

Cover Sheet

PRS for Music

Community Radio Licence

Name of Licensee (the "Licensee")	
Company registration number	
Registered address of Licensee	
Commencement Date	
Licensed Station	
Ofcom Licence Number	

Signed on behalf of the Licensee:

Name: _____

Position: _____

Date: _____

Signed on behalf of the Mechanical-Copyright Protection Society Limited ("MCPS") of 2 Pancras Square, London N1C 4AG, contracting for and on behalf of itself and for and on behalf of and as agent of its various members and its Affiliated Societies:

Name: _____

Position: _____

Date: _____

Signed on behalf of the Performing Right Society Limited ("PRS") of 2 Pancras Square, , London N1C 4AG, contracting on behalf of itself and for and on behalf of and as agents of its Affiliated Societies:

Name: _____

Position: _____

Date: _____

Appendix 1

Community Radio Licence Standard Terms and Conditions

1. Definitions and interpretation

"Agreement" means the standard terms and conditions set out in this Appendix 1, the Cover Sheet, appendices and schedules to the terms and conditions and the application form completed by the Licensee (if any) provided that to the extent there is any conflict between the application form and any other part of this Agreement, the other part of this Agreement will prevail.

"Broadcasting" shall have the meaning ascribed thereto in section 6 of the 1988 Act and the term "Broadcasting" shall be construed accordingly.

"Broadcast Licence" shall mean the licence referred to in clause 2.1(d) and (e).

"Commencement Date" means the date specified in the Cover Sheet.

"Commercial Work" means any Repertoire Work other than:

- (a) one where the Member owning or controlling the copyright in such Repertoire Work has authorised MCPS to license it as so-called production or library music; or
- (b) a Commissioned Work.

"Commissioned Work" means a Musical Work specially and expressly commissioned by the Licensee from composer/writer members of PRS and/or MCPS.

"Communicate to the Public" shall have the meaning ascribed thereto in section 20(2) of the 1988 Act and the term "Communicating to the Public" shall be construed accordingly.

"Concert Trailer" shall mean only any trailer which promotes or is intended to promote a forthcoming live concert by a musical performing artist which satisfies the following conditions:

- (a) no direct payment or other form of consideration is received by the Licensee for producing or Broadcasting the trailer;
- (b) the Repertoire Works recorded into the trailer are performed by the musical performing artist who will be performing at the concert itself;
- (c) the concert is promoted or sponsored by the Licensee on whose Licensed Station the trailer is Broadcast; and
- (d) the concert (or parts of the concert) will be Broadcast on the Licensed Station either live or at a later date.

"Cover Sheet" means the cover sheet to this Agreement.

"Dramatico-Musical Work" means any ballet, opera, operetta, musical, musical play or work of a similar nature.

"Licence Year" shall mean the 12 month period commencing 1st January in any given year.

"Licensed Station" means the radio station named in the Cover Sheet, which is a community radio station licensed by Ofcom Licensed Station shall not include radio stations that are student, hospital, commercial radio stations or restricted service licence services.

"Licensors" means PRS and MCPS.

"Member" means:

- (a) in the case of MCPS, each person, firm or company who or which, from time to time, has appointed MCPS as agent in relation to the exploitation licensed hereunder either before or during the Term other than where such person, firm or company has opted not to participate in the licensing scheme pursuant to which this Agreement has been entered into, PROVIDED THAT a member who has so appointed MCPS after the commencement of the Term shall only be regarded as a member for the purposes of this Agreement with effect from the date on which the Member so appointed MCPS; and
- (b) in the case of PRS, any person, firm or company who or which, from time to time, pursuant to the Articles of Association of PRS has been admitted either before or during the Term as a member of PRS other than where such person, firm or company has reserved to himself the relevant rights pursuant to Article 7(cd) of the Articles of Association of PRS (or other equivalent article), PROVIDED THAT a member who has been so admitted after the commencement of the Term shall only be regarded as a member for the purposes of this Agreement with effect from the date of admission into PRS.

"MCPS Licence" shall mean the licence granted by MCPS in clause 2.

"Musical Work" means any musical work (as defined in the 1988 Act) and any lyrics or words written to be used with such musical work (if applicable). It includes any part of such a work.

"Net Broadcasting Revenue" shall have the meaning set out in Appendix 3.

"Network" means the internet, a mobile network or any other wired or wireless network.

"Outside Broadcast" shall mean a live Broadcast which originates at a location that is neither owned nor operated by the Licensee and whose content clearly identifies and refers to the outside location of the Broadcast.

"Permitted Excerpts" refers only to Dramatico-Musical Works and means excerpts where the use of all such excerpts in any Programme Material complies with all the following limitations:

- (a) the total duration of which in the course of the same programme does not exceed 25 minutes or 25% of the total length of the Dramatico-Musical Work, whichever is the shorter;
- (b) the use is not a "potted version" of the Dramatico-Musical Work;
- (c) the use is not or does not cover a complete act of the Dramatico-Musical Work; and
- (d) each excerpt is not presented in a dramatic form.

"Permitted Service" shall mean any community radio station:

- (a) which is, under the control and responsibility of the Licensee, introduced into an uninterrupted chain of communication from within the United Kingdom; and
- (b) which has been granted a community radio licence from OFCOM; and
- (c) which is a linear scheduled radio station; and
- (d) which is not an internet only radio station; and
- (e) which is not a DAB only radio station.

