executed as of the day and year first written above.

The International Tennis Hall of Fame Incorporated by:

PRINT NAME: Douglas Stark **SIGNATURE:** _____
TITLE: Museum Director **DATE:** _____

The Publisher by:

PRINT NAME: _____ **SIGNATURE:** _____
TITLE: _____ **DATE:** _____

International Tennis Hall of Fame & Museum contact information:

(Primary)

Douglas Stark
Museum Director
International Tennis Hall of Fame & Museum
194 Bellevue Avenue
Newport, RI 02840
Phone: 401-849-3990, ext. 123
Fax: 401-851-7920
Email: dstark@tennisfame.com

Web: www.tennisfame.com

(Secondary)

(For Photos)

Meredith Miller
Librarian
International Tennis Hall of Fame & Museum
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Email: mmiller@tennisfame.com

(For Artifacts)

Nicole Markham
Curator of Collections
International Tennis Hall of Fame & Museum
194 Bellevue Avenue
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Phone: 401-849-3990, ext. 115
Fax: 401-851-7920
Email: markham@tennisfame.com

(For Audio/Video)

Troy Gowen
Curator of New Technology & Senior Archivist
International Tennis Hall of Fame & Museum
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Fax: 401-851-7920
Email: tgowen@tennisfame.com

Publisher Contact Information:

Schedule A: Materials

Type of Media:	_____ Photograph in	_____ print or negative format	_____ digital format
	_____ Artifact in	_____ print or negative format	_____ digital format
	_____ Archives in	_____ print or negative format	_____ digital format
	_____ Audio in	_____ record or tape format	_____ digital format
	_____ Video in	_____ film or videotape format	_____ digital format

Title: _____

ITHF&M Required Credit Line: _____

ITHF&M catalogue and/or inventory reference number(s): _____

Author/Creator/Photographer/Producer-Director: _____

Date created: _____

Copyright owner, if known: _____

Comments:

Schedule B: Fees

The Publisher shall pay a **Research Fee** to ITHF&M for staff time responding to Publisher's request.

Amount of Research Fee: _____

Payment shall be due (check one):

_____ in advance

_____ within thirty (30) days of being invoiced by ITHF&M

The Publisher shall pay a **Licensing Fee** to ITHF&M for access to and use of the Materials for purposes of evaluating and/or reproducing the Materials, and the License granted in this Agreement.

Amount of Licensing Fee: _____

Payment shall be due (check one):

_____ in advance

_____ within thirty (30) days of being invoiced by ITHF&M

If ITHF&M makes the reproduction of any Materials, Publisher shall pay a **Reproduction Fee** to ITHF&M.

Amount of Reproduction Fee:

Payment shall be due (check one):

_____ in advance

_____ within thirty (30) days of being invoiced by ITHF&M

Publisher shall also pay to ITHF&M all out-of-pocket costs incurred by ITHF&M in making the Materials available to Publisher, including without limitation, laboratory charges, research fees, processing costs, transfer charges and shipping expenses.

Payment shall be due (check one):

_____ in advance

_____ within thirty (30) days of being invoiced by ITHF&M

Schedule C
(Exceptions to Section 3 Disclaimer)