SOUTHERN AFRICAN MUSIC RIGHTS ORGANISATION
Physical Address: 20 De Korte Street, Braamfontein, Johannesburg, 2001.
Postal Address: PO Box 31609, Braamfontein, Johannesburg, 2017.
Email: licensing@samro.org.za
Tel: 011 712 8000 - Fax: 086 682 0270

BRC R

LICENCE AGREEMENT

PART A: LICENSEE DETAILS

Business / Individuals Name:				
Company Registration No.:				
Business Type:	**(Pty)Ltd**	**CC**	**Trust**	**Sole Proprietor**
	Partnership	**NGO**	**Organ of State**	**Other: Specify**
Vat Registration No.:				
Identity No: *(If Applicable)*				
Licensee Representative Name:				
Designation:				
E-mail Address:				
Telephone No.:				
Website:				
Fax No.:				
Physical Address:				
Building/floor:				
Street & No.:				
Suburb:				
City/Town:				
Province:				
Postal Code:				
Postal Address:				
Postal code:				

PART B: PREMISES DETAILS

Premises Name:	
Contact Person Name:	
Designation:	
E-mail Address:	
Telephone No.:	
Website:	
Fax No.:	
Physical Address:	
Building/floor:	
Street & No.:	
Suburb:	
City/Town:	
Province:	
Postal Code:	
Postal Address:	
Postal code:	

(If there are more than one premise kindly complete and submit a schedule with the aforementioned details of each premises)

PART C: LICENCE PARAMETERS

No. of Premises:	
Total Gross Expenditure:	
Total Gross Revenue:	
Copyright Musical Content:	

PART D: LICENCE DETAILS

1. TYPE OF LICENCE:

1.1 This licence is a **BRCR TYPE LICENCE**.

2. GRANT OF LICENCE:

2.1 SAMRO, subject to the Licensee complying with the terms of the Agreement, grants the Licensee a Licence to Broadcast, or permit to be Broadcast, any of the Works of Music for the time being in SAMRO's Repertoire, at the Premises.

2.2 The Licence is a 'blanket licence'. The Licensee is therefore entitled to, at the Premises and during the period that the Agreement is in force, Broadcast any of the Works of Music in SAMRO's Repertoire. The licence fee is payable irrespective of whether the Licensee elects to Broadcast SAMRO's Repertoire or not.

3. COMMENCEMENT DATE:

3.1 This Licence will commence on the **1st day of** _____ **20**__. ("Commencement Date")

4. PAYMENT OF LICENCE FEE:

4.1 In consideration for the Licence Granted to the Licensee, the Licensee must pay to SAMRO an annual Licence Fee calculated in accordance with the SAMRO **Tariff BRCR**, as amended from time to time ("Licence Fee").

4.2 The Licence Fee is payable annually, in advance, within 30 days (including weekends and public holidays) of the date of invoice.

4.3 The Licence Fee is based on the information provided by the Licensee. The Licensee warrants that all information provided to SAMRO is true, correct and up to date.

4.4 SAMRO may amend the Tariff and Licence Fee payable, with 3 (three) months' prior written notice of any such amendment to the Licensee.

4.5 The Licensee is liable for payment of the amended Licence Fee from the date that the amended Tariff becomes effective.

4.6 If any increased Licence Fee becomes payable as a result of a change in the manner and extent of the Broadcast or usage of SAMRO's Repertoire, the Licensee must forthwith pay the proper proportion of such increased fee from the date of such change in the manner or extent of the Broadcast of music.

4.7 If the amended Licence Fee is less than that which the Licensee previously paid, the pro-rata balance in respect thereof will be set off as a credit against the Licence Fee payable for the next ensuing year or, at the Licensee's option, refunded.

4.8 SAMRO will have the right, at any time during the subsistence of the Agreement, to reassess and check the Licence Fee payable by the Licensee and the parameters upon which the Licence Fee is payable.

