

Audio Manufacture Licence Application

Audio Formats for Australian Manufacture Only



**PLEASE READ & COMPLETE THIS APPLICATION CAREFULLY – if you require any assistance please call (02) 9935 7700
PLEASE TYPE OR USE BLOCK LETTERS (Please tick '✓' boxes where required).**

Name of Applicant

 "You"

Business Type:

 Company Educational Sole Trader or Individual Association Co-operative

Trading Name

 (please enter "n/a" if not applicable)

ABN

 (please enter "n/a" if not applicable)

Postal Address

Web URL

Contact Person

 Position

Phone (inc STD)

 Fax (inc STD) Mobile

Email Address

APPLICATION

You hereby apply for a licence to reproduce the AMCOS Works on the Recordings and to reproduce Records in the quantities and for the Purpose set out in the Application. By signing this Application You authorise the Manufacturer to release manufacturing details about the Recording to AMCOS at AMCOS' request. You acknowledge that a licence will only be granted when AMCOS has forwarded a Prescribed Notice and the corresponding tax invoice for AMCOS Royalties and the Processing Fee have been paid in full by You.

Signed for and on behalf of You

SIGNATURE

DATE

NAME OF PERSON SIGNING (BLOCK LETTERS)

POSITION (BLOCK LETTERS)

OFFICE USE ONLY:

CMS CLIENT NAME & NUMBER

CMS PROD NAME & FORMAT

CMS CAT NO & PROD NO

No OF TRACKS

SB No

DATE ENTERED

CMS PN DUE DATE

AUSTRALASIAN MECHANICAL COPYRIGHT OWNERS SOCIETY LIMITED ABN 78 001 678 851 (AMCOS)

Rights administered by AUSTRALASIAN PERFORMING RIGHT ASSOCIATION LIMITED ABN 42 000 016 099 (APRA)

Street Address: 6-12 Atchison Street, St Leonards NSW 2065 – Postal Address: Locked Bag 3665, St Leonards NSW 1590

Tel: (02) 9935 7700 – Fax: (02) 9935 7999 – Email: mechlic@apra.com.au – Web: www.apra.com.au

1. INFORMATION ABOUT THE RECORDING

Title of Recording

Catalogue Number **Recording Artist**

Formats CD Cassette Vinyl Other please specify

Please tick box as required for each of the above formats:

Intended Release Date (if known)

Total Manufactured Quantity (all units including demos, for sale at gigs etc)
Note: The minimum no of copies that will be licensed under this application is 20.

Retail Selling Price (exclusive of GST)
Note: If there are different RSPs, the highest

- Yes No **Is this recording dubbed from other commercially released recordings?**
 If you ticked YES, You may also need a licence from the copyright owner of the sound recording(s) - usually a record company. For more information, please contact the Australian Record Industry Association (ARIA) on (02) 8569 1144.
- Yes No **If you are eligible for a staggered payment plan under clause 6.8, do you elect to make payments in accordance with that clause?**
- Yes No **Does this application vary or extend a previously submitted application?**
 Please specify below the changed details (e.g. additional production run, change to track listing, change in manufacturing facility or change to original purpose).
 Existing AMCOS Production No (refer to original Prescribed Notice):
- Details
 (e.g. Additional production run)
- Yes No **Have you provided with the Application, or will you provide with the first payment, a copy of the invoice for the Recording from the Manufacturer?**
 You may only take advantage of the staggered payment under clause 6.8, if you answer 'Yes' to this question.

2. INFORMATION ABOUT THE MANUFACTURER AND THE DISTRIBUTOR

Name of Manufacturer
 Enter SELF if you are burning the CDs yourself.

Postal Address

Contact Person **Position**

Phone (inc STD) **Fax (inc STD)**

Name of Distributor
 Enter SELF if you are also the Distributor.

