

MUSIC PERFORMANCES - (NO BOX OFFICE) 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 Music Performances Advance (if applicable) to: licence@apra.com.au or APRA AMCOS, Locked Bag 5000, Strawberry Hills NSW 2012 or Fax 02 8103 4445 .

This licence covers events where music is performed and there is no admission fee, such as a performance in a park.

I/We apply for a licence from APRA which, subject to the terms set out on this and the reverse page, authorises the performance in public of APRA Works by Music Performers on the Performance Date.

Rates

The amount payable is calculated at 2.2% of Gross Expenditure on Music Performers, subject to a minimum fee of \$82.50*.

The Music Performances Advance (if applicable) amount payable is \$

*The rates set out above are current from 1 January 2018 to 31 December 2018

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

Name of Applicant

Note: Applicants 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 Event

(EVENT)

(PERFORMANCE DATE)

Name of Venue/Location

Where performances are to occur

(VENUE/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 EXPENDITURE ON MUSIC PERFORMERS	GST EXCLUSIVE FEE	RECEIVED	DATE
PROCESSED	APPROVED	DATE	RESOLVED		

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1 SCOPE OF LICENCE

- 1.1 APRA grants the Applicant a licence to perform in public APRA Works in the circumstances and 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 Premises;
 - 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 Expenditure on Music Performers (**Gross Expenditure 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 gross expenditure; 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 Gross Expenditure in a form verified by a qualified accountant.
- 2.3 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.

3 LICENCE FEES

- 3.1 The Applicant must pay the Licence Fees for the periods as set out on the front of the Agreement. The parties agree that notwithstanding any other right of a party under this Agreement, the determination of Gross Expenditure 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 10.

4 PAYMENT AND BILLING

- 4.1 On receipt of the Gross Expenditure Information, APRA may issue an invoice for a Music Performances Advance based on a reasonable estimate of the amount payable under clause 2.
- 4.2 If the amount payable exceeds the advance paid by the Applicant under clause 4.1, the Applicant must pay the excess to APRA within 14 days after the date of the invoice.
- 4.3 If the amount payable is less than the advance paid by the Applicant under clause 4.1, APRA must refund the amount of the difference to the Applicant.
- 4.4 On APRA's receipt of the information under clause 7, APRA may issue an invoice for any additional amount payable. The Applicant must pay any invoice issued under this clause within 14 days after the date of the invoice.
- 4.5 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.

5 MUSIC PERFORMANCES ADVANCE AND DIRECTION TO PAY

- 5.1 On execution of this application 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 Music Performances APRA may require the Applicant to pay a Music Performances Advance, or must issue a Direction to Pay.
- 5.2 If APRA notifies the Applicant that a Music Performances Advance must be paid in accordance with clause 5.1, 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 Music Performances with:
- an estimate, based on the information referred to in this clause, of the Gross Expenditure Information to be received.
- 5.3 On APRA's receipt of the information in clause 5.2 in relation to a Music Performances Advance (or based on APRA's reasonable estimate if the information has not been provided within the stipulated time), APRA will provide a tax invoice to the Applicant for the Music Performances Advance, and the Applicant must pay the Music Performances Advance to APRA within 14 days after the date of the invoice.
- 5.4 If the amount of Licence Fees payable in respect of the Event or Tour exceed the Music Performances Advance, the Applicant must pay the excess to APRA within 30 days after the date of receipt of the tax invoice.
- 5.5 If the amount of the Licence Fees payable in respect of the Event or Tour is less than the Music Performances Advance, APRA must return the amount to the Applicant within 30 days after the date of the tax invoice.

6 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 application can be properly ascertained.

7 AUDIT OR EXAMINATION

- 7.1 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 2.1, to obtain information required to be provided under that clause.
- 7.2 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 7.1(b).

8 CONFIDENTIALITY & PRIVACY

- 8.1 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.
- 8.2 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/.

9 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 within 14 days after the due date;
 - 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.

10 DISPUTE RESOLUTION

- If any dispute arises out of or in connection with this application, 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/.

11 DEFINITIONS

In this Agreement:

- Agent** means any agent, manager, assistant or associate of the Music Performer;
- 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 FILRSBV00) 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;
- Direction to Pay** means an irrevocable direction to pay the Licence Fees to APRA from the amounts held by the recipient in respect of the Music Performances;
- 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;
- Grand Right Work** means an opera, operetta, musical play, revue or pantomime to the extent that it consists of words and music written expressly for it;
- Gross Expenditure on Music Performers** means all monies and the monetary value of all benefits receivable directly or indirectly by the Music Performer including all salaries, wages, profit shares, allowances, accommodation, travelling and other expenses (but excluding government taxes or other charges) and whether receivable by the Music Performer or an Agent;
- Music Performer** means any performer participating in the performance of music including conductors;
- Music Performances Advance** means an advance fee payable under the conditions set out in Clause 5;
- Music Use Report** means the information referred to in clause 2.1(c).

12 GST AND OTHER TAXES

- 12.1 Unless otherwise indicated, amounts stated in this Agreement include GST.
- 12.2 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).
- 12.3 The payments specified in this application 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.
- 12.4 Terms used in clause 12 which are defined in the GST Act have the same meaning as in the GST Act.

13 MISCELLANEOUS

- 13.1 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.
- 13.2 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.
- 13.3 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.
- 13.4 This Agreement may only be varied by the written Agreement of the parties.
- 13.5 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.
- 13.6 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.
- 13.7 Unless the context otherwise requires, a word which denotes the singular denotes the plural and vice versa.
- 13.8 All payments under this Agreement must be made in Australian currency

LICENCE NO

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:

SIGNATURE

DATE

MUSIC PERFORMANCES - (NO BOX OFFICE) GROSS EXPENDITURE INFORMATION



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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 Music Performance _____ LICENCE NUMBER _____

Date/s of Music Performance _____ PERFORMANCE DATE _____ STATE/TERRITORY _____

Location or Venue _____ LOCATION OR VENUE NAME AND ADDRESS _____

Pursuant to the terms of the Licence Agreement between this company/firm and APRA we hereby advise APRA of the Gross Expenditure on Music Performers for the event, for the purposes of calculating licence fees under our Agreement.

The following is the Gross Expenditure on Music Performers exclusive of government taxes or other charges:

GROSS EXPENDITURE:

\$	(ex GST)
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Gross Expenditure on Music Performers means all monies and the monetary value of all benefits receivable directly or indirectly by the Music Performers including all salaries, wages, profit shares, allowances, accommodation, travelling and other expenses (but excluding government taxes or other charges) and whether receivable by the Music Performer or their Agent.

Signed by/on behalf
of the Applicant

SIGNATURE

DATE

PRINT NAME IN FULL

POSITION OF PERSON SIGNING

Please return to APRA AMCOS within 14 days of the last performance