

LICENCE No. [LICENCE NUMBER]

OFFICE OF COMMUNICATIONS SMALL-SCALE RADIO MULTIPLEX LICENCE

LICENCE GRANTED TO [NAME OF LICENCE HOLDER] TO PROVIDE A SMALL-SCALE RADIO MULTIPLEX SERVICE FOR [LICENCE AREA NAME] UNDER PART II OF THE BROADCASTING ACT 1996 ON AN APPLICATION COMPLYING WITH SECTION 50 OF THE BROADCASTING ACT 1996 (AS MODIFIED BY THE SMALL-SCALE RADIO MULTIPLEX AND COMMUNITY DIGITAL RADIO ORDER 2019)

THE LICENCE

1. The Office of Communications ("Ofcom") in exercise of the powers conferred upon it by Part II of the Broadcasting Act 1996 as amended by the Communications Act 2003 and as modified by the Small-scale Radio Multiplex and Community Digital Radio Order 2019 hereby grants to [NAME OF LICENCE HOLDER] (the "Licensee") a licence (the "Licence") subject to the conditions set out in the Schedule and the Annex (the "Conditions") to provide the small-scale radio multiplex service specified in the Annex (the "Licensed Service").
2. This Licence is granted on the basis of the Licensee's representation that the statements set out in the declaration as to their affairs made by the Licensee on [DATE] are true to the best of the Licensee's knowledge and belief.
3. The Licensee must not operate the Licensed Service unless and until they are complying with any requirement to hold or have held on their behalf a licence under Section 8 of the Wireless Telegraphy Act 2006, any requirements imposed by or under Chapter 1 of Part 2 of the Communications Act 2003 or the Digital Technical Code to the extent that it applies to them.
4. The grant date of this Licence is [DATE] and is the day this Licence is first granted. The Conditions of this Licence shall come into force on the grant date.
5. The commencement date of this Licence is [DATE] (the "Commencement Date") and is the day this Licence comes into force. Subject to the Conditions, this Licence remains in force for the Licence Period.
6. This Licence expires on [DATE (NB. INITIAL TERM OF SEVEN YEARS UNDER SECTION 58(1))].
7. The Schedule and the Annex to this Licence form part of it.

Authorised signature

Position

Issue date: [DATE]

INDEX TO THE SCHEDULE

INDEX TO THE SCHEDULE	2
SCHEDULE	4
Part 1: DEFINITIONS AND INTERPRETATIONS RELATING TO THE LICENCE	4
1. Definitions and Interpretations.....	4
PART 2: GENERAL CONDITIONS	7
2. Provision of small-scale radio multiplex service by the Licensee	7
3. Fees	7
4. V.A.T.	7
5. Transmission arrangements, technical standards and requirements	8
6. Availability of and payments to be made for capacity on the Frequencies.....	8
7. General provision of information to Ofcom	9
8. Notifications to Ofcom.....	9
9. Power of inspection	11
10. Renewal of the Licence	11
11. Fair and effective competition	12
12. Electronic Programme Guides	14
13. Compliance with ownership restrictions	14
14. Transferability of the Licence.....	14
15. Compliance with directions	15
16. Prohibition on conveyance of unlicensed services	15
17. Government directions and representations	15
18. Power of Ofcom to vary Licence Conditions.....	16
19. Notices and service	16
20. Equal opportunities and training	17
PART 3: EXCEPTIONS AND LIMITATIONS ON LICENSEE'S OBLIGATIONS	19
21. Force majeure	19
22. Miscellaneous	19
PART 4: CONDITIONS RELATING TO THE ENFORCEMENT OF LICENCES	20
23. Sanctions for breach of Condition	20
24. Revocation	20
ANNEX TO [LICENCE NUMBER]	24

Part I – Reservation of capacity for Community Digital Sound Programme services.....	24
PART II – Conditions relating to digital additional services.....	25
PART III – Conditions relating to implementation of the Technical Plan.....	26
PART IV – Details of broadcasting stations	27
PART V – Conditions coming into force on the grant date	28

SAMPLE

SCHEDULE

Part 1: DEFINITIONS AND INTERPRETATIONS RELATING TO THE LICENCE

1. Definitions and Interpretations

(1) In this Licence unless the context otherwise requires:

"the 1990 Act" means the Broadcasting Act 1990 (as amended and as modified);

"the 1996 Act" means the Broadcasting Act 1996 (as amended and as modified);

"Code on Electronic Programme Guides" means the code giving guidance as to the practices to be followed in the provision of electronic programme guides as drawn up and from time to time revised by Ofcom in accordance with section 310 of the Communications Act;

"the Communications Act" means the Communications Act 2003;

"community digital sound programme service" shall be interpreted in accordance with section 60(1)(c) of the 1996 Act;

"capacity unit" has the meaning set out in ETSI EN 300 401 and describes a quantity of data (64 bits) which corresponds with the smallest subdivision of capacity within the portion of a radio multiplex bitstream that carries sound programme services. A DAB radio multiplex contains 864 capacity units;

