

LICENSE AGREEMENT – HALLS OF FAME, WAX MUSEUMS AND SIMILAR ESTABLISHMENTS

Agreement between AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS ("ASCAP"), located at
2 Music Square West, Nashville, TN 37203 and

_____, ("LICENSEE"), located at _____,
_____,
_____.

as follows:

1. Grant and Term of License

(a) ASCAP grants and LICENSEE accepts for a one year term 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 the Hall of Fame, Wax Museum or similar establishment known as _____

_____ and at public relations performances presented outside of said Hall of Fame, Wax Museum or similar establishment but in connection with said _____ for which public relations performances no fee is paid to LICENSEE and no direct or indirect admission charge is made (collectively "the premises"), and not elsewhere, nondramatic renditions of the separate musical compositions now or hereafter during the term hereof in the repertory of ASCAP and of which ASCAP shall have the right to license such performing rights.

(b) 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 hereto of their respective obligations hereunder as to performances rendered, acts done and obligations incurred prior to the effective date of the assignment.

(c) 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.

2. Limitation on License

(a) This license is not assignable or transferable by operation of law or otherwise, except as provided in paragraph "1(b)" hereof, and is limited to LICENSEE and to the premises.

(b) This license does not authorize the broadcasting, telecasting or transmission by wire or otherwise, of renditions of musical compositions in ASCAP'S repertory to persons outside of the premises.

(c) This license does not authorize any performances by means of a coin-operated phonorecord player (jukebox) otherwise covered by the compulsory license provisions of 17 U.S.C. §116.

(d) This license shall extend to nonvisual background music performed on the premises and furnished by a background music service holding a license from ASCAP which authorizes performances on the premises of subscribers to such a service.

(e) This license does not authorize performances in any hotel or motel situated within the premises.

(f) This license is limited to nondramatic 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 representation;
- (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

(a) In consideration of the license herein granted, LICENSEE agrees to pay ASCAP for each calendar year of the term hereof the applicable license fee set forth in the Rate Schedule annexed hereto and made a part hereof.

(b) In the event LICENSEE shall be delinquent in payment of license fees due hereunder by thirty (30) days or more following written notice by ASCAP, LICENSEE shall pay a finance charge on the license fees due of 1% per month, or the maximum rate permitted by law, whichever is less, from the date such license fees should have been paid.

4. Report and Payments

(a) LICENSEE shall estimate and pay the estimated license fee for the first season of this Agreement upon the execution of this Agreement. LICENSEE shall estimate and pay the estimated license fee for each subsequent season no later than July 15 of each year.

(b) Within sixty (60) days after the premises are closed to the public at the end of each season, or not later than February 28 of the following year if the premises are open year-round or for the Christmas holiday season, LICENSEE shall furnish ASCAP with a statement certified by an officer or independent auditor of LICENSEE, setting forth LICENSEE's total attendance, total live music entertainment costs as defined in the attached rate schedule, and total fee due.

(c) If the fee due ASCAP for any calendar year is greater than the estimated fee previously paid, LICENSEE shall pay the difference with the certified statement. If the fee due ASCAP for any calendar year is less than the estimated fee previously paid, ASCAP shall apply the excess payment as a credit against the payment due for the following year or at LICENSEE's option, promptly after receipt of a notice from LICENSEE in the form of a written request, shall refund any over-payment to LICENSEE.

5. Audits

(a) ASCAP shall have the right by its duly authorized representatives, at any time during customary business hours, to examine the books and records of account of LICENSEE only to such extent as may be necessary to verify any and all statements rendered and accountings made by LICENSEE to ASCAP. ASCAP shall consider all data and information coming to its attention as the result of any such examination of books and records as completely and entirely confidential.

(b) ASCAP shall give LICENSEE not less than thirty days written notice of its intention to make such an examination.

(c) The period for which ASCAP may audit pursuant to this Agreement shall be limited to three calendar years preceding the year in which the audit is made; provided, however, that if an audit is postponed at the request of LICENSEE, ASCAP shall have the right to audit for the period commencing with the third calendar year preceding the year in which notification of intention to audit was first given by ASCAP to LICENSEE. This three-year limitation shall not apply if LICENSEE fails or refuses after written notice from ASCAP to produce the books and records necessary to verify any report or statement of accounting required pursuant to this agreement. Should the three-year audit period extend into a previous license agreement, nothing herein shall restrict ASCAP's right to audit for the full three calendar years preceding the year in which notification was given.

(d) In the event any such examination shows LICENSEE to have underpaid the license fees due ASCAP by 5% or more, LICENSEE shall pay a finance charge on the license fees shown due of 1% per month from the date(s) the license fees should have been paid pursuant to this Agreement.

(e) In the event any such examination shows LICENSEE to have underpaid the license fees due ASCAP by less than 5%, LICENSEE shall pay a finance charge on the license fees shown due of 1% per month from the date ASCAP demands payment of such amount.

