

## LICENCE AGREEMENT

### 1 SCOPE OF AGREEMENT

- 1.1 Subject to the Applicant's compliance with the terms contained herein, MACP grants the Applicant (which expression herein shall include also the Event's owner, organiser, appointed agents, representatives and/or servants whose name as appeared herein), a permit licence to perform publicly or authorise the public performance at the Event of any or all of those musical works (whether in whole or in part including any words associated therewith) for the time being within MACP's repertoire or over which it has the administration and controlling rights in Malaysia and in consideration of the same, the Applicant hereby irrevocably and unconditionally agrees and undertakes to pay to MACP the licence fee pursuant to the terms contained herein.
- 1.2 The Agreement granted in Clause 1.1 is limited only to the extent where it is expressly permitted and does not include or authorize the following:
- (a) the transmission or the public reception of any performance beyond the precincts of the Applicant's named venue for the Event;
  - (b) the performance of dramatico-musical works involving performances of an opera, operetta, revue or pantomime in so far as it consists of words and music written expressly therefore;
  - (c) the performance of excerpts from such parts of any dramatico-musical works and music written expressly therefore, if accompanied by dramatic action, dumb show, costume, scenic accessories or other visual representation of the same dramatico-musical work;
  - (d) the performance of oratorios and/or large choral works, i.e. those of more than 20 minutes duration, in their entirety;
  - (e) the performance in whole or in part of any music and of any words associated therewith composed or used for a ballet, if accompanied by visual representation of such ballet or part thereof;
  - (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 MACP as prohibited;
  - (h) the broadcast or other transmission, reproduction or authorisation of reproduction of any MACP's Repertoire either digitally, electronically or in whatever form and manner or by any other means and including any reproduction by downloading data or materials;
  - (i) the performance in respect of any sound recording; or
  - (j) any other right not expressly granted under the Agreement.

### 2 CALCULATION OF LICENCE FEES

- 2.1 The Applicant agrees to pay MACP the amount calculated in accordance with the formula specified herein.

### 3 LICENCE FEES & OTHER CHARGES

- 3.1 MACP is entitled to issue any invoice for the licence fees payable under Clause 2 before or after the Event date.
- 3.2 The Applicant shall pay any invoice issued by MACP under Clause 3.1 within the time specified on the invoice or latest by two (2) working days before the Event, whichever is earlier.
- 3.3 Upon the request by MACP, the Applicant shall submit to MACP for the purpose of verifying the licence fees after the Event, an audited statement disclosing the total attendees for the Event to verify the actual licence fees.
- 3.4 For ticket selling event, the Applicant shall within 21 working days after the last performance date of the Event, submit to MACP for the purpose of calculating the actual licence fees, an audited statement showing the Actual Tickets Sold and the Actual Value of Complimentary Tickets given out for the Event.
- 3.5 The Applicant shall within 7 working days after the submission of the audited statement or upon receipt of the additional invoice issued by MACP, which is earlier, effect balance payment to MACP should the Initial Deposit as set out in Clause 3.1 is not sufficient. In case of overpayment, MACP shall refund the balance forthwith to the Applicant.
- 3.6 Pursuant to Clause 3.3 to Clause 3.5 above, MACP is entitled to verify the information submitted by the Applicant as stated in this Application through any source, including examination of the Applicant's Premises, books and records, receipts, invoices and other similar documents. If such examination shows that the Applicant has provided false or inaccurate information to MACP, MACP is entitled to impose a reasonable penalty of up to two (2) times of MACP's tariffs to compensate for the time and resources incurred in verifying the information provided by the Applicant. If the Applicant fails or inaccurately submit the required particulars and/or documents, MACP is entitled to unilaterally assess reasonable licence fees payable under this Agreement using any sources available to it.
- 3.7 If the Applicant fails to comply with Clause 3.3 to Clause 3.5 above, MACP may, without prejudice to any rights conferred on MACP herein or by law, terminate the Agreement and if applicable, impose surcharge for late application, evidence gathering, late payment interest, legal costs and / or any costs, all of which are without prejudice to MACP's rights to recover any monies due hereunder and / or to pursue any remedies as provided under the applicable legislations / laws.
- 3.8 In the event the Applicant has failed to settle any outstanding with MACP for the previous event(s), MACP reserves the right to refuse any further application submitted by the same Applicant.
- 3.9 Save and except where the Agreement has been terminated under Clause 5, the Parties agree that all invoices issued by MACP (whether payable as advances or otherwise) due under the Agreement shall be recoverable by MACP as debts in any court of competent jurisdiction in Kuala Lumpur or Selangor.
- 3.10 The Applicant further irrevocably and unconditionally acknowledges and agrees that where a notice or invoice is issued by MACP as to the amount of licence fees and/or other charges that are due and payable by the Applicant in accordance with the terms of the Agreement, such notice or invoice shall be prima facie and / or conclusive evidence of the contents and correctness thereof and the contents and additional terms such as late payment interest and others stated in the invoice issued shall be binding against the Applicant and / or the Applicant's authorised person(s) or business owner(s) or director(s) and its heirs and assigns ("Certificate of Indebtedness").