5. DURATION, COMMENCEMENT AND PLACE

5.1 The Licence will commence on the Commencement Date.

5.2 The Licence will continue in force for an indefinite period or until terminated by either Party in accordance with clause 16 below.

5.3 This Agreement is deemed to be concluded at SAMRO's physical address recorded herein above.

PART E: SAMRO TARIFF

6. SCOPE OF TARIFF

6.1 The **Tariff BRCR** applies to Broadcasts of musical works by community radio broadcasting services.

7. LICENCE FEES AND DEFINITIONS

7.1 The Licence Fee is calculated by Gross Revenue received or Gross Expenditure incurred by the Licensee.

7.2 **"Gross Expenditure"** means gross operating costs.

7.3 **"Gross Revenue"** means the actual gross amounts received by the Licensee including gross revenue from licence or subscription revenue, advertisement and advertising programmes broadcast, grants in aid, subsidies or financial sponsorship and monies received as donations.

7.4 **The LICENCE FEE payable will be calculated as follows:**

7.4.1 For Gross Revenue of less than R 1 000 000.00 a flat fee rate based on the following:

EARNINGS (PA) MINIMUM		LICENCE FEE RATE MAXIMUM		FLAT FEE (PA)	
R	1.00	R	25,000.00	R	500.00
R	25,001.00	R	50,000.00	R	1,000.00
R	50,001.00	R	75,000.00	R	1,500.00
R	75,001.00	R	100,000.00	R	2,000.00
R	100,001.00	R	125,000.00	R	2,600.00
R	125,001.00	R	150,000.00	R	3,200.00
R	150,001.00	R	175,000.00	R	3,800.00
R	175,001.00	R	200,000.00	R	4,400.00
R	200,001.00	R	225,000.00	R	5,000.00
R	225,001.00	R	250,000.00	R	5,600.00
R	250,001.00	R	275,000.00	R	6,200.00
R	275,001.00	R	300,000.00	R	6,800.00
R	300,001.00	R	325,000.00	R	7,550.00
R	325,001.00	R	350,000.00	R	8,300.00
R	350,001.00	R	375,000.00	R	9,050.00
R	375,001.00	R	400,000.00	R	9,800.00
R	400,001.00	R	425,000.00	R	10,550.00
R	425,001.00	R	450,000.00	R	11,300.00
R	450,001.00	R	475,000.00	R	12,050.00
R	475,001.00	R	500,000.00	R	12,800.00
R	500,001.00	R	525,000.00	R	13,550.00
R	525,001.00	R	550,000.00	R	14,300.00
R	550,001.00	R	575,000.00	R	15,050.00
R	575,001.00	R	600,000.00	R	15,800.00
R	600,001.00	R	625,000.00	R	16,550.00
R	625,001.00	R	650,000.00	R	17,300.00
R	650,001.00	R	675,000.00	R	18,050.00
R	675,001.00	R	700,000.00	R	18,800.00
R	700,001.00	R	725,000.00	R	19,550.00
R	725,001.00	R	750,000.00	R	20,300.00
R	750,001.00	R	775,000.00	R	21,050.00
R	775,001.00	R	800,000.00	R	21,800.00
R	800,001.00	R	825,000.00	R	22,550.00
R	825,001.00	R	850,000.00	R	23,300.00
R	850,001.00	R	875,000.00	R	24,050.00
R	875,001.00	R	900,000.00	R	24,800.00
R	900,001.00	R	925,000.00	R	25,550.00
R	925,001.00	R	950,000.00	R	26,300.00
R	950,001.00	R	975,000.00	R	27,050.00
R	975,001.00	R	1,000,000.00	R	27,800.00

7.4.2 For Gross Revenue earned or Gross Expenditure incurred of more than R 1 000 000.00 a sliding scale licence fee structure will be applied as follows:

