# Venue
# Musical Attractions Rider

For Eating and Drinking Establishments with
Advance or Hard Ticket Purchases of $25 or Greater

**1. DEFINITIONS**

(a) **"LICENSEE"** shall mean the entity more fully described on Page 4 of the Music License for Eating and Drinking Establishments with the legal name and trade name as listed therein and as entered on Page 4 of this Rider.

(b) **"Attractions"** shall mean concerts, variety shows (excluding circuses), pageants and other similar spectator events (including events sponsored by charitable organizations or for charitable purposes) that include music, whether or not music is the principal type of entertainment.

(c) **"Occupancy"** shall mean the total of maximum allowable occupancy loads/capacities for the entire premises of the Licensed Premises calculated under adopted building/fire codes, which shall not be limited to the number of available seats. If no such regulations are in effect in the applicable jurisdiction, then maximum occupancy shall mean one (1) person for every twenty (20) square feet of such total premises.

(d) **"Gross Ticket Revenues"** shall mean the total monies received, directly or indirectly, by LICENSEE or their authorized representatives from all ticket sales per Attraction. The term "Gross Ticket Revenues" shall not include: 1) federal, state and/or local taxes; 2) building/facility charge per ticket sold; 3) ticketing agent/service charge placed on each ticket sold; or 4) facility parking fees. Should the artist/performing act(s) choose to donate a portion of their fees from each ticket sale to a particular charity, then the appropriate deduction may be taken from the "Gross Ticket Revenues"; provided however, that BMI be given copies of said artist/performing act(s) agreement(s) stipulating the exact amount of the charitable donation per ticket sold.

(e) **"Benefit Event"** shall mean a public entertainment performance or social event held to raise funds for a specific person or cause in which all proceeds less direct expenses are donated to charity.

**2. BMI GRANT**

Subject to the terms and conditions set forth herein, in addition to the Grant outlined in LICENSEE's Music Performance Agreement for Eating and Drinking Establishments ("EDE license"), BMI grants LICENSEE the right to publicly perform BMI musical works at Attractions held at such licensed Eating and Drinking establishment which require advance or hard ticket purchases sold through an outside independent ticket service with an Occupancy of 2500 seats or less.

**3. REVIEW OF STATEMENTS/ACCOUNTINGS**

(a) BMI shall have the right to verify such data or information that is required to be furnished by LICENSEE pursuant to Paragraph 5(a) and (b), by reference to a reliable, published, third-party industry source (e.g., Pollstar) and by BMI's authorized representatives, at any time during customary business hours. BMI shall also have the right upon thirty (30) days advance written notice, to examine those portions of LICENSEE's books and records of account to such extent as may be necessary to verify any and all statements and/or accountings made hereunder. BMI shall consider all data and information coming to its attention as the result of any such examination of LICENSEE's books and records confidential.

(b) In the event that BMI discovers an inaccuracy in any information reported by LICENSEE pursuant to Paragraph 5(b), either through an examination of LICENSEE's books and records, or otherwise, and as a result it is revealed that LICENSEE underpaid license fees to BMI, and the correct license fee is not paid to BMI within thirty (30) days of BMI's notice to LICENSEE of the inaccuracy or underpayment, then LICENSEE shall pay a late payment charge on the additional license fees due as a result of the examination(s) of one and one-half percent (1 ½%) per month, or the maximum rate permitted by law, whichever is less, from the date(s) the license fees should have been paid pursuant to this Agreement.

**4. FEES**

(a) LICENSEE agrees to pay BMI a license fee for each Attraction for which the admission, advance ticket purchases, or hard ticket purchases are $25.00 or greater, except where another person, entity or venue is responsible for paying the BMI license fee for that performance. Such fee shall be computed on the basis set forth in Schedule A of this Agreement.

(b) License fees for Attractions with paid admission shall be calculated pursuant to Schedule A of the License Fee Schedule. License fees for Benefit Events for which the admission, advance ticket purchases, or hard ticket purchases are $25.00 or greater shall be calculated pursuant to Schedule B of the License Fee Schedule. License fees outlined in Schedule B for subsequent Contract Years will be adjusted by the Consumer Price Index, as described in subparagraph 4(c) hereunder.