Postal Address

Contact Person **Position**

Phone (inc STD) **Fax (inc STD)**

3. INFORMATION ABOUT YOU AND THE WORKS ON THE RECORDING

- Yes No **Are you or any of your band members a member of AMCOS, and if so do you wish to obtain a licence back for any work you have written that is on the Recording?**
 Please note that the royalty on works subject to a licence back will not be included in the AMCOS Royalty and must be paid direct to the copyright owner.
- Yes No **Are any of the tracks contained on your Recording covers of other composers' works?**

4. INFORMATION ABOUT THE TRACKS ON THE RECORDING

- A You must list ALL musical works on this recording – even those you have written yourself and those you may think are out of copyright. Under section 55(1)(a) of the Copyright Act, you may only record another person’s musical works where they have been previously released on recordings in a country listed in Schedule 8 to the Copyright Regulations with the licence of the copyright owner. Where you intend to record and release a musical work that has not been previously released on record, you must have the copyright owner’s permission.
- B Any licence granted by AMCOS is only in respect of AMCOS Works, you are still required to obtain the permission of the copyright owner(s) of any other copyright musical works on the recording.
- C The COMPOSER is the person (or persons) who actually wrote the song (or musical work). It may not necessarily be the artist who originally performed it. If you only supply the name of the artist or band that originally performed the song, this can delay the processing of your application as AMCOS must cross-reference the song with the correct composer. Composer details are frequently available on the label or insert of an existing recording of the song.
- D An ARRANGER is a person who has adapted the song in an original way. For songs still in copyright that you have arranged, please only indicate the same of the original composer. For musical works that in the Public Domain or Traditional (i.e. out of copyright), the arranger may be the copyright owner of the arrangement. In these cases you should indicate the arranger’s name in a similar fashion to the following examples “BOTANY BAY” (Trad. Arr Peter Smith) or “Bolero” (Ravel, Arr Peter Smith).

