

FEATURED RECORDED MUSIC LICENCE APPLICATION



CLIENT NO. _____

APRA
AMCOS

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

Please complete the relevant section(s), sign and return to: Locked Bag 5000, Strawberry Hills NSW 2012, fax (02) 8103 4445 or email to licence@apra.com.au
I/We apply for a licence from APRA AMCOS which, subject to the terms set out on this and the reverse page, authorises the performance in public of Works within APRA AMCOS's repertoire by means of Featured Recorded Music, selected or programmed by a DJ, not including performances for Dance Use at Nightclubs, Dances or Dance Parties.

Annual Rates

Whichever is the greater of:

- 1.859% of Gross Sums Paid for Admission (1.69% + GST); or
- 16.093* cents per person admitted to the area where Featured Recorded Music performances are audible. (14.63 cents + GST)

Annual Gross Sums Paid for Admission: \$ x 1.859% = \$

Annual number of persons admitted to the area where Featured Recorded Music performances are audible: x 16.093c = \$

If figures specified are for a period of less than 12 months, specify that period: From To

NB Annual fees shall be calculated by extrapolating these figures given over a 12 month period. Licence fees are payable annually except where the total licence fee is more than \$500, in which case we will invoice you quarterly unless you notify us.

If the Featured Recorded Music is performed in an area that is separated from the rest of the Premises, which is indicated:

- by a fee for entry to the separated area; or
- if the number of persons admitted to the separate area is monitored and recorded by or on behalf of the Premises; and
- the Featured Recorded Music performance is not audible in the rest of the Premises, then the licence fee is calculated by reference to the amounts paid for, or number of persons admitted to that separate area.

AMOUNTS STATED ON THIS APPLICATION ARE INCLUSIVE OF 10% GST.

* The annual rate set out above is current from 1 March 2017 to 28 February 2018.

THIS SECTION MUST BE COMPLETED IN BLOCK CAPITALS AND SIGNED

I acknowledge that I have read the terms attached to this application and agree to be bound by those terms should my application be accepted.

Legal name of Business or Organisation (Applicant)

Note: If you operate through a Trust the Applicant must be the Trustee of that Trust

COMPANY / PARTNERSHIP / SOLE TRADER / INCORPORATED _____

Applicants ACN/ABN

ACN: _____ ABN: _____

The ACN and/or ABN (if you have one) must match the name of the Applicant above.

Trading Name of Business or Organisation

PREMISES / TRADING NAME _____

Address

ADDRESS _____

POSTCODE _____

Address for Correspondence

ADDRESS _____

POSTCODE _____

MOBILE _____

Date on which music usage commenced

EMAIL _____ PHONE _____

COMMENCEMENT DATE _____ FAX _____

MR/MRS/MISS/MS GIVEN NAME(S) _____ SURNAME _____

Position of Person Signing

DIRECTOR / PROPRIETOR / AUTHORISED REPRESENTATIVE _____

Signed by/on behalf of the Applicant

SIGNATURE _____ DATE _____

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

Invoicing Options

If your business operates through a Trust and you require your invoice to be made out to the Trust, please supply your Trust Name: _____

Please invoice me Annually Quarterly (only available on annual licence fees of \$500 or more)

PPCA Licence Number

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

PPCA LICENCE NO _____

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1. SCOPE OF LICENCE

- 1.1 APRA AMCOS grants the Applicant a licence to perform in public Works within APRA AMCOS's repertoire 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 musical and associated words composed or used for a 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 AMCOS 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. DURATION OF THE AGREEMENT

- Unless terminated earlier in accordance with Clause 9, this agreement is for an initial period of 1 year from the day which is the first day of a month and nearest the Commencement Date. Unless terminated by either party on at least 1 month's notice effective as at the expiry of the initial period, the agreement continues for successive 1 year periods until terminated by either party on at least 1 month's notice, effective on an anniversary of the expiry of the initial period.

3. CALCULATION OF AMOUNTS PAYABLE

- 3.1 The Applicant must pay APRA AMCOS for each Licence Year, the amount calculated in accordance with the formula specified on the front of this agreement using:
- the annual rate current for that Licence Year;
 - the Gross Sums Paid for Admission during that Licence Year; and
 - the number of persons admitted to that part of the Premises where Featured Recorded Music performances are audible.
- 3.2 On 1 March each year, the GST exclusive annual rate will be calculated by increasing the then current GST exclusive annual rate by the percentage increase in the Consumer Price Index between the last 2 September Quarters.

4. SUPPLY OF INFORMATION

- 4.1 The Applicant must notify APRA AMCOS within 14 days after the end of each Licence Year of:
- the Gross Sums Paid for Admission; and
 - the number of persons admitted to that part of the Premises where Featured Recorded Music performances are audible.
- 4.2 APRA AMCOS may require the Applicant to provide the information required under clause 4.1 in the form of a statutory declaration.
- 4.3 The Applicant must notify APRA AMCOS within 28 days of any change to the particulars on the front of this agreement.
- 4.4 The Applicant must, on request by APRA AMCOS, supply APRA AMCOS with a list of all music performed at the Premises in the form and for the period specified by APRA AMCOS from time to time.

5. CONFIDENTIALITY

- 5.1 Subject to clause 5.2, APRA AMCOS agrees to treat as confidential, during and after the term of this Agreement, all information provided by the Applicant that can properly be regarded as confidential and is not in the public domain.
- 5.2 APRA AMCOS may disclose this information to its auditors and other professional advisers.

