

APRA Licence Application

FITNESS CENTRES – Background Music



Please complete the relevant section(s), sign and return to: PO Box 6315, Wellesley St, Auckland 1141 or fax (09) 623 2174.

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, in the circumstances and by the method(s) described below.

- Where multiple locations are to be covered under this application a schedule must be attached providing the relevant details of each location.

Background Music			
ANNUAL RATE PER DEVICE (1 July 2011 – 30 June 2012)	QTY (units)	1 July 2011 – 30 June 2012 & thereafter*	Total \$
BACKGROUND MUSIC (BFB) Includes CD players, tape players, background music services and/or each zone/channel of a Multi-Channel Device.		\$187.44	
RADIO (BFR)		\$120.97	
TV** (BFT) TV sets includes TVs used to show video/DVD, free to air TV, and subscription TV.		\$120.97	
AUDIO JUKEBOX (BFJ)		\$275.70	
VIDEO JUKEBOX (BFV) Includes video/DVD Jukeboxes.		\$385.77	
LARGE SCREEN (BFS) Includes large screen video players, projectors and TVs with a diagonal screen size larger than 105cm, used to show video/DVD, free to air TV and/or subscription TV.		\$385.77	
AMOUNTS STATED ON THIS APPLICATION ARE INCLUSIVE OF 15% GST. *Subject to yearly increase in accordance with the Consumer Price Index. **For the purpose of this agreement APRA will consider any 4 TVs irrespective of configuration as a large screen.			TOTAL \$

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

Name of Applicant _____
COMPANY/PARTNERSHIP/SOLE TRADER

Name of Business _____
BUSINESS NAME

Address _____
ADDRESS

_____ POSTCODE

Address for Correspondence

_____ ADDRESS _____ EMAIL

_____ POSTCODE _____ MOBILE

_____ PHONE

Applicant's Companies Office Number _____

Date on which music usage commenced _____ COMMENCEMENT DATE _____ FAX

Signed by/on behalf of the Applicant

_____ SIGNATURE _____ DATE

_____ PRINT NAME IN FULL _____ POSITION OF PERSON SIGNING

This application form 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 GST EXCLUSIVE FEE RECEIVED PREMISES TYPE CODE DATE

APRA Licence Agreement

FITNESS CENTRES – Background Music

1. SCOPE OF LICENCE

- 1.1 APRA grants the Applicant a licence to perform in public works within APRA'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:
 - (a) the public reception of any performance beyond the precincts of the Premises;
 - (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 in its entirety;
 - (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 PPNZ Music Licensing 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 AMOUNT PAYABLE

- 3.1 Subject to APRA's right to reassess the amount payable under clause 3.3, the Applicant must pay APRA:
 - (a) for the first Licence Year, an amount equal to the total of each annual rate current for that Licence Year, for each Device specified on the front of this agreement; and
 - (b) for each subsequent Licence Year, an amount equal to the total of each annual rate current for that Licence Year, for each Device as at the date of APRA's invoice under clause 5.
- 3.2 On 1 July 2012 and each year thereafter, the GST exclusive annual rates will be calculated by increasing the then current GST exclusive annual rates by the percentage increase in the Consumer Price Index between the last 2 March Quarters.
- 3.3 On APRA's receipt of the information under clause 4.1, APRA may issue an invoice for any additional amounts payable.

4. SUPPLY OF INFORMATION

- 4.1 The Applicant must notify APRA within 28 days of any change to the particulars on the front of this agreement.
- 4.2 The Applicant must, on request by APRA, supply APRA with a list of all music performed at the Premises in the form and for the period specified by APRA from time to time.

5. PAYMENT

The Applicant must pay the amount payable calculated in accordance with clause 3 for each Licence Year within 14 days after the date of APRA's invoice stating the amount payable for the Licence Year.

6. 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.

7. DEFINITIONS

In this agreement:

Consumer Price Index means the Index of that title All Groups published by the New Zealand Department of Statistics and **March Quarter** means quarter year ending 31 March.

Device means any device referred to on the front of this agreement.

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 (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.

Multi-Channel Device means any equipment capable of playing more than one stream of music at the same time.

Works within APRA's repertoire means all musical works, including any words normally associated with those works by the copyright owner for New Zealand, the rights of Public Performance of which are owned by APRA for New Zealand.

8. RECORDS

The Applicant must keep accurate records in sufficient detail to ensure that all amounts payable to APRA under this agreement can be properly ascertained.

9. AUDIT OR EXAMINATION

- 9.1 APRA may on 7 days' notice to the Applicant audit or examine the Applicant's 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.
- 9.2 The Applicant must pay the cost of the audit or examination if:
 - (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 9.1(b).

10. NOTICES

- 10.1 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;
 - (c) sending it by facsimile to the facsimile number of the party; or
 - (d) by electronic communicationand the notice will be deemed to have been received by the party on receipt.
- 10.2 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.

11. MISCELLANEOUS

- 11.1 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.
- 11.2 This agreement is personal to the Applicant. The Applicant is not entitled to assign any of its rights without APRA's prior written consent.
- 11.3 Subject to clause 11.5, this agreement may only be varied by the written agreement of the parties.
- 11.4 The Applicant agrees to pay all costs and expenses (including debt collection and legal costs on a solicitor/client basis) incurred by APRA in enforcing or attempting to enforce its rights under these terms and conditions.
- 11.5 APRA 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.
- 11.6 This agreement must be construed in accordance with the laws in force in New Zealand and the parties agree to submit to the jurisdiction of New Zealand Courts.

12. 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