"digital additional service" shall be interpreted in accordance with section 63(1) of the 1996 Act;

"digital sound programme service" shall be interpreted in accordance with section 40(5) of the 1996 Act;

"Digital Technical Code" means the code or codes governing technical standards and practice in the provision of licensed broadcast digital radio services as drawn up and from time to time revised by Ofcom;

"Frequencies" means the frequencies specified in Part IV of the Annex;

"Initial Licence Period" means the period of seven years from and including the Commencement Date or, if shorter, the period from and including the Commencement Date until such date as the Licence is revoked in accordance with these Conditions;

"Licence Period" means the Initial Licence Period or any Subsequent Licence Period, as the context shall require;

"Licensed Area" means the area or locality designed to be served by the transmitter or transmitters, particulars of which are set out in Part II of the Annex;

"licensed services" means services licensed by Ofcom under Part II of the 1996 Act;

"local digital sound programme service" shall be interpreted in accordance with Section 60(1)(b) of the 1996 Act;

"programme" unless otherwise stated, includes an advertisement and anything included in the Licensed Service;

"programme-related service" shall be interpreted in accordance with section 54(2)(a) of the 1996 Act;

"Station" is defined by reference to the technical characteristics set out in Part IV of the Annex;

"Subsequent Licence Period" means the period of five years from and including the date on which the Licence is renewed in accordance with Condition 10 or, if shorter, the period from and including the date on which the Licence is renewed until such date as it is revoked in accordance with these Conditions;

"Technical Plan" means the technical plan relating to the Licensed Service which accompanied the Licensee's application for the Licence pursuant to section 50(4)(b) of the 1996 Act or the technical plan relating to the Licensed Service which accompanied the Licensee's application for renewal of the Licence pursuant to section 58(4)(a) of the 1996 Act, as varied from time to time by agreement between Ofcom and the Licensee;

"technical service" shall be interpreted in accordance with section 63(3) of the 1996 Act and

"relevant technical service" shall be interpreted in accordance with section 54(2)(b) of the 1996 Act; and

"television licensable content services" shall be interpreted in accordance with Section 232 of the Communications Act.

- (2) The Interpretation Act 1978 shall apply for the purpose of interpreting this Licence as if it was an Act of Parliament.
- (3) Any word or expression used in this Licence shall unless otherwise defined herein and/or the context otherwise requires have the same meaning as it has in the 1990 Act, the 1996 Act or the Communications Act, as the case may be.
- (4) For the purposes of interpreting this Licence, headings and titles shall be disregarded.
- (5) The statutory references immediately preceding the Conditions of this Licence are for purposes purely of convenience and shall not affect the interpretation or construction of the Licence or limit the statutory basis for the inclusion of the relevant Condition in the Licence.

(6) Where an order is made under the Deregulation and Contracting Out Act 1994 which authorises a person to exercise any functions of Ofcom, the relevant references in the Licence to Ofcom shall include a reference to that person.

(7) This Licence shall be governed by English law.

SAMPLE

PART 2: GENERAL CONDITIONS

2. Provision of small-scale radio multiplex service by the Licensee

- (1) The Licensee shall provide the Licensed Service for the Licence Period in the Licensed Area and in accordance with the Conditions set out in the Annex.

Section 43(1)(a) of the 1996 Act

- (2) Subject to the Conditions set out in the Annex, the Licensee shall ensure that the licensed services are transmitted from the stations specified in, and otherwise in accordance with, Parts III and IV of the Annex.

Section 43(1)(b) of the 1996 Act

- (3) The Licensee shall ensure that the provisions of the Digital Technical Code are observed in the provision of the Licensed Service to the extent such provisions apply to them.
- (4) The Licensee shall not be authorised by or under the Licence to broadcast or procure the broadcasting of anything other than the Licensed Service.

3. Fees

Sections 43(1)(c), 43(1)(d), 43(3) and 43(4) of the 1996 Act

- (1) The Licensee shall pay to Ofcom such fees as Ofcom may determine in accordance with the tariff fixed by it and for the time being in force under section 43(3) of the 1996 Act, as Ofcom shall from time to time publish in such manner as it considers appropriate.
- (2) Payment of the fees referred to in Condition 3(1) shall be made in such manner and at such times as Ofcom shall specify.
- (3) The Licensee shall within 28 days of a request therefore provide Ofcom with such information as it may require for the purposes of determining or revising the tariff referred to in Condition 3(1) above.

4. V.A.T.

Section 43(1)(c) and (f) of the 1996 Act

- (1) The Licensee shall pay any V.A.T. on any supply for V.A.T. purposes by Ofcom under this Licence on presentation of a valid V.A.T. invoice.

- (2) Without limitation to Condition 4(1) above, all sums payable by the Licensee are exclusive of V.A.T which shall be paid by the Licensee in addition to such sums.
- (3) In this Condition 4 "V.A.T." means value-added tax chargeable under or pursuant to the Value Added Tax Act 1994, including any amendment to or replacement of that Act, and/or any similar tax.

