

LOW POWER RADIO LICENCE APPLICATION

I/We apply for a licence from OneMusic which, subject to these terms & conditions, including and subject to the payment of a licence fee/s (**Licence Fee**) set out on this and the reverse page, authorises the Communication of Music within OneMusic's repertoire in the circumstances and by the methods described below.

- Where multiple stations/frequencies are to be covered under this application a schedule must be attached providing the relevant details for each station with associated websites (if any)
- Licence Fees will apply for the period 1 July 2019 to 30 June 2020.
- Licence Fees will then increase by the Consumer Price Index (CPI) on 1st July in each subsequent Licence Year.
- Licence Fees stated in this application are exclusive of 15% Goods and Services Tax.

1 Annual rates

The Licence Fee referred to in paragraph 2 of this agreement, shall be calculated on an annual basis at the rates below. Please indicate which option relates to your use by ticking the relevant box.

LOW POWER RADIO STATION / INTERNET SIMULCAST	ANNUAL LICENCE FEE	TICK BOX
A non-commercial low power radio station (including any associated internet simulcast) with no Gross Advertising Revenue.	\$262.18 per annum	<input type="checkbox"/>
A low power radio station (including any associated internet simulcast) with less than \$5,000 annual Gross Advertising Revenue.	\$398.52 per annum	<input type="checkbox"/>
A low power radio station (including any associated internet simulcast) with between \$5,000 - \$10,000 annual Gross Advertising Revenue.	\$587.30 per annum	<input type="checkbox"/>

2 Contact details and acknowledgement

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 / TRUST *Please ensure that the name listed here matches your Companies Office registration name exactly.

Radio station and frequency and any associated Website for simulcast etc.

RADIO STATION NAME, FREQUENCY AND WEBSITE

Address of premises

ADDRESS

POSTCODE

Address for correspondence

ADDRESS

POSTCODE

TICK IF SAME AS ADDRESS OF PREMISES

EMAIL

MOBILE

PHONE

Date on which music usage commenced:

SIGNATURE

DATE

COMMENCEMENT DATE

PRINT NAME IN FULL

POSITION OF PERSON SIGNING

This application form will only constitute a Licence Agreement when the applicant receives a tax invoice from OneMusic. OneMusic may refuse to grant a Licence Agreement where the information contained in this application is incorrect or incomplete.

3 Return this form to OneMusic by post, email or fax (details below)

OneMusic LICENCE AGREEMENT

1. GRANT OF LICENCE

- 1.1 OneMusic (we, us, our) grants you a licence as set out in this agreement to Communicate Music based on the information you have provided to us in Section 1.
- 1.2 The applicant (you or the Licensee) communicates a low power radio transmission (including any associated website for internet simulcast) and wishes to Communicate Music from APRA's and Recorded Music New Zealand Limited's repertoire.
- 1.3 The Licensee will at OneMusic's reasonable request, supply to OneMusic a certified list of each and every piece of Music Communicated without any exceptions or omissions whatsoever of such programmes as OneMusic may from time to time require by notice in writing, provided always that, OneMusic may not make any unreasonable demands on the Licensee in relation to such certified lists.
- 1.4 In the event of the Licensee relaying programmes emanating from other stations such relaying will be subject to all the terms & conditions of this agreement in the same manner and in all respects as if the Music so relayed had been originally communicated by the Licensee in the ordinary course of its business.
- 1.5 Your licence starts on the first day of a month nearest the Commencement Date, and continues for successive one-year periods until terminated.
- 1.6 The grant of licence set out in this agreement does not cover the / any (as applicable):
 - (a) right to sub-license anyone else to Communicate the Music;
 - (b) right to engage in, authorise or permit the Communication or Copying of any pirate, counterfeit or bootleg Music or Communicate Music that has been downloaded from sites on the internet that are engaged in the unauthorised supply of Music;
 - (c) Communication in their entirety in any manner whatever of Dramatico-musical Works (e.g. or of the whole of any choral work longer than 20 minutes; or of an opera, operetta, musical, if the Works were written for that show; Communication as part of any advertising material, Works within the repertoire of APRA AMCOS and Recorded Music New Zealand Limited where such usage has not been specifically authorised in writing;
 - (e) the invoicing of Gross Advertising Revenue in excess of the sum of \$10,000 per annum. The Licensee acknowledges that separate commercial Radio Broadcast and Simulcast licences will be required from APRA and Recorded Music New Zealand Limited;
 - (f) synchronisation rights;
 - (g) manufacture, sale or distribution of Music;
 - (h) podcasts containing Music;
 - (i) incorporation of any Music in other audio-visual material unless:
 - (ii) combined with photographs or still images relating to artists performing the Music; or
 - (iii) being an interview with an artist, producer or person associated with the creation, performance or production of Music;
 - (j) right to adapt Music from the original Sound Recording;
 - (k) Copying or Communicating of any Music or part of it in the form of a parody, mockery or otherwise, including being detrimental or insulting to the artists featured in the Music; and
 - (l) other rights not expressly granted pursuant to this agreement (with all such rights being reserved).