"Player" means any electronic media player software capable of playing a transmission of a sound recording as a Simulcast Radio Service

"PMSR" means any production music sound recording being a sound recording (as opposed to a Musical Work) the copyright in which is owned or controlled in the United Kingdom by MCPS or (an MCPS Member or an associated society or associated society member) and where such party has authorised MCPS to license such recordings as so-called production or library music.

"Premium Rate Services" shall have the meaning ascribed to it in section 120 of the 2003 Act.

"Programme Material" means any programme material or any part thereof including any trailers of any kind and which is made for the purposes of Broadcasting as set out in this Agreement EXCEPT it specifically excludes any material which constitutes an advertisement of whatsoever nature.

"Programme Trailer" shall mean any trailer which is produced for the purposes of trailing either the Repertoire Works to be Broadcast in upcoming Programme Material or, subject to the trailer including specific scheduling information about when the Programme Material is scheduled to be Broadcast, specific Programme Material.

"Promotion" shall mean any specific segment of Programme Material which is either:

- (a) a station identification of any nature, or;
- (b) a segment of Programme Material the primary purpose of which is the promotion of any Licensed Station, service, product, event or any other Programme Material without limitation.

"PRS for Music" means PRS for Music Limited trading under the brand name of PRS for Music whose registered office is at 2 Pancras Square London N1C 4AG.

"PRS Licence" shall mean the licence granted by PRS in clause 3.

"Repertoire Percentage" shall mean the proportion of the Total Broadcast Hours which consists of the Repertoire Works.

"Repertoire Work" means each Musical Work and each PMSR the relevant copyright in which is owned or controlled, from time to time, in the UK by:

- (a) MCPS or a Member or an associated society or an associated society member PROVIDED THAT (i) if one or more of those who own or control the copyright in a relevant Repertoire Work is not MCPS or a Member or an associated society or associated society member, the expression "Repertoire Work" shall only apply to such interest in the Repertoire Work as is owned or controlled by MCPS or the associated society or the relevant Member or associated society member, and (ii) it shall exclude any Musical Works that a Member of MCPS or an associated society has withdrawn or withheld from this Agreement; and
- (b) PRS or a Member or an associated society or an associated society member PROVIDED THAT if one or more of those who own or control the copyright in a relevant Repertoire Work is not PRS or a Member or an associated society or associated society member, the expression "Repertoire Work" shall only apply to such interest in the Repertoire Work as is owned or controlled by PRS or the associated society or the relevant member or associated society member.

For the avoidance of doubt, if a Musical Work is a Repertoire Work in relation to one Licensor and not the other then it remains a Repertoire Work under this Agreement in relation only to the licence granted by that Licensor, and the applicable split between mechanical and performing rights in the United Kingdom from time to time shall be used to evaluate the licence fee payable.

"Reproduction Licence" shall mean the licence referred to in clauses 2.1(a) and (b).

"Royalty Fee" means the royalties and annual fees payable under this Agreement as set out in Appendix 2.

"Simulcast" means the Broadcast of a Licensed Station via a Network where such Broadcast:

- (a) is simultaneous with the Broadcast of such Licensed Station via a traditional terrestrial, radio service (save for adverts and radio station imaging of the Licensed Station, including promos, sweepers and interstitials); and
- (b) is hosted by the Licensee on data servers owned or controlled (directly or indirectly) by the Licensee.

"Speech-based Licensed Station" means a Licensed Station:

- (a) which is licensed by Ofcom as a speech station; and

- (b) where live or recorded speech content is the primary component of the Broadcast; and
- (c) in which the Repertoire Percentage in a given Licence Year is under 30%.

The Licensee shall notify the Licensors of any change to the Licensee's OFCOM licence in respect of the Licensed Station if the Licensed Station is changing from a music based station to a speech radio based

"Sponsor" shall mean any party who or which provides directly or through any agent all or any part of the finance and/or any products or services and/or pays the Licensee or provides any other good consideration for the making of Programme Material in return for exposure for, or any other form of reference therein to, the name or trademark or logo of the third party or any associate thereof or any specific named brands, products or services.

"Sponsorship Message" shall mean an item of Programme Material which includes a specific reference to a Sponsor or any goods or services of a Sponsor.

"Term" means the period from the Commencement Date until this Agreement is terminated (whether in accordance with clause 11 or otherwise).

"Territory" means the United Kingdom of Great Britain and Northern Ireland and the Channel Islands and the Isle of Man.

"Total Broadcast Hours" shall mean the total time during which the Licensee is Broadcasting on a Licensed Station.

"Total Production Costs" shall mean all sums of whatsoever nature actually incurred by any party in connection with the production of the Programme Material.

"VAT" means value added tax and each like tax imposed in addition to or in substitution therefore.

"1988 Act" shall mean the Copyright Designs and Patents Act 1988 as amended from time to time.

"2003 Act" shall mean the Communications Act 2003 as amended from time to time.

All references to **"including"** in this Agreement shall mean, "including, without limitation" and "includes" shall be construed accordingly.

