



Community Radio Licence Application Pack

Checklist

- Completed Application Form
- Signed Terms and Conditions
- Completed 'Estimated NBR' Form
- Completed 'Actual NBR' Form
- Completed PRS Direct Debit Form
- Completed MCPS Direct Debit Form

Please return your completed form to:

**Radio Licensing
Broadcast and Online Licensing
PRS for Music
Copyright House
29-33 Berners Street
London
W1T 3AB**

radiolicensing@prsformusic.com

Introduction

Who are we?

The Mechanical-Copyright Protection Society Ltd (MCPS) and The Performing Right Society Ltd (PRS) represent the vast majority of music composers and publishers in the UK and, by agreement with overseas societies, most of the world. We issue licences to allow the recording, public performance and broadcast of our members' musical works for most purposes (in accordance with the 1988 Copyright, Designs and Patents Act) and collect and distribute the royalties due to our members.

PRS for Music manages common activities, services both societies and is jointly owned by them.

Why do you need a licence from MCPS and PRS?

Copyright is the right granted by law to the creators of original literary, dramatic, artistic and musical works to ensure that copyright owners are rewarded for the exploitation of their works.

Any person who, without the permission of the copyright owner, does or authorises someone else to do any of the restricted acts may be liable for what is known as primary infringement of copyright. In addition, a person may be liable for secondary infringement if he assists in copyright infringement by such means as handling or selling infringing copies.

How is the 2010/2011 licence year different to previous years?

In recent years we have advised PRS licensees that *PRS for Music* has been developing a MCPS Community Licence to complement the existing PRS licence arrangements and are pleased to announce that we are now in a position to offer this licence. Following consultation with the Community Media Association we have set the fee at a level which we believe is excellent value for money, is consistent with the nature of Community Radio services and is effective from 1st October 2010. The MCPS licence is offered initially for one year on a non-precedential basis and the full terms and conditions are available in Annex 1 at the end of this document.

Existing PRS licensees will only need to complete the enclosed form and sign the declaration to agree to the updated terms and conditions and sign an additional direct debit form (enclosed) for the MCPS fee collection. New licensees will need to complete the enclosed form, sign the declaration and sign both the PRS and MCPS Direct Debit forms.

The PRS licence fee structure, NBR reporting process and terms and conditions remain unaffected.

What other music licences do I need?

You may also require a licence from record companies for the use of the sound recording. To obtain this licence you should first contact:

Phonographic Performance Ltd (PPL)
1 Upper James Street
London
W1F 3DE

Tel: 020 7534 1000

Fax: 020 7534 1111

www.ppluk.com

We are here to guide you through each stage of the licensing process and are on hand to answer any questions you may have so please feel free to get in touch if you would like to discuss any aspect of your licence.

Licence Term

The licence year will end on the 30th September of any given year. The performing licence will renew automatically each year with a notification being sent to you prior to the new licence year starting, advising of the fees for the forthcoming year and requesting you complete your NBR submission for the forthcoming year as detailed below.

The NBR bands and minimum fees are adjusted annually by RPI for each new licence year.

Date	PRS Licence Event
1 st October	New licence year starts.
31 st August	Rates are announced for the next licence year and forms are requested estimating the NBR for the forthcoming licence year.
10 th September	Due date for estimated NBR forms to be received.
30 th September	End of licence year.
28 th October	Actual NBR report is due for the previous licence year.
November	Invoices are issued for any balance of royalties due or refunds made for any overpayments made.

The mechanical licence is offered initially for one year on a non-precedential basis.

Licence Fees

Performing Rights Licence (PRS) – 1st October 2010 – 30th September 2011

The charge for the PRS licence is based on a percentage of Net Broadcasting Revenue (NBR) subject to a non-returnable on account annual minimum royalty of £636.

The royalty fees for the licence year 1st October 2010 – 30th September 2011 are:

Annual Net Broadcasting Revenue (NBR)	Rate of Royalty
Less than £21,200	£636 Non-returnable Minimum Fee
Between £21,201 and £597,861	3%
Between £597,862 and £1,195,722	4%
£1,195,723 or more	5.25%
Subject to annual minimum fee, where the total music use is less than 15% of the total Broadcast time then regardless of the level of the NBR the percentage rate to be applied will be	1%

If the royalty charge is to be based on a percentage of revenue, invoicing and payment will be monthly in advance, based on the estimate you provide 21 days prior to commencement of the licence year. In the absence of receipt of your estimate PRS shall be entitled to make such estimate by a notional increase over the previous licence year of 10%.