2. LICENCE FEES AND INFORMATION

- 2.1 While you continue to use the Music, at the start of each Licence Year you must pay OneMusic the amount of Licence Fees in accordance with the formula specified, and using the information provided by you as the Licensee in Section 1
- 2.2 At the start of each Licence Year, we will issue to you an invoice for an amount payable:
 - (a) for the first Licence Year, calculated in accordance with the formula specified and using the information supplied by you as Licensee in Section 1; and
 - (b) for each subsequent Licence Year, by applying the specified formula to:
 - i. the existing information as detailed by you as Licensee Section 1, where we have not requested an update (see clause 2.3);
 - ii. the updated information to Section 1, where we have requested an update (see clause 2.3) and you have provided that as the Licensee; or
 - iii. our reasonable estimate of the information to be provided in Section 1 where we have requested an update (see clause 2.3) but you have failed to provide such information in a timely fashion.
- 2.3 You are required for the first Licence Year, and may for subsequent Licence Years, be required to confirm or update the information initially provided by you as Licensee in Section 1.
- 2.4 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.
- 2.5 On 1 July 2020 and each year thereafter, the GST exclusive annual Licence Fees will be calculated by increasing the then current GST exclusive Licence Fee by the percentage increase in the CPI between the last two March Quarters.
- 2.6 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 if we incur expenses or legal costs in doing so, these additional amounts will also be recoverable from you as a debt.
- 2.7 Any termination or suspension of this agreement will not affect the right of OneMusic to recover monies due and payable prior to such termination or suspension.

3. AUDIT OF INFORMATION IN SECTION 1

- 3.1 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 of any Licence or other fee under this agreement.
- 3.2 You must pay the cost of the examination if the examination establishes that the Licence Fee payable under this agreement was or were understated by you as Licensee by more than 10%.

4. CONFIDENTIALITY AND PRIVACY

- 4.1 Subject to clause 4.2, 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.
- 4.2 We may disclose the information to our licensing partners, auditors and other professional advisers. Information you provide may also be aggregated to provide industry statistics for publication.
- 4.3 In all other respects, information will be retained pursuant to our privacy policy – as published on our website at www.onemusicnz.com.

5. TERMINATION

- 5.1 After the first Licence Year, either party may terminate the agreement by 1 month's notice in writing (including email).
- 5.2 We may immediately terminate this agreement by notice in writing (including email) to you if you:
 - (a) fail to pay any Licence Fee or other sum when due under this agreement within 14 days after the due date for payment of the same;
 - (b) breach any other term of this agreement and fail to remedy the breach within 7 days after being requested in writing to do so by OneMusic;
 - (c) 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 your creditors or suffer any other form of external administration; or
 - (d) being an individual, commit any act of bankruptcy or enter into a scheme of arrangement with your creditors.