2. MCPS Licence

2.1 Subject to and conditional upon compliance with the terms and conditions contained herein and in particular subject to the exclusions and restrictions set out in clauses 5 and 7, MCPS grants the Licensee in respect of each of the Licensed Stations a non-exclusive licence to do the following during the Term solely for the purposes of Broadcast and Simulcast of the Licensed Station

- (a) to reproduce and authorise the reproduction of Repertoire Works in the Territory in the form of Programme Material; and

- (b) to make copies of such Programme Material in the Territory; and

- (c) where the Licensee does not have its own technical facilities to carry out the Broadcast of the Licensed Station, to supply copies of such Programme Material to the party actually carrying out the Broadcast of the Licensed Station on behalf of the Licensee solely for the purpose of the Broadcast of the Licensed Station in the Territory on behalf of the Licensee; and

- (d) to Broadcast or to authorise the party actually carrying out the Broadcast PMSRs from the Territory on the Licensed Station (including to territories outside the UK); and

- (e) to Simulcast PMSRs from the Territory as part of the Licensed Station (including to territories outside the UK); and

- (f) to reproduce Repertoire Works onto a physical hard-drive payout system for the purposes of Communicating to the Public Repertoire Works in accordance with this Agreement; and

- (g) perform in public PMSRs in the United Kingdom for the purposes set out in 3.1(c).

2.2 The licence referred to in clause 2.1(a) includes the incidental copying of Repertoire Works as part of the production process leading to the creation of Programme Material for the purposes permitted under this Agreement.

2.3 For the avoidance of doubt, the Reproduction Licence shall not extend to the supply by the Licensee of copies of Programme Material to any third party for subsequent commercial exploitation either in the Territory or outside the Territory.

3. PRS Licence

3.1 Subject to and conditional upon compliance with the terms and conditions herein and in particular subject to the exclusions and restrictions set out in clauses 6 and 7, PRS grants the Licensee in respect of the Licensed Station a non-exclusive licence, during the Term, to

- (a) Broadcast and to authorise the Broadcast of Repertoire Works from the Territory on the Licensed Station (including to territories outside the UK); and

- (b) to Simulcast Repertoire Works from the Territory as part of the Licensed Station (including to territories outside the UK);

- (c) perform in public Repertoire Works from the Territory solely in the form of a Broadcast of the Licensed Station:

- (i) in the Licensee's premises from which the Broadcast of the Licensed Station is carried out ; and

- (ii) in premises from which the Broadcast of the Licensed Station is carried out on a

telephone switchboard (or equivalent system) so as to be audible to members of the public who telephone the Licensee (so-called music-on-hold)..

4. Programme Material covered by the Reproduction Licence

4.1 Notwithstanding any other terms or conditions of this Agreement, in order to qualify as Programme Material to which the Reproduction Licence applies, all the criteria referred to in clause 4.2 must be fulfilled.

4.2 The Programme Material must be:

- (a) made by or commissioned by the Licensee for the sole purpose of the Licensee Communicating to the Public the same on the Licensed Station; and
- (b) in the case only of Programme Material jointly made with another co-producer or broadcaster, the Programme Material must be made for the joint primary purpose of the Licensee Communicating to the Public the same on the Licensed Station and Communicating to the Public on the co-producer's or other Broadcaster's analogue commercial radio station (FM or AM), Digital Commercial Radio, cable, digital, satellite or digital terrestrial television.

For the avoidance of doubt the Reproduction Licence and Broadcasting Licence do not permit the exploitation of Programme Material produced under (b) above by such co-producer or other broadcaster.

5. MCPS Licence Exceptions and Limitations

5.1 The Reproduction Licence only applies to the use of any Commercial Work in relation to any Promotion where such Promotion is either:

- (a) a Programme Trailer, or;
- (b) a Concert Trailer.

Commercial Works reproduced in Programme Trailers must be refreshed by the Licensee on a regular basis so as to prevent the use of the relevant Commercial Work from being excluded from the MCPS licence pursuant to clause 5.5.

5.2 Where the Programme Material includes a specific reference to any Sponsor then the Reproduction Licence shall not apply to the use of any Commercial Work in that Programme Material where the positioning and use of such Commercial Work in relation to the Sponsorship Message may lead a reasonable person to associate such Commercial Work with the Sponsor.

5.3 The MCPS Licence does not license or permit the reproduction (or the authorisation of such act) of any Repertoire Work by means of a recording if the making of such recording infringed the copyright in such Repertoire Work.

5.4 The Reproduction Licence shall not permit the use of Repertoire Work(s) with any advertising of whatsoever nature where:

- (a) such Repertoire Work(s) are incorporated into such advertising; or
- (b) such Repertoire Work(s) are otherwise presented in such a way that a reasonable person might associate the Repertoire Work(s) with the advertising.

5.5 The MCPS Licence shall not apply to the use of any Repertoire Work(s) for the purpose of (whether in whole or in part):

- (a) directly or indirectly encouraging the purchase or obtaining of goods or services of whatsoever nature; or
- (b) promoting the branding of the Licensee, any affiliate of the Licensee or any third party;

in such a manner that:

- (i) one or more particular Repertoire Works, composers or writers are associated with such promotion; or
- (ii) a reasonable person might assume that there was an association between particular Repertoire Works, composers or writers and such promotion.

