

I/We apply for a licence from Recorded Music NZ which, subject to both these terms and conditions, and the payment of a licence fee/fees (Licence Fee), authorises the communication and performance of Sound Recordings within Recorded Music NZ's repertoire at the locations set out in the Schedule by means of exhibition of cinematograph films and/or background music in public areas of the cinema.

## 1 ANNUAL RATES FOR THE LICENCE PERIOD

From 1 April 2017 - 31 December 2017                      0.04% of Gross Box Office Receipts

From 1 January 2018 - 31 December 2019                      0.06% of Gross Box Office Receipts

From 1 January 2020 - 31 December 2020                      0.08% of Gross Box Office Receipts

From 1 January 2021 - 31 December 2021                      0.10% of Gross Box Office Receipts

Subject to a minimum fee of \$100.00 + GST per 6 month period. All fees noted are exclusive of 15% GST.

## SCHEDULE (ATTACH FURTHER LOCATIONS AS REQUIRED)

CINEMA NAME	CINEMA ADDRESS (PREMISES)
1	
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## 2 CONTACT DETAILS AND ACKNOWLEDGEMENT

I acknowledge that I have completed the schedule of licensed premises and read the terms on the reverse of this application and agree to be bound by those terms.

Legal name of business or organisation (Applicant)

COMPANY\* / PARTNERSHIP / SOLE TRADER / TRUST

Trading name of business or organisation (Applicant)

TRADING NAME

Address of premises

ADDRESS

POSTCODE

Address for correspondence

ADDRESS

POSTCODE

TICK IF SAME AS ADDRESS OF PREMISES

EMAIL

MOBILE

PHONE

Date on which music useage commenced:

SIGNATURE

DATE

COMMENCEMENT DATE

PRINT NAME IN FULL OF PERSON SIGNING ON BEHALF OF APPLICANT

POSITION OF PERSON SIGNING

This application will constitute a Licence Agreement when the Applicant receives a signed agreement from Recorded Music NZ. Recorded Music NZ may refuse to grant a Licence Agreement where the information contained in this application is incorrect or incomplete.

## 3 RETURN THIS FORM BY EMAIL, POST OR FAX:

**EMAIL:** info@recordedmusic.co.nz **POST:** Private Bag 78850, Grey Lynn, Auckland 1021, New Zealand **FAX:** 00 649 360 5086.

**A THE TERMS AND CONDITIONS APPLYING TO THIS AGREEMENT BETWEEN US****WHAT YOU CAN DO and NOT DO**

1. Based on the information provided on the front page, Recorded Music NZ (we, us, our) grants you (the Licensee as named on the front page) a Licence to Perform and Communicate Controlled Content at your Locations for both the exhibition of Cinematograph Films and the playing of background music in all public areas of the cinema at the Locations.
2. The licence granted under this agreement between us is subject to the full payment of the Licence Fee by you.
3. The licence granted by us to you does not, however, include or authorise you to:
  - (a) Authorise anyone else to Perform or Communicate Controlled Content;
  - (b) Copy any Sound Recording into an Advertisement;
  - (c) Copy any Sound Recording to promote any product or service;
  - (d) Copy, Perform or Communicate any AMCOS Works or APRA Works;
  - (e) Synchronise Copied Controlled Content into audio-visual productions where direct permission from the relevant copyright holder is required; and
  - (f) Anything else not expressly set out in this agreement between us.

**WHAT TO PAY**

4. While you continue to use Controlled Content, you must pay us, for each Licence Year, an amount equal to the amount calculated in accordance with the formula specified on the front page.
5. These amounts payable must then be paid bi-annually in arrears so that, within 20 days of the end of each 6 month reporting period ending 30th June and 31st December in each Licence Year, you will provide us with a statement, certified as correct by your principal accounting person, showing your Gross Box Office Receipts for the preceding 6 month period.
6. You must then pay the amount payable as calculated in accordance with the formula specified on the front page within 14 days of the date of our invoice to you setting out the amount payable.
7. 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 between us.
8. If you fail to pay any invoice after notice is provided to you, and we take steps to recover amounts outstanding under this agreement between us and incur legal or other expenses doing so, these additional amounts will be recoverable from you as a debt as well.

**HOW LONG THIS AGREEMENT GOES FOR?**

9. Your agreement with us (i.e. your licence) starts on the first day of the month closest to the Commencement Date set out on the front page and continues until 31 December 2021.
10. Our agreement can, however, sometimes end early – see below.

**WE CAN ASK TO CHECK YOUR NUMBERS**

11. We may by giving you 14 days' notice 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 made by you under this agreement between us.
12. You must pay the cost of the examination if the examination establishes that the amounts due from you were understated by more than 10%.
13. We warrant that we are entitled to grant the Licensee all rights under this Licence in respect of the Communication and Performance of Controlled Content by you and the Licensee's use of the Licence in accordance with the terms of this Licence will not infringe the rights of any third party.

