

FESTIVAL LICENCE



Customer enquiries 1300 852 388 licence@apra.com.au www.apraamcos.com.au

Please complete the relevant section(s), sign and return together with payment of the Festival Advance (if applicable) to: licence@apra.com.au or APRA AMCOS Locked Bag 5000, Strawberry Hills NSW 2012 or Fax 02 8103 4445 .

I/We apply for a licence from APRA which, subject to the terms set out on this and the following pages, authorises the performance in public of APRA Works by any means whatsoever at the Festival. A Festival being an event which:

1. occurs on at least one full day (being no less than 8 hours in advertised duration) at an outdoor place requiring a stage to be erected or a specific performance area to be created specifically for the event; and
2. is advertised as a festival, in which the staging of the event and all associated advertising is not dependant on any one or two headline acts; and
3. includes at least six acts.

Rates

The amount payable is calculated at 1.65% of Gross Sums Paid for Admission subject to a minimum fee of \$82.50.

It is a condition of the grant of the licence that new promoters pay an advance licence fee before the commencement of the Festival. Please refer to the terms and conditions for more information.

The Festival Advance (if applicable) amount payable is \$

Amounts stated on this Agreement are inclusive of 10% GST.

Name of Applicant
Applications in the name of a Trust won't be accepted.

COMPANY / PARTNERSHIP / SOLE TRADER / INCORPORATED

Applicant ACN

Applicant ABN

The ACN and/or ABN (if you have one) must match the name of the Applicant. If you are a Partnership please set out above name of all principals behind the partnership, trading as the name of the partner.

Address of Applicant

POSTCODE EMAIL

PHONE

MOBILE

Name and Date/s of Festival

(FESTIVAL)

(PERFORMANCE DATE)

Name of Location

Where performances are to occur

(LOCATION)

Signed by/on behalf of the Applicant

SIGNATURE

DATE

PRINT NAME IN FULL

POSITION OF PERSON SIGNING

If you also hold a PPCA licence please provide us with your PPCA Licence Number

PPCA LICENCE NO

This application will only constitute a Licence Agreement when the Applicant receives a signed agreement from APRA. APRA may refuse to grant a Licence Agreement where the information contained in this application is incorrect or incomplete.

OFFICE USE ONLY

LICENCE NO

TARIFF

GROSS SUMS PAID FOR ADMISSIONS

GST EXCLUSIVE FEE

RECEIVED

DATE

DP

PROCESSED

APPROVED

DATE

RESOLVED

FESTIVAL LICENCE



Customer enquiries 1300 852 388 licence@apra.com.au www.apraamcos.com.au

1 SCOPE OF LICENCE

- 1.1 Subject to the terms of this Agreement APRA grants to the Applicant a licence to perform in public APRA Works at a Festival by the methods described on the front of this Agreement.
- 1.2 The licence in clause 1.1 does not include or authorise:
- the public reception of any performance beyond the precincts of the Location;
 - the performance of Grand Right Works in their entirety;
 - the performance in whole or in part of any musical work in a Dramatic Context;
 - the performance in whole or in part of any music and associated words composed or used for ballet if accompanied by a visual representation of that ballet;
 - the performance of any choral work of more than 20 minutes duration in its entirety;
 - the performance of any music and associated words so as to burlesque or parody the work;
 - the performance of any musical work with new or substituted lyrics, or any lyrics which have been notified by APRA as prohibited;
 - the performance of any sound recording (this permission is obtained from the Phonographic Performance Company of Australia Limited); or
 - any other right not expressly granted under this Agreement.