6. PAYMENT

- 6.1 At the commencement of each Licence Year, APRA AMCOS will issue an invoice for a provisional amount payable:
- for the first Licence Year, calculated in accordance with the formula and using the information supplied by the Applicant on the front of this agreement; and
 - for each subsequent Licence Year, calculated in accordance with the formula on the front of this agreement using the information supplied by the Applicant under clause 4.1 for the previous Licence Year.
- 6.2 The Applicant must pay any invoice issued by APRA AMCOS under clause 6.1 within 14 days after the date of the invoice.
- 6.3 On APRA AMCOS's receipt of the information under clause 4.1, APRA AMCOS must calculate the amount payable for the immediately preceding Licence Year in accordance with clause 3.
- 6.4 If the amount payable for a Licence Year exceeds the provisional amount paid by the Applicant under clause 6.1, the Applicant must pay the excess to APRA AMCOS within 14 days after the date of the invoice.
- 6.5 If the amount payable for a Licence Year is less than the provisional amount paid by the Applicant under clause 6.1, APRA AMCOS must at its option either credit or refund the amount of difference to the Applicant.
- 6.6 On APRA AMCOS's receipt of the information under clause 8, APRA AMCOS 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.

7. RECORDS

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

8. AUDIT OR EXAMINATION

- 8.1 APRA AMCOS may on 14 days notice to the Applicant audit or examine the Applicants 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 4.1, 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 10%; or
 - is undertaken under clause 8.1(b).

9. TERMINATION

- APRA AMCOS 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 AMCOS;
- 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. DEFINITIONS

In this agreement:

Consumer Price Index means the Index of that title All Groups Sydney published by the Australian Bureau of Census and Statistics or any authority substituted by Statute, related to base year 1989-90 equals 100, and **September Quarter** means quarter year ending 30 September.

Dance or Dance Party means any one-off or occasional event charging an entry fee and playing APRA AMCOS Works for dancing as the primary form of entertainment at the event, and which:

- is not an event regularly held at Nightclub premises;
- is not a private function, or an event which features ballroom or similar traditional dancing;
- is not an event for underage persons (such as a "blue light" disco); and
- is not an event organised by a church or school or other like body.

Dance Use means the use of APRA AMCOS Works for the purpose of dancing:

- in Nightclubs; or
- at Dances or Dance Parties.

Dramatic Context means in conjunction with acting, costumes, scenic accessories, scripted dialogue or other dramatic effects, or as a ballet.

Featured Recorded Music performances include, but are not limited to the following examples; music performed by DJs in bars, cafes, retail premises, or where Featured Recorded Music is used for stripshows and lap dancing, but excludes music performed for Dance Use at a Nightclub or Dance Party.

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, in relation to a period, the gross receipts of the Applicant during that period in respect of monies collected by or on behalf of the Applicant as an admission fee (excluding GST) in respect of that part of the Premises where the Featured Recorded Music performances occur including membership fees but excepting membership fees collected and retained by a club registered under the Registered Clubs Act (NSW) or equivalent legislation in any other State or Territory.

Licence Year means any 12 month period commencing on the day which is the first day of a month and nearest the Commencement Date or the anniversary of that date as the case may be.

Nightclub means a licensed venue that:

- is used for providing music for dancing; and
- uses recorded APRA AMCOS Works as the primary form of music for dancing; and
- has a dance floor or other area for dancing or charges an entry fee (even if the fee is not charged to all patrons); and
- is not being used for:
 - a private function;
 - Dances or Dance Parties;
 - an event that features ballroom or similar traditional dancing; or
 - an event for underage persons (such as a "blue light" disco)

The definition includes a nightclub operating within a multi purpose venue in a physically separate area of that venue, where that separate area satisfies the above criteria.

Works within APRA AMCOS's repertoire means all musical works, including any works normally associated with these works by the copyright owner for Australia, the right of Public Performance of which is owned or controlled by APRA AMCOS for Australia.

11. DISPUTE RESOLUTION

If any dispute arises out of or in connection with this agreement, either party may submit that dispute to APRA AMCOS' alternative dispute resolution mechanism. Information about the mechanism can be obtained from APRA AMCOS.

12. NOTICES

- 12.1 A notice under this agreement must be in writing and may be given to a party by:
- delivering it to the address of the party;
 - sending it by pre-paid post to the address of the party; or
 - sending it by facsimile to the facsimile number of the party, and the notice will be deemed to have been received by the party on receipt.
- 12.2 A facsimile is deemed to have been received on production of a transmission report by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the facsimile number of the party.

13. MISCELLANEOUS

- 13.1 No waiver by APRA AMCOS 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.
- 13.2 This agreement is personal to the Applicant. The Applicant is not entitled to assign any of its rights without APRA AMCOS's prior written consent.
- 13.3 Subject to clause 13.4, This agreement may only be varied by the written agreement of the parties.
- 13.4 APRA AMCOS may vary the terms of this agreement, including the rate payable, by notice to the Applicant. Within 30 days after the date of such notice the Applicant may terminate the agreement with immediate effect. If the Applicant continues to exercise the rights granted under this agreement 30 days after the date of the notice, the agreement will continue as varied.
- 13.5 The Applicant must pay to APRA AMCOS within 14 days after the date of an invoice issued by APRA AMCOS an amount on account of stamp duties and taxes, 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.

14. PRIVACY NOTICE

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/.

OFFICE USE ONLY

SIGNED AS AGREED BY APRA AMCOS

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

SIGNATURE

DATE

CLIENT NO.

GST EXCLUSIVE FEE

RECEIVED

PREMISES TYPE CODE