

APRA Licence Application

Recorded Music for Dance Use in Nightclubs



CLIENT NO. _____

A P R A

Please complete the relevant section(s), sign and return to: Locked Bag 5000, Strawberry Hills NSW 2012 or fax (02) 9935 7790.

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 Works within APRA's repertoire by means of recorded music for the purpose of Dance Use at Nightclubs, including but not limited to a hotel, club, bar or restaurant.

The Annual Rates set out below for Recorded Music for Dance Use in Nightclubs are current from 1 November 2011 to 31 October 2012. Annual Rates for 1 November 2012 to 31 October 2013; 1 November 2013 to 31 October 2014; and 1 November 2014 to 31 October 2015 are annexed to this application. After 31 October 2015 clause 3.2 applies.

GFN

Annual Rates 78 cents per person admitted to the Nightclub*

Annual number of persons admitted to the Nightclub: x 78c = \$

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

Annual fees shall be calculated, for the purposes of this licence, by extrapolating those figures given over a 12 month period.

*If annual figures for the number of persons admitted are not submitted, APRA reserves the right to charge licence fees based on Venue Capacity.

Capacity of Venue: Nights of Operation:

AMOUNTS STATED ON THIS APPLICATION ARE INCLUSIVE OF GST.

The annual rate set out above is current from 1 November 2011 to 31 October 2012.

THIS SECTION MUST BE COMPLETED IN BLOCK CAPITALS AND SIGNED

If you require help completing this licence application please call Client Services on 1300 852 388.

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.

Name of Applicant

COMPANY / PARTNERSHIP / SOLE TRADER / INCORPORATED

Applicants ACN

Applicants ABN

The ACN and/or ABN (if you have one) must match the name of the Applicant. ABN and Trust details not required if ACN provided. If you are a Partnership please set out above name of all principals behind the partnership, trading as the name of the partner.

Do you operate through a Trust?

 Yes No

If yes:

NAME OF TRUST

ABN

The Trust ABN must correspond with the name of the Trust. The entity/company behind the Trust must be entered against Name of Applicant above "As Trustee For (ATF)".

Name of Business

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.

APRA Licence Agreement

Recorded Music for Dance Use in Nightclubs



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:
 - (a) the public reception of any performance beyond the precincts of the Nightclub;
 - (b) the performance of Grand Right Works in their entirety;
 - (c) the performance in whole or in part of any musical work in a Dramatic Context;
 - (d) the performance in whole or in part of any music and associated words composed or used for a ballet if accompanied by a visual representation of that ballet;
 - (e) the performance of any choral work of more than 20 minutes' duration;
 - (f) the performance of any music and associated words so as to burlesque or parody the work;
 - (g) the performance of any musical work with new or substituted lyrics, or any lyrics which have been notified by APRA as prohibited;
 - (h) the performance of any sound recording (this permission is obtained from the Phonographic Performance Company of Australia Limited); or
 - (i) any other right not expressly granted under this agreement.

2. DURATION OF THE AGREEMENT

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. After 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 terminating on the anniversary of the expiry of the initial period.

3. CALCULATION OF AMOUNTS PAYABLE

- 3.1 Subject to clause 3.3, the Applicant must pay APRA for each Licence Year, the amount calculated in accordance with the formula specified on the front of this agreement using:
 - (a) the annual rate current for that Licence Year;
 - (b) the number of persons admitted to the Nightclub during that Licence Year.
- 3.2 On 1 November 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.
- 3.3 If APRA is satisfied that the Premises are being operated for charitable purposes, APRA may waive the whole or part of the amount payable calculated in accordance with clause 3.1.

4. SUPPLY OF INFORMATION

- 4.1 The Applicant must notify APRA within 14 days after the end of each Licence Year of the number of persons admitted to the Nightclub, during that Licence Year.
- 4.2 APRA 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 within 28 days of any change to the particulars on the front of this agreement.
- 4.4 The Applicant must, on request by APRA, supply APRA with a list of all music performed at the Nightclub in the form and for the period specified by APRA from time to time.

