# Music License for Bowling Center

**1. BMI Grant**

BMI hereby grants to LICENSEE a non-exclusive license to cause and permit the public performance of all musical works of which BMI shall have the right to grant public performance licenses during the Term hereof, by live and or recorded means except as described below at the bowling center owned or operated by LICENSEE located at address listed under licensed premises (the "Premises"). The Premises shall also include any other bowling centers now or hereinafter owned or operated by LICENSEE which publicly performs music, up to a maximum of 749 lanes. Any other such bowling centers are set forth on the List of Additional Premises attached hereto. Said license shall be restricted to performances of music in the manner described in this Agreement, and is granted in consideration of the payment of the license fees as set forth herein and is subject to all of the terms and conditions hereof. This license does not include:

(a) dramatic rights, the right to perform dramatico-musical works in whole or in substantial part, the right to present individual works in a dramatic setting or the right to use the music licensed hereunder in any other context which may constitute an exercise of the "grand rights" therein; or

(b) the right to broadcast, telecast or otherwise transmit the performances licensed hereunder to persons outside of the licensed premises.

(c) this license does not authorize performances of music by means of a coin-operated phonorecord player (jukebox) as formerly defined in the Copyright Law.

(d) this license does not authorize performances of music in or as part of a concert, musical attraction or other activity or event for which a separate admission fee or similar charge is made to attend.

(e) BMI reserves the right at its discretion to withdraw from the license granted hereunder any musical work as to which any legal action has been instituted or a claim made that BMI does not have the right to license the performing rights in such work or that such work infringes another composition.

**2. Indemnity by BMI**

BMI agrees to indemnify, save harmless and defend, LICENSEE, its officers and employees, from and against any and all claims, demands or suits that may be made or brought against them or any of them with respect to the performance of any musical works licensed under this Agreement. Such indemnity shall be limited to works which are licensed by BMI at the time of LICENSEE's performances. LICENSEE agrees to give BMI immediate notice of any such claim, demand or suit, to deliver to BMI any papers pertaining thereto and to cooperate with BMI with respect thereto, and BMI shall have full charge of the defense of any such claim, demand or suit.

**3. Late Payment Charge**

BMI may impose a late payment charge of 1.5% per month from the date any payment is due hereunder on any payment that is received by BMI more than thirty (30) days after the due date.

**4. Breach or Default / Waiver**

Upon any breach or default of the terms and conditions of this Agreement, BMI shall have the right to cancel this Agreement, but any such cancellation shall only become effective if such breach or default continues thirty (30) days after the LICENSEE's receipt of written notice thereof. The right to cancel shall be in addition to any and all other remedies which BMI may have. No waiver by BMI of full performance of this Agreement by LICENSEE in any one or more instances shall be deemed a waiver of the right to require full and complete performance of this Agreement thereafter or of the right to cancel this Agreement in accordance with the terms of this Paragraph.

**5. Notices**

Any notice required or permitted to be given under this Agreement shall be in writing and shall be deemed duly given when sent by ordinary first-class U.S. mail to the party for whom it is intended, at its indicated mailing address stated, or any other address which either party hereto may from time to time designate for such purpose, and when such notice is so mailed, it shall be deemed given upon the mailing thereof. Any such notice sent to BMI shall be to the attention of the Licensing Department. Any such notice sent to LICENSEE shall be to the attention of the person signing this Agreement on behalf of LICENSEE or such other person as LICENSEE may advise BMI in writing.

**6. Arbitration**

All disputes of any kind, nature or description arising in connection with the terms and conditions of this Agreement, except with respect to matters within the jurisdiction of the BMI rate court, shall be submitted to the American Arbitration Association in the City and State of New York, for arbitration under its then prevailing rules, the arbitrator(s) to be selected as follows: Each of the parties shall, by written notice to the other, have the right to appoint one arbitrator. If, within ten (10) days following the giving of such notice by one party, the other shall not, by written notice, appoint another arbitrator, the first arbitrator shall be the sole arbitrator. If two arbitrators are so appointed, they shall appoint a third arbitrator. If ten (10) days elapse after the appointment of the second arbitrator and the two arbitrators are unable to agree upon a third arbitrator, then either party may, in writing, request the American Arbitration Association to appoint the third arbitrator. The award made in the arbitration shall be binding and conclusive on the parties and judgment may be, but need not be, entered in any court having jurisdiction. Such award shall include the fixing of the costs, expenses and attorneys' fees of arbitration, which shall be borne by the unsuccessful party.

