

PUBLIC PERFORMANCE LICENCE APPLICATION

RESTAURANTS/CAFÉS

APRA
AMCOS

CLIENT NO. _____

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

This is an application for a licence to perform music in public at your restaurant or café. This licence does not apply to restaurants and cafés that operate within a hotel, club or bar; to premises whose primary purpose is not the service of food; to premises such as take-away food outlets that do not offer full or part table service; or to restaurants or cafés that operate as a nightclub or a dance party venue. Featured Music Performances or Premium Featured Music Performances exclude performances within a National Tour. Restaurants or cafés that are not eligible for this licence will be able to apply under alternative licensing schemes offered by APRA AMCOS. For other uses of music not covered under this licence, for example, recorded music for Dance Use or music used in advertisements, please **contact us** for advice on your licensing requirements.

PART A: Your Music Use

Please complete the sections below describing your music usage, sign the form where required and send it by email or mail to the address below. We will assess the information you have provided, send you a copy signed by us, and invoice you for the first year's licence fee. 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 otherwise.

Background Music: includes music played to your customers from, and copied onto digital devices (e.g. tablets and smartphones), the playing of music from CDs, radios and TVs, the use of music for your telephone-on-hold system, and music used in areas of your restaurant or café not accessible to the public.

Music on your Website: music Streamed incidentally from your business' website, provided that no revenue is generated directly as a result of the Streamed music.

Featured Music Performances: includes live, DJ and karaoke performances where the ticket price is less than \$20 or free.

Premium Featured Music Performances: includes live, DJ and karaoke performances where the ticket price is \$20 or more.

How do you use music in your Restaurant/Café?

Please select your tariff from options 1, 2, or 3. Option 4 may also apply.

The rates below are current until 31 October 2018 and on 1 November each year the GST exclusive rate will be increased in accordance with CPI (Clause 2.8)

| | I use background music in my restaurant/café/on my website | Price (inc GST) | Tariff Selection |
|----|---|-----------------|--------------------------|
| 1. | A) Music on your Website ONLY | \$172.88 | <input type="checkbox"/> |
| | B) Background Music in your restaurant/café ONLY | \$288.13 | <input type="checkbox"/> |
| | C) Background Music in your restaurant/café + Music on your Website | \$366.70 | <input type="checkbox"/> |

At APRA AMCOS we're live music's biggest fan. To give you an appreciation of how live music can work for your restaurant/café, if you take out option B or C above, we will provide you with a complimentary licence for one night's performance of live music. If it works for you, and you want to use live music more often, just let us know and we'll adjust your invoice accordingly.

| | I use live performers (including DJs and/or Karaoke) | Price (inc GST) | Tariff Selection |
|----|---|--|---|
| 2. | A) Featured Music Performances ONLY (up to 12 nights per annum) | \$172.88 (+\$11.53/night in excess) | <input type="checkbox"/> No. of additional nights = |
| | B) Background Music in your restaurant/café + Featured Music Performances (up to 12 nights per annum) | \$403.37 (+\$11.53/night in excess) | <input type="checkbox"/> No. of additional nights = |
| | C) Background Music in your restaurant/café + Featured Music Performances (up to 12 nights per annum) + Music on your Website | \$471.48 (+\$11.53/night in excess) | <input type="checkbox"/> No. of additional nights = |

If you have selected Option 1B, 1C, 2B or 2C and your Background Music is provided by a Background Music Supplier, you may be eligible for a reduced background music licence fee. Please provide details of your supplier in the space provided.

Supplier Name _____

| | I need unlimited music options | Price (inc GST) | Tariff Selection |
|----|---|-----------------|--------------------------|
| 3. | Background Music in your restaurant/café + Music on your Website + unlimited annual Featured Music Performances | \$942.95 | <input type="checkbox"/> |

In addition, do you have featured music performances with an admission price of \$20 or more?

| | I use live performers or DJs where the admission price is \$20 or more | Price (inc GST) | Amount |
|----|--|--|--|
| 4. | A) Premium Featured Music Performances | 2.2% of the total amount paid by patrons of your restaurant/café (Gross Sums Paid for Admission) for Premium Featured Music Performances | \$ |
| | | | Gross Sums Paid for Admission from Premium Featured Music Performances |

Each year we may require you to update the information you have provided to take into account changes in your music use affecting your licence fee. Any questions or complaints? Please call our National and State Accounts Team on 1300 852 388 or email licence@apra.com.au. If your business changes or stops its music use, or ceases trading at any time, please **contact us**.

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PART B: Your contact details - This section must be completed and signed.