### 4 SUPPLY OF INFORMATION

- 4.1 The Applicant hereby warrants and represents to MACP that all information provided to MACP shall be true, correct and complete.
- 4.2 Within thirty (30) days from the end of the Event, the Applicant must supply to MACP, on the Usage Return Report obtainable free from MACP's office or MACP's Official Website, a list of all the music and songs performed at the Event with name of singer, author, composer, publisher of each such composition performed during the Event.

### 5 TERMINATION

- 5.1 This Agreement is automatically terminated immediately in the event the Applicant:-
- (a) fails to pay any sum when due under the Agreement within the stipulated period by MACP pursuant to Clause 3 herein;
  - (b) breaches any other terms of the Agreement, except Clause 3, and fails to remedy such breach within seven (7) days after being requested in writing to do so by MACP;
  - (c) is subject to any criminal investigations or corruption-related enquiries by the relevant authorities;
  - (d) 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 administrator; or
  - (e) being an individual and/or partnership where the proprietor(s), commits any act of bankruptcy or enters into a scheme of arrangement with creditors.
- 5.2 Any termination by the Applicant due to cancellation or postponement of the Event shall be given by notice in writing to MACP before the due date for payment as specified on the invoice or two (2) working days before the Event, whichever is earlier, failing which and unless otherwise agreed in writing, any termination shall be deemed unlawful and MACP shall reserve its rights to recover the licence fees and / or impose administrative fees for processing the Application.
- 5.3 In the event of termination of the Agreement:-
- (a) all rights hereby granted to the Applicant herein shall be terminated automatically at the date of termination stated in Clause 5.1 and 5.2 above respectively;
  - (b) upon termination, the Applicant shall immediately cease performing any of MACP's Repertoire in any manner howsoever; and
  - (c) the Applicant shall immediately pay MACP all licence fees due under this Agreement (including any additional sums due to MACP) which remain unpaid at the date of termination.

5.4 In addition to Clause 5.1 above and notwithstanding the termination of the Agreement, MACP shall have the right to pursue any remedies as provided under the applicable legislations/laws to enforce the terms of this Agreement against the Applicant and / or the Applicant's authorised person and / or directors and / or business owners pursuant to Clause 1.2.

#### **6. RIGHT OF ENTRY**

6.1 MACP, by its duly authorised officers or agents, shall have the right of full entry in the Event during all times of the public performance for the purpose of checking the particulars on which the licence fees hereunder is assessed including the particulars of the Events.

6.2 The Applicant shall upon the signing of the Agreement submits two (2) complimentary tickets for the Event to verify, amongst others, the musical works performed at the Event. MACP reserves the right to charge the Applicant the full value of the tickets purchased if tickets are not submitted to MACP prior to the Event taking place.

#### **7. NO ASSIGNMENT**

7.1 The Applicant shall not assign, transfer, sub-licence or otherwise howsoever, in whole or in part, the rights granted hereunder without the prior written consent of MACP.

#### **8. AUDIT OR EXAMINATION**

8.1 MACP may on fourteen (14) days' notice to the Applicant, audit or examine the Applicant's books of account and other records to determine the accuracy of any report or payment under the Agreement.

8.2 After such examination where the licence fees under the Agreement is being understated, MACP is entitled to issue further invoice for the understated licence fees.

8.3 The Applicant agrees to pay the cost of the audit or examination if it is discovered that the information provided by the Applicant was inaccurate and resulted in the calculation of the licence fees under the Agreement being understated.