6. Breach or Default

Upon any breach or default by LICENSEE of any term or condition herein contained, ASCAP may terminate this license by giving LICENSEE thirty days notice to cure such breach or default, and in the event that 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 ASCAP. In the event of such termination, ASCAP shall refund to LICENSEE any unearned license fees paid in advance.

7. Indemnification

(a) ASCAP agrees to indemnify, save and hold LICENSEE harmless and defend LICENSEE from and against any claim, demand or suit that may be made or brought against it with respect to renditions given on LICENSEE'S premises during the term hereof in accordance with this license, of the separate musical compositions copyrighted or composed by members of ASCAP and in ASCAP'S repertory at the time of LICENSEE's performance thereof.

(b) In the event of the service upon LICENSEE of any notice, process, paper or pleading, under which a demand or action is made or begun against LICENSEE on account of any such matter as is hereinabove referred to, LICENSEE shall promptly give ASCAP written notice thereof, and simultaneously therewith deliver to ASCAP any such notice, process, paper or pleading, or a copy thereof, and ASCAP at its own expense shall have sole charge of the defense of any such action or proceeding. LICENSEE, however, shall have the right to engage counsel of its own, at its own expense, who may participate in the defense of any such action or proceeding and with whom counsel for ASCAP shall cooperate. LICENSEE shall cooperate with ASCAP in every way in the defense of any such action or proceeding, and in any appeals that may be taken from any judgments or orders entered therein, and shall execute all pleadings, bonds or other instruments, but at the sole expense of ASCAP, that may be required in order to properly to defend and resist any such action or proceeding, and prosecute any appeals taken therein.

8. Interference in ASCAP's Operations

In the event of:

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

(b) any substantial increase in the cost to ASCAP 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,

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

9. Notices

All notices required or permitted hereunder shall be duly and properly given if, in writing, and

(a) mailed by certified United States mail sent to the other party;

(b) sent by electronic transmission (i.e. facsimile, Mailgram or similar transmission), provided that a copy of such notice shall also be sent by United States mail; or

(c) 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.

10. Miscellaneous

This Agreement constitutes the entire understanding between the parties with respect to the terms hereof and no waiver, addition or modification shall be valid unless in writing and signed by the parties. This Agreement, its validity, construction and effect shall be governed by the laws of the State of New York.

IN WITNESS WHEREOF, this Agreement has been duly executed by ASCAP and LICENSEE this ____ day of _____, 20__.

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.)



HALLS OF FAME, WAX MUSEUMS AND SIMILAR ESTABLISHMENTS 2016 RATE SCHEDULE

I. ANNUAL FEE

The annual fee for the premise shall be computed on the following basis: (I) the fee per attendee, plus (II) one percent (1%) of "live music entertainment costs" (as hereafter defined).

A. For calendar year 2016, the annual fee per person based upon attendance shall be \$0.0069.

B. The term "live music entertainment costs", as used in this Agreement, means direct and indirect expenditures paid by LICENSEE for all live entertainment for the performance of live music in connection with LICENSEE's activities at the premises or off the premises in connection with public relations. The term "live music entertainment costs" shall include:

- (i) Salaries and wages for performers of live music. Should a live music performer perform other duties in addition to the performance of live music, then only that part of the employee's wages which equals that portion of his or her time spent performing live music, shall be included in live entertainment costs.
- (ii) The value of any accommodations or services which are made available to any entity or person rendering or presenting live music entertainment activities as part of the consideration for such entertainment services. Accommodations and services provided directly by the licensee shall have a value of ½ the prevailing rate charged to the public for similar accommodations or services.
- (iii) Direct cost of instrument rental or purchase utilized by a live music performer.
- (iv) Payments to booking agents, outside production companies or payments to other parties who provide such services relating to the performance of live music entertainment.

Live music entertainment costs shall not include:

- (i) Costs of props, scenery, special effects, equipment, or other graphic, design, supply or production costs in connection with the live music entertainment or the maintenance and repairs thereof.
- (ii) Costs of operational or other support staff (e.g. technicians for sound, lights and stage).
- (iii) Costs of costumes and maintenance, alteration and repair thereof.
- (iv) Payments to in-house entertainment directors or any individual involved in the administration and management of live music entertainment.
- (v) Costs of acrobatic, animal, magic, comic or other specialty acts performed in conjunction with live music entertainment.
- (vi) Development or rehearsal costs.
- (vii) Payroll for performers who "lip sync" pre-recorded music and the cost of the pre-record music.
- (viii) Cost of fringe benefits such as vacation time, health insurance or pension costs and the employer's portion of payroll taxes.

II. ANNUAL LICENSE FEE FOR CALENDAR YEAR 2017 AND THEREAFTER

The annual license fees hereunder for attendance for each calendar year commencing 2017, shall be the license fees for the preceding calendar year adjusted in accordance with the increase in the Consumer Price Index, Bureau of Labor Statistics, All Urban Consumers - (CPI-U) between the preceding October and the next preceding October.