7.4.2.1 A percentage of 2.80% of Gross Revenue or Gross Expenditure for 1% - 30% of Copyright Musical Content; or

7.4.2.2 A percentage of 2.85% of Gross Revenue or Gross Expenditure for 31% - 40% Copyright Musical Content; or

7.4.2.3 A percentage of 2.90% of Gross Revenue or Gross Expenditure for 41% - 50% of Copyright Musical Content; or

7.4.2.4 A percentage of 2.95% of Gross Revenue or Gross Expenditure for 51% - 60% of Copyright Musical Content; or

7.4.2.5 A percentage of 3.00% of Gross Revenue or Gross Expenditure for 61% - 70% of Copyright Musical Content; or

7.4.2.6 A percentage of 3.05% of Gross Revenue or Gross Expenditure for 71 – 80% of Copyright Musical Content; or

7.4.2.7 A percentage of 3.10% of Gross Revenue or Gross Expenditure for 81% - 90% of Copyright Musical

Content; or

7.4.2.8 A percentage of 3.15% of Gross Revenue or Gross Expenditure for 91% - 100% of Copyright Musical Content.

(This agreement consists of Part A, B, C, D, E, F and G. Please see overleaf)

PART F: SIGNATORIES

FOR AND ON BEHALF OF THE LICENSEE:

_____

Who warrants that he/she is duly authorised to sign this Agreement and is fully aware of the stipulations contained herein.

Name:

Designation:

Date:

FOR AND ON BEHALF OF SAMRO:

_____

Who warrants that he/she is duly authorised to sign this Agreement and is fully aware of the stipulations contained herein.

Name:

Designation:

Date:

PART G: GENERAL LICENCE CONDITIONS

8. CRIMINAL OFFENCES

8.1 The Licensee acknowledges that the use of SAMRO's Repertoire without the required licence constitutes an infringement of copyright and is an offence in terms of the Copyright Act 98 of 1978, punishable by a fine and/or imprisonment.

9. DEFINITIONS

9.1 In these Licence Conditions:

9.1.1 **"Affiliated Society/ies"** means any persons that are Collecting Societies (or which perform a role similar to Collecting Societies) in jurisdictions outside South Africa with which SAMRO is for the time being affiliated. A list of Affiliated Societies appears on SAMRO's website and is amended from time to time.

9.1.2 **"Broadcast/Broadcasting"** means the definition of broadcast in terms of the Copyright Act 98 of 1978.

9.1.3 **"Collecting Society/ies"** means a society for the protection of intellectual property or collection of royalties and similar consideration for the use of any intellectual property rights in any jurisdiction(s) in the World (including any 'collecting society' established under the Copyright Act 98 of 1978, as amended).

9.1.4 **"Day"** unless otherwise indicated means business days excluding weekend and public holidays. This definition does not apply to the number of days that the establishment is open, in which event the actual number of days, including weekends and public holidays shall apply.

9.1.5 **"General Amendment"** means an amendment made by SAMRO, from time to time, to these Licence Conditions, on notice to the Licensee.

9.1.6 **"Licence Conditions"** means the licence terms and conditions contained in this document, as amended from time to time in accordance with this agreement.

9.1.7 **"Licence Year"** means a period of 12 (twelve) calendar months commencing on the Commencement Date or any anniversary of the Commencement Date during the subsistence of the Agreement.

9.1.8 **"Members"** means the companies, organisations, persons and entities who are, during the term of the Agreement, members of SAMRO (including the members of the Affiliated Societies), and who have licensed, assigned and/or mandated the licensing of the Broadcast of Works of Music owned and/or controlled by them to SAMRO and/or the Affiliated Societies, as the case may be.

9.1.9 **"Party'** and/or **"Parties"** shall mean either of the parties to this Agreement and/or both of the Parties as the case may be.

9.1.10 **"Personal Information"** has the meaning ascribed to it in the Protection of Personal Information Act 4 of 2013, as amended from time to time.

9.1.11 **"Premises"** shall mean the premises listed herein and in any related schedule, as updated by the Licensee from time-to-time.