(c) In no event shall an Attraction's annual license fee for any Contract Year be less than the Minimum Annual Fee for the applicable year. The Minimum Annual Fee for the 2018 Contract Year is $240. The Minimum Annual Fee for subsequent Contract Year shall be an adjustment of the previous Contract Year rates based upon any percentage increase in the Consumer Price Index – All Urban Consumers (CPI-U) between the preceding July and the next preceding July, and shall be rounded to the nearest dollar.

(d) When an Attraction is believed to be comprised entirely of musical compositions for which BMI shall not have the right to grant public performance licenses, LICENSEE may, at its option, submit a schedule, including writer and publisher information, for all those musical compositions performed at said Attraction, *including opening acts and recorded music, if any,* and in those instances in the opinion of BMI, where all of the musical compositions performed at said Attraction are ones to which BMI does not have the right to grant public performance licenses, no fee shall be due and payable to BMI under this Rider. In the event no schedule is submitted to BMI, LICENSEE must pay the applicable fee for said Attraction pursuant to Schedule A of this Rider.

**LICENSE FEE SCHEDULE**

| **SCHEDULE A<br>EVENTS WITH PAID ADMISSION** | | | |
|---|---|---|---|
| **Seating Capacity** | | | **% of Gross Ticket Revenue** |
| 0 | to | 2,500 | 0.80% |
| **SCHEDULE B<br>BENEFIT EVENTS** | | | |
| **Seating Capacity** | | | **Fee Per Benefit Event** |
| 0 | to | 250 | $16.00 |
| 251 | to | 750 | $19.00 |
| 751 | to | 1,500 | $32.00 |
| 1,501 | to | 2,500 | $52.00 |

***Minimum Annual Fee is $240***

(e) Notwithstanding anything to the contrary in the Agreement, the fees payable pursuant to this Rider shall not be subject to any discount set forth in the Agreement.

**5. REPORTING OF ATTRACTIONS / PAYMENT**

(a) Upon signing this Agreement, LICENSEE shall pay at least the Minimum Annual Fee, plus any additional amounts immediately due as initially reported. LICENSEE shall submit reports and payments for those Attractions which actually were presented during each period on a quarterly basis and shall pay all fees due. For all quarterly periods, reports and payments shall be due on the twentieth (20th) day of January, April, July and October of each year of this Agreement for all Attractions presented by LICENSEE during the prior calendar quarter. Should LICENSEE fail to report and submit payments to BMI within thirty (30) days after the specified date, then BMI will apply estimated billings to the account based on either LICENSEE's prior year's corresponding quarter figures or reports from a reliable, published, third-party industry source (e.g., Pollstar), whichever is higher. BMI shall give written notice to LICENSEE of the estimated fee calculated. LICENSEE shall have thirty (30) days after such written notice by BMI to submit the report. If BMI does not receive the report from LICENSEE within those thirty (30) days, BMI and LICENSEE agree that BMI's Estimated License Fee shall then be established as the Actual License Fee for the period unreported by LICENSEE. BMI and LICENSEE further agree that such established Actual License Fee (subject to adjustment by audit) shall also become the Estimated License Fee for the following contract period. LICENSEE agrees to waive its right to file its report for any period in which BMI's Estimated License Fee becomes the Actual License Fee. Any differences between the estimated and the actual reported fee shall be payable by LICENSEE when the report is submitted. If BMI's Estimated License Fee is greater than the actual reported fee, then LICENSEE's account shall be credited with the difference, provided however that LICENSEE's Annual License Fee shall not fall below the Minimum Annual Fee.

(b) Upon payment of license fees to BMI, LICENSEE shall furnish to BMI, a statement, on forms available from BMI, signed by an officer or auditor of LICENSEE, setting forth all performances of ***all*** Attractions occurring during the applicable calendar quarter in LICENSEE's Facility. Such statement shall include the name of each Attraction, the Seating Capacity for each Attraction, the dates of each Attraction, the number of performances each day and the Gross Ticket Revenues (as defined in Paragraph 1(d)) for a regularly scheduled performance of each Attraction. LICENSEE's statement shall also include performances of Attractions where another person, entity or venue is responsible for paying the license

fee. A statement shall be furnished to BMI by LICENSEE for each calendar quarter during the Term of the Agreement, regardless of whether or not any performances occurred during that calendar quarter.