5. CONFIDENTIALITY

- 5.1 Subject to clause 5.2, APRA 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 may disclose information to its auditors and other professional advisers.

6. PAYMENT

- 6.1 At the commencement of each Licence Year, APRA will issue an invoice for a provisional amount payable:
 - (a) 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
 - (b) 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 under clause 6.1 within 14 days after the date of the invoice.
- 6.3 On APRA's receipt of the information under clause 4.1, APRA 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 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 must at its option either credit or refund the amount of difference to the Applicant.
- 6.6 On APRA's receipt of the information under clause 8, 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.

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 Applicants books of account and other records to:
 - (a) determine the correctness of any report or payment under this agreement; or
 - (b) 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:
 - (a) establishes that the information provided by the Applicant resulted in the amounts payable under this agreement being understated by more than 10%; or
 - (b) is undertaken under clause 8.1(b).

9. TERMINATION

- APRA may immediately terminate this agreement by notice to the Applicant if the Applicant:
- (a) fails to pay any sum when due under this agreement within 14 days after the due date;
 - (b) 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;
 - (c) 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
 - (d) being an individual, commits any act of bankruptcy or enters into a scheme of arrangement with creditors.

10. DEFINITIONS

In this agreement:

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 vested in APRA for Australia.

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

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

Grand Right Work means an opera, operetta, musical play, revue or pantomime insofar as it consists of words and music written expressly for it.

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:

- (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) a Dance or Dance Party;
 - (iii) an event that features ballroom or similar traditional dancing; or
 - (iv) 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.

Venue Capacity means the capacity of the venue as determined by the relevant Liquor Licensing Board;

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:
 - (a) delivering it to the address of the party;
 - (b) sending it by pre-paid post to the address of the party; or
 - (c) 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 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's prior written consent.
- 13.3 This agreement may only be varied by the written agreement of the parties.
- 13.4 APRA may vary the terms of this agreement, including the rate applicable, 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 within 14 days after the date of an invoice issued by APRA 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. Information collected is only for the business purposes of APRA and will not be disclosed to any third parties except in accordance with the privacy policy of APRA. The privacy policy can be obtained from APRA.

OFFICE USE ONLY

SIGNED AS AGREED BY APRA

APRA accepts the application and 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

CLIENT NO.

GST EXCLUSIVE FEE

RECEIVED

PREMISES TYPE CODE

Annexure

Recorded Music for Dance Use in Nightclubs



RATES ANNEXURE TO RECORDED MUSIC FOR DANCE USE IN NIGHTCLUBS LICENCE SCHEME

PART A – PREVIOUS ANNUAL RATE PHASE-IN TIMETABLE (now superseded, refer to PART B)

ANNUAL RATE per person admitted to the Nightclub per night of operation				
1 Nov 2008	1 Nov 2009	1 Nov 2010	1 Nov 2011	1 Nov 2012 & thereafter *
Year 1	Year 2	Year 3	Year 4	Year 5 & thereafter *
\$0.51	\$0.64	\$0.78	\$0.91	\$1.05

Amounts stated are inclusive of GST

* Subject to yearly increase in accordance with the Consumer Price Index

PART B – REVISED ANNUAL RATE PHASE-IN TIMETABLE (effective as of 1 November 2011)

ANNUAL RATE per person admitted to the Nightclub per night of operation							
01/11/2008	01/11/2009	01/11/2010	01/11/2011	01/11/2012	01/11/2013	01/11/2014	01/11/2015 and thereafter*
Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8 and thereafter*
\$0.51	\$0.64	\$0.64	\$0.78	\$0.78	\$0.91	\$0.91	\$1.05

Amounts stated are inclusive of GST

* Subject to yearly increase in accordance with the Consumer Price Index