Legal name of Business or Organisation (Applicant)

Note: This includes Company, Partnership, Sole Trader and Incorporated Businesses or Organisations

COMPANY / PARTNERSHIP / SOLE TRADER / INCORPORATED

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

TRADING NAME

Premises

RESTAURANT/CAFÉ

WEBSITE ADDRESS

Premises Address

ADDRESS

POSTCODE

Address for correspondence

ADDRESS

POSTCODE

MOBILE

EMAIL ADDRESS

PHONE

Date on which the music usage as specified in Part A commenced

COMMENCEMENT DATE

Contact Name

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

SURNAME

Position of person signing

DIRECTOR / PROPRIETOR / AUTHORISED REPRESENTATIVE

Signed by/on behalf of you

SIGNATURE

DATE

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

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

Please complete the below to assist us in directing your licence fees to the songwriters whose music you play.*

1.

My restaurant plays music that reflects my cuisine type eg. Italian restaurant playing Italian music

Yes (Proceed to question 2) No

2.

Music type (Select one only)

Italian Greek Korean Chinese Vietnamese
 Spanish Mexican Thai Malaysian French
 Indian Japanese Other (Please specify)

* Your answers will have no impact on your licence fees

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PART C: General Terms

1. GRANT OF LICENCE

- 1.1 APRA AMCOS (we, us, our) grant you a licence on the terms of this agreement to perform and communicate APRA Works and reproduce AMCOS Works as described and based on the information you have provided in Part A.
- 1.2 The licence does not cover:
- performance of APRA Works outside the Premises;
 - reproduction of AMCOS Works for the performance or communication of those works other than under this licence;
 - reproduction of any AMCOS Work in connection with an Advertisement;
 - live performances of APRA Works with costumes, acting, scenic accessories and scripted dialogue or other dramatic effects; or of any ballet; or of the whole of any choral work longer than 20 minutes; or of an opera, operetta, musical, if the music was written for that show;
 - performance, communication or reproduction of sound recordings (this is obtained from the copyright owner of the sound recordings or PPCA).
 - the performance of Grand Right Works in their entirety
 - the performance of any musical work with new or substituted lyrics, or any lyrics which have been notified by us as prohibited.
- 1.3 Unless terminated earlier in accordance with Clause 5, 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.

2. LICENCE FEES

- 2.1 At the start of each Licence Year, while you continue to use our Works, you must pay us the Licence Fees determined in accordance with the amounts or formula specified, using the information provided in Part A and Part B of this agreement (**Provisional Licence Fees**).
- 2.2 We may require you at any time, including in association with each anniversary of the Commencement Date, to confirm or update the information provided in Part A.
- 2.3 If on receipt of the information provided to us in accordance with clause 3.3 the amount payable for a Licence Year exceeds the Provisional Licence Fees, we will issue an invoice for any additional amounts and you must pay the excess to us in accordance with clause 2.5.
- 2.4 If on receipt of the information provided to us in accordance with clause 3.3 the amount payable for a Licence Year is less than the Provisional Licence Fees, we must credit your account in the amount of the difference, unless you request a refund of the amount.
- 2.5 You must pay any invoice issued by us under this agreement within 14 days after the date of the invoice. If you fail to pay any invoice by the due date you must also pay interest at the Agreed Rate on each amount outstanding under this agreement.
- 2.6 If GST is payable by either party for a Taxable Supply under this agreement (as defined under the GST Act), the recipient of the supply must pay the GST subject to the supplier providing a tax invoice (as defined under the GST Act).
- 2.7 If you fail to pay any invoice after we provide notice to you, and we take steps to recover amounts outstanding under this agreement, and we incur expenses or legal costs in doing so, these amounts will be recoverable from you as a debt.
- 2.8 The non-GST component of the rates specified in dollar amounts in Part A will be increased annually up to the increase in the Consumer Price Index, if any, over the 2 preceding March Quarters.

3. MUSIC USE INFORMATION

- 3.1 You must notify us within 7 days if your music use materially changes from the information provided in Part A.

- 3.2 You must notify us within 28 days of any change to the contact information provided in Part B.
- 3.3 Within 14 days after the end of each Licence Year, you must notify us of:
- the actual number of days (or part days) on which Featured Music Performances were held at your Premises in that Licence Year; and
 - the actual number of days (or part days) on which Premium Featured Music Performances were held at your Premises in that Licence Year and in relation to each performance, the number of tickets sold and the Gross Sums Paid for Admission;
- 3.4 We may on 14 days' notice to you audit or examine your books of account and other records which you must keep with sufficient detail and accuracy to enable us to properly determine the correctness of any report or payment under this agreement, and you must pay the cost of the examination if the examination establishes that the amounts payable under this agreement were understated by more than 10%.

4. CONFIDENTIALITY

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.

5. TERMINATION

We may immediately terminate this agreement by notice to you if you:

- fail to pay any sum when due under this agreement within 14 days after the due date;
- breach any other term of this agreement and fail to remedy the breach within 7 days after requested in writing to do so by us;
- being a corporation, go into liquidation, have a receiver or receiver and manager appointed to you or any part of your assets, enter into a scheme of arrangement with creditors or suffer any other form of external administration; or
- being an individual, commit any act of bankruptcy or enter into a scheme of arrangement with creditors.

