# Music License for
# INDEPENDENTLY OWNED AND OPERATED
# HALLMARK GOLD CROWN STORE(s)

**1. DEFINITIONS**

(a) **"LICENSEE"** shall mean the "Hallmark Gold Crown Store" independent owner/operator described herein.

(b) **"Licensed Premises"** shall mean the "Hallmark Gold Crown Store(s)" location(s) identified herein, or on a list of locations amended hereto, which is/are owned and operated by LICENSEE.

(c) "**Hallmark Compilation CDs"** shall mean the compilation compact discs manufactured, packaged and/or distributed under the Hallmark trademark by Hallmark Cards, Incorporated or a licensee of the Hallmark trademark.

**2. BMI GRANT**

(a) BMI hereby grants to LICENSEE a non-exclusive license to perform, present, or cause the public performance of all musical works of which BMI shall have the right to grant public performance licenses during the Term hereof. Said license shall be restricted to performances of the Hallmark Compilation CD at the Licensed Premises. This license does not include: (i) performances of music via any other form of recorded music other than the Hallmark Compilation CD, including but not limited to prerecorded tapes, CDs, or other mechanical devices or via the reception of broadcast audio transmissions on receiving apparatus and amplifications thereof for public performance; (ii) performances of music via live entertainers or musicians performing at the Licensed Premises; (iii) 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; (iv) the right to broadcast, cablecast, telecast or otherwise transmit the performances licensed hereunder to persons outside of the premises including by satellite, the Internet or on-line service; or (iv) performances of music by means of a coin-operated phonorecord player (jukebox).

(b) 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.

**3. TERM OF AGREEMENT**

The initial Term of this annual Agreement shall begin on _____ and end on December 31 of the same calendar year and shall continue thereafter unless cancelled by either party as of the end of the initial Term or any subsequent one (1) year Term (herein sometimes referred to as a "contract year") upon thirty (30) days advance written notice to the other party.

**4. FEES AND PAYMENT**

LICENSEE agrees to pay to BMI for each contract year during the Term of this Agreement a license fee as follows:

(a) The annual fee for calendar year 2018 shall be $267.00 per Licensed Premises and shall be due upon receipt of an invoice from BMI.

(b) The amount of the license fee for subsequent calendar years of this Agreement shall be the license fee for the prior calendar year adjusted in accordance with the percentage increase or decrease in the United States Consumer Price Index – All Urban Consumers (CPI-U) between the preceding July and the next preceding July, rounded to the nearest dollar. BMI will advise LICENSEE in writing of the amount of the annual license fee due by January 10th of the year to which the fee applies. License fees for each subsequent calendar year of this Agreement shall be payable on or before January 31 of each calendar year.

(c) In the event that the LICENSEE operates the Licensed Premises for a portion of a calendar year (e.g. less than 12 months) due to the mid-year purchase or sale of the Licensed Premises, cessation of operation of Licensed Premises, and LICENSEE notifies BMI and provides documentation of such to BMI, annual license fees shall be prorated. In no event shall license fees be prorated to an amount less than one-half (1/2) the annual license fee prescribed in Paragraph 4 (a) and (b) above.

(d) In the event that LICENSEE commences or discontinues the use of music requiring this Agreement during any part of a calendar year and LICENSEE notifies BMI and provides documentation of such to BMI, annual license fees shall be prorated. In no event shall license fees be prorated to an amount less than one-half (1/2) the annual license fee prescribed in Paragraph 4 (a) and (b) above.

**5. TERMINATION OF AGREEMENT**

If LICENSEE shall permanently cease to operate the Licensed Premises, whether by reason of sale or otherwise, this Agreement shall terminate upon sale or otherwise. In the event that LICENSEE discontinues performances of Hallmark Compilation CDs at the Licensed Premises, LICENSEE shall notify BMI, and may terminate the Agreement effective at the end of the current contract year, in accordance with Paragraph 3 herein.

**6. 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 one (1) month after the due date and interest shall accrue thereafter from the date payment was due.

**7. 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 material licensed under this Agreement. Such indemnity shall be limited to the works which are licensed by BMI at the time of LICENSEE's performances. BMI will, upon reasonable written request, advise LICENSEE whether particular musical works are available for performance as part of BMI's repertoire. LICENSEE shall provide the title and the writer/composer of each musical composition requested to be identified. 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.

**8. CANCELLATION OF ENTIRE CATEGORY**

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.

**9. 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 date of BMI's written notice to LICENSEE 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 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.

**10. ARBITRATION**

All disputes of any kind, nature or description arising in connection with the terms and conditions of this Agreement, not subject to the jurisdiction of the BMI Rate Court, shall be submitted to arbitration in the City, County and State of New York under the then prevailing rules of the American Arbitration Association by an arbitrator or arbitrators 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 costs, expenses, and attorneys' fees of arbitration, which shall be borne by the unsuccessful party.

**11. NOTICES**

Any notice required or permitted to be given under this Agreement shall be in writing and shall be deemed given when sent by first-class U.S. mail to the party intended, at its mailing address herein stated, or any other address which either party hereto may designate. Any such notice sent to BMI shall be to the attention of the Vice President, Licensing Department, BMI, 10 Music Square East, Nashville, Tennessee 37203. 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.

**12. 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. All headings in this Agreement are for the purpose of convenience and shall not be considered to be part of this Agreement.

## 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**

*(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 | | HGC | LI-2017/OCT |
|---|---|---|---|
| | | | EFFECTIVE: January 2018 |
| ACCOUNT NO. | COID | | |