2 SUPPLY OF INFORMATION

- 2.1 The Applicant must, within 30 days after the last Performance Date:
- notify APRA of the Gross Sums Paid for Admission to the Location at which the Festival took place (**Box Office Information**);
 - provide APRA with copies of all statements and other records received by the Applicant (including statements from ticketing and booking agents) sufficient to verify the Box Office Information; and
 - provide APRA with a list, in a form reasonably required by APRA from time to time, of each musical work performed, including the name of the composer and the duration of the work (**Music Use Report**).
- 2.2 If reasonably requested by APRA, the Applicant must provide the Box Office Information in a form verified by a qualified accountant.
- 2.3 Notify APRA if the Applicant reasonably believes that certain works performed at the Festival are not APRA Works (including providing the information set out in clause 2.5).
- 2.4 The Applicant acknowledges that the Music Use Report is critical to the calculation and distribution of Licence Fees by APRA, and that APRA will distribute income in reliance on the information provided by the Applicant.
- 2.5 In the event that the Applicant notifies APRA that it reasonably believes that certain works performed at the Festival are not APRA Works, then the Applicant must provide APRA, along with such notification with:
- the names and durations of all works performed at the Festival; and
 - the names and durations of any works that the Applicant considers are not APRA Works performed at the Festival.

3. LICENCE FEES

- 3.1 The Applicant must pay the Licence Fees for the periods as set out on the front of the Agreement.
- 3.2 The parties agree that notwithstanding any other right of a party under this Agreement, the determination of Gross Sums Paid for Admission for the purpose of calculating the Licence Fee will be made by APRA in good faith, and any dispute regarding that determination will be dealt with in accordance with clause 12.

4 PAYMENT & BILLING

- 4.1 On receipt of the Box Office Information, APRA must issue a tax invoice to the Applicant for the Licence Fees payable for the Festival, and the Applicant must pay APRA within 30 days after the date of the invoice.
- 4.2 For the purpose of assessing the applicability of the Licence Fee rates as set out on the front of this Agreement, the rate will be the rate applicable as at the date of the Festival.
- 4.3 In the event of a postponement of a Festival, the rate will be the rate applicable as at the date on which the Festival was initially scheduled to be performed.
- 4.4 The Applicant must pay interest at the Agreed Rate on any amount that remains unpaid 60 days after the date when payment was otherwise due to APRA.
- 4.5 If the Applicant fails to pay any invoice after notice is provided, and relevant steps are taken to recover amounts outstanding under this Agreement, and APRA incurs expenses or legal costs in doing so, these amounts will be recoverable from the Applicant as a debt.

5. NON-APRA WORKS

- 5.1 If the Applicant has a reasonable belief that certain works which have been performed at a Festival are not APRA works, the Applicant must notify APRA in accordance with clause 2.1(c), including providing the requisite information in accordance with clause 2.5.
- 5.2 On receipt and acceptance by APRA of the information supplied by the Applicant in accordance with clause 2.5, APRA will reduce the Licence Fees otherwise payable by the Applicant in relation to a Festival, having regard to:
- the total number and duration of the Works performed at the Festival; and
 - the number and duration of the Works which are not APRA Works performed at the Festival.
- 5.3 Licence Fees will not be reduced by APRA in accordance with clause 5.2 unless all relevant information is supplied by the Applicant in accordance with clause 2.5.
- 5.4 Any dispute which arises as a result of clause 5 is to be resolved in accordance with clause 12.

6 FESTIVAL ADVANCE AND DIRECTION TO PAY

- 6.1 On execution of this Agreement or at any time during the term of this Agreement, if:
- the Applicant has a credit history that reasonably justifies concern on the part of APRA that it may fail to pay Licence Fees in accordance with this Agreement;
 - the Applicant has been repeatedly late in paying Licence Fees under this or another APRA licence Agreement, whether or not it has remedied the breach; or
 - the Applicant's business is not registered or has no obvious presence in Australia, APRA may notify the Applicant that in respect of any or all Festivals APRA may require the Applicant to pay a Festival Advance, or must issue a Direction to Pay.
- 6.2 If APRA notifies the Applicant that a Festival Advance, (or based on APRA's reasonable estimate if the information has not been provided within the stipulated time), must be paid in accordance with clause 6.1, the Applicant must within 7 days of the date of that notice, in a form reasonably required by APRA from time to time, provide APRA for the Festival with:
- an estimate, based on the information referred to in this clause, of the Gross Sums Paid for Admission to be received;
 - each price at which tickets are available for sale;
 - the number of tickets available to be sold at each price; and
 - the capacity of the Festival location.
- 6.3 On APRA's receipt of the information in clause 6.2 in relation to a Festival Advance, APRA will provide a tax invoice to the Applicant for the Festival Advance, and the Applicant must pay the Festival Advance to APRA within 14 days after the date of the invoice.
- 6.4 If the amount of Licence Fees payable in respect of any Festival exceeds the Festival Advance, the Applicant must pay the excess to APRA within 30 days after the date of receipt of the tax invoice.
- 6.5 If the amount of the Licence Fees payable in respect of any Festival is less than the Festival Advance, APRA must credit the amount to the Applicant's account within 30 days after the date of the tax invoice.

