

CONTRIBUTOR RIGHTS CONTRACT NOTICE: MUR 12/03
BBC / MUSICIANS' UNION: AUDIO AGREEMENT 2004

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The rates set out in this notice replace those in the Contributor Rights Notice MUR 01/02 for engagements where the Final Performance Day is on or after 1st January 2004. The agreement may be terminated by either the BBC or the MU giving not less than 6 months' notice in writing however such notice will not be given before 1st July 2005.

The agreement covers professional performers engaged by the BBC for audio services on Radio and the World Service.

Section 1: **Initial Transmission Rights**

Section 2: **Engagements**

Section 3: **Additional Uses**

Section 4: **Secondary Uses**

Section 5: **General Addendum**

INDEX

Section 1: Initial Transmission Rights

- 100. Initial Transmission Rights
 - i. Core Services
 - ii. Through the Night Service
 - iii. World Service Transmission Cycle
 - iv. Non-Theatric Rights throughout the World
 - v. European Broadcasting Union
- Simultaneous TV and Radio Transmissions

Section 2: Engagements

- 200. Basic Recording Engagement
 - i. Recording Sessions
 - ii. Enhancements
 - iii. Musical Directors
- 201. Public Concerts
- 202. Relays of Public Concerts
- 203. Short Items
- 204. Established Self Contained Groups
- 205. Signature Tunes
- 206. Station Identifications (“Jingles”)
- 207. Local Radio
- 208. Extra Rehearsals
- 209. Additional Performance time
- 210. Doubling
- 211. Overdubbing

Section 3: Additional Uses

- 300. Extracts (inc Extracts from Adverts)
- 301. Extracts for Promotional and Publicity Purposes
- 302. Extracts for use in Obituaries

Section 4: Secondary Uses

Residual Basic Fee - definition

A. Public Service Uses

- 400. Core Service repeats
 - i. Relays and Basic Sessions
 - ii. Archive Programmes
 - iii. Public Concerts relayed by Radio 1
- 401. Non-Core Public Service Uses
- 402. World Service Repeat Cycle
- 403. Local Radio Repeats
- 404. National Regional Networking

B. Commercial Uses

- 405. Programme Sales
 - i. Relays and Basic Sessions
 - ii. Sales in Selected Territories
 - iii. Item Use
- 406. Non-Theatric Rights throughout the World
- 407. Minor contributions
- 408. Multi-media Royalty
- 409. Commercial Audio Recordings

Section 5: General Addendum

- 500. Out of Town Allowances
- 501. Night work
- 502. Allowances
- 503. Instrument Hire
- 504. Porterage
- 505. Pension

SECTION 1. INITIAL TRANSMISSION RIGHTS

100. Initial Transmission Rights

In consideration of the fees set out in this agreement (except where specified otherwise) the BBC is entitled to the following transmission/distribution rights:

(i) Core Services

to transmit or permit the transmission of each part (i.e. complete composition) of the musicians' performance, whether live or recorded, in up to four programmes and in the case of symphony and chamber orchestra studio sessions an unlimited number of programmes once by any means of delivery on a BBC Radio Core Service (which shall cover simultaneous transmission or deferred transmission for up to 30 days in other BBC domestic services);

(ii) Through the Night Service

three transmissions on Radio 3's Through the Night Service;

(iii) World Service

one transmission cycle (ie an unlimited first use of a programme within 8 days) of the artist's performance, whether live or recorded, by any means of delivery;

(iv) Non-theatric Rights throughout the World

exhibition to audiences who are not required to make a specific payment including, but not limited to, educational establishments and trapped audiences;

(v) European Broadcasting Union

Broadcasting organisations within the EBU can transmit simultaneously or give a deferred transmission (within 1 year of the BBC original transmission if full members of the EBU or within 30 days if Associate Members) without payment. For this purpose the recording can be made either by the BBC or by the receiving broadcasting organisation without further payment.

NB Programmes transmitted simultaneously on television, audio and world service

The television payment will cover the simultaneous transmission on audio services (including the EBU and the Through the Night Service) and a world service transmission cycle.

SECTION 2: ENGAGEMENTS

200. Basic Recording Engagement

All engagements except for Radio 1. For Radio 1 terms see clause 204.

