

**LICENSE AGREEMENT-ZOOS AND AQUARIUMS
OWNED AND OPERATED BY GOVERNMENTAL
ENTITIES OR NON-PROFIT ORGANIZATIONS**

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 the zoo or aquarium known as

and at performances presented outside of said zoo or aquarium but in connection with said zoo or aquarium for public relations purposes for which 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 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 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 such initial or renewal term.

(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 hereto 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, and is limited to LICENSEE and to the premises.

(b) This license is strictly limited to zoos and aquariums which are owned and operated either by governmental entities or by organizations designated as non-profit pursuant to applicable provisions of the Internal Revenue Code.

(c) 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.

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

(e) This license shall extend to nonvisual background music performed on the premises and furnished by a background music service which may hold a license from SOCIETY which authorizes performances on the premises of subscribers to such a service, but which nevertheless excludes the performances licensed hereunder (e.g., performances at premises to which an admission fee is charged).

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

(g) This license does not authorize any concert or other performance at the premises for which a separate admission fee, cover, minimum or similar charge is made.

(h) 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.

3. License Fees, Reports and Payments

(a) In consideration of the license herein granted, LICENSEE agrees to pay SOCIETY for each calendar year of the term hereof a fee computed in accordance with the Rate Schedule attached to and made a part of this Agreement.

(b) LICENSEE shall estimate and pay the estimated license fee for each season no later than July 15 of each year.

(c) 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 SOCIETY with a statement certified by an officer or independent auditor of LICENSEE, setting forth LICENSEE's total attendance, total "live entertainment costs" (as hereinafter defined), and total fee due.

(d) If the fee due SOCIETY 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 SOCIETY for any calendar year is less than the estimated fee previously paid, SOCIETY shall apply the excess payment as a credit against the payment due for the following year or, promptly after receipt of a notice from LICENSEE in the form of a written request, shall refund any over-payment to LICENSEE.

(e) The term "live entertainment costs", as used in this Agreement, means all direct expenditures of every kind and nature (whether in money or in any other form) paid by LICENSEE or by anyone on LICENSEE's behalf for all live entertainment (including entertainment for public relations purposes) in connection with which music is performed at the premises, including expenditures to or for:

- (i) staff members who perform music instrumentally or vocally, or who perform or entertain in conjunction with live music or mechanical music;
- (ii) nonstaff or outside entertainment, including entertainment during which live music or mechanical music is used incidentally (e.g., a comedian introduced by live music or mechanical music; an acrobat, clown, costumed character or juggler accompanied by live music or mechanical music; or singers and dancers who "lip-synch" music).

Such costs for staff and nonstaff entertainers shall include the reasonable value of any accommodations or services (including, without limitation, room and board) made available to them as part of the consideration for their services.

(f) In the event LICENSEE shall be delinquent in payment of license fees due hereunder by thirty (30) 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.

(g) 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.

(h) In the event that 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. Audits

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

(c) The period for which SOCIETY 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, SOCIETY 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 SOCIETY to LICENSEE. This three year limitation shall not apply if LICENSEE fails or refuses after written notice from SOCIETY to produce the books and records necessary to verify any report or statement of accounting required pursuant to this Agreement. Nothing herein shall restrict SOCIETY's right to audit under previous license agreements, for a limit of three years for all such license agreements.

(d) In the event any such examination shows LICENSEE to have underpaid the license fees due SOCIETY by 5% or more, LICENSEE shall pay a finance charge on the license fees shown due of 1-1/2% 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 SOCIETY by less than 5%, LICENSEE shall pay a finance charge on the license fees shown due of 1-1/2 % per month from the date SOCIETY demands payment of such amount.

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 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 SOCIETY. In the event of such termination, SOCIETY shall refund to LICENSEE any unearned license fees paid in advance.

6. Interference in 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 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 the 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 written notice and shall refund to LICENSEE any unearned license fees paid in advance.

7. Notices

All notices required or permitted hereunder shall be given in writing by certified United States mail sent to either 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 _____, 20__.

**AMERICAN SOCIETY OF COMPOSERS,
AUTHORS AND PUBLISHERS**

LICENSEE _____

By _____

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.)



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