If the royalty charge is to be based on the non-returnable annual minimum then invoicing and payment will be quarterly in advance. Where a station launches partway through a licence year the minimum fee will be pro-rated to the beginning of the calendar quarter of launch.

Mechanical Rights Licence (MCPS) – 1st October 2010 – 30th September 2011

The MCPS licence fee for the period 1st October 2010 – 30th September 2011 will be a flat fee of £182.48 (plus VAT). Where a station launches partway through the licence year the licence fee will be pro-rated to the beginning of the calendar quarter of launch.

All rates are subject to VAT

Net Broadcasting Revenue

The definition of Net Broadcasting Revenue is 85% of the gross valuable consideration (before any deduction of agency commissions or any other deductions) whether in money, or money's worth derived and received by the Licensee from broadcasts pursuant to this Licence including, advertising sponsorship, subscriptions, donations, barter and contra deals, and **other** revenue directly related to the programmes broadcast.

External costs directly and reasonably incurred by the licensee in producing sponsored Outside Broadcast events may be deducted, providing that if such costs exceed the value of the sponsorship revenue the value of the said sponsorship revenue shall be nil. The amount by which such costs exceed sponsorship revenue may not be set off against other non-sponsorship revenue.

Any applications sent without an estimated NBR form will not be accepted.

For help completing this form, please contact: radiolicensing@prsformusic.com or 020 7306 4430.

Payment

To keep administration to a minimum *PRS for Music* requires all licensees pay by direct debit.

If your PRS royalty is based on a percentage of revenue then the direct debit collection will take place on the 1st working day of each month and will be one-twelfth of the estimated royalties for the licence year each month. If your royalty is based on the annual minimum royalty then the invoice will be issued on the 1st working day of each quarter with the direct debit collection on the 20th of the month and will be one-quarter of the annual minimum royalty. If the 1st or the 20th fall on a weekend or bank holiday then the collection will take place on the following working day.

An NBR report must be submitted within 28 days of the end of the licence year using the form provided and must detail the relevant revenue earned in the period. If the actual royalty is greater than that estimated you will be required to pay the balance due to PRS within 21 days from the date of invoice for such balance. If the actual royalty is less than that estimated PRS will refund the balance within 21 days.

If you wish to make payment of the minimum fee annually by cheque at the outset of the licence year please make the cheque payable to 'PRS Ltd'.

The MCPS licence fee invoices will be issued on the 1st working day of each quarter with the direct debit collection on the 20th of the month and will be one-quarter of the annual licence fee.

If you wish to make payment of the minimum fee annually by cheque at the outset of the licence year please make the cheque payable to 'MCPS Ltd'.

What Your Licence Covers

The licence issued by PRS allows OFCOM licensed stations to broadcast PRS controlled repertoire.

The licence issued by MCPS allows OFCOM licensed stations the right to record MCPS administered repertoire into:

1. Non-programme material, but excluding station idents (e.g. trailers, jingles)
2. Programmes produced by the radio station for broadcast on its own station
3. Server or other hard-disk storage for subsequent direct-to-air broadcast
4. And the broadcast of production music sound recordings.

However, advertisements are excluded from the mechanical licence and must be cleared individually. Use of commercial music in a sponsored item is excluded where a reasonable person would associate the music with the sponsor. Association can be deemed to exist, for example, where there is a small or no gap between a commercial work and reference to the sponsor.

The full MCPS terms and conditions are available in Annex 1 at the end of this document.

Test Transmissions

On a trial basis for the licence year 1st October 2010 to 30th September 2011 providing you apply for the MCPS and PRS Community Radio Licences before the test transmission starts those licences will extend to the test transmissions. Otherwise, the applicable Test Transmission rate at the time of broadcast shall apply.