6. DISPUTE RESOLUTION

If any dispute arises out of or in connection with this agreement, either party may submit that dispute to the expert determination as detailed on our website at www.apraamcos.com.au.

7. NOTICES

- 7.1 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; or
 - sending it by pre-paid 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 notified by the addressee for this purpose, and will be deemed received immediately after dispatch.

8. MISCELLANEOUS

- 8.1 Unless otherwise indicated, amounts stated in this agreement include GST. In relation to any GST payable for a Taxable Supply by us under this agreement, you must pay the GST subject to us providing a Tax Invoice.
- 8.2 Terms used in this agreement which are defined in the GST Act have the same meaning as in the GST Act.
- 8.3 No waiver by us 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.
- 8.4 You must not assign any of your rights under this agreement without our prior written consent.
- 8.5 This agreement may only be varied by the written agreement of the parties.

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8.6 This agreement shall be construed in accordance with the laws in force in New South Wales and the parties agree to submit to the jurisdiction of New South Wales courts.

9. 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/.

10. DEFINITIONS

Advertisement means any production that is an announcement designed to attract the attention of the public or any part of it to a product, service, person, organisation or line of conduct, including community service announcements and infomercials;

Agreed Rate means the interest rate for overdrafts as published by the Reserve Bank of Australia (RBA) (as identified by the RBA's mnemonic FILRSBVOO) plus 2 percentage points, calculated on daily rests from the due date to the date of payment;

AMCOS Works means all musical works, including any words normally associated with those works by the copyright owner for Australia, the right of reproduction of which for the purposes of this agreement is controlled by AMCOS for Australia, except any Production Music;

APRA AMCOS means the Australasian Performing Right Association Limited and the Australasian Mechanical Copyright Owners' Society Limited;

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 and Communication of which is owned or controlled by APRA for Australia;

Commencement Date means the date stipulated as the Commencement Date in Part A of this agreement;

Communicate has the same meaning as in *Australian Copyright Act 1968*;

Consumer Price Index means the All Groups Consumer Price Index Number for the 8 capital cities published on a quarterly basis by the Australian Bureau of Statistics or any other price index substituted for it by the Australian Bureau of Statistics or any other Australian Government body, and March Quarter in that respect means the quarter year ending 31 March;

Dance Party means any one-off or occasional event for which an entry fee is charged and where APRA Works are performed for dancing as the primary form of entertainment at the event, and which is not:

- (a) an event regularly held at Nightclub premises;
- (b) a private function, or an event which features ballroom or similar traditional dancing;

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

Featured Music Performance means a performance by a Live Artist Performer, including:

- (a) performances by a DJ, other than a DJ who selects or programmes music for the purpose of dancing; and
- (b) where music is provided for the purpose of accompanying singing by patrons (Karaoke).

but is not a performance which is part of a National Tour.

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 in the relevant Licence Year for admission (excluding GST) to your Premises for Premium Featured Music Performances, but does not include any monies for food and beverage that may be included in the ticket price;

GST means the goods and services tax under the GST Act;

GST Act means A New Tax System (Goods and Services Tax) Act 1999 as amended;

Licence Fee means the amount payable by you under clause 2;

Licence Year means any 12-month period (or part thereof) 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;

Live Artist Performer means any performer participating in the performance of music including DJs, featured performers and associated singers, musicians, dancers, models and conductors;

Music Use Information means the information provided by you in accordance with clause 3;

National Tour means a series of advertised performances of a particular music event with the same Live Artist Performer at different venues within Australia by a listed national concert promoter as published on our website;

Nightclub means a licensed premises that:

- (a) is used for providing music for dancing; and
- (b) uses recorded APRA Works as the primary form of music for dancing; and
- (c) 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
- (d) is not being used for:
 - (i) a private function;
 - (ii) Dance Parties;
 - (iii) an event that features ballroom or similar traditional dancing; or
 - (iv) an event for underage persons (such as a "blue light disco");

This definition includes a Nightclub operating within a multi purpose premises in a physically separate area of that premises, where that separate area satisfies the above criteria; **Premises** means your Restaurant/Café as specified in Part B of this agreement.

Premium Featured Music Performance means a Featured Music Performance where the admission is \$20 or greater;

Production Music means any musical work for which AMCOS is granted by the copyright owner the right to license reproductions of sound recordings of that Work;

Restaurant/Café means a restaurant or café with its primary purpose being the service of food, but does not include a restaurant or café if it is operating:

- (a) primarily for the service of alcohol;
- (b) within a hotel, club or bar;
- (c) as a take-away food outlet that does not offer full or part table service; or
- (d) as a Nightclub or Dance Party venue;

Streamed means the communication of works by means of the Internet under circumstances in which the user is prohibited from making a copy (other than a temporary copy) of the works;

Website means the website identified by you in Part B, and only that website; and

Works means AMCOS Works and/or APRA Works.

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