

# PEACHTREE ENTERTAINMENT COMPANY

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## Location Agreement for Bona Fide Coin-Operated Amusement Machines

**PARTIES:** Peachtree Entertainment Company, LLC, a Georgia limited liability company (hereinafter referred to as "**Company**")

Address: \_\_\_\_\_

\_\_\_\_\_ (hereinafter referred to as "**Proprietor**")

Address: \_\_\_\_\_

**DATE:** \_\_\_\_\_

**LOCATION ADDRESS:** \_\_\_\_\_ (hereinafter referred to as "**Location**").

**RECITALS:** Company is in the business of providing, servicing, maintaining, and repairing Class B bona fide coin-operated amusement machines. Proprietor desires to have Class B bona fide coin-operated amusement machines at the Location for play by the public.

**AGREEMENT:** In consideration of the mutual covenants and agreements contained herein, Company and Proprietor agree as follows:

1. **Proprietor's Representations:** Proprietor represents, warrants, and covenants that it owns and operates its business at the Location and that it has all licenses required by law to operate its business at the Location and that it has or will obtain the location license pertaining to Class B bona fide coin-operated amusement machines. Proprietor represents, warrants, and covenants that there are no other agreements between Proprietor and any third party relating to Class B bona fide coin-operated amusement machines. Proprietor represents, warrants, and covenants that Proprietor is the owner or the sole lawful tenant of the Location. Proprietor represents, warrants, and covenants that the undersigned representative is authorized and empowered to enter into this Agreement on behalf of Proprietor. Proprietor represents, warrants, and covenants that it has not received anything of value from Company for the placement of the Class B bona fide coin-operated amusement machines and that it does not have an interest in the Company.

2. **Proprietor's Duties:** Proprietor shall place the Class B bona fide coin-operated amusement machines from the Company at the Location on the terms and conditions herein. Proprietor shall provide space at the Location for the installation and operation of Class B bona fide coin-operated amusement machines for the duration of this Agreement and any renewal periods. Proprietor shall ensure that the space is a conspicuous place and is readily accessible to the public patronizing Proprietor's premises and complies with state and local laws. Proprietor shall not reduce the space allocated for the installation and operation of Class B bona fide coin-operated amusement machines without the prior written consent of Company.

3. **Change of Law Provision:** Proprietor agrees to any modifications to this Agreement that may be necessary and required by the State of Georgia.

4. **Company's Rights and Duties Regarding Company Machines:** Company shall install at the Location the Class B bona fide coin-operated amusement machines listed on Exhibit A, which is attached to and incorporated in this Agreement for all purposes. The Class B bona fide coin-operated amusement machines placed by Company at the Location shall be referred to in this Agreement as "**Company Machines**." At no time during this agreement shall the Company provide fewer than one (1) Company Machine at the Location. Company shall have the sole and absolute discretion to amend this list and to change the type and number of Company Machines that it places at the Location. Company shall have the sole and absolute discretion to amend this list and to change the type and number of Company Machines that it places at the Location, so long as the number of machines equals at least one (1) but no more than the legally mandated maximum as required by Georgia law. Company shall be responsible for the service, repair, and maintenance of the Company Machines. In the event that the number of Company Machines is reduced to one (1) machine at the Location, Proprietor agrees to make an additional payment of \$250.00 a month to Company, notwithstanding paragraph 5 of this Agreement.

5. **Proprietor's Duties Regarding Company Machines:** Proprietor shall provide and pay for all necessary electrical power lighting computer and/or telecommunication support needed to operate the Company Machines. Proprietor shall contact Company promptly if the Company Machines or any one of them needs service or repair. Proprietor shall provide Company with access to the Location at all reasonable times so that Company may exercise its right and perform its obligations under this Agreement. Proprietor shall promptly notify Company of

any change in operating hours. Proprietor shall operate all Company Machines in a lawful manner. Proprietor shall take all actions necessary for the lawful operation of the Company Machines, including setting up

6. **Company Machine Proceeds:** Proprietor and Company shall share net revenue from the Company Machines on a percentage basis. For purposes of this Agreement "net revenue" means the gross revenue from the public play of all Company Machines, minus the amount of expenses for noncash redemptions awarded from the Company Machines, minus the amount refunded to the public for malfunctions of the Company Machines. Company's share of the net revenue shall be Fifty Percent (50%), after deducting the amount paid to the Georgia Lottery Commission per Georgia law, or the percent defined by Georgia law. Company shall have the right to open the Company Machines periodically to determine the gross revenue from Company Machines.