9.1.12 **"SAMRO's Repertoire"** and/or **"Repertoire"**, means all Works of Music of SAMRO's Members in respect of which SAMRO holds rights of performance, including the Works of Music of the Members of the Affiliated Societies. A list of all SAMRO's Members, as updated from time to time, is available on SAMRO's website.

9.1.13 **"Tariff Amendment"** means an amendment made by SAMRO, from time to time, to the tariff applicable to this Licence, on notice to the Licensee.

9.1.14 **"Territory"** means the Republic of South Africa, the Kingdom of Lesotho, the Kingdom of Swaziland and any other jurisdiction in which SAMRO is operational from time to time directly and not through an Affiliated Society.

9.1.15 **"Work of Music"** means the whole or a part of a musical work or of a musical work in combination with lyrics, words or any other literary work written for the purpose of accompanying the music, such as a song.

9.1.16 In this document all references to natural persons shall also refer to juristic persons and vice versa.

10. WARRANTIES:

10.1 SAMRO warrants that it has the necessary approvals, licences and authorities to grant the Licence. SAMRO, authorised by written deeds of assignment, controls in the Territory, amongst others, the Broadcasting rights in the Works of Music of its Members and of the Members of the Affiliated Societies.

10.1.1 The Licensee warrants that it will, for the duration of the Agreement, comply with all laws applicable to the performance of its obligations in terms of this Agreement.

10.1.2 The Licensee warrants that all information provided to SAMRO by the Licensee or on its behalf, is complete, true, correct and up to date.

10.1.3 If it appears that the Licensee is a non-existent entity, and/or have not been registered as a juristic person at the relevant registrar's office, as at the date of signature of this Licence Agreement the person accepting the licence conditions will be personally liable in terms of the Agreement, and will be bound by the terms and conditions thereof as if such person was referred to and incorporated in the Licence Agreement as the Licensee.

10.1.4 No term or condition contained in this Licence Agreement shall be interpreted in such a way that it waives or deprives the Licensee of any rights which the Licensee may have in terms of any applicable laws or to avoid any obligation SAMRO has in terms of any applicable laws or to set aside or override the effect of any provision of such laws or to authorise or do anything that is unlawful in terms of any law.

11. CONDITIONS

11.1 If the Premises are temporarily or permanently used for any Broadcasts or entertainment different in number or type from those forming the basis upon which this licence has been granted to the Licensee by SAMRO, the licence granted in terms of the Agreement will not extend to or be deemed to authorise such different Broadcast or entertainment.

11.2 Without limiting the generality of clause 11.1 above, the Licence will not extend to or authorise:

11.2.1 the Broadcast in their entirety of oratorios and other choral works or of excerpts therefrom which excerpts are of more than 20 minutes duration;

11.2.2 the Broadcast of ballets, or dramatico-musical works such as operas, musical plays, revues or pantomimes in so far as they consist of material written expressly therefor;

11.2.3 the Broadcast of any excerpt from any Work of Music if accompanied by dramatic action, dumb show, costume, scenic accessories, or other visual representation of the same work;

11.2.4 the Broadcast of any Work of Music accompanied by any words other than those (if any) published or otherwise associated therewith by the copyright owner; any such work in any altered or rearranged form, or with such costume or action as to produce parodied or burlesque effects; or any such work adapted to a dramatic form;

11.2.5 the Broadcast (except by means of duly authorised records and/or radio or television receiving sets) of vocal excerpts from dramatico-musical works as aforesaid if the right of such Broadcast is forbidden or reserved by the copyright owner;

11.2.6 the Broadcast of Works of Music from beyond the boundaries of the Premises; and/or

11.2.7 the recording of any Work of Music or any portion thereof.

12. ENTRY UPON THE PREMISES

12.1 The Licensee must allow representatives of SAMRO to inspect the Premises, at any time during office hours, for the purposes of checking the particulars upon which the Licence Fee payable by You is assessed, as well as Your compliance with these Licence Conditions.