5. Transmission arrangements, technical standards and requirements

Section 54(1) of the 1996 Act

- (1) The Licensee shall do all they can to ensure that the signals carrying the Licensed Service attain reasonable standards in terms of technical quality and reliability throughout so much of the Licensed Area as is for the time being reasonably practicable. In particular (but without prejudice to the generality of the foregoing), the Licensee shall do all they can to ensure that the relevant provisions of the Digital Technical Code and Parts III and IV of the Annex to the Licence are observed in all operations under their direct control and by any third parties involved in the provision of programmes in the licensed services broadcast in the Licensed Service or in the provision and operation of a system for the distribution and transmission of the Licensed Service.

6. Availability of and payments to be made for capacity on the Frequencies

Sections 49A and 54 of the 1996 Act

- (1) The Licensee shall ensure that the amount of digital capacity reserved for community digital sound programme services by Ofcom under section 49A of the 1996 Act (as set out in the Annex) is available solely for the Broadcasting of community digital sound programme services.
- (2) The Licensee shall ensure that, during the Licence Period, at least 70 per cent. (or such other percentage as the Secretary of State may from time to time by order specify pursuant to section 54(3) of the 1996 Act) of digital capacity on the Frequencies is used or left available to be used for the broadcasting of digital sound programme services, programme-related services and relevant technical services.
- (3) The Licensee shall supply to Ofcom, in such form and at such times as Ofcom shall require, information as to:
 - (a) the percentage of digital capacity available on the Frequencies for the broadcasting of digital sound programme services, simulcast radio services, programme-related services or relevant technical services;
 - (b) the identity of each service carried on the Frequencies and the percentage of digital capacity available on the Frequencies to each service;

- (c) the extent to which each community digital sound programme service carried on the Frequencies is using digital capacity reserved in pursuance of section 49A of the 1996 Act; and
 - (d) payments made to the Licensee by holders of local digital sound programme service licences and community digital sound programme service licences for carriage on the Frequencies.
- (4) The Licensee shall publish, in such form and at such times as Ofcom shall require, information as to:
- (a) the identity of each local digital sound programme service and community digital sound programme service carried on the Frequencies; and
 - (b) a rate card showing payments the Licensee requires to be made by the holders of community and local digital sound programme licences for carriage on the Frequencies.

7. General provision of information to Ofcom

Sections 43(1)(d) and 44(1)(a) and (aa) of the 1996 Act and section 350(2) of the Communications Act

- (1) The Licensee shall furnish to Ofcom in such manner and at such times as Ofcom may reasonably require such documents, accounts, returns, estimates, reports, notices or other information as Ofcom may require for the purpose of exercising the functions assigned to it by or under the 1990 Act, the 1996 Act or the Communications Act and in particular (but without prejudice to the generality of the foregoing):
- (a) a declaration as to the Licensee's corporate structure in such form and at such times as Ofcom shall specify; and
 - (b) such information as Ofcom may reasonably require from time to time for the purposes of determining whether the Licensee is on any ground a disqualified person by virtue of any of the provisions in section 44A of the 1996 Act, section 143(5) of the 1996 Act and/or Schedule 2 to the 1990 Act or whether a requirement imposed by or under Schedule 14 to the Communications Act is contravened in relation to the Licensee's holding of the Licence.

8. Notifications to Ofcom

Section 44(5) of the 1996 Act

- (1) The Licensee shall inform Ofcom forthwith in writing if:

- (a) the Licensee becomes aware that any order is made or any resolution is passed or other action is taken for the dissolution, termination of existence, liquidation (whether compulsory or voluntary), or winding up of the Licensee (otherwise than for the purpose of amalgamation made whilst the Licensee is solvent and previously approved in writing by Ofcom in accordance with Condition 14 below) or a liquidator, trustee, receiver, administrative receiver, administrator, manager or similar officer is appointed in respect of the Licensee, or in respect of all or any part of their assets; or
- (b) the Licensee makes or proposes to enter into any scheme of compromise or arrangement with their creditors save for the purposes of amalgamation or reconstruction; or
- (c) the Licensee permits an execution to be levied against their assets and/or chattels and allows such execution to remain outstanding for more than 14 days; or
- (d) the Licensee becomes aware that any person having control of the Licensee does or is subject to any of the events specified in Conditions 8(1)(a) to (c) above; or
- (e) anything analogous to or having a substantially similar effect to any of the events specified in Conditions 8(1)(a) to (d) above occurs under the laws of any applicable jurisdiction.

Section 43(1)(d) and (f) of the 1996 Act

- (2) The Licensee shall inform Ofcom when final judgment is awarded against them in any court proceedings brought against them in respect of the inclusion in the Licensed Service of any defamatory, seditious, blasphemous or obscene matter or any matter which constitutes an injurious falsehood or slander of title or any tort or an infringement of a copyright, moral right, right in a performance, design right, registered design, service mark, trademark, letters patent or other similar monopoly right or a contravention of the provisions of the Official Secrets Act or of any statutory enactment or regulation for the time being in force or a criminal offence or contempt of Court or breach of Parliamentary privilege.