7 RECORDS

The Applicant must keep accurate books of account and other records in sufficient detail to ensure that all amounts payable to APRA under this Agreement can be properly ascertained.

8 AUDIT OR EXAMINATION

- 8.1 APRA may on 14 days notice to the Applicant audit or examine the Applicant's books of account and other records to:
- determine the correctness of any report or payment under this Agreement; or
 - in the case of a failure by the Applicant to provide information in accordance with clause 2, to obtain information required to be provided under that clause.
- 8.2 The Applicant must pay the cost of the audit or examination if it:
- establishes that the information provided by the Applicant resulted in the amounts payable under this Agreement being understated by more than 5%; or
 - is undertaken under clause 8.1(b).
- 8.3 Any auditor appointed by APRA in accordance with clause 8.2 must be a nationally recognised third party accountant or auditor not being the auditor of a competitor of the Applicant or compensated on a contingency fee basis.

9 CONFIDENTIALITY AND PRIVACY

- 9.1 We agree to treat as confidential, during and after the term of this agreement, all information provided by you that can properly be regarded as confidential and is not in the public domain, except that we may disclose the information to our licensing partners, auditors and other professional advisers. Information you provide may be aggregated to provide industry statistics for publication or consultation.
- 9.2 The information you are providing may be personal information under the *Privacy Act 1988*. Information collected is only for our business purposes and will not be disclosed to any third parties except in accordance with our privacy policy. The privacy policy is available on our website at apraamcos.com.au/privacy-policy/.

10 TERMINATION

- APRA may immediately terminate this Agreement by notice to the Applicant if the Applicant:
- fails to pay any sum when due under this Agreement;
 - breaches any other term of this Agreement and fails to remedy the breach within 7 days after being requested in writing to do so by APRA;
 - being a corporation, goes into liquidation, has a receiver or receiver and manager appointed to it or any part of its assets, enters into a scheme of arrangement with creditors or suffers any other form of external administration; or
 - being an individual, commits any act of bankruptcy or enters into a scheme of arrangement with creditors.

11 DEFINITIONS

- In this Agreement:
- Agreed Rate** means the lending rate for small business overdrafts as published by the Reserve Bank of Australia (as identified by the RBA's mnemonic FLRSBVOO) plus 2 percentage points, calculated on daily rests from the due date to the date of payment;
- APRA Works** means all musical works, including any words normally associated with those works by the copyright owner for Australia, the right of public performance of which is either owned or controlled by APRA, or which APRA has represented to be owned or controlled for Australia;
- Box Office Information** means the information referred to in clause 2.1(a);
- Direction to Pay** means an irrevocable direction to pay, addressed to the ticketing agency or the venue box office for the Festival, requiring the recipient to pay the Licence Fees to APRA from amounts held by the recipient in respect of the Festival;
- Dramatic Context** means the performance of musical works:
- in conjunction with a presentation on the live stage that has a storyline and one or more narrators or characters; or
 - as a Ballet;
- Festival** means the festival specified on the front of this Agreement;
- Festival Advance** means an advance payable under conditions set out in clause 6.1;
- Grand Right Work** means an opera, operetta, musical play, revue or pantomime insofar as it consists of words and music written expressly for it;
- Gross Sums Paid for Admission** means the total amount paid for admission to the Festival, excluding:
- Third Party Booking Fees;
 - third party credit charges; and
 - government taxes, duties and charges.
- Music Use Report** means the information referred to in clause 2.1(c);
- Third Party Booking Fees** means booking fees which are charged by:
- a third party unrelated to the Applicant; or
 - a third party which, while related to the Applicant, has set the booking fees in accordance with standard industry practice and collects them on an arm's length basis.

