

# LICENSE AGREEMENT-INDIVIDUAL INDOOR PLAYGROUNDS

## Agreement

between American Society of Composers, Authors and Publishers ("SOCIETY"), located at 2 Music Square West, Nashville, TN 37203

and \_\_\_\_\_ ("LICENSEE"), located at \_\_\_\_\_

as follows:

### 1. Grant and Term of License

(a) SOCIETY grants and LICENSEE accepts for a term of one year commencing \_\_\_\_\_, and continuing thereafter for additional terms of one year each unless terminated by either party as hereinafter provided, a license to perform publicly at each of the indoor playgrounds owned or operated by LICENSEE and specified on Schedule "A," annexed hereto and made a part hereof, as said Schedule may be amended as hereinafter provided (the "premises"), and not elsewhere, non-dramatic renditions of the separate musical compositions now or hereafter during the term hereof in the repertory of SOCIETY, and of which SOCIETY shall have the right to license such performing rights.

(b) Either party may, on or before thirty days prior to the end of the initial term, or any renewal term, give notice of termination to the other. If such notice is given, the license shall terminate on the last day of the term in which notice is given.

(c) This Agreement shall enure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns, but no assignment shall relieve the parties of their respective obligations hereunder as to performances rendered, acts done and obligations incurred prior to the effective date of the assignment.

### 2. Limitations on License

(a) This license is not assignable or transferable by operation of law or otherwise, except as provided in subparagraph "1(c)" hereof.

(b) This license does not authorize the broadcasting, telecasting or transmission by wire or otherwise, of renditions of musical compositions in SOCIETY's repertory to persons outside of the premises, other than by means of music-on-hold telephone systems operated by LICENSEE at the premises.

(c) This license does not authorize any performance by means of any jukebox for which a license from the Jukebox License Office or another license from SOCIETY is available.

(d) This license is limited to LICENSEE and to the premises, and does not extend to performances at any indoor playground not specified on Schedule "A."

(e) This license is limited to the United States, its territories and possessions, and the Commonwealth of Puerto Rico.

(f) This license is limited to non-dramatic performances, and does not authorize any dramatic performances. For purposes of this Agreement, a dramatic performance shall include, but not be limited to, the following:

- (i) performance of a "dramatico-musical work" (as hereinafter defined) in its entirety;
- (ii) performance of one or more musical compositions from a "dramatico-musical work" (as hereinafter defined) accompanied by dialogue, pantomime, dance, stage action, or visual representation of the work from which the music is taken;
- (iii) performance of one or more musical compositions as part of a story or plot, whether accompanied or unaccompanied by dialogue, pantomime, dance, stage action, or visual presentation;
- (iv) performance of a concert version of a "dramatico-musical work" (as hereinafter defined).

The term "dramatico-musical work," as used in this Agreement, shall include, but not be limited to, a musical comedy, opera, play with music, revue, or ballet.

### 3. License Fees and Payments

(a) In consideration of the license granted herein, LICENSEE agrees to pay SOCIETY the applicable license fee set forth in the Rate Schedule annexed hereto and made a part hereof based on "LICENSEE's Operating Policy." The term "LICENSEE's Operating Policy" shall mean all of the factors which determine the license fee applicable to the premises under the Rate Schedule.

(b) LICENSEE shall pay SOCIETY the license fees due hereunder in installments of one-third the applicable annual fee in advance on or before January 1, May 1 and September 1 of each year.

(c) In the event LICENSEE shall be delinquent in payment of license fees due hereunder by thirty days or more, LICENSEE shall pay a finance charge on the license fees due of 1-1/2% per month, or the maximum rate permitted by law, whichever is less, from the date such license fees should have been paid.

(d) LICENSEE agrees to pay SOCIETY a \$25 service charge for each unpaid check, draft or other form of monetary instrument submitted by LICENSEE to SOCIETY.