5.6 The MCPS Licence does not extend to the reproduction of any Commercial Work:

- (a) in the form of a parody, pastiche or burlesque of any Commercial Work or of any composer or writer of any Commercial Work or any band or other group of artists which includes any composer or writer of any Commercial Work; or
- (b) where there is a derogatory, facetious, obscene or demeaning reference to the Commercial Work, its composer(s) and author(s) or the performing artist; or
- (c) without prejudice to clauses 5.1 and 5.2 above, in any manner which is likely to or causes the public to believe that the Commercial Work (or the composer(s) thereof) is endorsing or promoting any product or service, or the views expressed in the Programme Material.

Whether a use of a Commercial Work breaches this clause 5.6 shall be decided by MCPS in its reasonable discretion.

5.7 The Reproduction Licence will not apply to Programme Material where detailed scheduling information (including the running order) as to Commercial Works that will be included in such Programme Material is provided in advance of Communication to the Public on the Licensed Station.

6. PRS Licence Exceptions and Limitations

6.1 The PRS Licence does not license or permit:

- (a) the public performance given by means of the direct or indirect reception of the Licensed Station, except as licensed under clauses 2.1(g) and 3.1(c);
- (b) the Communication to the Public (or the authorisation of such act) of any Repertoire Work by means of a recording if the making of such recording infringed the copyright in such Repertoire Work; or
- (c) the Communication to the Public (or the authorisation of such act) of any Repertoire Work where the MCPS Licence requires prior approval for the reproduction of such Repertoire Work and such approval has not been obtained from MCPS or the copyright owner, as required; or
- (d) the Communication to the Public of words written for the purpose of an advertisement unless such words are sung to music specially written for an advertisement or to non-copyright music.

7. Joint MCPS and PRS Permissions, Exclusions and Limitations

7.1 The MCPS Licence and the PRS Licence apply only in relation to use on the Licensed Station and only to the extent that the Licensed Station is, and remains throughout the Term, a Permitted Service.

7.2 Where any Repertoire Work forms part of any Dramatico-Musical Work, the MCPS Licence and the PRS Licence shall not apply to the reproduction or Communication to the Public of:

- (a) the whole Dramatico-Musical Work;
- (b) any excerpt(s) from such Dramatico-Musical Work unless all of the following circumstances apply:
 - (i) the Programme Material contains only excerpt(s) within the definition of Permitted Excerpts; and
 - (ii) the Licensors have not notified the Licensee in writing that their Member or associated society member objects to the reproduction or Communication to the Public of any such Repertoire Work

EXCEPT in the case of reproduction or Communication to the Public of the whole Dramatico-Musical Work or any excerpt(s) from such Repertoire Work where such reproduction or communication is of the whole or part of a film made primarily for the purpose of public exhibition in cinemas or similar premises.

7.3 In any event, any licence hereunder only applies to the relevant Repertoire Works and not (by way of example only) to any underlying dramatic or literary work which forms part of the Dramatico-Musical Work or which such Dramatico-Musical Work is based on or uses.

7.4 The MCPS Licence and the PRS Licence do not extend to or permit the inclusion of any adaptation of any

Repertoire Work in any Programme Material unless the relevant Member has expressly consented thereto for the purposes of the Agreement. By way of example only, this applies to:

- (a) making any arrangement of the music; or
- (b) making any alteration to the lyrics, save for any minor change which does not alter the meaning thereof; or
- (c) any sampling (as that expression is commonly used in the music industry) of the music and/or lyrics or reproduction in the form of a sample of the music and/or lyrics; or
- (d) using with music lyrics other than those written to be used with the music or authorised for use with the music; or
- (e) using with lyrics music other than that written to be used with the lyrics or authorised for use with the lyrics.

7.5 All rights not specifically granted under this Agreement are hereby reserved, and the parties hereby agree that no implied licences are to be construed hereunder.

7.6 This Agreement only covers Repertoire Works. It does not extend to other rights or interests, including (by way of example only), sound recordings other than PMSRs, films, dramatic works, performers' rights, moral rights or rights in performances. Nothing in this Agreement shall entitle any party to exercise the licences or authorisations contained in this Agreement in relation to any Programme Material where the appropriate waivers, consents and/or licences have not been obtained from the person(s) owning or controlling rights in relation to sound recordings containing one or more Repertoire Works or performers of Repertoire Works incorporated into the Programme Material. For the purposes of this Agreement (but only insofar as the reproduction and Communication to the Public of PMSRs in accordance with this Agreement is concerned), MCPS, for and on behalf of its Members, warrants that all the necessary performers' waivers and consents have been obtained from the relevant performers insofar as their performances are embodied on PMSRs.

7.7 Nothing in this Agreement affects the moral rights of authors of Repertoire Works whether subsisting in the United Kingdom and the Republic of Ireland or any other territory.

8. Royalty Fee

8.1 Notwithstanding the provisions of this clause 8, the Licensors confirm and warrant that PRS for Music is authorised to receive all payments under this Agreement as agent on behalf of the Licensors, each of the Members and the associated societies.

8.2 In consideration of the licences granted under this Agreement, the Licensee shall pay the Royalty Fee to the Licensors.