Sections 43(1)(d) and 44(5) of the 1996 Act

- (3) The Licensee shall inform Ofcom if they or any individual having control over them within the meaning of Paragraph 1(3), Part I of Schedule 2 to the 1990 Act is sentenced to a term of imprisonment (including a suspended term) on conviction of a criminal offence.
- (4) The Licensee shall notify Ofcom if there is a change in the persons having control over the Licensee within the meaning of Schedule 2, Part I paragraph 1(3) of the 1990 Act.

In particular (but without prejudice to the generality of the foregoing) the Licensee shall notify Ofcom as soon as reasonably practicable:

- (a) of any changes to persons that hold a 'majority interest' in the Licensee;
 - (b) of any changes to persons who exercise 'de facto' control over the Licensee; and
 - (c) if any person in control of the Licensee enters into a 'control arrangement'.
- (5) For the purposes of Condition 8(4)(a) to (c):
- (a) a person holds a 'majority interest' where they hold, or are beneficially entitled to, more than 50 per cent of the equity share capital, or possess more than 50 per cent of the voting power in the company;
 - (b) a person can exercise 'de facto control' where they do not have a majority interest, but are regarded as controlling a company where it is reasonable, having regard to all the circumstances, to expect that they would (if they chose to) be able in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of the body are conducted in accordance with their wishes;
 - (c) a person in control of the Licensee enters into a 'control arrangement' where they hold, or are beneficially entitled to, 50 per cent of the company's equity share capital, or possess 50 per cent of the voting power in the company, and have an arrangement with any other participant in the company as to how any voting power possessed by either of them is to be exercised or not. 'Arrangement' includes any agreement or arrangement whether or not it is, or is intended to be, legally enforceable; and
 - (d) a person shall be treated -
 - (i) as holding, or being beneficially entitled to, any equity share capital which is held by a body corporate which they control or to which such a body corporate is beneficially entitled, and
 - (ii) as possessing any voting power possessed by such a body corporate.

9. Power of inspection

Section 43(2)(b) of the 1996 Act

The Licensee shall permit any employee of, or person authorised in writing by, Ofcom to enter any premises used in connection with the broadcasting or delivery of the Licensed Service and to inspect, examine, operate or test any equipment on the premises which is used in that connection.

10. Renewal of the Licence

Section 58(3) of the 1996 Act

- (1) The Licensee may apply to Ofcom for renewal of the Licence not earlier than 18 months before the end of the Initial Licence Period and not later than the day falling six months before that date.

Section 58(6) of the 1996 Act

- (2) If the Licensee makes an application Ofcom may postpone consideration of it for as long as Ofcom thinks appropriate, having regard to section 58(10) of the 1996 Act.

Section 58(4) of the 1996 Act

- (3) If the Licensee makes an application Ofcom may require the Licensee to furnish a technical plan which supplements the Technical Plan and notify the applicant of the requirements which must be met by the supplementary technical plan referred to in this Condition and which relate to the matters referred to in section 50(4)(b)(i) and (ii) of the 1996 Act.

Section 58(7) of the 1996 Act

- (4) Ofcom shall only refuse an application for renewal of the Licence by the Licensee made in accordance with the 1996 Act and this Condition if:
 - (a) it appears to Ofcom that the Licensee has failed to comply with any of the Conditions in this Licence; or
 - (b) any supplementary technical plan submitted by the Licensee under Condition 10(3) fails to meet the requirements notified to the Licensee under Condition 10(3); or
 - (c) Ofcom is not satisfied that the Licensee would, if the Licence were renewed, provide a service which complied with the Conditions to be included in the Licence, as renewed.
- (5) On the grant of any such application Ofcom shall include in the Licence, as renewed, such further Conditions as appear to Ofcom to be appropriate for securing the implementation of any supplementary technical plan submitted under Condition 10(3).

Section 58(10) of the 1996 Act

- (6) Where Ofcom has granted an application of the Licensee for renewal of the Licence it shall formally renew their Licence from the date on which it would otherwise expire.
- (7) Where the Licence is renewed pursuant to this Condition, it shall continue in full force and effect.

11. Fair and effective competition

Section 316 of the Communications Act

- (1) The Licensee shall:

- (a) not enter into or maintain any arrangements, or engage in any practice, which is prejudicial to fair and effective competition in the provision of licensed services or of connected services; and
- (b) comply with any code or guidance for the time being approved by Ofcom for the purpose of ensuring fair and effective competition in the provision of licensed services or of connected services; and
- (c) comply with any direction given by Ofcom to the Licensee for that purpose.

Section 54(1) of the 1996 Act

- (2) The Licensee shall not enter into any agreement or offer to enter into any agreement with a person providing digital sound programme services, television licensable content services or digital additional services for the broadcasting of those services where the terms of that agreement show undue discrimination either against or in favour of a particular person providing such a service or a class of such persons.