#### **9. NOTICES**

9.1 Any notice (including any notice for court proceedings) under the Agreement must be in writing and proof of posting or dispatch of any notice to the party shall be deemed to be proof of receipt:

- (a) if delivered to the address of the party, upon acknowledgement of receipt by the party;
- (b) for notices sent by A.R registered post and/or pre-paid post and/or any other ordinary post, upon the expiration of 72 hours after posting;
- (c) if by electronic mail to the mail address known by the party.

9.2 For the purpose of Clause 9.1, the address and / or email address of the Applicant shall be those as shown in the particulars as stated in the Licence Application or at the last-known address and / or email address as communicated to MACP in writing.

#### **10. DEFINITIONS IN THE AGREEMENT**

10.1 "Agreement" means the Application, Licence Agreement and any amendments as agreed and accepted between the parties.

10.2 "MACP's Repertoire" means all copyrighted musical work, lyrics, words written to be used with such musical work (if applicable) or any part thereof that are owned, administered, controlled or represented by MACP.

10.3 "MACP's Official Website" means [www.macp.com.my](http://www.macp.com.my).

#### **11. LAW AND JURISDICTION**

11.1 The Agreement shall be interpreted and construed in accordance with the laws of Malaysia.

11.2 All disputes of the Agreement shall be determined by the Courts of Malaysia in Kuala Lumpur or Selangor and the parties hereto shall submit themselves to the exclusive jurisdiction thereof.

#### **12. GOVERNMENT DUTIES, TAXES AND LEGAL CHARGES**

12.1 The Applicant shall bear the stamp duties and other incidental charges including taxes arising as a result, or in consequence, of the Agreement.

#### **13. PRIVACY NOTICE**

13.1 The Applicant acknowledges and agrees that the information the Applicant is providing may be personal information under the Personal Data Protection Act 2010, and can be used by MACP pursuant to the Credit Reporting Agencies Act 2010, including other related regulations. Information collected is only for the business purposes of MACP and will not be disclosed to any third parties except in accordance with the privacy policy of MACP which can be obtained from MACP's Official Website.

#### **14. MISCELLANEOUS**

14.1 **Modification & Waiver** – All modifications, alterations, changes, additions or subtractions must be agreed in writing. A delay or omission by MACP shall not be construed as a waiver. Any waiver or consent by MACP must be in writing.

14.2 **Severability** – any term, condition, stipulation, provision or undertaking in this Agreement which is found to be illegal, void and / or unenforceable shall be ineffective only to the extent of such illegality, invalidity and / or unenforceability and shall not invalidate or render illegal, void and / or unenforceable any other terms, conditions, stipulations, provisions, covenants or undertaking herein contained.

14.3 **Indemnity** – The Applicant hereby irrevocably and unconditionally agrees and undertakes to defend, indemnify and hold harmless MACP and their respective officers, directors, employees or agents from and against any and all claims, losses, damages arising out or in any way attributable to the inaccuracy or breach of any representations or warranties by the Applicant or the terms under the Agreement.

14.4 **Remedies** – Without prejudice to the remedies provided hereunder, MACP shall further have the rights and remedies under any other law and among other remedies, proceed at law or in equity against the Applicant and / or the director or business owner of the Applicant for the director or business owner has entered into this Licence Agreement in his / her personal capacity.

14.5 **Entire Agreement** – This Agreement and the Application shall form the entire agreement and shall supersede all prior agreements with respect to MACP's Repertoire and this Licence Agreement.

14.6 **Counterpart** – This Agreement may be signed and executed physically or electronically and in counterparts, each of which shall be deemed original, but all of which together shall constitute one and the same instrument.

14.7 **Submission of Application Electronically** - By submitting and executing the Agreement (which includes the Application) to MACP electronically, the Applicant agrees and acknowledges that the execution of the Agreement is genuine and authentic and the same shall be the copy used for the purpose of stamp duty. MACP reserves the right to forward the stamped copy of the Agreement to the Applicant via email.

14.8 **E-Signatures** - The Parties agree that this Agreement may be executed electronically and will be considered signed by a Party when the signature of that Party is delivered by email transmission to the other Party, and will be fully executed when both Parties have so signed. Such email signature will be treated in all respects as having the same effect as an original signature.