# Music License for Professional Sports League

**1. DEFINITIONS**

(a) The phrases "host team," "exhibition games," "playoff games," "major leagues" and "season" shall have the meanings that are commonly understood in the sports industry.

(b) **Licensed Premises** shall mean and be restricted to the premises known as:

_____

***(See Schedule "A" Attached)***

as well as such other premises in the United States, its territories and possessions at which LICENSEE's member Teams play Games.

(c) **Games** shall mean and be restricted to all scheduled games presented by LICENSEE or its member Teams at the Licensed Premises, including exhibition, all-star, playoff and championship games.

(d) **Professional Leagues**, **Teams**, and **Professional Leagues and Teams** shall mean and be restricted to those leagues and teams set forth in the reference book "Sports Market Place," published by Franklin Covey Sports Division or (Grey House Publishing), under the category "Professional Leagues and Teams," and excluding major leagues.

(e) **Contract Year** shall mean each consecutive twelve (12) month period during the initial Term or any additional Term of this Agreement which contains one complete season.

(f) **Attendance** shall mean the number of spectators at LICENSEE's member teams' Games as published. If there is any discrepancy between published numbers, the highest published number shall be used.

**2. BMI GRANT**

(a) BMI hereby grants to LICENSEE and its member Teams as set forth on Schedule A (as may be amended from time to time) for the term of this Agreement a non-exclusive license to perform, present or cause the performance of, at Games but solely as incident to such Games and for the entertainment of the spectators immediately before, during, after and at intervals between such Games, all of the musical works as to which BMI shall have the right to grant public performance licenses during the Term hereof. Said license shall not include the right to broadcast, telecast, cablecast or otherwise transmit, including via the Internet or on-line service, the performances to persons outside of the Licensed Premises or the right to record or otherwise mechanically reproduce the performances by any means. Said license shall also not include 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.

(b) This license shall extend to performances of music at concerts or other musical attractions presented on any game day before or after the first or last game if no additional charge is assessed. This license shall not extend at any time to performances of music at concerts or other attractions presented where an additional charge is made or presented on other than game days. Additionally, this license shall not extend to any hotel, restaurant or similar facility situated within the area of the Licensed Premises, whether or not such facility is owned or operated by LICENSEE or any one of its member Teams.

**3. FEES**

(a) In consideration of the license granted herein, LICENSEE agrees to pay to BMI for the initial Term a license fee in an amount equal to its total Attendance (rounded down to the last full thousand) in the season(s) which were played in the prior 12 month period multiplied by the appropriate 2018 Attendance Fee Rate (as may be adjusted pursuant to Paragraph 4[c]) as set forth in the License Fee Schedule.

Notwithstanding LICENSEE's total Attendance in such prior twelve month period, the minimum annual license fee for calendar year 2018 shall be $400 per team. LICENSEE's Attendance for the initial Term is _____ and its license fee is _____.

| LICENSE FEE SCHEDULE | |
|---|---|
| **Attendance** | **Attendance Fee Rate Per Thousand** |
| 0 - 999,999 | $7.70 |
| 1,000,000 - 1,999,999 | $7.20 |
| 2,000,000 - 2,999,999 | $6.30 |
| 3,000,000 and above | $5.40 |

(b) In the event LICENSEE and its member Teams were not operating for a full year prior to the initial Term of this Agreement, LICENSEE will estimate its Attendance for the season in the initial Term based upon the size of its premises and the Attendance rate of similar leagues and Teams. If the actual Attendance at the end of the season is different, LICENSEE's fee will be adjusted as follows: (i) if the actual fee due BMI is less than that paid, BMI will credit the difference to the account of LICENSEE and, if such difference occurs during the last Contract Year of the Term, BMI will return same promptly; (ii) if the actual fee due BMI is greater than that paid, LICENSEE will pay the difference within thirty (30) days of knowledge of the actual Attendance.

(c) The amount of the Attendance Fee Rate for each Term year after 2018 shall be an adjustment of the 2018 Attendance Fee Rate based upon the percentage increase or decrease in the United States Consumer Price Index (Urban, All Items) between September 1997 and the September immediately preceding the anniversary date (or the initial Term as the case may be) of this Agreement, rounded to the nearest ten cents. BMI will advise LICENSEE in writing of the amount of each Attendance Fee Rate.

(d) The amount of the minimum annual license fee for each Term after 2018 shall be an adjustment of the 2018 minimum annual license fee of $400 based upon the percentage increase or decrease in the United States Consumer Price Index (Urban, All Items) between September 1997 and the September of the year preceding the anniversary date (or the initial Term as the case may be) of this Agreement, rounded to the nearest five dollars.