TRACK 1

TITLE	
COMPOSER(S) or ARRANGER(S)	
COPYRIGHT OWNER/PUBLISHER (if known)	
PREVIOUSLY RECORDED OR MADE FAMOUS BY	

TRACK 2

TITLE	
COMPOSER(S) or ARRANGER(S)	
COPYRIGHT OWNER/PUBLISHER (if known)	
PREVIOUSLY RECORDED OR MADE FAMOUS BY	

TRACK 3

TITLE	
COMPOSER(S) or ARRANGER(S)	
COPYRIGHT OWNER/PUBLISHER (if known)	
PREVIOUSLY RECORDED OR MADE FAMOUS BY	

TRACK 4

TITLE	
COMPOSER(S) or ARRANGER(S)	
COPYRIGHT OWNER/PUBLISHER (if known)	
PREVIOUSLY RECORDED OR MADE FAMOUS BY	

TRACK 5

TITLE	
COMPOSER(S) or ARRANGER(S)	
COPYRIGHT OWNER/PUBLISHER (if known)	
PREVIOUSLY RECORDED OR MADE FAMOUS BY	

TRACK 6

TITLE	
COMPOSER(S) or ARRANGER(S)	
COPYRIGHT OWNER/PUBLISHER (if known)	
PREVIOUSLY RECORDED OR MADE FAMOUS BY	

TRACK 7

TITLE	
COMPOSER(S) or ARRANGER(S)	
COPYRIGHT OWNER/PUBLISHER (if known)	
PREVIOUSLY RECORDED OR MADE FAMOUS BY	

TRACK 8	
TITLE	
COMPOSER(S) or ARRANGER(S)	
COPYRIGHT OWNER/PUBLISHER (if known)	
PREVIOUSLY RECORDED OR MADE FAMOUS BY	

TRACK 9	
TITLE	
COMPOSER(S) or ARRANGER(S)	
COPYRIGHT OWNER/PUBLISHER (if known)	
PREVIOUSLY RECORDED OR MADE FAMOUS BY	

TRACK 10	
TITLE	
COMPOSER(S) or ARRANGER(S)	
COPYRIGHT OWNER/PUBLISHER (if known)	
PREVIOUSLY RECORDED OR MADE FAMOUS BY	

TRACK 11	
TITLE	
COMPOSER(S) or ARRANGER(S)	
COPYRIGHT OWNER/PUBLISHER (if known)	
PREVIOUSLY RECORDED OR MADE FAMOUS BY	

TRACK 12	
TITLE	
COMPOSER(S) or ARRANGER(S)	
COPYRIGHT OWNER/PUBLISHER (if known)	
PREVIOUSLY RECORDED OR MADE FAMOUS BY	

TRACK 13	
TITLE	
COMPOSER(S) or ARRANGER(S)	
COPYRIGHT OWNER/PUBLISHER (if known)	
PREVIOUSLY RECORDED OR MADE FAMOUS BY	

TRACK 14	
TITLE	
COMPOSER(S) or ARRANGER(S)	
COPYRIGHT OWNER/PUBLISHER (if known)	
PREVIOUSLY RECORDED OR MADE FAMOUS BY	

TRACK 15	
TITLE	
COMPOSER(S) or ARRANGER(S)	
COPYRIGHT OWNER/PUBLISHER (if known)	
PREVIOUSLY RECORDED OR MADE FAMOUS BY	

TRACK 16	
TITLE	
COMPOSER(S) or ARRANGER(S)	
COPYRIGHT OWNER/PUBLISHER (if known)	
PREVIOUSLY RECORDED OR MADE FAMOUS BY	

TRACK 17	
TITLE	
COMPOSER(S) or ARRANGER(S)	
COPYRIGHT OWNER/PUBLISHER (if known)	
PREVIOUSLY RECORDED OR MADE FAMOUS BY	

TRACK 18	
TITLE	
COMPOSER(S) or ARRANGER(S)	
COPYRIGHT OWNER/PUBLISHER (if known)	
PREVIOUSLY RECORDED OR MADE FAMOUS BY	

TRACK 19	
TITLE	
COMPOSER(S) or ARRANGER(S)	
COPYRIGHT OWNER/PUBLISHER (if known)	
PREVIOUSLY RECORDED OR MADE FAMOUS BY	

TRACK 20	
TITLE	
COMPOSER(S) or ARRANGER(S)	
COPYRIGHT OWNER/PUBLISHER (if known)	
PREVIOUSLY RECORDED OR MADE FAMOUS BY	

TRACK 21	
TITLE	
COMPOSER(S) or ARRANGER(S)	
COPYRIGHT OWNER/PUBLISHER (if known)	
PREVIOUSLY RECORDED OR MADE FAMOUS BY	

TRACK 22	
TITLE	
COMPOSER(S) or ARRANGER(S)	
COPYRIGHT OWNER/PUBLISHER (if known)	
PREVIOUSLY RECORDED OR MADE FAMOUS BY	

TRACK 23	
TITLE	
COMPOSER(S) or ARRANGER(S)	
COPYRIGHT OWNER/PUBLISHER (if known)	
PREVIOUSLY RECORDED OR MADE FAMOUS BY	

TRACK 24	
TITLE	
COMPOSER(S) or ARRANGER(S)	
COPYRIGHT OWNER/PUBLISHER (if known)	
PREVIOUSLY RECORDED OR MADE FAMOUS BY	

TRACK 25	
TITLE	
COMPOSER(S) or ARRANGER(S)	
COPYRIGHT OWNER/PUBLISHER (if known)	
PREVIOUSLY RECORDED OR MADE FAMOUS BY	

5. TERMS

BACKGROUND

- A. AMCOS controls in Australia the right to reproduce a large number of musical works.
- B. You wish to reproduce certain musical works into audio recordings, and to manufacture recordings, for the Purpose and require a licence from AMCOS to do so.
- C. AMCOS agrees to identify the works that it controls, and to grant a licence to reproduce those works, on the terms contained in this agreement.

AGREEMENTS

1. Definitions

Agreed Rate means the rate of interest at the overdraft rate for commercial overdrafts of \$100,000 or more charged by National Australia Bank plus 2 percentage points, calculated on daily rates from the due date of payment.