- 8.3 The Licensee shall pay the relevant Royalty Fee as set out in Appendix 2 for a given Licence Year in accordance with a reasonable estimate of the Licensee's Net Broadcasting Revenue for that Licence Year which shall be made on the form attached at Schedule 2.
- 8.4.1 If in accordance with Appendix 2, the Royalty Fee is to be based on a percentage of revenue, the Licensee shall make on account monthly payments to the Licensors in twelve equal instalments. Each monthly payment shall be made on the twentieth day of each month of each Licence Year where the Licensee pays by direct debit and on the first day of each month of each Licence Year in all other circumstances.
- 8.5 If in accordance with Appendix 2, the Royalty Fee is to be based on the non-returnable annual minimum then invoicing and payment will be quarterly in advance. Each quarterly payment shall be taken on the twentieth day of the first month in each quarter where the Licensee pays by direct debit.
- 8.6 Within 45 days after the end of the Licence Year in question, the Licensee shall send to the Licensors a statement of the Licensee's unaudited Net Broadcasting Revenue for such a Licence Year in respect of which an estimate had been made under clause 8.3 in the format set out in Schedule 3.
- 8.7 If the actual Royalty Fee is greater than that estimated under clause 8.3, the Licensee will pay the balance due to the Licensors within 21 days from the date of receipt of the Licensors' invoice for such balance. If the actual Royalty Fee is less than that estimated under clause 8.3, the Licensors will refund the balance within 21 days.
- 8.8 Value Added Tax at the appropriate rate shall be added to all payments made in accordance with this clause 8.
- 8.9 Where Net Broadcasting Revenue shall include revenue in a form other than money the Licensee shall provide an adequate description thereof and shall report and identify its fair value.
- 8.10 Where external costs relating to sponsored Outside Broadcast events are deducted in accordance with paragraph 3 of Appendix 3 the Licensee shall provide an adequate description of each category of external cost and shall report and identify its actual value in the format set out in Schedule 3.
- 8.11 Without prejudice to any other right or remedy of the Licensors, and without imposing an obligation to accept late payment, where any fees payable under this Agreement are not paid by the due date (or the date on which such fees should ordinarily have been paid in circumstances where the Licensors have been unable to submit an invoice) due to default of the Licensee, the Licensee shall (if required by the Licensors) pay interest on such late payment calculated on a daily basis at an annual rate of 2% over the base rate, current from time to time, of Santander payable from the date on which the payment should have been made to the date on which the payment was made.
- 8.12 The address for delivery of the information required in accordance with this clause 8 is Radio Licensing, PRS for Music, 2 Pancras Square, London, N1C 4AG.
- 8.13 The Licensee shall for a period of up to six years keep such records of its Net Broadcasting Revenue as shall enable the Licensors' auditors to find an adequate audit trail by which to verify the Royalty Fee.

10. Auditing

- 10.1 The Licensee shall keep and make available for inspection upon reasonable notice not more than once per annum, both during and for twelve months after termination or expiry of this Agreement, proper, detailed books and records (including data, information and records held on computers) relating to any income or other consideration received by or on behalf of the Licensee in relation to the Licensed Station, , together with any supporting documentation relating thereto covering the period up to six years prior to the date of notification of audit.
- 10.2 The Licensors (or their duly authorised representatives) shall have such access to the Licensee's premises and shall be entitled to inspect, make extracts and take copies of any of the information and/or documentation available and to carry out such work as is, in their reasonable opinion, considered necessary to verify compliance with the provisions of this Agreement.
- 10.3 If tests under any audit and verification process indicate under-payment of the correct Royalty Fee during the period under audit, then, without prejudice to the Licensors' other rights under this Agreement, the Licensee shall pay the amount of the underpayment plus interest based on the period from which the correct fee should have been paid to the Licensors to the date when it was actually paid (at the rate set out in clause 8.11).
- 10.4 If any audit and verification process discloses an under-payment of more than 7.5% of the correct Royalty Fee during the period under audit then, without prejudice to the Licensors' other rights under this Agreement, the Licensee shall pay, in addition to the payment referred to in clause 10.3, the Licensors' reasonable costs of such audit and verification within 28 days of receipt of the Licensors' VAT invoice therefore.
- 10.5 If tests under any audit and verification process indicate over-payment of the correct Royalty Fee during the period under audit, then the Licensors shall, as soon as is reasonably practical, pay the amount of the overpayment back to the Licensee (but, for the avoidance of doubt, no interest shall be payable unless the overpayment is a result of an act or omission of the Licensors (in which case interest shall be payable at the rate set out in clause 8.11)).

11. Termination and Expiry

- 11.1 The term of the licences granted under this Agreement shall be 4 years from 1 January 2015. Thereafter, the term of the licences shall renew on

a Licence Year by Licence Year basis unless and until terminated in accordance with this clause 11.

11.2 Notwithstanding clause 11.1 above, the Licensors or the Licensee shall have the right to terminate this Agreement by giving to the other party not less than 6 months prior written notice, such termination to take effect at the end of the Licence Year in which such notice has been served. For the avoidance of doubt, this Agreement shall only terminate on 31 December 2018 if either party has served six months prior written notice of such termination.

