

LICENSE AGREEMENT – ENTERTAINMENT FACILITIES

Agreement between American Society of Composers, Authors and Publishers (“ASCAP”), a New York membership association, located at 2 Music Square West, Nashville, TN 37203 and

and _____ (“LICENSEE”), located at

as follows:

1. Grant and Term of License

(a) ASCAP grants and LICENSEE accepts a license to perform publicly or cause to be performed publicly at the “Entertainment Facility” known as _____ (the “premises”) located at _____ and not elsewhere or otherwise, non-dramatic renditions of the separate musical compositions in the “ASCAP repertory.” For purposes of this Agreement:

(i) “ASCAP repertory” means all copyrighted musical compositions written or published by ASCAP members or members of affiliated foreign performing rights societies, including compositions written or published prior to or during the term of this Agreement and of which ASCAP has the right to license non-dramatic public performances.

(ii) “Entertainment Facility” means an outdoor or indoor facility that offers redemption games, rides, and other attractions such as go-carts, bumper boats, batting cages, at which (1) attendance is not counted; (2) no regular daily admission or similar charge is charged for entrance to the premises; and (3) charges are assessed for riding rides, playing games and other uses of individual attractions on the premises.

(b) This license shall be for an initial term commencing _____ and ending December 31 of the same calendar year, and shall continue thereafter for additional terms of one year each unless either party terminates it by giving the other party notice at least 30 days before the end of the initial or any renewal term. If such notice is given, the license shall terminate on December 31 of the year in which notice is given.

2. Limits on License

(a) This license is not assignable or transferable by operation of law or otherwise, except upon the express written consent of the parties, but no assignment shall relieve the parties of their respective obligations as to performances rendered, acts done and obligations incurred prior to the effective date of the assignment.

(b) This license is strictly limited to the LICENSEE and to the premises and does not authorize any other performances other than those given at the premises, nor does it authorize performances given by anyone else at the premises or at any time.

(c) This license does not authorize the broadcasting or telecasting or transmission by wire, Internet, web casting, on-line service or otherwise, of renditions of musical compositions in ASCAP’s repertory to persons outside of the premises.

(d) 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 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.

(e) This license does not authorize any performance by means of a coin-operated phonorecord player (jukebox) for which a license is otherwise available from the Jukebox License Office.

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

3. License Fees; Reports and Payments

(a) In consideration of the license granted herein, LICENSEE agrees to pay ASCAP the applicable license fee based on “LICENSEE’s Operating Policy.” The term “LICENSEE’s Operating Policy,” as used in this agreement, means all of the factors which determine the license fee applicable to the premises under the Rate Schedule.

(b) Upon the execution of this Agreement, LICENSEE shall submit to ASCAP a report showing all the information necessary to estimate LICENSEE’s annual license fee for mechanical music, audio only music on individual rides and audio-visual music on individual rides for the first contract year of this Agreement.

(c) On or before January 20 of each subsequent year during the term of this Agreement, LICENSEE shall submit to ASCAP a report showing all the information necessary to determine LICENSEE’s annual license fee for the preceding calendar year. If the report shows additional license fees due for the previous calendar year, the payment shall be due within 30 days of the date of an invoice from ASCAP. If the report shows an overpayment of license fees for the previous calendar year, LICENSEE shall receive a credit in that amount, applicable to its next payment(s) of license fees. ASCAP shall provide to LICENSEE report forms free of charge.

(d) Upon the execution of this Agreement and on or before January 20, May 20 and September 20 of each year of this Agreement, LICENSEE shall pay to ASCAP in advance one-third of the annual license fee payable under this Agreement for that calendar year, as estimated, based on the annual license fee for the previous calendar year, and subject to adjustment as provided by subparagraph 3.(c).

(e) On or before January 20, May 20 and September 20 of each year of this Agreement, LICENSEE shall submit a report for the previous trimester stating: (i) the date of each event at which “Live Entertainment” occurred; (ii) the “Live Entertainment Costs” of each event; (iii) the license fee for each event; and (vi) the total license fees due. The terms “Live Entertainment” and “Live Entertainment Costs” shall have the meanings set forth in the Rate Schedule. License fees for such events shall accompany the report.

(f) LICENSEE shall pay a finance charge of 1.5% per month from the date due, on any required payment or report that is not made or submitted within thirty days of its due date. LICENSEE shall pay ASCAP a \$35 service charge for each unpaid check, draft or other form of instrument submitted by LICENSEE to ASCAP.

4. Right of Verification

(a) ASCAP shall have the right, by its authorized representatives, at any time during customary business hours, and upon thirty days written notice, to examine the books and records of account of LICENSEE only to such extent as may be necessary to verify any statements of LICENSEE’s Operating Policy required pursuant to this Agreement. ASCAP shall consider all data and information coming to its attention as the result of the submission of statements of LICENSEE’s Operating Policy or as the result of any examination of LICENSEE’s books and records hereunder as completely and entirely confidential.

(b) In the event any such audit shows LICENSEE to have underpaid the license fees due ASCAP by less than 5%, LICENSEE shall pay a finance charge on the additional license fees due of 1 ½ % per month, or the maximum rate permitted by law, whichever is less, from the date ASCAP demands payment of such amount. In the event any such audit shows LICENSEE to have underpaid the license fees due ASCAP by 5% or more, LICENSEE shall pay a finance charge on the additional license fees due of 1 ½% per month, or the maximum rate permitted by law, whichever is less, from the date(s) the additional license fees were due.

(c) ASCAP’s right to audit under this Agreement shall survive any termination of this Agreement.