12 DISPUTE RESOLUTION

If any dispute arises out of or in connection with this Agreement, either party may submit that dispute to APRA's alternative dispute resolution mechanism. Information about the mechanism can be obtained from APRA at apraamcos.com.au/feedback-centre/alternative-dispute-resolution/.

13. GST AND OTHER TAXES

- 13.1 Unless otherwise indicated, amounts stated in this Agreement include GST.
- 13.2 In relation to any GST payable for a taxable supply (as defined under GST law) by either party, the recipient of the supply must pay the GST subject to the supplier providing a tax invoice (as defined under GST law).
- 13.3 The payments specified in this Agreement to be made to APRA are net of all withholding or similar taxes and the Applicant must pay to the relevant taxation authority all such taxes, in addition to the payments specified in this Agreement to be made to APRA.
- 13.4 Terms used in clause 13 which are defined in the GST Act have the same meaning as in the GST Act.

14 MISCELLANEOUS

- 14.1 A notice under this Agreement must be in writing and may be given to the addressee by:
- delivering it to the address of the addressee, and will be deemed received at the time of delivery;
 - sending it by pre-paid registered post to the address of the addressee and will be deemed received on the 3rd day after posting; or
 - sending it by email to the email address of the addressee this purpose, and will be deemed received immediately after dispatch.
- 14.2 No waiver by APRA of any breach of any provision of this Agreement operates as a waiver of another breach of the same or of any other provision of this Agreement.
- 14.3 This Agreement is personal to the Applicant. The Applicant is not entitled to assign any of their rights without the prior written consent of APRA.
- 14.4 This Agreement may only be varied by the written Agreement of the parties.
- 14.5 The Applicant must pay to APRA within 14 days after the date of an invoice issued by APRA an amount on account of stamp duties and taxes, including any goods and services tax, arising in respect of this Agreement.
- 14.6 This Agreement must be construed in accordance with the laws in force in the State of New South Wales and the parties agree to submit to the jurisdiction of New South Wales Courts.
- 14.7 Unless the context otherwise requires, a word which denotes the singular denotes the plural and vice versa.
- 14.8 All payments under this Agreement must be made in Australian currency.

SIGNED AS AGREED BY APRA

APRA grants a licence on the terms set out in this Licence Agreement. For and on behalf of APRA by its duly authorised officer:

FESTIVAL GROSS BOX OFFICE STATEMENT



Customer enquiries 1300 852 388 licence@apra.com.au www.apraamcos.com.au

Please complete the relevant section(s), sign and return to:

licence@apra.com.au or APRA AMCOS Locked Bag 5000, Strawberry Hills NSW 2012 or Fax 02 8103 4445 .

Name of Festival _____ LICENCE NUMBER _____

Date/s of Festival _____ FESTIVAL DATE _____ STATE/TERRITORY _____

Location _____ LOCATION NAME AND ADDRESS _____

Pursuant to the terms of the Licence Agreement between this company/firm and APRA we hereby advise APRA of the following box office figures for the event, for the purposes of calculating licence fees under our Agreement.

GROSS BOX OFFICE RECEIPTS:

Final reconciliation statements from ticketing agents are attached

\$ _____

DEDUCTIONS: Booking Fees

\$ _____

Credit Card Charges

\$ _____

TOTAL (Less Deductions):

\$ _____

Please indicate whether the above amounts include GST: Yes No

Signed by/on behalf
of the Applicant

SIGNATURE

DATE

PRINT NAME IN FULL

POSITION OF PERSON SIGNING

Please return to APRA AMCOS within 30 days of the above event