

Complete & return form with payment by Sept 1, 2009. (Keep at copy.)

ASCAP COMMUNITY THEATRE LICENSE AGREEMENT

AGREEMENT between the AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS (“ASCAP”), an unincorporated New York membership association, located at One Lincoln Plaza, New York, New York 10023 and American Association of Community Theatre (AACT) as administrator, located at 1300 Gendy Street, Fort Worth, Texas 76107 and

_____ (“LICENSEE”), with the principal business mailing address at _____, as follows:

1. Grant and Term of License

(a) ASCAP grants to LICENSEE and LICENSEE accepts a license to perform publicly or cause to be performed publicly in “Community Theater Productions” at LICENSEE’s main theatre and at other theatres and production venues at which LICENSEE presents Community Theatre Productions, and not elsewhere or otherwise, non-dramatic renditions of the separate musical compositions in the “ASCAP repertory.” For purposes of this Agreement,

- (i) “ASCAP repertory” means all copyrighted musical compositions written or published by ASCAP members or members of affiliated foreign performing rights societies, including compositions written or published during the term of this Agreement, and of which ASCAP has the right to license non-dramatic public performances.
- (ii) “Community Theatre Productions” means amateur theatrical productions limited to productions (a) presented by LICENSEE, which is an entity eligible to be exempt from Federal Taxation under 26 U.S.C §501(c) or is part of a U.S. military base located in the United States or United States territories; (b) that do not utilize performers that are members of Actors’ Equity Association (“AEA”) other than non-regular AEA guest performers; (c) at which food and beverages are not sold or provided other than light refreshments sold or provided (i) at counters and not through wait service, and (ii) outside of the actual performance time; (d) at which merchandise is not sold other than souvenirs related to the performance; and (e) that utilize seating through box office or ticket sales.
- (iii) “Mechanical Music” means music which is performed at Community Theatre Productions, limited to those performances that occur before and after actual performance times and during intermissions, by means other than by live performers, including, but not limited to (a) compact disc, audio record or audio tape players (but not including jukeboxes), (b) the reception and communication at the premises of radio transmissions which originate outside the premises; and which are not exempt under the Copyright Law; or (c) a music-on-hold telephone system operated by LICENSEE at the theatre premises.

(b) This license shall be for an initial term of one year commencing September 1, 2008. Thereafter, this license shall continue for additional terms of one year each, provided however, that either ASCAP or LICENSEE may terminate this license as of the end of the initial or any additional term by giving the other 30 days’ written notice. Termination by either party shall not relieve the parties of their obligations under this Agreement through the date of termination.

2. Limitations on License

- (a) This license is not assignable or transferable by operation of law or otherwise, except upon the express written consent of the parties, but no assignment shall relieve the parties of their respective obligations as to performances rendered, acts done and obligations incurred prior to the effective date of the assignment.
- (b) This license authorizes performances by means of “Mechanical Music” only; this license does not authorize live performances.
- (c) This license is strictly limited to the theater or production venue where each Community Theatre Production is presented, and does not authorize any performances other than those made at the theatre or production venue premises.
- (d) This license does not authorize the broadcasting, telecasting or transmission by wire, Internet, webcasting, or on-line service, or otherwise of renditions of musical compositions in the ASCAP repertory to persons outside of the theatre premises where each Community Theatre Production shall be presented.
- (e) This license is limited to non-dramatic performances, and does not authorize any dramatic performances. For purposes of this Agreement, a dramatic performance shall include, but not be limited to, the following:
 - (i) performance of a “dramatico-musical work” in its entirety;
 - (ii) performance of one or more musical compositions from a “dramatico-musical work” accompanied by dialogue, pantomime, dance, stage action, or visual representation of the work from which the music is taken;
 - (iii) performance of one or more musical compositions as part of a story or plot, whether accompanied or unaccompanied by dialogue, pantomime, dance, stage action or visual representation;
 - (iv) performance of a concert version of a “dramatico-musical work”;

The term “dramatico-musical work” includes, but is not limited to, a musical comedy, opera, play with music, revue or ballet.

- (f) ASCAP reserves the right at any time to withdraw from its repertory and from operation of this license, any musical work as to which any suit has been brought or threatened on a claim that such composition infringes a composition not contained in ASCAP’s repertory, or on a claim that ASCAP does not have the right to license the performing rights in such composition.
- (g) This license does not authorize any performance by means of a coin-operated phonorecord player (jukebox) for which a license is otherwise available from the Jukebox License Office.
- (h) This license is limited to the United States, its territories and possessions, and Puerto Rico.

3. License Fees

- (a) In consideration of the license granted herein, LICENSEE agrees to pay AACT an annual license fee as calculated pursuant to the ASCAP/AACT Rate Schedule for Community Theatres.
- (b) License fees are due to AACT no later than September 1. License fees will only be accepted by AACT during the annual payment window, ending September 21.

4. Reports and Payments

- (a) By September 1 of each year of this Agreement, LICENSEE shall furnish a report to AACT setting forth the annual operating budget for the next operating year. AACT will consider declaration of budget on the AACT membership form as LICENSEE’s report.

(b) License fees shall be payable at the time the annual report is submitted to AACT.

5. Additional Termination Provision

ASCAP shall have the right to terminate this license upon thirty days written notice if there is any major interference with, or substantial increase in the cost of, ASCAP's operations as the result of any law in the state, territory, dependency, possession or political subdivision in which LICENSEE is located or in which LICENSEE presents Community Theatre Performances which is applicable to the licensing of performing rights. In the event of such termination due to LICENSEE failing to cure such breach or default, AACT shall not refund LICENSEE any fees paid in advance.

6. Breach or Default

(a) Upon any breach or default by LICENSEE of any term or condition herein contained, ASCAP or AACT may terminate this license by giving LICENSEE thirty days' notice to cure such breach or default, and in the event that such breach or default has not been cured within said thirty days, this license shall terminate on the expiration of such thirty-day period without further notice from ASCAP or AACT. In the event of such termination, AACT shall refund to LICENSEE any unearned license fees paid in advance.

(b) LICENSEE agrees that it has the sole responsibility for complying with the ASCAP terms and conditions of this AACT administered ASCAP license and will hold AACT harmless against any and all claims for non-compliance with the terms and conditions of this ASCAP Community Theatre license.

7. Notices

AACT or LICENSEE may give any notice required by this Agreement by sending it by Certified United States Mail, return receipt requested or by generally recognized same-day or overnight delivery service OR by facsimile or other electronic transmission, provided that a copy is also sent by mail, return receipt requested. Each party agrees to notify the other of any change of address.

8. Applicable Law

The meaning of the provisions of this Agreement shall be construed in accordance with the laws of the State of New York without regard to the principles of conflict of laws.

IN WITNESS WHEREOF, this Agreement has been duly executed by AACT and LICENSEE on _____, 2008.

**American Association
of Community Theatre**

LICENSEE (insert name of theatre)

By 
Title Executive Director

By _____
Title _____