7. **Fees and Taxes:** Each party shall pay its own income taxes on its share of the net revenue. Each party shall pay its own license and permit fees. Within three (3) days of signing this Agreement, if Proprietor does not have a location license for the operation of Class B bona fide coin-operated amusement machines, Proprietor agrees to complete the location license Class B coin-operated amusement machine application required by the State of Georgia, pay all necessary fees related thereto, and comply with all laws and regulations related to the operation of the Company Machines at the Location. Proprietor agrees to make arrangements for and comply with any tax or collection procedure required by any state or local government agency.

8. **Exclusive Provider of Amusement Machines:** During the Term of Lease (as defined below) Proprietor shall not on Proprietor's own behalf or on behalf of any firm, partnership, association, corporation or business organization, entity, enterprise or person; (a) obtain from any other person maintenance or repair services for any bona fide coin-operated amusement machine.

9. **Exclusive Provider of Sweepstakes Promotion and Raffle Machines:** During the Term (as defined below), Proprietor shall not on Proprietor's own behalf or on behalf of any firm, partnership, association, corporation or business organization, entity, enterprise or person obtain from any other person other lawful machines or devices which can be utilized in a promotion or raffle circumstance.

10. **Non-Solicitation of Company Employees:** During the Term and for a period of Twenty-four (24) months immediately following expiration or termination of the Term of Lease for any reason whatsoever, Proprietor shall not directly or indirectly on Proprietor's own behalf or on behalf of any person, firm, partnership, association, corporation or business organization, entity or enterprise attempt in any manner to cause or otherwise encourage any employee or agent of Company to leave the employ of Company, and Proprietor shall not directly or indirectly on Proprietor's own behalf or on behalf of any person, firm, partnership, association, corporation or business organization, entity or enterprise offer employment to or hire any employee or agent of Company.

11. **Liquidated Damages:** If Proprietor breaches this Agreement and the Agreement is subsequently terminated, the parties agree that it would be difficult to ascertain the exact damages of the Company, and the parties agree that the Company shall be entitled to recover from the Proprietor as liquidated damages an amount equal to seventy percent (70%) of the net revenue (as determined in paragraph 6 above) from all Company Machines for the period from the date of the Agreement to the date of the breach divided by the number of months from the date of this Agreement until to the date of the breach multiplied by the Company share of the net revenue as stated in paragraph 6 multiplied by the number of months remaining on the Term of Lease. The parties agree that this amount is a reasonable estimate of the damages likely to be incurred as a result of any breach and not as a penalty.

12. **Remedies:** Proprietor agrees that if Proprietor breaches paragraphs 8 through 10 or any one of the paragraphs the Company will suffer immediate and irreparable harm which cannot be accurately calculated in monetary damages and that consequently Company shall be entitled to immediate injunctive relief to prevent such violation. This remedy shall be in addition to the Company's right to sue for any other legal or equitable relief to which Company maybe entitled.

13. **Binding Agreement; Agreement Assignable; Duty to Obtain Assumption:** This Agreement shall be binding upon the parties and their heirs, successors, executors, administrators, and assigns. Company's rights and obligations under this Agreement are assignable without the consent of Proprietor. Proprietor's rights and obligations under this Agreement are assignable only with the prior written consent of Company. If Proprietor intends to sell or otherwise transfer its business to a third party, Proprietor shall notify Company at least sixty (60) days before final closing and Proprietor shall secure an assumption of this Agreement by the third party. In the event the Proprietor moves its business from the place herein designated as the Location this Agreement shall remain in full force and effect at the sole and exclusive option of the Company at the Proprietor's new place of business.

14. **Term of Agreement; Termination:** The initial term of this Agreement shall be for a period of     years     from the date of this Agreement (the "Term") and the Term automatically shall extend for successive additional periods of the same length as the initial Term until either party serves upon the other a written notice of termination. Such notice of termination must be served at least three (3) months but no earlier than prior to the expiration of the Term. Upon the extension of the Term, said extension shall be upon the same terms and conditions of this Agreement. "Term" shall include extensions of the initial and subsequent periods. This Agreement may be terminated by either party

if the other party defaults in its performance of an obligation hereunder or materially breaches any of the terms or conditions of this Agreement and fails to cure such default or breach within fifteen (15) days after service of written notice upon such party of such default or breach. This Agreement may be terminated at any time by Company by reason of the unprofitability of the Company Machines by giving thirty (30) days' notice of termination in writing to Proprietor.