Section 54(1) of the 1996 Act

- (3) The Licensee shall not enter into any agreement with a person providing a digital sound programme service, television licensable content service or digital additional services (the "service provider") which entitles the service provider to use a specified amount of digital capacity on the Frequencies and contains a restriction of the nature referred to in Condition 11(4), save to the extent that the restriction is reasonably required for the purpose of ensuring the technical quality of the broadcasts or for the purpose of securing compliance with any other Condition in the Licence.
- (4) The restriction referred to in Condition 11(3) is such that it restricts the service provider's freedom to make arrangements with some other person as to the use of any of the digital capacity on the Frequencies which the service provider is entitled to use.
- (5) Condition 11(3) shall be without prejudice to the Licensee's obligations to satisfy the Conditions set out in the Annex.
- (6) The Licensee shall, in the case of an agreement falling within Condition 11(7)(a), for the period during which such agreement is in force, and in the case of an offer falling within Condition 11(7)(b), for one year after such offer is made or received, as appropriate, retain copies of all documentation which has been prepared by it or received by it and which is in connection with such agreement or such offer, as appropriate.

- (7) (a) The agreements referred to in Condition 11(6) are any agreements entered into by the Licensee with a person providing digital sound programme services or digital additional services for the broadcasting of those services.
- (b) The offers referred to in Condition 11(6) are any offers made or received by the Licensee to enter into any agreement with a person referred to in Condition 11(7)(a).
- (8) In Condition 11(1) above "connected services" and "licensed services" have the meaning given to them in section 316(4) of the Communications Act.

12. Electronic Programme Guides

Section 311(1) of the Communications Act

To the extent that the Licensed Service consists in or includes an electronic programme guide, the Licensee shall ensure that the provisions of the Code on Electronic Programme Guides are observed in the provision of the Licensed Service.

13. Compliance with ownership restrictions

Section 44(1) and (2) of the 1996 Act

- (1) The Licensee shall comply in all respects with the restrictions and requirements imposed on or in relation to them by or under Schedule 2 to the 1990 Act, section 44A of the 1996 Act, and Schedule 14 to the Communications Act to the extent that they apply to them.
- (2) The Licensee shall comply with any direction of Ofcom requiring them to take, or arrange for the taking of, any steps specified by Ofcom for the purposes of complying with the requirements referred to in Condition 13(1) above.
- (3) The Licensee shall inform Ofcom of any circumstances or events which would give rise to a breach of the Licensee's obligations imposed on them by or under Schedule 2 to the 1990 Act, section 44A of the 1996 Act, or the requirements imposed by or under Schedule 14 to the Communications Act being contravened in relation to their holding of the Licence immediately upon becoming aware of such circumstances or events.

14. Transferability of the Licence

Section 42(5) and (6) of the 1996 Act

The Licence is not transferable except with the prior consent in writing of Ofcom. Without prejudice to the generality of the foregoing, such consent shall not be given unless Ofcom is satisfied that the person to whom it is proposed to transfer the Licence would be in a position to comply with all of the Conditions thereof throughout the remainder of the Licence Period.

15. Compliance with directions

Sections 43(1)(a) and 43(2)(a) of the 1996 Act (see also para 103(3) of Schedule 15 to the Communications Act)

The Licensee shall comply with any direction given to them by Ofcom in respect of any matter, subject or thing which direction is in the opinion of Ofcom appropriate, having regard to any duties which are or may be imposed on it, or on the Licensee, by or under the 1990 Act, the 1996 Act or the Communications Act.

16. Prohibition on conveyance of unlicensed services

Section 54(1)(c) and (d) of the 1996 Act

- (1) The Licensee shall ensure that:
 - (a) all digital sound programme services broadcast under this Licence are provided by the BBC or by the holder of a local digital sound programme licence or community digital sound programme licence under section 60 of the 1996 Act; and
 - (b) all digital additional services broadcast under this Licence are provided by the holder of a licence under section 64 of the 1996 Act; and
 - (c) all television licensable content services broadcast under this Licence are provided by the holder of a licence under Part I of the 1990 Act to provide such a service or by an EEA broadcaster (within the meaning given by section 12(3A) of the 1996 Act).

17. Government directions and representations

Section 336 of the Communications Act

- (1) The Licensee shall if so directed by Ofcom:
 - (a) include in the Licensed Service, at such times as may be specified to Ofcom by the Secretary of State or any other Minister of the Crown, such announcement as may be specified by a notice given pursuant to section 336(1) of the Communications Act; or
 - (b) refrain from including in the programmes included in the Licensed Service any matter or description of matter specified to Ofcom by the Secretary of State by a notice given pursuant to section 336(5) of the Communications Act.
- (2) The Licensee may when including an announcement in the Licensed Service in accordance with Condition 17(1)(a) above indicate that the announcement is made in pursuance of a direction by Ofcom.