AMCOS Royalty means the royalty payable to AMCOS calculated in accordance with clause 6 and is inclusive of GST, and does not include any royalty payable for Works that are not AMCOS Works;

AMCOS Works means those of the Works in respect of which AMCOS is entitled to grant the licence in clause 3;

Application means the application by You for a licence from AMCOS;

Processing Fee means the fee calculated in accordance with the Schedule and is inclusive of GST;

Purpose means the purpose for which the Recording is made, as set out in the Application;

Recording means the audio recording identified in the Application, to the extent that it contains AMCOS Works, and **Record** means copies of the Recording;

Royalty means the royalty calculated in accordance with clause 6 and is inclusive of GST; and

Works means the works listed in the Schedule, and a reference to a Work includes a reference to a share in any such Work.

2. Processing

2.1 On receipt of this Application, AMCOS must:

- (a) identify the AMCOS Works and calculate the Royalties and Processing Fee;
- (b) notify You in writing of:
 - (i) the AMCOS Works; and
 - (ii) the name of the AMCOS member that controls the mechanical right in the AMCOS Works for Australia and their ownership share of those AMCOS Works (**Prescribed Notice**);
- (c) issue a tax invoice (or tax invoices in accordance with clause 6.8) for the Royalties and Processing Fee; or
- (d) notify You that AMCOS cannot license the Reproduction of any of the Works for the Purpose and issue a tax invoice for the Processing Fee.

3. Licence

3.1 Subject to the terms of this agreement including clause 4, by sending the Prescribed Notice to You in accordance with clause 2.1(b), AMCOS grants You a non-exclusive licence to:

- (a) reproduce the AMCOS Works into the Recording; and
- (b) manufacture the number of Records set out in the Application, for the Purpose.

3.2 No licence is granted in respect of Works that are not AMCOS Works.

3.3 If:

- (a) AMCOS acquires the right to reproduce for the Purpose any Work that is not an AMCOS Work at the time of application, and the right to collect Royalties in respect of unlicensed reproductions of such Works; and
- (b) the reproduction of such Works was unlicensed but otherwise in accordance with the Application,

AMCOS may issue an amended Prescribed Notice for the Recording and a tax invoice for the additional AMCOS Royalty calculated in accordance with this agreement and You must pay any tax invoice for the Royalties in respect of the reproduction of those Works, within 14 days after the date of the invoice.

3.4 On payment of any invoice referred to in clause 3.3, the reproduction of the Works and manufacture of Records in accordance with the Application will be deemed to have been licensed on these terms.

4. Restriction on grant

4.1 The licence granted under clause 3 is subject to You:

- (a) paying Royalties and the Processing Fee in accordance with this agreement;
- (b) distributing and selling Records strictly in accordance with the Purpose;

4.2 The parties acknowledge that where Recordings are made and Records are manufactured for retail sale the conditions set out in section 55(1)(a) of the *Copyright Act 1968* must be satisfied.

5. Your obligations

5.1 You must not under this Application:

- (a) rent the Recording or any Records;
- (b) sell, give away or use as an incentive, the Recording or any Records to promote any product or service other than the Recording itself; or
- (c) without prior written consent of the copyright owner in Australia:
 - (i) reproduce any lyrics or music in graphic (printed) form;
 - (ii) change any lyrics; or
 - (iii) change or make an adaptation or a parody (including the making of a dance remix or otherwise changing the structure), of an AMCOS Work.

5.2 On submitting the Application, You must provide AMCOS with the information requested in the Schedule, including:

- (a) full details of all Works and recordings including the title of such works, names of composers, arrangers and any other information required by AMCOS;
- (b) the name, address, telephone number, facsimile number and email address of each manufacturing or distributing facility that is to manufacture or distribute Recordings made under this agreement;
- (c) a copy of any manufacturing facility's invoice or any other documentation from the facility that specifies the quantity of recordings manufactured by it, by the earlier of:
 - (i) 10 days after the manufacture of the records; or
 - (ii) the payment of the invoice issued under clause 6.8(c); and
- (d) if requested by AMCOS, a copy of the Recording free of charge.