Licence Application Community Radio Services



Station name / Call sign						
Company / Business name						
Registered Company number						
Contact Name						
Correspondence address, including post code						
Contact phone number(s)						
Email address						
Website Address						
Commencement date of service						
Which areas will you be broadcasting to?						
Platforms broadcasting on <i>(please check box)</i>	AM <input type="checkbox"/>	FM <input type="checkbox"/>	DAB <input type="checkbox"/>	Satellite <input type="checkbox"/>	Cable <input type="checkbox"/>	Internet <input type="checkbox"/>
Are you a member of any of these organisations? <i>(please check box)</i>	Community Media Association <input type="checkbox"/>		Student Radio Association <input type="checkbox"/>		Hospital Broadcasting Association <input type="checkbox"/>	
How will service be funded <i>(please check box)</i>	Advertising <input type="checkbox"/>	Sponsorship <input type="checkbox"/>	Donations <input type="checkbox"/>	Contra / Barta <input type="checkbox"/>	Other, please specify	

Please state any additional information you would like us to know

Declaration - By signing this form you are confirming that: a) you wish to obtain a Community Radio Licence as outlined in the terms outlined in this document; and b) the information contained in this application form is accurate to the best of your knowledge.

.....
Signed

.....
Print name of signatory in full

.....
Date

.....
Position of signatory

**ESTIMATED NET BROADCASTING REVENUE
(NBR FORM)**

LICENCE YEAR: 1 October 2010 – 30 September 2011

STATION NAME: _____	£
<p>GROSS ADVERTISING REVENUE - GAR 1) is the total advertising revenue it is anticipated will be billed before the deduction of any commissions.</p> <p>2) Deduct 15%</p> <p>3) Net Advertising Revenue (NAR)</p>	<p>_____</p> <p>_____</p> <p>_____</p>
<p>GROSS OTHER REVENUE - GOR 4) for the avoidance of doubt this should include any additional revenues not stated above in relation to any simulcast of your service as well as donations, 'contra', 'barter' deals, and any other revenue directly related to the programmes broadcast before the deduction of any commissions.</p> <p>5) Deduct 15%</p> <p>6) Net Other Revenue (NOR)</p>	<p>_____</p> <p>_____</p> <p>_____</p>
<p>GROSS PROGRAMME SPONSORSHIP REVENUE - GPSR 7) a programme is sponsored if the licensee derives in relation to any programme broadcast any financial benefit (whether direct or indirect)</p> <p>8) Deduct 15%</p> <p>9) Less Sponsored OB Costs</p> <p>10) Net Programme Sponsorship Revenue (NPSR)</p>	<p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>
<p>NET BROADCASTING REVENUE (add NAR + NOR + NPSR ((lines 3 + 6 + 10))</p>	<p>£ _____</p>

Please complete this form if you were broadcasting anytime between 1st October 2009 and 30th September 2010.

If not please disregard this form.

**ACTUAL NET BROADCASTING REVENUE
(NBR FORM)**

LICENCE YEAR: 1 October 2009 – 30 September 2010

STATION NAME: _____	£
<p><u>GROSS ADVERTISING REVENUE - GAR</u> 1) is the total advertising revenue it is anticipated will be billed before the deduction of any commissions.</p> <p>2) Deduct 15%</p> <p>3) Net Advertising Revenue (NAR)</p>	<p>_____</p> <p>_____</p> <p>_____</p>
<p><u>GROSS OTHER REVENUE - GOR</u> 4) for the avoidance of doubt this should include any additional revenues not stated above in relation to any simulcast of your service as well as donations, 'contra', 'barter' deals, and any other revenue directly related to the programmes broadcast before the deduction of any commissions.</p> <p>5) Deduct 15%</p> <p>6) Net Other Revenue (NOR)</p>	<p>_____</p> <p>_____</p> <p>_____</p>
<p><u>GROSS PROGRAMME SPONSORSHIP REVENUE - GPSR</u> 7) a programme is sponsored if the licensee derives in relation to any programme broadcast any financial benefit (whether direct or indirect)</p> <p>8) Deduct 15%</p> <p>9) Less Sponsored OB Costs</p> <p>10) Net Programme Sponsorship Revenue (NPSR)</p>	<p>_____</p> <p>_____</p> <p>_____</p>
<p><u>NET BROADCASTING REVENUE</u> (add NAR + NOR + NPSR ((lines 3 + 6 + 10))</p>	<p>£ _____</p>

Performing Right Society Limited

Registered Office: 29-33 Berners Street, London, W1T 3AB
Telephone: 020 7306 4270
Website: www.prsformusic.com

PRS for Music is a brand name of the Performing Right Society Ltd.