11.3 Notwithstanding clause 11.1 above, the Licensee shall be entitled to terminate this Agreement in respect of a Licensed Station upon written notice in circumstances where the Licensee or Licensed Station is ceasing to engage in activities covered by this Agreement.

11.4 Notwithstanding clause 11.1 above, the Licensors or the Licensee shall have the right to terminate this Agreement in respect of the particular Licensed Station concerned by notice forthwith where the other party:

- (a) commits a material breach of this Agreement which is capable of remedy and fails to remedy such breach within 28 clear days after receipt of notice of such breach; or
- (b) commits a material breach of this Agreement which is not capable of remedy;

and, for the avoidance of doubt, any breach which consists of a failure by either party to perform an obligation under this Agreement within any period required or by any date specified under this Agreement shall be deemed to be capable of remedy if such obligation is performed by such party within the 28 day cure period specified in (a) above.

11.5 The Licensors or the Licensee shall have the right to terminate this Agreement by notice forthwith if either of the Licensors (in the case of termination by the Licensee), or the Licensee (in the case of termination by the Licensors):

- (a) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
- (b) becomes insolvent or is unable to pay its debts (as that term is defined in section 123 of the Insolvency Act 1986) or fails or admits in writing its inability generally to pay its debts as they become due;
- (c) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
- (d) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition:

- (i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its administration, winding-up or liquidation; or

- (ii) is not dismissed, discharged, stayed or restrained in the case of a winding-up petition within 14 days or in the case of an administration petition within 2 days, of the institution or presentation thereof;

- (e) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);

- (f) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets;

- (g) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter; or

- (h) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (a) to (g) (inclusive).

11.6 For the avoidance of doubt, this Agreement shall also terminate the licences in respect of a Licensed Station where any of the steps in 11.1 to 11.5 above are taken by the Licensee's authorised representative, who has been authorised by the Licensee to carry out such steps on its behalf.

11.7 Notwithstanding anything contained in this clause 11, this Agreement shall terminate in respect of the Licensee upon the mutual consent of the Licensors and the Licensee in respect of a Licensed Station.

11.8 Termination of this Agreement for whatever reason shall be without prejudice to any rights which have already accrued to the parties under this Agreement.

12. Effect of Termination

12.1 Upon termination of this Agreement in respect of a Licensed Station the licences granted to that Licensed Station under this Agreement shall terminate and the Licensed Station shall immediately cease to be licensed by the Licensors for the reproduction or communication to the public of Repertoire Works via the Licensed Station. 12.2 Clauses 8, 9, 10, 13 and 14 shall survive the termination of this Agreement, but only in relation to the Licensee's (or Licensed Stations', as applicable) activities during the Term.

13. No Assignment

The licences granted under this Agreement are personal to the Licensee and the Licensee may not assign, sub-license or otherwise transfer any or all of its rights or obligations under this Agreement without the written agreement of both MCPS and PRS.

14. Notices

14.1 Except where expressly stated otherwise, any notice or other written communication given under or in connection with this Agreement shall only be effective if it is in writing.

14.2 The address for service of any party shall be its registered office marked for the attention of the Chief Executive or Managing Director. A single notice served on or sent to PRS for Music and addressed to either Licensors shall be treated as validly served on both Licensors.

14.3 Any such notice or other written communication shall be deemed to have been served:

- (a) if personally delivered, at the time of delivery;
- (b) if posted, at the expiry of two business days or in the case of airmail four business days after it was posted;
- (c) if sent by e-mail, at the time of receipt of transmission (if received during normal business hours that is 09.30 to 17.30 local time) in the place to which it was sent or (if not received during such normal business hours) at the beginning of the next business day at the place to which it was sent.

14.4 In proving service of a notice it shall be sufficient proof that personal delivery was made, or that such notice or other written communication was properly addressed stamped and posted or in the case of e-

mail that a report from the sender's computer can be produced in respect of the notice.

15. Miscellaneous

15.1 No delay or omission in exercising any right or remedy hereunder shall operate as a waiver thereof or of any other right or remedy and no single or partial exercise thereof shall preclude any other or further exercise thereof or the exercise of any other rights or remedies. No waiver shall be binding or effectual for any purpose unless expressed in writing and signed by the party giving it and any such waiver shall be effective only in the specific instance and for the purpose given.

15.2 This Agreement sets forth the entire agreement of the parties in relation to the subject matter hereof and each of the parties hereto acknowledges that it has not entered into this Agreement in reliance on any representation or term not contained in this Agreement. This Agreement shall not be modified or varied except by a written instrument signed by the parties hereto.

15.3 The headings to the clauses in this Agreement are included for ease of reference only and are not part of this Agreement and are not to be taken into account in its construction.

15.4 The parties shall (and shall procure that any other necessary party within its control shall) execute and do all such documents acts and things as may be reasonably be required on or subsequent to completion of this Agreement for securing each of the obligations of the respective parties under this Agreement.

15.5 If this Agreement creates any rights which would in the absence of this provision be enforceable by any person not a party to this Agreement, such rights shall not be enforceable.

15.6 This Agreement shall be construed according to the laws of England and Wales and the parties agree to submit to the jurisdiction of the English Courts.

