# Music License for Skating Rinks

**1. DEFINITIONS**

(a) **"LICENSEE"** shall mean the individual or entity described herein that owns and/or operates the "Licensed Premises".

(b) **"Licensed Premises"** shall mean the location identified herein and/or each location identified in Schedule A attached hereto which is owned and operated by LICENSEE.

(c) **"Highest Admission Price"** shall mean the highest stated ticket price for any Regularly Scheduled Skating Session.

(d) **"Regularly Scheduled Skating Session"** shall mean a skating session held more than four times per year, whether as a special event or otherwise.

(e) **"LICENSEE's Operating Policy"** shall mean the variables which determine the license fee applicable to the Licensed Premises under the LICENSE FEE SCHEDULE which is part of this Agreement.

**2. BMI GRANT**

BMI grants LICENSEE a non-exclusive license to publicly perform at the Licensed Premises all of the musical works of which BMI controls the rights to grant public performance licenses during the Term. This license covers LICENSEE's performance of content provided to LICENSEE by a programmed subscription music service provider at Licensed Premises as subscription music service providers are expressly prohibited from licensing on behalf of skating rink facilities. This license does not include dramatic rights, the right to perform dramatico-musical works in whole or in substantial part or the right to use the musical works in any context which constitutes the exercise of "grand rights." This license also does not convey the right to publicly perform BMI musical works (a) by broadcast, telecast, cablecast or other electronic transmission (including by satellite, the Internet or on-line service) of the performances to persons outside the Licensed Premises; (b) 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; (c) by means of any coin-operated phonorecord player as defined in the Copyright Act ("Jukebox") where a Jukebox License Office agreement has been obtained for such Jukebox; and (d) by any coin-operated digital music service that does not qualify as a Jukebox. BMI may withdraw from the musical works licensed hereunder any musical work as to which any legal action has been instituted or claim made that BMI does not have the right to license public performances of that musical work.

**3. 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 any of them with respect to the performance of any musical works licensed under this Agreement. Such indemnity shall be limited to the musical 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.

**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 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.

**5. LICENSE FEE**

(a) In consideration of the license granted herein, LICENSEE agrees to pay BMI an annual license fee calculated pursuant to the LICENSE FEE SCHEDULE below in accordance with the total square footage of the skating floor(s) of the Licensed Premises and the Highest Admission Price charged by LICENSEE for a Regularly Scheduled Skating Session.

**LICENSE FEE SCHEDULE**

| **Highest Admission Price** | **Square Feet of Skating Floor(s)** | | |
|---|---|---|---|
| | *Under 10,000 Square Feet of Skating Rink* | *10,000 to 15,000 Square Feet of Skating Rink* | *Over 15,000 Square Feet of Skating Rink* |
| 0 – 1.50 | $239 | $360 | $452 |
| 1.51 - 2.00 | $317 | $474 | $593 |
| 2.01 - 2.50 | $398 | $593 | $740 |
| 2.51 - 3.00 | $474 | $713 | $885 |
| 3.01 - 3.50 | $554 | $832 | $1,030 |
| 3.51 - 4.00 | $635 | $950 | $1,176 |
| 4.01 - 4.50 | $713 | $1,072 | $1,320 |
| 4.51 - 5.00 | $792 | $1,189 | $1,465 |
| 5.01 - 5.50 | $872 | $1,306 | $1,612 |
| 5.51 - 6.00 | $950 | $1,425 | $1,756 |
| 6.01 - 6.50 | $1,030 | $1,544 | $1,903 |
| 6.51 - 7.00 | $1,109 | $1,665 | $2,046 |
| 7.01 - 7.50 | $1,189 | $1,782 | $2,193 |
| 7.51 - 8.00 | $1,266 | $1,903 | $2,337 |
| 8.01 - 9.00 | $1,349 | $2,019 | $2,483 |
| 9.01 - 10.00 | $1,425 | $2,138 | $2,627 |
| 10.01 - 11.00 | $1,506 | $2,256 | $2,773 |
| 11.01 - 12.00 | $1,584 | $2,377 | $2,919 |
| 12.01 - 13.00 | $1,665 | $2,494 | $3,063 |
| 13.01 - 14.00 | $1,743 | $2,615 | $3,210 |
| 14.01 - 15.00 | $1,823 | $2,736 | $3,355 |
| over 15.00 | $1,903 | $2,850 | $3,497 |

i. LICENSEE hereby warrants and represents that, as of the date of this Agreement:

(1) The total square footage of the skating floor(s) of the Licensed Premises is _____ square feet; and

(2) The Highest Admission Price currently charged by LICENSEE for a Regularly Scheduled Skating Session is $_____ .