(3) Where Ofcom:

- (a) has given the Licensee a direction to the effect referred to in Condition 17(1)(b) above;
or
- (b) in consequence of the revocation by the Secretary of State of the notice giving rise to the issuing of such direction, has revoked that direction, or where such a notice has expired the Licensee may include in the Licensed Service an announcement of the giving or revocation of the direction or of the expiration of the notice, as the case may be.

18. Power of Ofcom to vary Licence Conditions

Sections 42(3A), 54(5), 42(3B) and 42(4) of the 1996 Act

(1) Ofcom may by a notice served on the Licensee:

- (a) vary the Licence Period provided that the Licensee consents to such variation (and without prejudice to Ofcom's powers and duties under section 59 of the 1996 Act);
- (b) vary any Conditions set out in Parts I, II and III of the Annex provided that the Licensee consents to such variation; and
- (c) vary the Licence in any respect not mentioned in Conditions 18(1)(a) and (b) above provided that the Licensee has been given a reasonable opportunity to make representations to Ofcom concerning the proposed variation;

provided always that Condition 18(1)(a) above is without prejudice to Ofcom's power under section 59(1)(b) to reduce the Licence Period as set out in Condition 23(1)(a).

19. Notices and service

Section 394 of the Communications Act

- (1) Any notification or document (as defined in section 394(9) of the Communications Act) to be served, given or sent under or in relation to this Licence may be delivered to the party to be served or sent by first class post to them at their proper address (as defined in section 394(7) of the Communications Act) or left at that address.
- (2) Any such notification or document shall be deemed to have been served:
 - (a) if so delivered or left, at the time of delivery or leaving; or
 - (b) if so posted, at 10.00 a.m. on the second business day after it was put into the post.

- (3) In proving such service it shall be sufficient to prove that delivery was made or that the envelope containing such notification or document was properly addressed and posted as a pre-paid first-class letter or was left at the proper address, as the case may be.

Section 395 of the Communications Act

- (4) Notices and documents may also be served or given by Ofcom on or to the Licensee and by the Licensee on or to Ofcom in electronic form subject to the requirements of sections 395 and 396 of the Communications Act.

20. Equal opportunities and training

Section 337 of the Communications Act

- (1) The Licensee shall make, and from time to time shall review, arrangements for:
 - (a) promoting, in relation to employment with the Licensee:
 - (i) equality of opportunity between men and women and between persons of different racial groups; and
 - (ii) the equalisation of opportunities for disabled persons; and
 - (b) training and retraining persons whom they employ in or in connection with the provision of the Licensed Service or the making of programmes for inclusion in the Licensed Service.
- (2) The Licensee shall take appropriate steps to make those affected by the arrangements to be made in accordance with Condition 20(1) aware of them including publishing the arrangements in such manner as Ofcom may require.
- (3) In particular (but without limiting the generality of the foregoing) the Licensee shall from time to time (and at least annually) publish, in such manner as they consider appropriate, their observations on the current operation and effectiveness of the arrangements required by virtue of this Condition.
- (4) The Licensee shall, in making and reviewing the arrangements made in accordance with Condition 20(1), have regard to any relevant guidance published by Ofcom as revised from time to time.
- (5) This Condition 20 shall apply if the requirements of section 337(7) and (8) of the Communications Act are satisfied in the case of the Licensed Service.

- (6) Ofcom will treat the Licensee's obligations under Conditions 20(1) to (5) above as discharged where a member of a group of companies to which the Licensee belongs has discharged those obligations in relation to employment with the Licensee.

SAMPLE

PART 3: EXCEPTIONS AND LIMITATIONS ON LICENSEE'S OBLIGATIONS

21. Force majeure

Section 43(1)(f) of the 1996 Act

The Licensee shall not be in any way responsible for any failure to comply with any Conditions of this Licence directly or indirectly caused by or arising from any circumstances beyond the reasonable control of the Licensee including (without limitation) war, damage by the Queen's enemies, terrorism, riot, rebellion, civil commotion, interference by strike, lockout, sit-in, picket or other industrial dispute or action.

22. Miscellaneous

Nothing in this Licence shall constitute or imply any warranty, representation or obligation on the part of Ofcom as to the size or location of the areas actually capable of receiving the programmes in the licensed services broadcast in the Licensed Service provided by the Licensee pursuant to the Licence or that licensed services and simulcast radio services provided by the holder of any other licence (including a multiplex service licence) shall not be capable of reception in the whole or any part of the Licensed Area.

PART 4: CONDITIONS RELATING TO THE ENFORCEMENT OF LICENCES

23. Sanctions for breach of Condition

Section 59 of the 1996 Act

(1)

- (a) If Ofcom is satisfied that the Licensee has failed to comply with any Condition of the Licence or with any direction given by Ofcom under the Licence and it has given them a reasonable opportunity of making representations to it about the matters complained of, it may serve on the Licensee a notice requiring them to pay to Ofcom, within a specified period, a specified financial penalty, or a notice reducing the Licence Period by a specified period not exceeding two years.
- (b) The amount of any financial penalty imposed pursuant to Condition 23(1)(a) on the holder of a local radio multiplex licence shall not exceed £100,000.
- (c) Where the Licence is due to expire on a particular date by virtue of a notice served on the Licensee under Condition 23(1)(a), Ofcom may, on the application of the Licensee, by a further notice served on them at any time before that date, revoke that notice if it is satisfied that such revocation is justified by virtue of the conduct of the Licensee in relation to the operation of the Licensed Service since the date of the earlier notice.

