

APRA Licence Application

LIVE PERFORMANCES



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 occurring at the Premises, by means of Live Artist Performers.

Annual Rates

Annual rates are calculated upon the sums which are paid to and/or received by Live Artist Performers appearing at the Premises, or Agents, as follows:

2.30% of the Applicant's **Gross Expenditure on Live Artist Performers,**
PLUS
1.7250% of **Gross Sums Paid for Admission.**
The annual fee is subject to a minimum annual fee of \$57.50.

Annual **Gross Expenditure on Live Artist Performers**

\$ x 2.30% = \$

Annual **Gross Sums paid for admission**

\$ x 1.7250% = \$

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 application and its particulars, by extrapolating those figures given over a 12 month period.

AMOUNTS STATED ON THIS APPLICATION ARE INCLUSIVE OF 15% GST.

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

Address for Correspondence

ADDRESS

POSTCODE

EMAIL

Applicant's Companies Office Number

POSTCODE

MOBILE

Date on which music usage commenced

COMMENCEMENT DATE

PHONE

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

LIVE PERFORMANCES

1. SCOPE OF THE 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

- The Applicant must pay APRA, for each Licence Year, an amount equal to the greater of:
- (a) the amount calculated in accordance with the formula specified on the front of this agreement using:
 - (i) the Gross Expenditure on Live Artist Performers for that Licence Year; and
 - (ii) the Gross Sums Paid for Admission during that Licence Year; and
 - (b) the minimum annual fee current for that Licence Year.

4. SUPPLY OF INFORMATION

- 4.1 The Applicant must notify APRA within 14 days after the end of each Licence Year of:
- (a) the Gross Expenditure on Live Artist Performers for that Licence Year; and
 - (b) the Gross Sums Paid for Admission during that Licence Year.
- 4.2 The information required under clause 4.1 must be certified by the Applicant or, if the Applicant is a corporation, by an officer of the Applicant.
- 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, within 28 days after APRA's request, supply APRA with a list of:
- (a) all music performed at the Premises;
 - (b) the number of times performed; and
 - (c) the duration of each performance,
- in the form and for any 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 this 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 being:
- (a) for the first Licence Year, the greater of:
 - (i) the amount calculated in accordance with the formula and using the information supplied by the Applicant on the front of this agreement; and
 - (ii) the minimum annual fee current for that Licence Year; and
 - (b) for each subsequent Licence Year, the greater of:
 - (i) the amount 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; and
 - (ii) the minimum annual fee current for that 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 the difference to the Applicant.
- 6.6 On APRA's receipt of the information under clause 8, APRA may issue an invoice for any additional amounts. 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 7 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 5%; 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:

Agent means any agent, manager, assistant or associate of the Live Artist Performer.

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.

Gross Expenditure on Live Artist Performers means all monies and the monetary value of all benefits receivable directly or indirectly by the Live Artist Performer including all salaries, wages, profit shares, allowances, accommodation, travelling and other expenses (but excluding Gross Sums Paid for Admission and government taxes or other charges) and whether receivable by the Live Artist Performer or an Agent.

Gross Sums Paid for Admission means the total amount:

- (a) paid for admission to any entertainment at which live music is performed in public at the Premises (but excluding government taxes or other charges); and
- (b) receivable directly or indirectly by the Live Artist Performer or an Agent.

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.

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

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 right of public performance of which are owned or controlled by APRA for New Zealand.

11. NOTICES

- 11.1 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.
- 11.2 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.

12. MISCELLANEOUS

- 12.1 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.
- 12.2 This agreement is personal to the Applicant. The Applicant is not entitled to assign any of its rights without APRA's prior written consent.
- 12.3 This agreement may only be varied by the written agreement of the parties.
- 12.4 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.
- 12.5 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.

13. 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