13. LICENCE FEE PARAMETERS

13.1 The Licensee must within 30 days of the last day of each Licence Year, for purposes of calculating the Licence Fee payable, provide SAMRO with a Licence Parameter Return (available on the SAMRO website), indicating any and all changes to the licence parameters set out in this Agreement, or on request.

14. FAILURE TO MEET REPORTING OBLIGATIONS

14.1 Should the Licensee fail to furnish the Licence Parameter Return referred to in clause 13.1 above within the required time period, SAMRO will be entitled to invoice the Licensee based on the licence parameters upon which the preceding invoice was based.

14.2 The provisions of clauses 14.1 do not absolve the Licensee of its obligation to provide SAMRO with its amended and correct Licence Parameter Returns and SAMRO will not be precluded from demanding delivery of the said returns.

14.3 In the event that the Licence Fee payable based on the Licence Parameter Return is greater than the Licence Fee payable in terms of clause 13.1, the Licensee will be liable for the difference between the two amounts, together with interest on such difference.

15. MUSIC USAGE RETURN

15.1 The Licensee must, for the duration of the Agreement and on a quarterly basis, submit to SAMRO the following information regarding each and every Work of Music Broadcast at the Premises: the name of the Work of Music; the name(s) of each composer; the name(s) of the arranger; the name(s) of the performer; the name(s) of the publisher; and the number of times each Work of Music was Broadcast.

15.2 The Information must be delivered to SAMRO by way of post and/or e-mail, within 30 (thirty) days (including weekends and public holidays) of the last day of each quarter.

15.3 The Information must be recorded on a Music Usage Return Form which is available from SAMRO in electronic form.

15.4 Each Music Usage Return must be signed by the Licensee.

15.5 SAMRO requires the information set out in clause 15.1 in order to allocate the funds it collects to its Members in accordance with its system of distribution. The Licensee acknowledges that failure to provide this information could result in SAMRO's Members not being remunerated for the Broadcast of their Works of Music.

15.6 In the event that the Licensee fails to provide SAMRO with the Music Usage Return, SAMRO may at its discretion secure the services of a third party to collate and prepare the Music Usage Return for the Licensee. The Licensee will be liable for all the costs associated with the collation and preparation of the Music Usage Return by such third party.

15.7 In view of the fact that this is a 'blanket licence', it is specifically recorded that the information required to be submitted by You in terms of this clause 15 does not in any way have a bearing on or relate to the quantum or calculation of the Licence Fee payable by the Licensee to SAMRO.

16. TERMINATION

16.1 Either Party may terminate the Agreement and in so doing terminate the licence granted to the Licensee providing the other with 1 (one) months' prior written notice.

16.2 In the event that the Licence Agreement is terminated in accordance with 16.1, the Licensee will remain liable for any and all amounts payable to SAMRO for the licence up to and including the date of termination of the Agreement.

16.3 Upon the termination of this contract by either Party, the Licensee will no longer have the authority to Broadcast SAMRO's Repertoire.

17. CHANGE IN LICENCE PARAMETERS

17.1 Notwithstanding, and in addition to, Your obligation to provide SAMRO with Music Usage Returns, and for purposes of allowing SAMRO to adjust the Licence Fee payable by You, You must also notify SAMRO in writing of any change in:

17.1.1 the manner or extent of the Boadcast of music, as described herein.

17.1.2 the ownership of the Licensee or its business and/or

17.1.3 trading name(s) of the Licensees business and/or the Premises; and

17.1.4 the date of any of the changes referred to in this clause 13.

17.2 This notice must be given in writing to SAMRO and sent by registered post, fax and/or e-mail within 14 (fourteen) days of such change.

17.3 The Licensee acknowledges if it fails to furnish SAMRO with the information set out in clause 17, will have a detrimental effect on SAMRO's Members, resulting in SAMRO's Members not receiving the compensation to which they are entitled.