5.3 If you fail to provide AMCOS with sufficient information for AMCOS to determine whether a Work is an AMCOS Work, You must pay AMCOS' reasonable costs in relation to any further research conducted by AMCOS to ascertain full details of the Work.

5.4 You must ensure that:

- (a) the title;
- (b) the names of the composers, lyricists and arrangers (if any); and
- (c) the names of the copyright owners,

of each AMCOS Work included in the Recording appear on the packaging of every Record that is manufactured.

5.5 You must ensure that the label surface or liner notes of every Record made under this agreement bears a prominent notice in the following terms:

Unauthorised copying, hiring, lending, public performance or communication to the public prohibited.

6. Fee and royalties

6.1 AMCOS must calculate the Processing Fee in accordance with the Schedule.

6.2 AMCOS must calculate the AMCOS Royalty as the greater of the amount calculated in accordance with the following formulae:

- (a) retail selling price (**RSP**) of the Recording, subject to clause 6.7, exclusive of GST;
 - divided by the number of Works on the Recording;
 - multiplied by the royalty rate of 6.0%;
 - multiplied by the total number of AMCOS Works on the Recording and then rounding that figure up to the next half cent;
 - multiplied by the number of Records manufactured; and
 - apply GST at 10% as appropriate; or
- (b) 5.0 cents for each AMCOS Work on the Recording and then rounding that figure up to the next half cent;
 - multiplied by the number of Records manufactured; and
 - apply GST at 10% as appropriate.

6.3 You must pay any amount owing under a tax invoice issued under this agreement, within 14 days after the date of the tax invoice.

6.4 If You manufacture Recordings and Records that are not for retail sale, the **RSP** of the Record under this clause 6 will be deemed to be the maximum price [excluding GST] at which a comparable recording of the same format is ordinarily sold to the public, or such other lower RSP as AMCOS may determine.

6.5 For the purpose of determining the AMCOS Royalty, the Total Manufactured Quantity is the actual manufactured quantity and must not be reduced by the number of Records used for promotional purposes or that remain unsold.

6.6 If in any calculation of the Royalty in respect of a particular Work, when taken to third decimal place of a cent, there is still part of the Royalty remaining, then the third decimal place shall be increased by one.

6.7 If AMCOS reasonably believes that the RSP is not indicative of the market value of the Recording, or that it is otherwise reasonable to do so, AMCOS may determine a notional RSP for the purpose of calculating the AMCOS Royalty under this clause 6.

6.8 Provided You manufacture 1,000 or more units under this agreement, your compliance with clause 5.2(c) and the AMCOS Royalty for the Production is \$158 or greater; then subject to clause 6.9 the AMCOS Royalty will be payable on only 95% of the manufactured units (**Chargeable Units**) on the basis that 5% of the manufactured units are promotional copies (subject to You providing evidence of the promotional nature of those units, as reasonably requested by AMCOS from time to time) as follows:

- (a) at the same time as issuing the Prescribed Notice, AMCOS will issue an invoice in respect of 60% of the Chargeable Units plus the Processing Fee, plus GST;
- (b) within 90 days of issuing the Prescribed Notice AMCOS will issue an invoice in respect of 20% of the Chargeable Units, plus GST; and
- (c) within 180 days of issuing the Prescribed Notice AMCOS will issue an invoice in respect of 20% of the Chargeable Units, plus GST.

6.9 If You enter into another agreement with AMCOS in respect of the same Recording, or if any of the invoices issued in accordance with clause 6.8 remains unpaid after 14 days of its issue, or if you do not comply with clause 5.2(c), the balance payable under this agreement is immediately due and payable.

7. Interest

You must pay to AMCOS interest at the Agreed Rate on each amount outstanding under this agreement.