(e) The license fee for the first Term shall be due simultaneously with the execution of this Agreement. The license fee for subsequent terms shall be due within ten (10) days following the beginning of each such Term.

(f) At the same time that LICENSEE pays its license fee hereunder for the second and subsequent Terms, LICENSEE shall submit a report, on a form supplied by BMI, certified by LICENSEE or by the auditor of LICENSEE, setting forth (i) a list of LICENSEE's member Teams as an amendment to Schedule A, to be included in this Agreement for said Term; (ii) LICENSEE's published Attendance in the prior twelve month period and (iii) LICENSEE's license fee for that subsequent Term, after multiplying its published Attendance by the Attendance Fee Rate.

(g) In the event that the payment of any license fee to BMI 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 the league's fee payments.

**4. OFFER OF COMPARABLE AGREEMENT**

In the event that BMI, at any time during the Term, shall issue licenses to enterprises of the same class and category as those licensed hereunder granting rights similar to those granted by this Agreement at a more favorable rate of payment to the LICENSEE than is set forth herein, BMI shall notify LICENSEE and shall, for the balance of the Term hereof, on the written request of LICENSEE, tender to LICENSEE the form of agreement containing such more favorable rate of payment.

**5. INDEMNITY**

BMI agrees to indemnify, save harmless and defend LICENSEE and its member Teams, their officers and employees, from and against any and all claims, demands or suits that may be brought against them or any of them with respect to the performance of any material licensed under this Agreement. Such indemnity shall be limited to works which are licensed by BMI at the time of LICENSEE and its member Teams' performances. BMI will, upon reasonable written request, advise LICENSEE whether particular musical works are available for performance as part of BMI's repertoire. LICENSEE and its member Teams agree 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.

**6. ARBITRATION**

All disputes of any kind, nature or description arising in connection with the terms and conditions of this Agreement, except for matters within the jurisdiction of the BMI Rate Court, shall be submitted to the American Arbitration Association in the City, County and State of New York, for arbitration under its then prevailing arbitration rules. The arbitrator(s) shall 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. BREACH OR DEFAULT / WAIVER**

Upon any breach or default of the terms and conditions contained herein, BMI may, at its sole option, cancel this Agreement if such breach or default is continuing thirty (30) days after LICENSEE's receipt of written notice thereof. The right to cancel granted to BMI pursuant to this Paragraph shall be in addition to any and all other remedies which BMI may have in law or in equity. 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.

**8. LATE PAYMENT**

BMI may impose a late payment charge of 1 ½% per month from the date any payment is due hereunder on any payment that is received by BMI more than thirty days after the due date.

**9. AUTHORIZATION**

LICENSEE hereby warrants and represents that it is authorized to act on behalf of the Teams within the league which are set forth on Schedule A and has been authorized by its Board of Directors to enter into this Agreement with BMI.

**10. 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 regular first-class U.S. mail to the party for whom it is intended, at its address hereinabove stated, or any other address which either party hereto may from time to time designate for such purpose, and when any such notice is so mailed, it shall be deemed to have been given upon the mailing thereof.

**11. MISCELLANEOUS**

This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof. This Agreement 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 and its member Teams hereunder 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.

## 12. TERM

The initial Term of this annual Agreement shall begin on (*month/year*)_____ and end on (*month/year*)_____ and shall be extended for additional Terms of one (1) year each unless cancelled by either party as of the end of the initial Term or any additional Term upon notice by regular first-class U.S. mail not less than thirty (30) days prior to the end of any such Term.

## AGREEMENT

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

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

| **TO BE COMPLETED BY LICENSEE** | **FOR ADMINISTRATIVE USE ONLY**<br>**TO BE COMPLETED BY BMI**<br>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.<br>***(SIGN HERE – PLEASE INCLUDE PAYMENT)*** | |
| Signature | |
| Print Name / Title | |
| Signatory Email Address*<br>*(if different from above)* | **FOR BMI USE ONLY** **36SL** **LI-2017/DEC** |
| ***In order to receive a copy of your executed Agreement, please provide the email address of the Signatory** | **EFECTIVE: January 2018** |
| **PLEASE RETURN THIS ENTIRE SIGNED LICENSE AGREEMENT TO:**<br>**BMI, 10 MUSIC SQUARE E., NASHVILLE, TN 37203** | **ACCOUNT NO.** **COID** |