15. **Attorneys' Fees:** If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement the prevailing party shall be entitled to recover reasonable attorney fees, interest from the due date of payment court costs and other necessary disbursements in addition to any other relief to which it may be entitled.

16. **Duty to Prevent Illegal Use:** Proprietor will use every precaution necessary to prevent the improper or illegal use of the Company Machines.

17. **Duty to Prevent Loss or Damage:** Proprietor shall use every precaution to prevent robbing, pilfering, damaging, theft, vandalism, or destruction of the Company Machines. Proprietor shall notify the Company immediately in the event of robbery, damage, theft, vandalism, or destruction of Company Machines.

18. **Proprietor's Duty to Maintain Exterior of Company Machines:** Proprietor shall at all times keep the exterior surfaces of the Company Machines (including all controls, screens, plastic, wood, metal and cloth surfaces) clean and attractive.

19. **Applicable Law:** The Agreement shall be governed by and construed in accordance with the laws of the State of Georgia.

20. **Invalid Provisions:** If any portion of this Agreement for any reason is declared invalid by a court such decision shall not affect the validity of any remaining portion and the remain portion will remain in full force and effect as if this Location Agreement had been executed with the invalid portion eliminated.

21. **Notices:** Any notices, requests, documents or other communications pertaining to this Agreement must be given by depositing the same in the U. S. mail, postage prepaid, certified or registered mail, return receipt, addressed to the respective parties and at the addresses specified in the first page of this Agreement.

22. **Entire Agreement:** This Agreement is the only agreement of the parties relating to the subject matter hereof and there is no collateral agreement (oral or written) between the parties in any manner relating to the subject matter hereof.

23. **Amendment:** Company shall have the right to amend this Agreement at any time and from time to time as Company determines in its sole and absolute discretion and any such amendment shall be effective on the eighth (8th) day after Company sends notice of the amendment to Proprietor if Proprietor does not provide notice to Company within seven (7) days from the date of Company's notice stating Proprietor's objections to the amendment. Otherwise, this Agreement shall not be subject to change, modification, or discharge in whole or in part except by written instrument signed by the parties.

24. **Waiver:** The failure of either party to enforce at any time or for any period of time the provisions of this Agreement shall not be construed as a waiver of such provisions or of the right of such party thereafter to enforce each and every such provision.

25. **Ownership of Company Machines:** Legal title and ownership of the Company Machines is vested in the Company, and Proprietor shall not remove any Company Machine from the Location, and Proprietor shall not permit the removal of any Company Machine from the Location except by the Company. If the Proprietor receives a dispossessory notice from the landlord, the Proprietor shall inform the Company of this fact immediately. Proprietor shall inform the landlord in writing that the Company owns and has legal title to the Company Machines.

26. **Indemnification; Compliance with Law:** THE COMPANY AGREES TO INDEMNIFY AND HOLD HARMLESS THE PROPRIETOR OF AND FROM ALL CLAIMS, DEMANDS AND OTHER ACTIONS RELATING TO THE LEGALITY OF THE COMPANY MACHINES. PROPRIETOR AGREES TO OPERATE THE MACHINES IN COMPLIANCE WITH APPLICABLE LAW. PROPRIETOR AGREES TO INDEMNIFY AND HOLD HARMLESS THE COMPANY OF AND FROM THE FAILURE TO OPERATE THE COMPANY MACHINES IN COMPLIANCE WITH APPLICABLE LAW AND ALL CLAIMS, DEMANDS AND OTHER ACTIONS ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE USE, OPERATION, OR LOCATION OF THE COMPANY MACHINES ON THE PART OF THE PROPRIETOR OR ITS AGENTS, EMPLOYEES, INVITEES, OR CUSTOMERS AND TO PAY ALL DAMAGES ARISING THEREFROM, INCLUDING LOSS OF INCOME FROM ANY COMPANY MACHINE WHICH IS REMOVED, DAMAGED OR DESTROYED AND THE VALUE OF ANY COMPANY MACHINE WHICH IS DESTROYED.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written and each hereby acknowledges receipt of a completed copy hereof.

**Company:**

**Peachtree Entertainment Company, LLC,**  
a Georgia limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**Proprietor:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

# MACHINE LIST

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2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
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6. \_\_\_\_\_
7. \_\_\_\_\_
8. \_\_\_\_\_
9. \_\_\_\_\_

**Accepted by:**

**Company:** \_\_\_\_\_

**Proprietor:** \_\_\_\_\_