Instruction to your bank or building society to pay by Direct Debit

This instruction will be sent to your bank or building society by PRS for Music.

Customer reference: -

Completed forms should be posted to:

PRS for Music
Finance Manager
3rd Floor British Music House
29-33 Berners Street
London
W1T 3AB

Please complete 1-5 below

1. Name and full postal address of bank or building society

To the Manager _____

Bank or Building Society _____

Address _____

Postcode _____

2. Name(s) of account holder(s) _____

3. Branch sort code

--	--	--	--	--	--

4. Bank account no.

--	--	--	--	--	--	--	--	--	--

5. Instruction to your bank or building society.
Please pay the Performing Right Society Ltd. from the account detailed on this instruction subject to the safeguards assured by The Direct Debit Guarantee.

Signature _____ Date _____

Banks or Building Societies may not accept Direct Debit instructions for some types of account. Please ensure that your bank or building society will allow Direct Debits.

Originator's ID no.

8	5	2	0	3	5
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The Direct Debit Guarantee

- This guarantee is offered by all Banks and Building Societies that take part in the Direct Debit Scheme. The efficiency and security of the Scheme is monitored and protected by your own Bank or Building Society.
- If the amounts paid or the payment dates change, Performing Right Society Ltd. will notify you 3 days in advance of your account being debited or as otherwise agreed.
- If an error is made by Performing Right Society Ltd. or your Bank or Building Society, you are guaranteed a full and immediate refund from your branch of the amount paid.
- You can cancel a Direct Debit at any time by writing to your bank or building society. Please also send a copy of your letter to the Performing Right Society Ltd., Finance Manager, 29-33 Berners Street, London, W1T 3AB, or call us on 020 7306 4270.

Mechanical-Copyright Protection Society Limited

Registered Office: 29-33 Berners Street, London, W1T 3AB

Telephone: 020 7306 4270

Website: www.prsformusic.com

PRS for Music is a brand name of the Mechanical-Copyright Protection Society Ltd.



Instruction to your bank or building society to pay by Direct Debit

This instruction will be sent to your bank or building society by PRS for Music.

Please complete 1-5 below

1. Name and full postal address of bank or building society

To the Manager

Bank or Building Society

Address

Postcode

2. Name(s) of account holder(s)

3. Branch sort code

--	--	--	--	--	--

4. Bank account no.

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5. Instruction to your bank or building society.

Please pay the Mechanical-Copyright Protection Society Ltd. from the account detailed on this instruction subject to the safeguards assured by The Direct Debit Guarantee.

Signature

Date

Banks or Building Societies may not accept Direct Debit instructions for some types of account. Please ensure that your bank or building society will allow Direct Debits.

Originator's ID no. 9 5 3 4 3 7



Customer reference: -

Completed forms should be posted to:

PRS for Music
Finance Manager
3rd Floor British Music House
29-33 Berners Street
London
W1T 3AB



Tear off and keep this portion



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- If the amounts paid or the payment dates change, Mechanical-Copyright Protection Society Ltd. will notify you 3 days in advance of your account being debited or as otherwise agreed.
- If an error is made by Mechanical-Copyright Protection Society Ltd. or your Bank or Building Society, you are guaranteed a full and immediate refund from your branch of the amount paid.
- You can cancel a Direct Debit at any time by writing to your bank or building society. Please also send a copy of your letter to the Mechanical-Copyright Protection Society Ltd., Finance Manager, 29-33 Berners Street, London, W1T 3AB, or call us on 020 7306 4270.

Annex 1 - MCPS Licence Terms and Conditions

1. DEFINITIONS

"Agreement" shall mean these terms and conditions.

"Ballet" shall mean a choreographic work having a story, plot or abstract idea, devised or used for the purpose of interpretation by dancing and/or miming, but does not include country or folk dancing, nor tap dancing, nor precision dance sequences.