(3) The number of months in which the Licensed Premises operate during a calendar year is _____. The specific months in operation are _____.

ii. Pursuant to subparagraph 5(a)(i), the license fee for the initial Term of this Agreement is $_____ and is due in full upon signing this Agreement.

(b) The annual license fee shall be adjusted for each subsequent calendar year after 2018 based on the percentage increase in the United States Consumer Price Index (Urban, All Items) between July and the July prior thereto, rounded to the nearest dollar.

(c) For each subsequent calendar year, BMI will provide LICENSEE with a License Fee Schedule which has been modified to reflect the CPI adjustment and LICENSEE shall pay license fees pursuant to its then current Highest Admission Price and Square Feet of skating floor(s). License fees for subsequent calendar years shall be due no later than January 30th.

(d) Upon request, BMI will allow LICENSEE to pay the annual license fee on a semi-annual or quarterly basis, provided that LICENSEE's account is current. Semi-annual and quarterly payments are due no later than thirty (30) days following the commencement of each semi-annual or quarterly period.

(e) Notwithstanding, subparagraph 5(d), if any semi-annual or quarterly payment is not received by the 90th day after such payment is due, LICENSEE's ability to make semi-annual or quarterly payments shall immediately terminate for the remainder of this Agreement. In addition, the unpaid portion of the annual fee will be immediately due and payable.

(f) 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 seasonal operation of the Licensed Premises, the mid-year purchase or sale of the Licensed Premises, cessation of operation of Licensed Premises, or otherwise, 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 of LICENSEE's annual license fee as calculated pursuant to the License Fee Schedule.

**6. CHANGES TO LICENSEE'S OPERATING POLICY**

LICENSEE's Operating Policy may be revised once each year by LICENSEE or by BMI. Such revision requires written notice to the other party. Changes in the annual license fee due to a revision in LICENSEE's Operating Policy shall become effective in the immediately following calendar year.

**7. LATE PAYMENT CHARGE**

BMI may impose a late payment charge of one and one-half percent (1.5%) per month from the date any payment is due hereunder on any payment that is received by BMI more than one month after the due date.

**8. 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.

**9. 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, 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.

**10. 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.

**11. MISCELLANEOUS**

This Agreement constitutes the entire understanding between the parties, shall not be binding until signed by both parties. Other than notice given pursuant to Paragraphs 5 and 6 herein, 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 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 contained herein. All headings in this Agreement are for the purpose of convenience and shall not be considered to be part of this Agreement.

## 12. TERM OF AGREEMENT

The initial Term of this Agreement shall begin on the first day of *(month/year)* _____ and end on December 31, _____ and shall continue thereafter for additional terms of one (1) year unless cancelled by either party as of the end of the initial Term or any subsequent one (1) year Term (herein referred to as a "calendar year") upon thirty (30) days advance written notice to the other party.

## 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)* | **MAILING ADDRESS** **(if different from Licensed Premises)** |
| ☐ LLP ☐ Partnership _____ *(Enter names of partners)* | |
| ☐ Other _____ | *(Street Address)* |
| Federal Tax ID No. _____ | *(City)* *(State)* *(Zip)* |
| **GOVERNMENT ENTITIES** **(if applicable, please check one)** | *(Telephone Number)* *(Fax Number)* |
| ☐ Federal ☐ State _____ *(State)* | *(Contact Name)* *(Title)* |
| ☐ Local _____ *(Municipality/City and State)* | *(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** | **SKT1** | **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**