(c) In the event that LICENSEE engages in the presentation of an Attraction in conjunction with, or sells or otherwise transfers the promotional responsibility of an Attraction to other persons or entities licensed separately by BMI under another BMI Music Performance Agreement, LICENSEE shall indicate on the statement required by Paragraph 5(b) the names of all other persons, entities or venues promoting or co-promoting, or otherwise responsible for, each Attraction and shall identify which party is responsible for payment of the BMI license fee for such Attraction. Transferring liability for promoted Attractions to anyone **but** a licensed promoter or co-promoter of the Attractions is not permitted. If the responsible promoter, co-promoter or person, entity, or venue is not licensed by BMI under a BMI Music Performance Agreement, LICENSEE shall be deemed liable for payment of the fees due for such Attraction. In the event BMI receives a fee for an Attraction from both LICENSEE and one or more of its co-promoters or other promoter, or person, entity or venue, the total of which exceeds the amount due, BMI shall refund or credit the excess proportionally among all promoters, co-promoters, persons, entities, or venues who made payment.

(d) LICENSEE shall deliver to BMI for each calendar quarter, by the twentieth (20th) day following the end of the calendar quarter, copies of any programs or lists of the musical works presented by LICENSEE in its Attractions during such quarter. Programs prepared for audiences or for LICENSEE's own use are to be included, and shall include the presentation of encores to the extent possible. Nothing contained herein shall be deemed to require LICENSEE to deliver material not otherwise prepared.

**6. MISCELLANEOUS**

This Agreement constitutes the entire understanding between the parties, will 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 are not 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 contained 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. All headings in this Agreement are for the purpose of convenience and shall not be considered to be part of this Agreement.

**7. TERM OF AGREEMENT**

The initial Term of this Agreement shall begin on the first day of (*month/year*) _____ and end on the last day of December _____ and shall continue thereafter for additional Terms of one (1) year each unless cancelled by either party as of the end of the initial Term or any subsequent one (1) year Term (sometimes referred to herein as a "Contract Year") upon thirty (30) days advance written notice to the other party.

# AGREEMENT

Attached and forming a part of BMI's Music Performance Agreement for Eating and Drinking Establishments by and between _____ (LICENSEE) and Broadcast Music, Inc. (BMI) on _____ (the "Agreement").

This Rider ("Rider") is made to the BMI Music Performance Agreement for Eating and Drinking Establishments. BMI and LICENSEE hereby agree that the provisions set forth in this Rider will be deemed to be a part of the Agreement, the terms of which, to the extent not inconsistent with the terms herein, are incorporated herein by reference and shall supplement the Agreement. All defined terms used in this Rider, unless specifically defined in this Rider, shall have the same meaning as such terms have in the Agreement. Except as amended herein, the Agreement is ratified and affirmed in all respects.

**LEGAL NAME**

*(Name of Corporation, Partnership, or Individual Owner)*

**TRADE NAME**

*(Doing business under the name of)*

**PLEASE CHECK APPROPRIATE BOX**

☐ Individual Ownership

☐ LLC ☐ Corporation _____ *(State of Incorporation, if different from Licensed Premises)*

☐ LLP ☐ Partnership _____ *(Enter names of partners)*

☐ Other _____

Federal Tax ID No. _____

**GOVERNMENT ENTITIES**
**(if applicable, please check one)**

☐ Federal ☐ State _____ *(State)*

☐ Local _____ *(Municipality/City and State)*

**LICENSED PREMISES**

*(Street Address)*

*(City)* *(State)* *(Zip)*

*(Telephone Number)* *(Fax Number)*

*(Contact Name)* *(Title)*

*(Email Address)* *(Web Address)*

**MAILING ADDRESS**
**(if different from Licensed Premises)**

*(Street Address)*

*(City)* *(State)* *(Zip)*

*(Telephone Number)* *(Fax Number)*

*(Contact Name)* *(Title)*

*(Email Address – if different from above)*

**TO BE COMPLETED BY LICENSEE**

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.**

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

**FOR ADMINISTRATIVE USE ONLY**
**TO BE COMPLETED BY BMI**
BROADCAST MUSIC INC.

| FOR BMI USE ONLY | VEDE1 | LI-2017/NOV |
|---|---|---|
| ACCOUNT NO. / COID | | EFFECTIVE: January 2018 |