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

"Commercial Work" shall mean each Musical Work (excluding Production Music Works) the copyright in which is owned or controlled, from time to time, by the Licensors or a Member or a Foreign Society or a Foreign Society Member. If one or more of those who own or control the copyright in a relevant Repertoire Work is not the Licensor(s) (or a Member or a Foreign Society or a Foreign Society Member), the expression "Commercial Work" shall only apply to such interest in the Commercial Work as is owned or controlled by the Licensor(s) or the Member, Foreign Society or Foreign Society Member as applicable.

"Commissioned Work" shall mean a Musical Work which has been specially and expressly commissioned by the Licensee for use in Audio-Visual Material from composer/writer members of MCPS.

"Content" shall mean any audio material or any part thereof which is made for the purposes of Broadcasting subject to the restrictions set out in this Agreement except it specifically excludes any material which constitutes an advertisement of whatsoever nature. For the avoidance of doubt, material which promotes services or products of the Licensee other than the Licensed Channel(s) is deemed to be an advertisement.

"Continuity Link" shall mean an item of pre-recorded and/or live material, often short in duration, used by the Licensee to occupy schedule breaks between Programmes.

"Dramatico-Musical Work" shall mean any Ballet, opera, operetta, musical, musical play or work of a similar nature in so far that it consists of words and music expressly written therefor.

"Foreign Society" shall mean each collecting society with which, from time to time, MCPS has an agreement under which MCPS is authorised to grant licences in relation to the other society's repertoire for the purpose of this Agreement PROVIDED THAT where such an agreement is only entered into after the commencement of the Term, a collecting society shall only be regarded as a "Foreign Society" for the purposes of this Agreement with effect from the date of signature of such agreement with MCPS.

"Foreign Society Member" shall mean any person, firm or company who or which has, from time to time, been notified by the relevant Foreign Society to MCPS as being a member of that Foreign Society.

"Generic Station Promotion" shall mean an item of Content produced for the purpose of or with the effect of promoting the Licensed Channels, Programmes on the Licensed Channels and/or the specific brand(s) of the Licensed Channels and which is neither a Station Identification nor a Trailer.

"Licence Fee" shall be £182.48 (excluding VAT).

"Licensed Channel(s)" shall mean the Licensee channel(s) listed in the Community Radio Licence Application Pack.

"Making/Made Available on Demand" shall have the meaning ascribed thereto in section 20(2)(b) of the 1988 Act.

"MCPS Licence" shall mean the licence granted by MCPS under this Agreement.

"Member" shall mean each person firm or company who or which has entered into the MCPS Membership Agreement either before or during the Term PROVIDED THAT a Member who has signed the MCPS Membership Agreement 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 entry into the MCPS Membership Agreement.

"Musical Work" shall mean any work consisting of music and any lyrics or words written to be used with the music if applicable. It includes any part of such a work.

"Non-Programme Material" shall mean any Content which is either:

- (a) a Trailer; or
- (b) a Generic Station Promotion; or
- (c) a Sponsorship Message; or
- (d) a Station Identification; or
- (e) a Continuity Link.

"OFCOM" shall mean the Office of Communications established under Section 1 of the 2003 Act or any body replacing the same pursuant to an amendment to the 2003 Act or any statute replacing the 2003 Act. References to OFCOM and the 2003 Act shall be deemed to be references to the ITC and the 1990 Act (respectively) where applicable.

"PMSR" shall mean 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 any Member or any Foreign Society or Foreign Society

Member) and where such party has authorised MCPS to license such recordings as so-called production or library music.

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

- (a) the total duration of the excerpts does not exceed 20 minutes in any single programme;
- (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;
- (d) each excerpt is not presented in a "dramatic form" as defined below; and
- (e) as regards Ballets specifically devised for television or excerpts from existing Ballets, the total duration does not exceed 5 minutes.

A dramatic form shall be deemed to be created only by a performance in which there is a distinct plot depicted by actors and where the story of the Dramatico-Musical Work and/or its associated words is woven into and carries forward the plot and its accompanying action (a dramatic form shall not, for example, be deemed to be created by the use of costume, scenery, and/or any dance routine merely to provide an acceptable presentation of the work). For the purposes of this paragraph the word "actors" shall include actors, singers, mimics and/or puppets.