18. TARIFF AMENDMENTS

18.1 Subject to your right to terminate this Agreement, provided for in clause 16 above, SAMRO may at its own discretion amend its Tariff at any time.

18.2 Any Tariff Amendment will take effect 3 (three) months after the date upon which SAMRO notifies the Licensee of such the amendment to the Tariff.

18.3 You must, within 14 (fourteen) days of being requested in writing to do so, furnish SAMRO with any and all information required for the assessment of Licence Fees payable by virtue of any Tariff Amendment.

18.4 SAMRO reserves the right to make such variations in this tariff as it considers appropriate when licensing premises or Broadcasts which, in its opinion, do not fall within the scope of this tariff.

19. GENERAL AMENDMENTS

19.1 Subject to your right to terminate this Agreement provided for in clause 16 above, SAMRO may at its own discretion, amend the terms upon which this Licence is granted at any time.

19.2 The Licensee agrees to be bound by any and all General Amendments from the date specified in the General Amendment Notice.

19.3 SAMRO may, at its own discretion, amend any errors which are self-evident errors including but without limitation spelling, punctuation, reference, grammar or similar or any other defect that does not materially affect the meaning and intent of this Licence Agreement.

20. CONSUMER PRICE INDEX ADJUSTMENTS

20.1 The Licence Fee payable by the Licensee will be adjusted automatically each year, on 1 July, in accordance with the official Consumer Price Index (CPI) as published by Statistics South Africa.

20.2 The notice periods provided for in clause 18 above in respect of Tariff Amendments will not

apply to amendments to the tariffs relating to CPI adjustments.

21. VALUE ADDED TAX

21.1 The Licensee must pay to SAMRO, in addition to the Licence Fee due under any Tariff, a sum in respect of Value Added Tax calculated at the relevant statutory rate in respect of such Licence Fee.

21.2 SAMRO will provide the Licensee with an Original Tax Invoice in relation to the fee payable.

22. INTEREST ON OVERDUE AMOUNTS

22.1 Any Licence Fee which is payable and remains unpaid for a period in excess of 30 (thirty) days from the date of the invoice, will attract interest at the current legal rate, calculated in accordance with the interest rate prescribed by the Minister of Justice in accordance with the Prescribed Rate of Interest Act 55 of 1975, as amended.

22.2 Such interest will be calculated monthly in advance and is payable by the Licensee to SAMRO on demand.

23. PERSONAL INFORMATION

23.1 Subject to any applicable laws, the Licensee authorises SAMRO to:

23.1.1 use any Personal Information that SAMRO for the purposes of processing, executing and administering the Agreement; calculating Licence Fees; collecting the Licence Fees;

23.1.2 informing the Licensee of any SAMRO news and information or information relating to the Agreement;

23.1.3 informing the Licensee of any amendment, Tariff amendment or General Amendment to this Agreement.

23.1.4 access the Licensees Personal Information from credit bureaux relating to the Licensees payment profile for purposes of financial risk assessment, fraud prevention and debtor tracing and that we may disclose the necessary Personal Information to any such credit bureaux.

23.1.5 obtain, capture store, process, analyse and use the Licensees personal information for SAMRO marketing purposes in relation to SAMRO's business of managing its Repertoire.

23.1.6 divulge the Licensees Licence status to any third party. By this SAMRO means that it may divulge to any third party whether or not the Licensee is licensed by SAMRO and the licence type that the Licensee is or was licensed for.

23.1.7 retain the Licensees Personal Information referred to in this clause for as long as SAMRO is required to do so in terms of applicable laws or in order to exercise or protect any of our rights under this Agreement.

23.1.8 disclose the Licensees Personal Information to SAMRO's duly appointed agents, representatives or service providers in order to attend to the items listed in clauses 23.1.1 to 23.1.9 and to conduct our business as a collecting society.

23.1.9 if and to the extent that we are required to do so, to comply with any applicable law.