6. DISPUTE RESOLUTION

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

7. NOTICES

- 7.1 A notice under this agreement must be in writing and may be given to the addressee by:
 - (a) delivering it to the address of the addressee, and will be deemed received at the time of delivery; or
 - (b) sending it by pre-paid registered post to the address of the addressee, and will be deemed received on the 3rd day after posting; or
 - (c) 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. OTHER PROVISIONS

- 8.1 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.
- 8.2 You must not assign any of your rights under this agreement without our prior written consent.
- 8.3 This agreement may be varied by us from time to time to ensure best industry practice. Any amendments will apply 30 days from when these terms & conditions are updated on our website at www.onemusicnz.com. This agreement will be construed in accordance with the laws in force in New Zealand and the parties agree to submit to the exclusive jurisdiction of the New Zealand courts.
- 8.4 Schedule 1 and these terms & conditions constitute the entire agreement between us.
- 8.5 If any term or condition of this agreement is deemed invalid or unenforceable it shall be severed from this agreement but all other terms & conditions will remain on foot and enforceable.
- 8.6 The Licensee will accordingly indemnify both APRA AMCOS and Recorded Music New Zealand Limited against any liability arising out of the Licensee's breach of copyright or other acts or omissions in respect of any music not represented by either APRA AMCOS or Recorded Music New Zealand Limited.
- 8.7 Upon termination or suspension of this agreement, all rights granted will immediately cease and the Licensee will have no further right to Communicate any Music.

9. DEFINITIONS

Agreed Rate means the interest rate for overdrafts charged by the Bank of New Zealand plus 2% points calculated on daily rests from the due date to the date of payment.

AMCOS Works means all musical works, including and words normally associated with those works and by the Copyright Owner in New Zealand, the right of Copying of which for the purposes of this agreement are controlled by AMCOS New Zealand Limited (AMCOS) in New Zealand.

APRA Works means all musical works, including any words normally associated with these works by the Copyright Owner for New Zealand, the right of, among other things, Communication of which are controlled by APRA New Zealand Limited (APRA) in New Zealand.

Communication means to transmit or make available by means of a communication technology, including by means of a telecommunications system or electronic retrieval system, and **Communicate** has a corresponding meaning.

Copying shall have the meaning given to that term in the Copyright Act 1994. For the ease of present requirements, in relation to Music, Copying means reproducing, recording or storing the Music in any material form (including any digital format, in any medium and by any means), and **Copy** or **Copies** has a corresponding meaning.

Copyright Owner means any person, firm, participant or company who or which from time to time has assigned or licensed its rights to APRA, AMCOS or Recorded Music New Zealand Limited to collect for, among other things, the Communication licence fees (including the Licence Fees) on their behalf in respect of the Music, among other things, Communicated in New Zealand.

Commencement Date means the date specified in Section 2.

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

Dramatico-musical Work means an opera, operetta, musical play, revue or pantomime, insofar as it consists of words and music written expressly therefor;

Gross Advertising Revenue means the aggregate of the sums charged out by or on behalf of the Licensee in respect of the sale of station time to advertisers without any deductions whatsoever; and shall include commissions and the like allowed or provided for in any manner by the Licensee to advertising agencies and others in respect of advertisements placed with the Licensee. Licence Year means the 12 month period commencing annually on the 1st July 2017.

Music means Works, Sound Recordings and Video/Film Recordings in which the rights of, among other things, Communication and Copying are controlled by APRA, AMCOS or Recorded Music New Zealand Limited, for the purposes of this agreement.

Participant means any person, firm or company who or which from time to time has been admitted either before or during the Licence Year as a participant of Recorded Music New Zealand Limited's direct-to-artist royalty scheme.

Sound Recordings means all sound recordings by the Copyright Owner for New Zealand, the right of, among other things, Communication of which are controlled by Recorded Music New Zealand Limited in New Zealand.

Video/Film Recordings means each music video or film presented in conjunction with Sound Recordings by the Copyright Owner, the right of, among other things, the Communication of which are controlled by Recorded Music New Zealand Limited in New Zealand.

Works means AMCOS Works and APRA Works.

OFFICE USE ONLY

For and on behalf of OneMusic
by its duly authorised officer

SIGNED AS AGREED BY APRA NEW ZEALAND LIMITED TRADING AS ONEMUSIC

OneMusic accepts the application and grants a licence on the terms set out in this Licence Agreement.

SIGNATURE

DATE

LICENCE NO.

GST EXCLUSIVE FEE

RECEIVED

PREMISES TYPE CODE

OneMusic