Music License for Coffee Shops

1. DEFINITIONS

(a) **"LICENSEE"** shall mean the coffee shop operator identified on Page 4 herein.

(b) **"Licensed Premises"** shall mean LICENSEE's coffee shop location identified on Page 4 herein that has a total Occupancy of not more than fifty (50) persons, does not serve alcoholic beverages, and primarily sells coffee, beverages and snacks.

(c) **"Occupancy"** shall mean the total of maximum allowable occupancy loads/capacities for the entire 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.

2. BMI GRANT

BMI hereby grants to LICENSEE for the Term of this Agreement a non-exclusive license to perform or cause the public performance of all musical works of which BMI shall have the right to grant public performance licenses during the Term. 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;

(b) the right to broadcast, telecast, cablecast or other electronic transmission, including via satellite, the Internet or on-line service, the performances licensed hereunder to persons outside of the Licensed Premises;

(c) performances by means of a coin-operated phonorecord player Jukebox as formerly defined in the Copyright Law (17 U.S.C. §116);

(d) performances 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; or

(e) performances by any coin-operated digital music service that does not qualify as a Jukebox.

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

All disputes of any kind, nature or description arising in connection with the terms and conditions of this Agreement 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) 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 the 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.

6. 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.

7. TERMINATION OF AGREEMENT
If LICENSEE shall permanently cease to operate Licensed Premises due to a sale of the premises or otherwise, or in the event that LICENSEE discontinues the use of music 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 18 herein. If LICENSEE, at any time during the Term, fails to qualify as a Licensed Premises, pursuant to the requirements set forth in Paragraph 1(b), this Agreement shall terminate and LICENSEE will be responsible for licensing any music use under the appropriate BMI music license.

8. OFFER OF COMPARABLE AGREEMENT
In the event that BMI, at any time during the Term of this Agreement, shall, for the same class and category as LICENSEE, issue licenses granting rights similar to those in this Agreement on a more favorable basis, BMI shall, for the balance of the Term, offer LICENSEE a comparable agreement.

9. WITHDRAWAL OF WORKS
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.

10. FEES
(a) In consideration of the license granted herein, LICENSEE agrees to pay BMI an Annual License Fee for each Licensed Premises.

(b) For the 2019 Contract Year, LICENSEE shall pay an Annual License Fee Per Licensed Premises of $354.90.

(c) For each subsequent Contract Year, the Annual License Fee Per Licensed Premises shall be an adjustment of the previous Contract Year fee based upon any percentage increase in the Consumer Price Index – All Urban Consumers (CPI-U) between the preceding January and the next preceding January. The Annual License Fee Per Licensed Premises shall be rounded to the nearest five (5) cents. BMI will advise LICENSEE in writing of the adjusted Annual License Fee Per Licensed Premises as part of its annual billing process.

11. LATE PAYMENT CHARGE
BMI may impose a late payment charge of one and one half percent (1½%) per month from the date any payment or report was due on any payment that is received by BMI more than thirty (30) days after the due date.

12. STATE OR LOCAL TAX
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 state or local tax which is based upon the license fees received by BMI from LICENSEE, LICENSEE agrees to pay to BMI the full amount of such tax together with license fee payment(s) as invoiced by BMI; provided, however, that BMI shall make reasonable efforts to be exempted or excused from paying such tax, and BMI is permitted by law to pass through such tax to LICENSEE.

13. OKLAHOMA RATE CHANGE NOTICE
BMI shall notify LICENSEE of any rate change thirty (30) days prior to the expiration date of this Agreement.

14. COLORADO 3 BUSINESS DAY REVIEW
LICENSEE shall have the right to rescind the Agreement for a period of three (3) business days after the execution of the Agreement.

15. CUSTOMER OUTREACH
LICENSEE agrees to accept from time to time pre-recorded telephone messages from BMI that may contain information regarding LICENSEE's account.

16. NOTICES

Unless otherwise stated herein, all notices, if any, under this Agreement shall be in writing and deemed given upon "mailing," when sent by ordinary first-class U.S. mail to the party intended, at its mailing address herein stated, or any other address which either party may designate. Any such notices sent to BMI shall be to the attention of the Vice President, Licensing Department at 10 Music Square East, Nashville, TN 37203. Any 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 designate to BMI in writing.

17. 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 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.

18. TERM

The initial Term of this annual Agreement shall begin on the first day of (*month/year*) _____ and end on the last day of (*month/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 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.***

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	**COFF1**	**LI-2018/MAR**
		Effective Date January 2019
ACCOUNT NO.	**COID**	

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