23.2 SAMRO is obliged to take all necessary and reasonable steps to protect the Licensees Personal Information.

24. COMMUNICATION BETWEEN YOU AND SAMRO

24.1 Subject to any applicable laws, the Licensee authorised SAMRO to communicate with it by means of telephone, e-mail, fax, text or any mobile phone messaging services to the Licensees mobile device, laptop and/or computer.

24.2 Subject to any applicable laws, the Licensee authorises SAMRO to use such communication methods to:

24.2.1 market or promote SAMRO's services and those of its suppliers and/or clients and/or members and/or affiliates;

24.2.2 inform the Licensee about matters relating to SAMRO, its members and affiliates and changes relating to these matters.

24.2.3 provide the Licensee with information that SAMRO believes may be of particular interest or relevance to the Licensee or this Agreement.

24.2.4 advise the Licensee of the status of your account and/or any amounts owing by the Licensee to SAMRO.

24.2.5 remind the Licensee of forthcoming dates on which payment of the Licensee's licence fees or returns may be due; and

24.2.6 communicate with the Licensee in any way necessary to execute this Agreement.

25. BREACH

25.1 Should either Party (the **"defaulting party"**) breach any of the provisions of the Agreement and the breach is material or the defaulting party fails to remedy that breach within 14 (fourteen) Business Days after receipt of a written notice from the non-defaulting party, requiring it to remedy that breach, the non-defaulting party will be entitled, without prejudice to any remedies which it may otherwise have in terms of the Agreement or at law, to immediately terminate the Agreement on the occurrence of the material breach or on the expiry of the 14 (fourteen) Business Day period as the case may be.

25.2 Either Party may, without prejudice to any other rights herein, at any time and by giving 14 (fourteen) days written notice, forthwith terminate the Agreement if:

25.2.1 either Party have any reason to reasonably believe that either of you or anyone employed by either of you or acting on your behalf, whether with or without your knowledge, engages in a fraudulent practice in connection with the Agreement; or

25.2.2 either Party commits an act of insolvency, or initiates business rescue proceedings, or is placed under a provisional or final winding up, or reaches a compromise with creditors.

25.3 The termination of the Agreement, for whatever reason, will not affect the rights of either Party which may have accrued as at the date of termination and will further not affect any rights which specifically or by their nature survive the termination of the Agreement or any rights in law, including but not limited to the right to claim damages, specific performance or an interdict.

26. LEGAL COSTS

26.1 If either of the Parties institutes legal action against the other for breach of the Agreement, then the party in breach will be liable for all legal costs arising from such legal action, calculated on the attorney-and-own-client scale, the costs of Counsel on brief at the higher scale, and the costs of tracing the party in breach's whereabouts, as well as Value Added Tax, calculated at the current statutory rate on these legal costs, as well as all other costs and expenses incurred resulting from or related to such legal proceedings.

27. CONFIDENTIALITY

27.1 Both Parties must keep confidential and not disclose to any person, without the prior written consent of the other the details of the Agreement, the details of negotiations leading to the formulation of the Agreement and any information whatsoever handed over to either Party

27.2 during the course of negotiations, as well as details of any transactions or agreements contemplated in the Agreement (the "Confidential Information").

27.3 The Parties agree to keep all Confidential Information confidential and to disclose it only to the officers, directors, employees, consultants, Affiliated Societies and professional advisors who have a need to know (and then only to the extent that it is necessary); are made aware that the Confidential Information should be kept confidential; are aware of the disclosing party's undertaking in relation to the information in terms of the Agreement; and have been directed by the disclosing party to keep the Confidential Information confidential and have undertaken to keep the Confidential Information confidential.