"Permitted Service" shall mean any channel:

- (a) which is, under the control and responsibility of the Licensee, introduced into an uninterrupted chain of communication (including, in the case of satellite transmission, the chain leading to the satellite and down towards earth) from within the United Kingdom; and
- (b) which, if not directly controlled by the Licensee, is controlled by an entity in which the Licensee has a 50% or greater beneficial interest (whether in terms of share ownership of such entity or, in the case of a partnership, in the capital of that partnership); and
- (c) which holds an OFCOM community radio licence; and
- (d) which is a linear scheduled radio channel.

"Production Music Work" shall mean any Musical Work:

- (a) embodied on a PMSR; and
- (b) the copyright in which is owned or controlled, from time to time, by MCPS (or a Member or a Foreign Society or a Foreign Society Member of MCPS). If one or more of those who own or control the copyright in a relevant Repertoire Work is not MCPS (or a Member or a Foreign Society or a Foreign Society Member), the expression "Production Music

Work" shall only apply to such interest in the Production Music Work as is owned or controlled by MCPS or the Member, Foreign Society or Foreign Society Member as applicable.

"Production Music" shall mean Production Music Works and PMSRs.

"Programme" shall mean any Content except Non-Programme Material.

"PRS for Music" shall mean MCPS-PRS Alliance Limited whose registered office is at 29-33 Berners Street London W1T 3AB.

"Quarter" shall mean consecutive periods of three months, each beginning on 1 January, 1 April, 1 July, 1 October in any Contract Year during the Licence Period.

"Repertoire Work" shall mean each Commercial Work and Production Music but excluding, solely in relation to use in the Content for which it was specifically commissioned, any Commissioned Work.

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

"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 Content in return for exposure for, or any other form of reference therein to, the name of the third party or any associate thereof or any specific named brands, products or services.

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

"Station Identification" shall mean an item of Content prominently featuring or referencing the name and/or words associated with a Licensed Channel and which does not refer in any way to (i) specific Programmes or (ii) genres of Programmes.

"Term" shall mean the period from 1 October 2010 until 30 September 2011 (inclusive).

"Title Music" shall mean music used as part of any one or more of the following:

- (a) the main title sequence for a Programme;
- (b) any credits relating to a Programme;
- (c) any links into or out of a Programme and/or schedule breaks, whether occurring before during or after a Programme.

"Trailer" shall mean an item of Content the purpose of which is to preview a Programme or series or selection of Programmes scheduled for broadcast on a Licensed Channel and which states the time and date and/or day on which the

Programme (or Programme within a series or selection of Programmes) will be broadcast.

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

"the 1990 Act" shall mean the Broadcasting Act 1990 as may be amended from time to time.

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

"United Kingdom" shall mean the United Kingdom of Great Britain and Northern Ireland the Channel Islands and the Isle of Man.

1.1 Where the context so admits, words importing the singular shall include the plural and vice versa.

1.2 References to any clauses or schedules shall, unless specifically stated otherwise, be construed as references to the clauses and schedules of this Agreement.

1.3 Any reference herein to any statute or statutory provision shall include every statutory amendment and re-enactment thereof and every regulation and order made thereunder or any statute or statutory provision replacing the same.

2. GRANT OF MCPS LICENCE

2.1 Subject to the terms and conditions set out in this Agreement, and in particular Schedule 1, MCPS hereby grants to the Licensee a non-exclusive licence to do the following during the Term:

(a) to reproduce or authorise the reproduction of Repertoire Works in the United Kingdom into Content intended primarily for Broadcast (during the Term) on the Licensed Channels;

(b) to make copies in the United Kingdom of such Content for the sole purpose of Broadcast (during the Term) of the same on the Licensed Channels;

(c) to reproduce Repertoire Works on servers and/or hard disk storage equipment for the primary purpose of Broadcasting such Repertoire Works;

(d) to Broadcast PMSRs in the United Kingdom on the Licensed Channels (or to authorise the party actually carrying out the Broadcasting of the Licensed Channels to do the same);

2.2 For the avoidance of doubt, the Reproduction Licence includes (where necessary) the incidental copying of Repertoire Works as part of the production process leading to the creation of Content.

2.3 For the avoidance of doubt, the MCPS Licence shall be subject always to the restrictions set out in Schedule 1, unless (i) the relevant Member has expressly consented to such use being covered under the MCPS Licence granted herein, and (ii) the Licensee has entered into an agreement with the relevant Member to this effect and (iii) evidence of such agreement has been provided to MCPS.