Section 43(1)(e) of the 1996 Act

- (2) If Ofcom is satisfied that the Licensee has failed to comply with any Condition of this Licence, Ofcom may require the Licensee to reimburse to Ofcom, in such circumstances as Ofcom may specify, any costs reasonably incurred by Ofcom in connection with the breach of that Condition.
- (3) In particular, but without prejudice to the generality of Condition 23(2) above, the Licensee shall reimburse to Ofcom any reasonable costs incurred by Ofcom in connection with or resulting from a breach of any Condition in the Licence that requires Ofcom at its sole discretion to make arrangements for the verification of the technical performance of the signal transmitted by or on behalf of the Licensee.

24. Revocation

Section 111 of the 1990 Act and section 59(8) of the 1996 Act

(1)

- (a) If Ofcom is satisfied that the Licensee is failing to comply with any Condition of the Licence or with any direction given by Ofcom under the Licence and that that failure is such that, if not remedied, it would justify the revocation of the Licence it shall serve on the Licensee a notice:

- (i) stating that Ofcom is so satisfied;
 - (ii) specifying the respects in which, in the opinion of Ofcom, the Licensee is failing to comply with any such Condition or direction; and
 - (iii) stating that, unless the Licensee takes, within such period as is specified in the notice, such steps to remedy the failure as are so specified, Ofcom will revoke the Licence.
- (b) If at the end of the period specified in any notice served under Condition 24(1)(a) above Ofcom is satisfied that the Licensee has failed to take the steps specified in the notice and that it is necessary in the public interest to revoke the Licence, Ofcom shall serve on the Licensee a notice revoking the Licence.

Section 53 of the 1996 Act

- (2) Ofcom shall revoke the Licence by notice in writing served on the Licensee and taking effect as from the time of service if:
- (a) the Licensee indicates to Ofcom before the Commencement Date that they do not intend to provide the Licensed Service;
 - (b) Ofcom have reasonable ground for believing the Licensee will not provide the Licensed Service within 18 months of the date this Licence was awarded; or
 - (c) Ofcom for any other reason has reasonable grounds for believing that the Licensee will not provide the Licensed Service after the Commencement Date and it has served on the Licensee a notice stating its grounds for believing that they will not provide that service after that date.
- (3) Ofcom may revoke the Licence by notice in writing served on the Licensee and taking effect either from the time of service or on a date specified in the notice, in any of the following circumstances:
- (a) if the Licensee ceases to provide the Licensed Service before the end of the Licence Period and Ofcom are satisfied that it is appropriate to revoke the Licence;
 - (b) if the Licensee agrees in writing with Ofcom that the Licence should be revoked;

Section 44(1) and 143(4) of the 1996 Act

- (c) if the Licensee becomes a disqualified person in relation to the Licence by virtue of Part II of Schedule 2 to the 1990 Act, section 44A of the 1996 Act, or a requirement imposed

by or under Schedule 14 to the Communications Act is contravened in relation to their holding of the Licence;

Section 43(5) of the 1996 Act

- (d) if Ofcom is satisfied that the Licensee in purporting to comply with any of the Conditions of the Licence has provided information which is false in a material particular or has withheld any material information with the intention of causing Ofcom to be misled;

Section 44 of the 1996 Act

- (e) if, where the Licensee is a body, a change in the nature or characteristics of the Licensee or any change in the persons having control over or interests in the Licensee, or any change giving rise to a disqualification under Part II of Schedule 2 to the 1990 Act or a contravention of a requirement imposed by or under Schedule 14 to the Communications Act in relation to their holding of the Licence takes place (whether before or after the Commencement Date), which change is such that, if it fell to Ofcom to determine whether to award the Licence to the Licensee in the new circumstances of the case, it would be induced by the change to refrain from awarding the Licence to the Licensee;

Section 42(2) of the 1996 Act

- (f) if Ofcom ceases to be satisfied that the Licensee is a fit and proper person to hold the Licence;

Section 42(7) of the 1996 Act

- (g) if the Licensee fails to comply with any requirement to hold or have held on their behalf a licence under section 8 of the Wireless Telegraphy Act 2006 (as amended) or if the Licensee ceases to comply with requirements imposed by or under Chapter 1 of Part 2 of the Communications Act.

Section 44(6) of the 1996 Act

- (4) Ofcom shall before serving a notice revoking the Licence or a notice under Condition 24(2)(b) notify the Licensee of and give the Licensee a reasonable opportunity to make representations to it about the matters constituting its grounds for revoking the Licence.