**TO END OUR AGREEMENT**

14. Either of us may terminate this agreement by giving to the other at least 1 month's notice that we wish to end our agreement and this will take effect at the end of the 6 month period in which such written notice is given.
15. We can end our agreement with you immediately if you have:
  - (a) Failed to pay any sum, including the Licence Fee, when due under this agreement within 14 days after the due date for payment;
  - (b) Breached any other term of this agreement and failed to remedy the breach within 7 days after being requested in writing to do so by us;
  - (c) Gone 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
  - (d) Committed any act of bankruptcy or enter into a scheme of arrangement with your creditors.
16. You must immediately cease Communicating and Performing Controlled Content by any means as soon as our agreement ends; including at the end of term unless you have a new agreement in place with us.

**IF WE DO NOT AGREE**

17. If we disagree on something then we will try and resolve the issue in good faith. If not, we can submit our dispute for determination by a mediator as detailed on our website at [www.recordedmusic.co.nz](http://www.recordedmusic.co.nz).
18. If either of us wants to send a notice to the other, then this must be in writing.
19. A notice can be delivered by:
  - (a) Courier and will be deemed received at the time of delivery; or
  - (b) Pre-paid registered post to the other's address, and will be deemed received on the 3rd day after posting; or
  - (c) Email to our relevant business email address, and will be deemed received immediately after dispatch.

**CONFIDENTIALITY AND PRIVACY**

20. Other than as detailed in paragraph 20 below, we both agree to treat as confidential, during and after the term of our agreement together, all information provided by either of us that can properly be regarded as confidential and is not in the public domain.
21. We, Recorded Music NZ can, however, disclose the information to our licensing partners, auditors and other professional advisers and any information you provide may also be aggregated to provide industry statistics for publication.
22. In all other respects, information will be retained pursuant to our privacy policy as published on our website at [www.recordedmusic.co.nz](http://www.recordedmusic.co.nz).
23. 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 the agreement between us.
24. You must not assign any of your rights under this agreement without our prior written consent.
25. 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 and conditions are updated on our website at [www.recordedmusic.co.nz](http://www.recordedmusic.co.nz).
26. New Zealand law applies to this agreement between us and we both agree to submit to the jurisdiction of the New Zealand courts.

**DEFINITIONS**

27. The capitalized terms below are used in this agreement between us, as follows:

**Advertisement** means any audio, visual or audio-visual production which 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.

**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 any words normally associated with those works and by the relevant copyright owner in New Zealand, the right of reproduction (i.e. Copying) of which for the purposes of this agreement are controlled by AMCOS New Zealand Limited in New Zealand.

**APRA Works** means all musical works, including any words normally associated with these works by the relevant copyright owner for New Zealand, the right of Performance and 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.

**Cinematograph Film** has the same meaning as set out in the Copyright Act, 1994.

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

**Commencement Date** means the date specified on the front page.

**Controlled Content** means, collectively, any Controlled Recording and/or Controlled Video.

**Controlled Recording** means any Sound Recording which any Rights Holder exclusively owns or controls the rights to within and for the Territory, or is authorised to grant rights to third parties within and for the Territory, which may vary from time to time during the term of the agreement between us.

**Controlled Video** means any Music Video which any Rights Holder exclusively owns or controls the rights to within and for the Territory, or is authorised to grant rights to third parties within and for the Territory, which may vary from time to time during the term of the agreement between us.

**Gross Box Office Receipts** means the total amount paid for the admission to screenings of Cinematograph Films at all Locations (including the value of all tickets sold or redeemed), excluding Government taxes or other charges.

**Licence** means the collective permissions and rights granted by us to you as the Licensee under this agreement; and Licensed has the corresponding meaning.

**Licence Fee** means the amount calculated by us in accordance with the information provided by you; on the front page.

**Licensee** means you and includes the Licensees subsidiaries, and, where appropriate, its and their employees, agents and affiliates.

**Locations** means the cinema premises listed on the front page and any attached schedule to this agreement.

**Performance** means a performance of Controlled Content at or in a place to which the public have access whether by invitation or upon payment of a fee or otherwise, and Perform has a corresponding meaning.

**Rights Holder** means any person, company or organisation that owns copyright, or has exclusive rights to copyright in any Controlled Content and who has given Recorded Music authority to collect the Licence Fee on its behalf.

**Territory** means New Zealand only.

**OFFICE USE ONLY**

*For and on behalf of  
Recorded Music NZ  
by its duly authorised officer*

SIGNED AS AGREED BY RECORDED MUSIC NZ

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

SIGNATURE

DATE