3. LICENCE FEES PAYABLE

3.1 In consideration of the licences and authorisations granted under this Agreement, the Licensee shall pay to MCPS the Licence Fee.

3.2 Where a Licensed Channel commences Broadcasting partway through the Term the Licence Fee shall be pro-rated to the beginning of the calendar Quarter in which the Licensed Channel commences Broadcasting.

3.3 The Licensee shall pay the Licence Fee to MCPS quarterly payable by direct debit on the twentieth day of each Quarter. MCPS shall invoice the Licensee on the first day of each Quarter.

3.4 All fees, rates and sums quoted in this Agreement exclude VAT and the Licensee will pay VAT at the rate or rates from time to time in force on any fees, rates or other sums payable under this Agreement.

3.5 Notwithstanding any other provision in this Agreement, MCPS confirms and warrants that *PRS for Music* is authorised to receive all payments under this Agreement as agent on behalf of MCPS and each of the Members.

3.6 No deduction in respect of any tax, or any other deduction or set-off of whatsoever nature, shall be made in calculating or paying any sum due under this Agreement.

3.7 Without prejudice to any other right or remedy of MCPS and without imposing an obligation to accept late payment, where any fees payable under this Agreement are not paid by the due date, the Licensee shall (if required by MCPS) pay interest on such late payment calculated on a daily basis at an annual rate of 3% over the base rate current from time to time of National Westminster Bank Plc payable from the date on which the payment should have been made to the date on which the payment was made.

3.8 For the avoidance of doubt and without prejudice to clause 5, where MCPS is unable to invoice the Licensee for all relevant fees due (or parts thereof) as a result of the Licensee failing to provide information due under this Agreement by the due date for such provision, then the Licensee shall pay interest in accordance with clause 3.8 in relation to the period by

- which the provision of the relevant information is delayed.
- 3.9 For the purposes of this clause 3, an invoice sent by fax or email shall be deemed to be received on the day sent. The Licensee shall promptly confirm the receipt of an invoice sent by email.
- 4. TERMINATION OF THE AGREEMENT**
- 4.1 This Agreement shall expire on 30 September 2011 unless terminated earlier in accordance with this clause 4.
- 4.2 Each party shall have the right to terminate this Agreement 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 14 clear days after receipt by that party of a formal notice specifying in reasonable detail the breach on which the terminating party relies; or
 - (b) commits a material breach of this Agreement which is not capable of remedy in which event the terminating party shall specify in reasonable detail the material breach on which it relies by notice to the other party.
- 4.3 Each party shall also have the right to terminate this Agreement forthwith if the other:
- (a) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
 - (b) becomes insolvent or is unable to pay its debts 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 a 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;
 - (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); or
 - (i) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.
- 4.4 MCPS shall also have the right to terminate this Agreement forthwith if the Licensee ceases to hold the licence awarded to it by OFCOM (or by any successor or replacement to OFCOM).
- 4.5 MCPS shall also have the right to terminate this Agreement forthwith if the Licensee fails to pay any sum due under this Agreement within 30 days of such payment becoming due, and following 14 days after receipt of formal notice by the Licensee of such late payment.
- 4.6 Termination of this Agreement for whatever reason shall be without prejudice to any rights which have already accrued to each party under this Agreement.

5. NOTICES

- 5.1 Subject to the provisions of clause 3, any notice or other communication given under or in connection with this Agreement shall only be effective if it is in writing. Faxes and e-mails are permitted save that notice to terminate this Agreement shall not be served by e-mail.
- 5.2 The address for service of any party shall be its registered office marked for the attention of the Chief Executive or Managing Director, or, if any other address for service has previously been notified to the server, to the address so notified.
- 5.3 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 facsimile message or 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.
- 5.4 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 a facsimile message or e-mail that an activity or other report from the sender's facsimile machine or computer can be produced in respect of the notice or other written communication, in the case of a fax, showing the recipient's facsimile number and the number of pages transmitted.

6. MISCELLANEOUS

- 6.1 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.
- 6.2 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.

- 6.3 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 MCPS.
- 6.4 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.
- 6.5 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, and it is not intended that any provision of this Agreement will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to this Agreement.
- 6.6 This Agreement shall be construed according to the laws of England and Wales and the parties agree to submit to the exclusive jurisdiction of the English Courts.