5. Changes in Licensee’s Operating Policy

(a) If LICENSEE discontinues or discontinues and later resumes the performance of mechanical music throughout the park or audio or audio-visual music on rides during any year of this Agreement, the license fee for that year shall be adjusted pro-rata based on the number of months in that year in which such music is performed. LICENSEE shall notify ASCAP of any discontinuance or resumption of music and shall provide a report showing all the information necessary to determine the applicable fees for that year. For purposes of this Agreement a discontinuance shall be one in effect for no less than 30 days.

(b) If LICENSEE discontinues the performance of all music at the premises, ASCAP or LICENSEE may terminate this Agreement on thirty days notice, such termination to become effective at the end of the 30-day period. LICENSEE shall pay any remaining license fees due within 30 days of the date of an invoice from ASCAP. Upon termination, ASCAP shall refund to LICENSEE a pro rata share of any unearned license fees paid in advance.

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. Additional Termination Provision

ASCAP shall have the right to terminate this license upon thirty days written notice if there is any major interference with, or substantial increase in the cost of ASCAP's operations as the result of any law in the state, territory, dependency, possession or political subdivision in which LICENSEE or the premises are located which is applicable to the licensing of performing rights. In the event of such termination, ASCAP shall refund to LICENSEE any unearned license fees paid in advance.

8. Notices

ASCAP or LICENSEE may give any notice required by this agreement by sending it by United States Mail, generally recognized same-day or overnight delivery service, or by transmitting the notice electronically to the other party's last known facsimile number or e-mail (or similar electronic transmission) address. Each party agrees to notify the other of any change of address.

9. Applicable Law

The meaning of the provisions of this Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to its conflict of laws principles.

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.)



ASCAP

ENTERTAINMENT FACILITIES

2016 Report Form for Calendar Trimester

Account Number: Premise Name: Please Select Trimester for report: ☐ Jan-Apr ☐ May - Aug ☐ Sept - Dec Report Type: ☐ Estimate ☐ Actual

Name of Park: _____ Season Period: From: _____ to: _____

A. COMPUTATION OF FEE:

I. Number of Days Mechanical Music Is Used Throughout
The Park During The Year - number of days _____ x \$4.50

\$ _____

II. Fee For Mechanical Music Used On Rides

A. Audio Uses - Number of Speakers _____
(\$237.00 up to 3 speakers \$48.50 Each Additional Speaker
Maximum Year's License Fee \$1,986.00) Fee: _____

II A \$ _____

B. Audio Visual Uses - Number of Speakers _____
(\$357.00 up to 3 speakers \$72.00 Each Additional Speaker
Maximum Year's License Fee \$2,997.00) Fee: _____

II B \$ _____

III. Subtotal - Annual Fee For Mechanical Music

(Line I. + Line II. A. + B.) = \$ _____

IV. Trimester Fee For Mechanical Music Is 1/3 The Annual Fee

\$ _____

B. Live Music Entertainment Expenses (Costs)* - For performances of "Live Entertainment," the license fee shall be the greater of 1% of "Gross Revenue"* or 1% of "Live Entertainment Expenses"*.

* Definitions below

I. Please attach this Trimester's Event Report at which Live Music Entertainment occurred \$ _____

Total Trimester's License Fees (Line A. IV + Line B. I.): \$ _____

*Definitions

"Live Entertainment Expenses (Costs)" means direct and indirect expenditures paid by LICENSEE for all Live Entertainment for the performance of live music including, but not limited to, such payments made to any disc jockey, video jockey or karaoke host, in connection with LICENSEE'S activities at the premises. The term "Live Music Entertainment Expenses" shall include (i) salaries and wages for performers of live music and disc, karaoke or video jockeys (collectively "Performers"); (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; (iii) direct cost of instrument rental or purchase utilized by live entertainment performers; and (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.

"Gross Revenue" means all monies received by LICENSEE or on LICENSEE'S behalf from the sale of tickets for each event where there is a separate direct or indirect admission, cover, ticket, entertainment, minimum or similar charge. If there are no monies from the sale of tickets, "Gross Revenue" shall mean contributions from sponsors or other payments received by LICENSEE for each event.

"Live Entertainment" means music which is performed at the premises by musicians, singers or other performers, including disc jockeys, video jockeys, karaoke hosts.

Contact Person & Title Phone Number: - - Ext: Fax Number: - - Email: Website:

I certify the above information is true and correct.

Dated: / / Signature:

ASCAP Toll Free: 1-800-505-4052 Fax: 615-691-7795

Epayment Websites: <http://www.ascap.com/mylicense> or <http://www.ascap.com>



Report Form for Calendar Trimester

[illegible]

Live Entertainment

(Please Select one Trimester per report) ☐ Jan-Apr ☐ May-Aug ☐ Sep-Dec

Report Year:

--	--	--	--

EVENT DATE (MM/DD/YYYY) If more than 1 event per day, please report each as a separate entry.	PERFORMER(S) OR GROUP(S) APPEARING	VENUE NAME / EVENT LOCATION	VENUE CITY, STATE	GREATER \$ AMOUNT: GROSS REVENUE OR LIVE ENTERTAINMENT EXPENSES (COSTS)*	x's .01	EVENT FEE
					x's .01	\$
					x's .01	\$
					x's .01	\$
					x's .01	\$

[illegible]

* **FEES FOR LIVE ENTERTAINMENT.** For performances of "Live Entertainment," the license fee shall be the greater of 1% of "Gross Revenue" or 1% of "Live Entertainment Expenses".

[illegible]

Phone Number: - - Ext: Fax Number: - -

Email:

Website:

I certify the above information is true and correct.

Dated:

--	--

 /

--	--

 /

--	--	--	--

Signature: _____

ASCAP Toll Free: 1-800-505-4052 Fax: 615-691-7795

Epayment Websites: <http://www.ascap.com/mylicense> or <http://www.ascap.com>