27.4 The obligations of both Parties in relation to the maintenance and non-disclosure of Confidential Information in terms of the Agreement do not extend to information that:

27.4.1 is disclosed to the receiving party in terms of the Agreement but at the time of such disclosure was known to be in the lawful possession or control of that party and not subject to an obligation of confidentiality,

27.4.2 is or becomes public knowledge, otherwise then pursuant to a breach of the Agreement by the party disclosing such Confidential Information;

27.4.3 is required by the provisions of any law, statute or regulation or during any court proceedings or by the rules and regulations of any recognised stock exchange to be disclosed and the party required to make the disclosure has taken all reasonable steps to oppose or prevent the disclosure where applicable or to limit, as far as reasonably possible, the extent of such disclosure and has consulted with the other party prior to making such disclosure; or

27.4.4 is required to be disclosed by a party to any of its respective group of companies or any employees of such group of companies to the extent that it is necessary for the proper performance by that party of its obligations as set out in the Agreement.

28. DOMICILIA CITANDI ET EXECUTANDI

28.1 The Parties choose the following postal, fax number and e-mail address indicated herein above for any written notice with regards to the Agreement:

28.2 Notice or communication will be deemed to have been duly given:

28.2.1 10 (ten) days after posting, if posted by registered post to either Parties postal address

28.2.2 on delivery, if delivered to either Parties physical address;

28.2.3 if sent by fax to the fax number, on the day of successful transmission thereof. Any facsimile sent outside of such normal business hours will be presumed to have been received on the following day

28.2.4 if sent by e-mail to the e-mail address, on the day of successful transmission thereof, unless and until the contrary is proved by the addressee.

28.3 Either Party may change their addresses and details mentioned herein above to any other postal or physical address in the Republic of South Africa, by giving notice in writing to the other of your intention to do so.

28.4 Notwithstanding what is set out herein above, neither Party will:

28.4.1 be entitled to commence legal proceedings by delivery of any notices by way of e-mail or fax; and

28.4.2 be entitled to change your domicilia by way of correspondence sent by e-mail or fax.

29. GOOD FAITH

29.1 The Parties agree to act in the utmost good faith in respect of your obligations towards each other in terms of the Agreement.

29.2 The Parties undertake at all times to do and procure the doing of all such things, to perform all such acts and to take all such steps open to you and necessary for or incidental to the putting into effect or maintaining of the terms, conditions and import of the Agreement.

30. CESSION, ASSIGNMENT AND TRANSFER

30.1 The Licensee is not entitled to cede, assign or transfer any of its rights, title or interest in the Agreement without SAMRO's consent, which consent must not be unreasonably withheld.

31. APPLICABLE LAW

31.1 The Agreement will be interpreted and governed in accordance with the law of the Republic of South Africa.

32. INDULGENCE

32.1 No relaxation or indulgence which may be granted by either of the Parties to the other will be construed as a waiver by either Party of any of rights arising out of the Agreement, nor will it in any way prejudice either Party's rights or preclude either Party from exercising any of your rights in the future.

33. ENTIRE AGREEMENT

33.1 The Agreement contains the entire agreement between the Parties in regard to the subject matter thereof and supersedes any previous agreement between the Parties, whether tacit, oral or written in respect of broadcasting of musical works by community broadcasting services, under the BRCR licence type.

34. WARRANTIES AND REPRESENTATION

34.1 Neither of the Parties will be bound by any express or implied term, representation, warranty, promise or the like, not recorded herein.

35. VARIATION, CANCELLATION AND WAIVER

35.1 No addition to, variation, waiver of any right or consensual cancellation of the Agreement will be of any effect unless in writing and signed by or on behalf of both Parties.

36. SEVERABILITY

36.1 The terms of this agreement shall be deemed to be, in respect of each part, entire, separate, severable and separately enforceable in the widest sense from the rest of the agreement.

36.2 Should any provision of this agreement be found by any competent court to be defective or unenforceable for any reason whatsoever, the remaining provisions of this Agreement shall continue to be of full force and effect.

37. RELATIONSHIP OF THE PARTIES

37.1 The Agreement does not constitute the Parties to be the agent of the other nor create a partnership, joint venture or similar relationship between the Parties.