Section 53(5) of the 1996 Act

- (5)
 - (a) Where the Licence is revoked pursuant to any provision of Part II of the 1996 Act or is treated as being revoked under section 145 of the 1996 Act, the Licensee shall within such period as Ofcom shall notify to them, pay to Ofcom a specified financial penalty not exceeding £100,000 (or such other sum as the Secretary of State may by order specify under section 69 of the 1996 Act).

- (b) The Licensee's liability to pay such penalty shall not be affected by the Licence ceasing (for any reason) to be in force.

Sections 144 and 145 of the 1996 Act

- (6) If the Licensee is convicted of an offence under section 144 of the 1996 Act and the court by which the Licensee is convicted makes an order disqualifying them from holding a licence during a period specified in the order, or if the Licensee is disqualified from holding a licence pursuant to section 145(3) of the 1996 Act, in consequence of an order disqualifying an individual from holding a licence, this Licence shall be treated as being revoked with effect from the time when the order takes effect.

SAMPLE

ANNEX TO [LICENCE NUMBER]

Part I – Reservation of capacity for Community Digital Sound Programme services

[N.B. WILL REFLECT NUMBER OF SLOTS RESERVED. BELOW IS THE WORDING FOR THE MINIMUM RESERVATION OF THREE, BUT OFCOM MAY RESERVE MORE THAN THREE UNDER SECTION 49A]

The Licensee shall make available on the Licensed Service to the providers of Community Digital Sound Programme services sufficient capacity for the provision of at least THREE such services. At least 36 capacity units¹ shall be made available to each such service and, where a Community Digital Sound Programme service decides to occupy less than 36 capacity units, the difference between the capacity used and 36 capacity units shall remain available for providers of other Community Digital Sound Programme services.

This means that:

- If the Licensed Service is carrying ZERO Community Digital Sound Programme services, it must have available solely for the use of Community Digital Sound Programme services at least 108 capacity units.
- If the Licensed Service is carrying ONE Community Digital Sound Programme service, it must have available solely for the use of Community Digital Sound Programme services at least 72 capacity (plus, if the one existing Community Digital Sound Programme service is using less than 36 capacity units, the difference in capacity between the amount being occupied and 36 capacity units).
- If the Licensed Service is carrying TWO Community Digital Sound Programme services, it must have available solely for the use of Community Digital Sound Programme services at least 36 capacity units (plus, if the two existing Community Digital Sound Programme services are using less than 72 capacity units, the difference in capacity between the amount being occupied and 72 capacity units).
- If the Licensed Service is carrying THREE Community Digital Sound Programme services, but the three existing Community Digital Sound Programme services are using less than 108 capacity units, the difference in capacity between the amount being occupied and 108 capacity units).

Capacity reserved for Community Digital Sound Programme services shall be reserved solely for that purpose and may not be used for the provision of any other service.

Nothing in this requirement shall prevent the Licensee from carrying more than THREE Community Digital Sound Programme services on reserved or non-reserved capacity on the Licensed Service.

¹ A 48kbit/s DAB+ service operating with error protection level EEP3A occupies 36 capacity units.

PART II – Conditions relating to digital additional services

[TO BE POPULATED IF DIGITAL ADDITIONAL SERVICES CARRIED]

SAMPLE

PART III – Conditions relating to implementation of the Technical Plan

The Licensee shall implement the transmitter assignments set out in Part IV of this Annex.

The technical characteristics of the transmissions as radiated should fulfil a reasonable proportion of the characteristics permitted (where this represents maxima) as set out in Part IV of this Annex, where "reasonable" includes that account is taken of practical circumstances applying at each transmitter site (e.g. practicable antenna location and design).

This transmission should be maintained other than for periods of technical failure or maintenance requirements, the duration of which should not be unreasonably protracted.

For the purposes of this condition, in relation to the power of any one transmitter, "reasonable" shall mean typically within 3 to 6dB.

The digital sound programme services set out in Part IV of this Annex shall be transmitted at protection level 3 or better.

PART IV – Details of broadcasting stations

[TO BE POPULATED WITH DETAILS SPECIFIC TO INDIVIDUAL MULTIPLEX]

SAMPLE

PART V – Conditions coming into force on the grant date

1. Condition 1 (Definitions and interpretation)
2. Condition 3 (Fees)
3. Condition 4 (V.A.T)
4. Condition 5 (Transmission arrangements, technical standards and requirements)
5. Condition 7 (General provision of information to Ofcom)
6. Condition 9 (Powers of inspection)
7. Condition 12 (Fair and effective competition)
8. Condition 13 (Compliance with ownership restrictions)
9. Condition 14 (Transferability of the Licence)
10. Condition 15 (Compliance)
11. Condition 18 (Power of Ofcom to vary Licence Conditions)
12. Condition 19 (Notices)
13. Condition 21 (Exceptions and limitations on the Licensee's obligations)
14. Condition 23 (Sanctions for breach of Condition)
15. Condition 24 (Revocation)