8. Credit and refunds

If You do not manufacture a Recording in accordance with this application and inform AMCOS in writing before the distribution by AMCOS of all or part of the AMCOS Royalty, AMCOS will elect to either:

- (a) issue a credit note to You against future manufacture of recordings to the value of the AMCOS Royalty; or
- (b) refund the AMCOS Royalty to You.

9. Records and inspection

9.1 You must keep accurate books of account and other records in sufficient detail to ensure that any amount payable to AMCOS under this application can be properly ascertained.

9.2 AMCOS may at any time examine Your accounting and other records to:

- (a) verify the correctness of any report, record or payment under this application; or
- (b) in the case of a failure by You to provide records in accordance with clause 9.1 obtain information required to be provided under that clause.

9.3 You must pay the costs of the examination referred to above if the examination:

- (a) establishes that the amount payable under this agreement was understated by more than 5%; or
- (b) is undertaken because of a failure by You to provide records in accordance with this agreement.

10. Termination

10.1 If You:

- (a) fail to pay any AMCOS Royalty due under this agreement in accordance with this agreement;
- (b) distribute, sell or offer for sale records or copies of Records before AMCOS receives payment under this agreement;
- (c) 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 creditors or suffers any other form of external administration; or
- (d) breach any provision of this agreement which is not capable of remedy,

this agreement is automatically terminated.

10.2 AMCOS may by notice to You terminate this agreement if You fail, within 7 days after notice from AMCOS, to remedy any breach of Your obligations under this agreement.

11. Miscellaneous

11.1 You must pay any GST arising from the provision of services under this agreement.

11.2 AMCOS' only liability is as set out in this agreement. In no event will its liability to You be greater than any fee or Royalty paid to it under this agreement by You.

11.3 This agreement must be construed in accordance with the laws in force in the State of NSW and the parties agree to submit to the jurisdiction of NSW 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/AMCOS and will not be disclosed to any third parties except in accordance with the privacy policy of APRA/AMCOS.

6. SCHEDULE OF PROCESSING FEE (Invoice will follow – Do not pay in advance)

No. of unique Works on the Recording (excluding Works written wholly by You and which are not AMCOS Works)	Fee (inc GST)	No. of unique Works on the Recording (excluding Works written wholly by You and which are not AMCOS Works)	Fee (inc GST)
1-5 unique Works	\$22.00	16-20 unique Works	\$77.00
6-10 unique Works	\$44.00	More than 20 unique Works	\$93.50
11-15 unique Works	\$60.50	Variation or Extension of Existing Application	\$22.00

7. ROUGH CALCULATION OF FEES PAYABLE

You may use this table to make a quick calculation of the Royalty Fees. This is intended as a guide only, and the actual royalty may be different based on various factors. The Processing Fee (above) is a separate charge.

STEPS	EXAMPLE RECORDING	YOUR RECORDING
A. What is the RRP you entered in section 1?	\$22.73	
B. What is the Total Manufactured Quantity you entered in section 1?	2,000	
C. How many Tracks are there on the Recording?	14	
D. How many Tracks on the Recording were written by you for which you do not need a licence from AMCOS, or are in the public domain?	4	
E. Calculate $(A \div C) \times 6\%$	$(\$22.73/14) \times 6\% = \0.10	
F. If E is less than or equal to \$0.05, then calculate royalty thus: $\$0.05 \times (C-D) \times B$	n/a	
G. If E is more than \$0.05, then calculate royalty thus: $((C-D) \div C) \times A \times B \times 6\%$	$((14-4)/14) \times \$22.73 \times 2,000 \times 6\% = \$1,948.29$	
H. If F or G is greater than \$150 and B is greater than 1,000 units, multiple D by 95%, otherwise enter F or G as calculated.	$\$1,948.29 \times 95\% = \$1,850.88$	
Add GST at 10% to H (note AMCOS may not charge GST on all works depending on the nature of its representation).	$\$1,850.88 + 10\% = \$2,035.97$	