Appendix 2

Royalty Fees

1. Royalty Fee

In consideration of the licences granted under this Agreement, each Licensed Station shall make the following payments:

- 1.1 An annual fee payable on 1 January in each year of £210; and
- 1.2 Where the Licensed Station is not a Speech-based Licensed Station, a royalty payment in accordance with the following table:

Net Broadcasting Revenue	Royalty payment
Less than £24,253	£732
£24,253 to £684,389	3% of Net Broadcasting Revenue
£684,389 to £1,368,781	4% of Net Broadcasting Revenue
More than £1,368,781	5.25% of Net Broadcasting Revenue

- 1.3 Where the Licensed Station is a Speech-based Licensed Station, the royalty payments set out in paragraph 1.2 shall not apply. For such Licensed Stations the royalty payment shall be 1% of Net Broadcasting Revenue. For the avoidance of doubt the annual fee set out in paragraph 1.1 above shall apply.
- 1.4 The payments due in accordance with 1.1 and 1.2 or 1.1 and 1.3 (as applicable) above are together, in respect of each Licensed Station, the Royalty Fee.
- 1.5 Where a Licensed Station commences Broadcasting partway through a Licence Year during the Term, the annual fee payable in accordance with 1.1 shall be pro-rated to the beginning of the calendar quarter in which the Licensed Station commences Broadcasting.
- 1.6 The above-mentioned bands, thresholds and Royalty Fees shall be adjustable on 1 January in any given Licence Year, so as to reflect any movement in the RPI in the 12 month period ending on 31 October of the previous Licence Year.

Appendix 3

Net Broadcast Revenue

1. Definitions

"Net Broadcast Revenue" means, subject to the provisions of this Appendix 3, 85% of the sum of:

- (a) gross valuable consideration (before any deduction of agency commissions or any other deductions) whether in money or money's worth derived and received (or receivable) by the Licensee directly from Broadcasts pursuant to this Agreement including advertising, sponsorship, donations, Barter and Contra Deals, Telephony Revenue from Premium Rate Services and other revenue directly related to the Programme Material Broadcast; and
- (b) all revenue, including by way of sponsorship and commissions, received (or receivable) by the Licensee as a result of the inclusion of third party advertising in-stream as part of the Simulcast being advertising placed immediately at the start or end of (or within) the actual delivery of Programme Material to members of the public which for the avoidance of doubt is limited to advertising placed on the Player or the web page on which the Player sits; and
- (c) all revenue, including by way of sponsorship, click-throughs and other commissions, received (or receivable) by the Licensee as a result of the placement of third party advertising, buy or click-through buttons on the Player or the web page on which the Player sits if the Player is utilised directly within that web page. For the avoidance of doubt, a Player is not directly utilised from a web page if a new web page is launched from which the Player is then utilised, in which case, such revenue is limited to advertising placed on that new page);

and in each of the above cases such revenue shall, for the avoidance of doubt, include any such revenue whether received or receivable by the Licensee or any associate, affiliate, agent or representative of such party.

Subject to the remainder of this Appendix 3, there shall be no other deduction or set-off from the above revenues.

"Barter and Contra Deals" shall mean the provision by a third party to the Licensed Station of goods and services or Programme Material in return for advertising air time or sponsorship credits in on-air Programme Material.

"Paid Airtime" shall mean airtime sold by, or on behalf of, the Licensee in exchange for money.

"Telephony Revenue" shall mean call or SMS charge revenue received by the Licensee (or any intermediary acting on behalf of the Licensee) from Premium Rate Services accessed by listeners of the Licensed Station communicating with the Licensee directly in response to an on-air request to listeners to communicate with the Licensed Station by Premium Rate Services and related to the Broadcast output of the Licensed Station (by way of example, but not limited to, in response to a competition).

2. Barter and Contra

2.1 For the purposes of calculating the gross valuable consideration to be included under Net Broadcasting Revenue for Barter and Contra Deals, the Licensee shall take the fair value (i.e. the value attributed to the Barter or Contra Deal in the Licensed Stations annual statutory accounts) of the advertising airtime provided in return for goods, services and Programme Material save that the gross valuable consideration included shall not be less than 20% of the Normal Commercial Value.

2.2 In cases where airtime or advertising spot(s) are provided and sold to a third party in return for any Programme Material Broadcast by the Licensee (including without limitation Independent Radio News Newslink) the net value to the Licensee of such airtime provided or sold shall be included by the Licensee in its statement of Net Broadcasting Revenue hereunder. The said sum shall be valued at Normal Commercial Value for the equivalent airtime sold/valued in the same clock hour, provided that any particular airtime or advertising spot(s) which are provided but not then sold by the third party will be valued as Service Airtime.

3. Outside Broadcasts

Costs directly and reasonably incurred by the Licensee in producing sponsored Outside Broadcast events shall be allowed to be deducted from Net Broadcast Revenue provided that if such costs exceed the value of sponsorship revenue earned for the event, the value of said sponsorship shall be nil. The amount by which costs exceed sponsorship revenue for the event may not be set off against other revenue. A schedule of sponsored Outside Broadcast events costs and revenues shall be provided by the Licensee annually as part of the declaration of Net Broadcasting Revenue for the purposes of calculating the Royalty Fee.