SCHEDULE 1

PERMISSIONS, EXCLUSIONS AND LIMITATIONS

1. Restrictions applying to the Reproduction Licence in respect of Commercial Works only:
- (a) In order to qualify as Content to which the Reproduction Licence applies (and notwithstanding any other terms and conditions of this Agreement), where the Content contains any Commercial Work, such Content must comply fully with all the conditions of paragraphs (b) and (c) below.
 - (b) The Reproduction Licence shall not permit the use of Commercial Works in Sponsorship Messages, Generic Station Promotions, Station Identifications or as Title Music.
 - (c) The Reproduction Licence shall not apply to the use of any Commercial Work where the positioning and use of the Commercial Work in relation to a Sponsorship Message or advertisement may lead a reasonable person to associate such Commercial Work with the

Sponsor or advertiser. For the avoidance of doubt and without limitation, an association will be deemed to exist where there is:

- (i) no discernible gap between a Commercial Work and (i) the Sponsorship Message or advertisement and/or (ii) a reference to the Sponsor or advertiser; or
- (ii) where there are multiple uses of the same Commercial Work in the same Content which contains multiple Sponsorship Messages from either the same or a number of Sponsors and irrespective of whether a discernible gap exists between the Commercial Work and the references to the Sponsor(s).

Repertoire Works, composers or writers are associated with such promotion; or

- (bb) a reasonable person might assume that there was an association between particular Repertoire Works, composers or writers and such promotion.

For the avoidance of doubt, this paragraph 2(d) shall not exclude the use of Production Music in Generic Station Promotions.

2. General Restrictions:

- (a) 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.
- (b) The MCPS Licence shall not permit the use of Repertoire Work(s) with any advertising of whatsoever nature where:
 - (i) such Repertoire Work(s) are incorporated into such advertising; or
 - (ii) such Repertoire Work(s) are otherwise presented in such a way that a reasonable person might associate the Repertoire Work(s) with the advertising.
- (c) The MCPS Licence shall not apply to the use of any Repertoire Work(s) for the purpose of (whether in whole or in part):
 - (i) directly or indirectly encouraging the purchase or obtaining of goods or services of whatsoever nature; or
 - (ii) promoting the branding of the Licensee, any affiliate of the Licensee or any third party;

in such a manner that:

- (aa) one or more particular

3. 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 paragraphs 1 and 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.

Whether a use of a Commercial Work breaches this paragraph 3 shall be decided by MCPS in its reasonable discretion.

4. The Reproduction Licence will not apply to Content where detailed scheduling information (including the running order) as to Commercial Works that will be included in such material is provided in advance of Broadcast on any Licensed Channel.

5. The Reproduction Licence shall not apply to Content Made Available on Demand.

6. The provisions of this Agreement authorise the making of Content for the specific purposes set out in this Agreement. In the event that a copy of

- any Content or the soundtrack thereof is made or used in any way for any other purpose, including rental and/or lending, whether by the Licensee or any other party then that copy shall not be licensed under this Agreement. MCPS reserves all rights including those of its Members and the Foreign Societies and the Foreign Society Members to take action in relation to any such copy.
7. The MCPS Licence applies only in relation to use on Licensed Channels and only to the extent that such Licensed Channels are, and remain throughout the Term, Permitted Services.
8. The MCPS Licence applies only to Licensed Channels to the extent that they are available within the area(s) specified in the Community Radio Licence Application Pack.
9. Where any Repertoire Work forms part of any Dramatico-Musical Work, the MCPS Licence shall not apply to the reproduction 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 Content 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 the Foreign Society Member objects to the reproduction of any such Repertoire Work
- 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.
10. The MCPS Licence does not extend to or permit the inclusion of any adaptation of any Repertoire Work in any Content 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.
11. The Licensed Channels and any Content Broadcast on the same shall not fall within the MCPS Licence to the extent that any Broadcast expressly or impliedly encourages home reproduction of Repertoire Works other than for the sole purpose of time-shifting a Programme contained on a Licensed Channel (so long as this remains an exception to copyright under United Kingdom law).
12. 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.
13. 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 Content 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 Content. For the purposes of this Agreement (but only insofar as the reproduction and broadcasting 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.
14. 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.