**7. Fee / Calculations**

(a) In consideration of the license granted herein, LICENSEE agrees to pay BMI an annual license fee based on the total number of LICENSEE's lanes at the Premises set forth in Paragraph 8, calculated at the rate of $29.20 per lane, pro-rated if the initial Term is less than a full calendar year. Notwithstanding LICENSEE's total number of lanes, the minimum annual license fee for each bowling center for the first contract year shall be $362.00, pro-rated if the initial Term is less than a full calendar year.

(b) For all years subsequent to 2003, the annual license fee rate shall be an adjustment of the 2003 rate based upon the percentage increase or decrease in the United States Consumer Price Index (National, All Items) between July 2003 and July of the year preceding each anniversary date of this Agreement, rounded to the nearest ten cents. BMI will advise LICENSEE in writing of the amount of each annual license rate.

(c) The minimum annual license fee for each bowling center for contract years after 2003 shall be an adjustment of the 2003 minimum annual license fee of $265.00 based upon the percentage increase or decrease in the United States Consumer Price Index (National, All Items) between July 2003 and July of the year preceding the anniversary date of this Agreement, rounded to the nearest dollar.

**8. Annual Fee**

LICENSEE warrants and represents that, as of the date of this Agreement, the total number of lanes at all of LICENSEE'S premises is _____ . As such, based upon the rate set forth above, LICENSEE agrees to pay BMI the amount of _____ for the first contract year, or as pro-rated in Paragraph 7 (a) if the initial Term is less than a full calendar year. Payment is to be made upon submission of this Agreement to BMI in executed form.

(a) $ _____ ÷ 12 = $ _____ X _____ = _____

Annual Fee | Months in Initial Term | Pro-rated Fee Initial Term

**9. Reporting / Fee Adjustments**

(a) After the first contract year, LICENSEE agrees to submit to BMI, within ten (10) days after the beginning of each contract year, a report certified by an officer of LICENSEE containing (a) a list of bowling centers which publicly performed music at any time during the immediately preceding twelve months, owned or operated by LICENSEE and (b) the total number of lanes in all those bowling centers. Upon submission of each annual report, BMI will advise LICENSEE in writing of the then current annual fee and any adjustment for the prior contract year based on any additional locations added. LICENSEE agrees to pay the annual fee for the then current contract year plus any adjustment for the prior contract year within thirty (30) days of BMI's delivery to LICENSEE of the statement containing the annual fees and adjustments if any.

(b) If LICENSEE fails to timely submit to BMI the annual report required by Paragraph 9 (a), LICENSEE hereby appoints and authorizes BMI, at BMI's option, to assess a reasonable estimated license fee for such contract year. BMI shall give written notice to LICENSEE of the fee calculated. LICENSEE shall have thirty (30) days after such written notice by BMI to submit the report. Nothing herein shall relieve LICENSEE of its obligation to report its actual number of total lanes for each year.

(c) In the event that the payment of any license fee to BMI by LICENSEE pursuant to this Agreement causes BMI to become liable to pay any tax (whether sales, use, gross receipts, business or otherwise) which is based upon the amount received by BMI from LICENSEE, then LICENSEE agrees to pay to BMI the full amount of such tax together with LICENSEE's fee payment(s) as billed by BMI.

**10. Discontinuance of Music**
In the event that LICENSEE permanently discontinues the use of all music at a licensed premise(s) or LICENSEE ceases to operate a licensed premise(s) during the Term and so notifies BMI in writing, within thirty (30) days after receipt of such notice a pro rata adjustment to fees will be made. In no event, however, will that fee be less than the per bowling center annual minimum fee as set forth in Paragraph 7 (a).

