



## **CINEMA**

(Tariff "C")

Effective from 1<sup>ST</sup> January 2013

### **1. SCOPE OF TARIFF**

This tariff applies to the performance of music given in the course of, or in connection with, the exhibition of films at cinemas or other premises at which the commercial exhibition of films regularly takes place on not less than four months during the year.

### **2. ENERAL CONDITIONS AND DEFINITIONS**

2.1 This TARIFF applies only to performances of music covered by a licence from obtained before the performances commence. Any performances not so MCSK, covered will be assessed at double this tariff. MCSK is not bound to offer a license under this tariff in respect of any performances for which application was not made in advance.

2.2 This tariff shall cover the following categories of public performances: -

- i. as an accompaniment to the exhibition of films including filmed advertisements whether the repertoire is performed by means of the sound track of a film or otherwise;
- ii. performances for intermissions, play in, and play out purposes;
- iii. performances in cinema foyer and all other areas within the said premises under the control of the licensee, but only as a relay of music being performed in one of the auditoria or the music comprised in forthcoming attractions, provide that the foyer or area does not have seating accommodation used for the purposes of a café or otherwise for the consumption of refreshments;
- iv. performances in the form of not more than three items of variety entertainment's introduced before, during or after each exhibition of the complete picture programme.

### 2.3 Annual Returns

Not later than the 31st January in each Licence-year, a Licensee under this tariff shall furnish to the Society a statement, certified by an accountant who is qualified to be appointed auditor to a public company or who is approved by the Society showing the Actual receipts for the preceding Accounting period.

### 2.4 Audit

2.4.1 The Society shall at its request and its expense be entitled on reasonable written notice to a Licensee under this tariff to inspect, during normal working hours, the relevant books and records (including any item forming part of the computer based system) of the Licensee in order to verify Actual receipts for up to the three preceding Accounting periods.

2.4.2 Unless the inspection revealed a disparity in favour of the Society of more than five percent between the Actual receipts certified by the Licensee under paragraph 2.4 and those disclosed by the inspection the Society shall not be entitled to give further notice under paragraph 2.4.1 until the expiry of one Accounting period thereafter.

2.4.3 The Licensee shall be entitled to request and to receive forthwith after such request a complete copy of any report produced in relation to any inspection.

2.4.4 If an inspection undertaken in accordance with paragraph 2.4.1 reveals a disparity between the Actual receipts certified under paragraph 2.4 and that disclosed by the inspection then the amount of the adjustment to the royalty calculated in the light of the disparity must be paid within 14 days of receipt of both a written demand and a copy of the report referred to in paragraph 2.4.1 above by the party in whose favour the disparity exists and subject to any payment due from the Licensee being so made no further inspection in relation to those Actual receipts shall be made.

2.5 “**Accounting period**” means a period of one (1) full business calendar year of the licensee.

2.6 “**Actual receipts**” means all box office admission charges received by the Licensee during the Accounting period (excluding any element thereof in respect of Value Added Tax and any other payments levied as a matter of law on actual receipts) in connection with any exhibition of films to which Tariff ‘C’ applies and, where admission is by advertising or advertisers' tokens or vouchers in lieu of cash or money's otherwise paid for in worth, the amount which would have been paid had normal prices been charged.

2.7 “**Cinema site**” means cinema premises with one or more screens owned or operated by the same persons.

2.8 “**Film**” means a recording on any medium from which a moving image may by any means be produced.

2.9 “**Licence-year**” means a period of one year from the date of issuance of the licence.

2.10 “**The Licensee**” is the company or persons to whom the Society's licence is granted.

2.11 MCSK reserves the right to make such variations to this tariff as it considers appropriate when licencing premises or performances which in its opinion fall within the scope of this tariff.

### 3. TARIFF RATES

The annual royalty payable by a Licensee under the tariff shall be calculated by reference to the percentage specified below of the Licensee's Actual receipts for the Accounting period, less an applicable discount pursuant to paragraph 3.4 and 3.5 below.

The percentage shall be as follows: `

Licence-year commencing **1st January 2013** and thereafter

ANNUAL FEE	
PREVIOUS	NEW
4.5%	5%

3.1 As the actual royalty payable by the Licensee in respect of each year cannot be ascertained until the Actual receipts for that year have been certified pursuant to paragraph 2.4 of this tariff, the Licensee shall, when the certified statement is submitted to the Society, make a payment on account of the royalty due equal to the Actual receipts for the preceding Accounting period multiplied by the net royalty rate for the current Licence-year and any additional sum due under clause 3.1 for the preceding Accounting period.

3.2 When a licence is issued hereunder on the opening of a new cinema or the re-opening of a cinema after a closure, a provisional royalty shall be calculated:

3.2.1 in respect of the initial licence period on the basis of the Licensee's estimate of the box office admission charges for the relevant accounting period and shall be adjusted on the basis of the Actual receipts as certified under paragraph 2.4 of this tariff, and;

3.2.2 in respect of the next Licence-year on the basis of an estimate of the Actual receipts for the full Accounting period for that year arrived at by a proportionate adjustment of the Actual receipts for the preceding Accounting period and this provisional royalty shall be adjusted on the basis of Actual receipts for the full accounting period as certified under paragraph 2.4 of this tariff.

3.3 If the certified statements from the Licensee are submitted and the amounts due are paid on or before 31st January next after the relevant Accounting period the Licensee shall be entitled, but not otherwise, to a **prompt payment discount of**

**5%** to be deducted from both the payment on account under paragraph 3.2 and on any additional payment or refund due under paragraph 3.1.

3.4 Where the number of admissions to a **cinema site** of the Licensee in any accounting period falls within the following bands the Licensee shall be entitled to the following discounts on the royalty which would otherwise be payable:

<b>Number of admission</b>	<b>Discount</b>
Less than 10,000	15%
10,000 to 19,999	10%
20,000 and above	5%

3.5 The **minimum** annual royalty per licensee

<b>ANNUAL FEE</b>	
<b>PREVIOUS</b>	<b>NEW</b>
<b>KShs.</b>	<b>KShs.</b>
<b>19,500/=</b>	<b>21,650/=</b>

**(All fees above do NOT include Value Added Tax)**