Schedule 1

PRS for Music Community Radio Licence

Actual Net Broadcast Revenue Reporting Form

Please complete sections one, two and three and return the completed form to radiolicensing@prsformusic.com no later than 30 days after the end of the licence year.

Section One

Please complete this section in full

Station Name	
Reporting Period	

Section Two

The **Gross Valuable Consideration** is the full value of these transactions before deduction of any agency commissions or any other deductions. Where the value is "nil" mark accordingly.

Description	Gross Valuable Consideration
1. Gross Advertising Revenue The total advertising revenue billed before the deduction of any commissions.	£ _____
2. Deduct 15%	£ _____
3. Net Advertising Revenue (NAR) Gross Advertising Revenue less 15%.	£ _____
4. Gross Sponsorship Revenue A programme is sponsored if the licensee derives in relation to any programme broadcast any financial benefit (whether direct or indirect).	£ _____
5. Deduct 15%	£ _____
6. Net Sponsorship Revenue (NSR) Gross Sponsorship Revenue less 15%.	£ _____
7. Gross "Other" Revenue Any additional revenues not stated above in relation to any simulcast of the service as well as donations, contra, barter deals, grants, fundraising or any other revenue directly related to the programmes broadcast before the deduction of any commission.	£ _____
8. Deduct 15%	£ _____
9. Less sponsored Outside Broadcast Costs	£ _____
10. Net Other Revenue (NOR)	£ _____
Net Broadcasting Revenue Add NAR + NSPR + NOR (lines 3 + 6 + 10)	£ _____

Section Three: Declaration

I certify that all the information provided in this form is complete and correct under the terms of the PRS for Music Community Radio Licence.

Name	
Date	
Job Title	
Telephone	
Email	

Schedule 2

PRS for Music Community Radio Licence

Estimated Net Broadcast Revenue Reporting Form

Please complete the relevant sections of this form and return to radiolicensing@prsformusic.com at least 30 days before the start of each licence year.

Section One

Please complete this section in full

Station Name		
Reporting Period	1 January 2015 to 31 December 2015	
Estimated Net Broadcast Revenue <i>Please tick one</i>	less than £24,253 <input type="checkbox"/>	You will receive an invoice for the annual minimum Royalty Fee. You are not required to complete Section Two , please skip to Section Three .
	greater than £24,253 <input type="checkbox"/>	Your Royalty Fee will be calculated based on Net Broadcast Revenue. Please complete Section Two and Section Three .

Section Two

The **Gross Valuable Consideration** is the full value of these transactions before deduction of any agency commissions or any other deductions. Where the value is "nil" mark accordingly.

Description	Gross Valuable Consideration
1. Gross Advertising Revenue The total advertising revenue billed before the deduction of any commissions.	£ _____
2. Deduct 15%	£ _____
3. Net Advertising Revenue (NAR) Gross Advertising Revenue less 15%.	£ _____

4. Gross Sponsorship Revenue A programme is sponsored if the licensee derives in relation to any programme broadcast any financial benefit (whether direct or indirect).	£ _____
5. Deduct 15%	£ _____
6. Net Sponsorship Revenue (NSR) Gross Sponsorship Revenue less 15%.	£ _____

7. Gross "Other" Revenue Any additional revenues not stated above in relation to any simulcast of the service as well as donations, contra, barter deals, grants, fundraising or any other revenue directly related to the programmes broadcast before the deduction of any commission.	£ _____
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8. Deduct 15%	£ _____
9. Less sponsored Outside Broadcast Costs	£ _____
10. Net Other Revenue (NOR)	£ _____

Net Broadcasting Revenue Add NAR + NSPR + NOR (lines 3 + 6 + 10)	£ _____
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Section Three: Declaration

I certify that all the information provided in this form is complete and correct under the terms of the PRS for Music Community Radio Licence.

Name	
Date	
Job Title	
Telephone	
Email	

Schedule 3

Format for sponsored Outside Broadcast events costs deductions

Please complete one copy of this sheet for each individual sponsored Outside Broadcast that has taken place during the year. Enter the combined Total Allowable Deductions for all Outside Broadcasts into the NBR declarations in Schedule 1. Please note that no deductions for sponsored Outside Broadcast events costs will be allowable without completion of this schedule.

Summary of Event

Name of Sponsor	
Sponsored Outside Broadcast Title	
Date(s) of Outside Broadcast	
Gross Sponsorship Revenue	
Total Net Sponsorship Revenue for Outside Broadcasts	

Allowable Deductions

These are costs directly and reasonably incurred by the station in producing a sponsored Outside Broadcast. Allowable deductions include costs such as those incurred through the hire of sites, premises, additional broadcasting equipment or vehicles specifically for the event. The costs of staff or freelance staff that are not exclusively engaged for the sponsored Outside Broadcast cannot be deducted. For the avoidance of doubt, any costs incurred through obtaining rights to broadcast a particular event are not deductible.

Description	Gross Valuable Consideration
Total Deductions	
Total Allowable Deductions*	

* The Total Allowable Deductions for a sponsored Outside Broadcast may not exceed the Total Net Sponsorship figure declared above for the event. If the total deductions exceed this figure, then the Total Allowable Deductions that may be made will be the value of Total Net Sponsorship figure.