**11. Miscellaneous**
This Agreement constitutes the entire understanding between the parties, shall not be binding until signed by both parties, and cannot be waived or added to or modified orally, and no waiver, addition or modification shall be valid unless in writing and signed by the parties. The rights of LICENSEE shall not be assignable. This Agreement, its validity, construction and effect, shall be governed by the laws of the State of New York. The fact that any provisions herein are found by a court of competent jurisdiction to be void or unenforceable shall not affect the validity or enforceability of any other provisions.

## List of Additional Premises

| | DBA / Premise | Address | Phone # | # Lanes |
|---|---|---|---|---|
| 2. | | | | |
| 3. | | | | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |
| 7. | | | | |
| 8. | | | | |
| 9. | | | | |
| 10. | | | | |
| 11. | | | | |
| 12. | | | | |
| 13. | | | | |
| 14. | | | | |
| 15. | | | | |

*-Attach Additional Sheets if Necessary-*

**Total Lanes**

**12. Term of Agreement**

The initial Term of the Agreement shall begin on the first day of (month/year) _____ and end on the last day of December (year) _____ and continue for additional periods of one (1) year each, unless canceled by either party at the end of the initial Term or any subsequent one year period, upon thirty (30) days advance written notice. Each one (1) year period is a "contract year." BMI shall have the right to cancel this Agreement along with the simultaneous cancellation of the Agreements of all other licensees of the same class and category as LICENSEE as of the end of any month during the Term, upon sixty (60) days advance written notice.

## AGREEMENT

THIS AGREEMENT made and entered into on *(Date will be entered by BMI upon execution)*_____ between BROADCAST MUSIC, INC., a corporation with principal offices at 7 World Trade Center, 250 Greenwich Street, New York, N.Y. 10007-0030, herein referred to as BMI, ***and the entity described below and herein referred to as LICENSEE***.

| **LEGAL NAME** | **LICENSED PREMISES** |
|---|---|
| *(Name of Corporation, Partnership, or Individual Owner)* | *(Street Address)* |
| **TRADE NAME** | *(City)* *(State)* *(Zip)* |
| *(Doing business under the name of)* | *(Telephone Number)* *(Fax Number)* |
| **PLEASE CHECK APPROPRIATE BOX** | *(Contact Name)* *(Title)* |
| ☐ Individual Ownership | *(Email Address)* *(Web Address)* |
| ☐ LLC ☐ Corporation _____ *(State of Incorporation, if different from Licensed Premises)* | |
| ☐ LLP ☐ Partnership _____ *(Enter names of partners)* | **MAILING ADDRESS** **(if different from Licensed Premises)** |
| ☐ Other _____ | |
| Federal Tax ID No. _____ | *(Street Address)* |
| **GOVERNMENT ENTITIES** **(if applicable, please check one)** | *(City)* *(State)* *(Zip)* |
| ☐ Federal ☐ State _____ *(State)* | *(Telephone Number)* *(Fax Number)* |
| ☐ Local _____ *(Municipality/City and State)* | *(Contact Name)* *(Title)* |
| | *(Email Address – if different from above)* |

| **TO BE COMPLETED BY LICENSEE** | **FOR ADMINISTRATIVE USE ONLY** **TO BE COMPLETED BY BMI** BROADCAST MUSIC INC. |
|---|---|
| By signing this Agreement you represent that you have the authority to bind LICENSEE and that you have read, understood and agree to all of the terms and conditions herein. ***(SIGN HERE – PLEASE INCLUDE PAYMENT)*** | |
| Signature | |
| Print Name / Title | |
| Signatory Email Address* *(if different from above)* | |
| ***In order to receive a copy of your executed Agreement, please provide the email address of the Signatory.** | |

| **FOR BMI USE ONLY** | **36B** | **LI-2017/NOV** |
|---|---|---|
| | | **EFFECTIVE: January 2018** |
| **ACCOUNT NO.** | **COID** | |

**PLEASE RETURN THIS ENTIRE SIGNED LICENSE AGREEMENT TO:**
**BMI, 10 MUSIC SQUARE E., NASHVILLE, TN 37203**