(e) If LICENSEE's payment of fees under this Agreement causes SOCIETY to incur a liability to pay a gross receipts, sales, use, business use, or other tax which is based on the amount of SOCIETY's receipts from LICENSEE, the number of licensees of SOCIETY, or any similar measure of SOCIETY's activities, and (i) SOCIETY has taken reasonable steps to be exempted or excused from paying such tax; and (ii) SOCIETY is permitted by law to pass through such tax to its licensees, LICENSEE shall pay to Society the full amount of such tax.

**4. Changes in LICENSEE's Operating Policy**

(a) LICENSEE agrees to give SOCIETY thirty days prior written notice of any change in LICENSEE's Operating Policy. For purposes of this Agreement, a change in LICENSEE's Operating Policy shall be one in effect for at least thirty days.

(b) Upon any change in LICENSEE's Operating Policy resulting in an increase in the license fee, based on the annexed Rate Schedule, LICENSEE agrees to pay SOCIETY the increased license fee, effective as of the initial date of such change, whether or not written notice of such change has been given pursuant to subparagraph "4(a)" hereof.

(c) Upon any change in LICENSEE's Operating Policy resulting in a reduction in the license fee, based on the annexed Rate Schedule, LICENSEE shall be entitled to the reduction, effective as of the initial date of such change, and to a *pro rata* credit for any unearned license fees paid in advance, provided LICENSEE has given SOCIETY thirty days prior written notice of such change. If LICENSEE fails to give SOCIETY thirty days prior written notice, any reduction and credit shall be effective thirty days after LICENSEE gives SOCIETY written notice of such change.

(d) Within thirty days of any change in LICENSEE's Operating Policy, LICENSEE shall furnish to SOCIETY a current Statement of LICENSEE's Operating Policy. If that Statement of LICENSEE's Operating Policy shows any additions or deletions from the list identifying the indoor playgrounds owned or operated by LICENSEE as of the date the Statement is due, Schedule "A" shall be deemed amended accordingly.

(e) If LICENSEE discontinues the performance of music at the premises, LICENSEE or SOCIETY may terminate this Agreement upon thirty days notice, the termination to be effective at the end of the thirty-day period. In the event of such termination, SOCIETY shall refund to LICENSEE a *pro rata* share of any unearned license fees paid in advance. For purposes of this Agreement, a discontinuance of music shall be one in effect for no less than thirty days.

**5. Breach or Default**

Upon any breach or default by LICENSEE of any term or condition herein contained, SOCIETY may terminate this license by giving LICENSEE thirty days notice to cure such breach or default and, in the event such breach or default has not been cured within said thirty days, this license shall terminate on the expiration of such thirty-day period without further notice from SOCIETY.

**6. Interference with SOCIETY's Operations**

In the event of.

(a) any major interference with the operations of SOCIETY in the state, territory, dependency, possession or political subdivision in which LICENSEE or the Licensed Establishment are located, by reason of any law of such state, territory, dependency, possession or political subdivision; or

(b) any substantial increase in the cost to SOCIETY of operating in such state, territory, dependency, possession or political subdivision, by reason of any law of such state, territory, dependency, possession or political subdivision, which is applicable to the licensing of performing rights,

SOCIETY shall have the right to terminate this Agreement forthwith by notice to LICENSEE and shall refund to LICENSEE any unearned license fees paid in advance.

**7. Notices**

All notices required or permitted hereunder shall be duly and properly given if mailed to the other party by certified United States Mail, or sent by generally recognized same-day or overnight delivery service, addressed to the party at the address stated above. Each party agrees to inform the other of any change of address.

IN WITNESS WHEREOF, this Agreement has been duly executed by SOCIETY and LICENSEE, this \_\_\_\_\_ day of \_\_\_\_\_,

AMERICAN SOCIETY OF COMPOSERS,  
AUTHORS AND PUBLISHERS

By \_\_\_\_\_

Licensee \_\_\_\_\_

By \_\_\_\_\_

TITLE \_\_\_\_\_

(Fill in capacity in which signed: (a) If corporation, state corporate office held; (b) If partnership, write word "partner" under signature of signing partner; (c) If individual owner, write "individual owner" under signature.)