(i) Recording Sessions

Recordings may be made at any venue and with or without a non-paying audience. A Basic Recording Session Fee entitles the BBC to record and transmit as follows:

- | | |
|---|--------|
| a) up to 30 minutes of music in a 3 ½ hour rehearse/record session | £57.20 |
| b) up to 30 minutes of music in a 3 ½ hour rehearse/record session which entitles the BBC to unlimited items use and 2 transmissions of each item | £85.80 |
| c) up to 60 minutes of music in a 1 hour recording and 3 hours rehearsal session within an overall 5 hour period | £57.20 |
| d) up to 2 hours of performance and 3 hours of rehearsal at any time on the same day | £66.20 |
| e) up to 3 hours of performance and 3 hours of rehearsal at any time on the same day | £74.60 |

(ii) Enhancements

The following enhancements apply to Basic Recording Session fees for ranked orchestras:

- | | |
|-----------------------|------------|
| a) Players who direct | negotiable |
| b) Leader | 50% |
| c) Principals | 10% |
| d) Sub-Principals | 5% |

(iii) Musical Directors

A minimum payment of 200% of the Basic Recording Session Fee or Principals fee (whichever is the highest) paid to musicians (excluding supplements for night work, doubling, allowances, etc.).

201. Public Concerts

For BBC promoted public concerts (i.e. concerts in front of a paying audience) the BBC agrees that musicians will be engaged on the basis of a negotiated engagement fee covering the concert, rehearsals and overtime.

202. Relays of Public Concerts

For relays (live or deferred) of Public Concerts (excluding performances engaged as Recording Sessions under clause 200(i)) promoted by either the BBC or a third party a relay fee shall be paid in addition to the engagement fee paid by the promoter, at the following rates:

(a) symphony and chamber orchestra musicians	£51.50
(b) all other musicians except self-contained groups (for self-contained groups see clause 204)	£57.20
(c) MDs	200% musicians' rate
(d) Additional Broadcast Performance Time	£8.70 per 30 minutes (or part thereof)

Payment of the Relay Fees in (a) to (c) above entitle the BBC to transmit up to 3 hours of the concert. For the purposes of calculating the length of the concert, an interval shall be treated as no more than 20 minutes in duration.

If the BBC calls a rehearsal for a non-BBC promoted concert, then an additional fee will be paid in respect of the required rehearsal. The BBC shall be entitled to carry out a balance test without further payment. Doubling fees and enhancements shall not apply to Relays and no allowances or expenses will be paid.

203. Short Items

Fees to record Short Items in studio or on location from productions rehearsed and produced by a third party (including other BBC productions), or the use of existing recorded material not covered by the extract provisions, are payable as percentages of the Basic Recording Session Fee (200(i)a) as follows:

Items of up to 3 minutes (aggregate) to be rehearsed and recorded in a period not exceeding 1 hr	50%
Items of up to 5 minutes (aggregate) to be rehearsed and recorded in a period not exceeding 1 hr	62.5%
Items of up to 10 minutes (aggregate) to be rehearsed and recorded in a period not exceeding 2 hours	75%

Substantial use of Short Items in an individual programme is only permissible if the material is used in an illustrative context.

Fees for Extra Rehearsal and Additional Performance do not apply to engagements for Short Item recording.

204. Established Self-Contained Groups (predominantly instrumental)

The following terms apply to established ‘self-contained’ groups and to all freelance musicians working for Radio One. Established self-contained groups are defined as groups presenting their own act and working in the field of pop, rock, jazz, folk and similar music and one that has a recognised existing prior to the engagement.

(a) 3 hours rehearsal and 3 hours performance on the same day £81.90

(b) 3 ½ hour discontinuous recording session (up to 60 minutes material) £65.10

(c) 3 ½ hour discontinuous recording session (up to 60 minutes material) £97.70
for unlimited items use and 2 transmissions of each item

(d) 3 hour relay of a Public Concert including balance test £81.90
(additional broadcast performance time paid at £8.70 per 30 minutes)

(e) Short Session/Relay (record up to 12 minutes material in a maximum of 2 hours)

Fee for the Group (up to 5 musicians)	£122.90
6 th and subsequent musicians	£24.60 each

Doubling and overdubbing fees shall not apply and no allowances, expenses or management/assembly fees will be paid.

205. Signature Tunes

For the recording of opening and/or closing music, identifying items, “stings”, and/or special instrumental effects for a named programme series/strand.

3 hour session	150% of the Basic Session Recording Fee
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Fees paid at the above rate entitle the BBC to exploit the designated programme(s) in all media (excluding commercial audio) throughout the World in perpetuity when the material is used within the named programme series/strand or relates to the original use.

206. Station Identifications (“Jingles”)

For the recording of any number of national, regional and local radio station identifications (“Jingles”).

2 hour session	75% of the Basic Session Recording Fee
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The fee acquires all rights for all purposes.

207. Local Radio

50% of the Relay Fee is payable for one transmission in one Local Radio or Gaelic/Welsh-language Station of a live or deferred relay of a Public Concert.

75% of the appropriate rate is payable for one transmission in one Local Radio or Gaelic/Welsh-language Station of a studio recording.

100% of the appropriate rate is payable for non-simultaneous transmission in up to 4 Local Radio or Gaelic/Welsh-language stations of either a live or deferred relay of a Public Concert or of a studio recording.

208. Extra Rehearsals

3 hours rehearsal on a day where recording is scheduled £34.70

3 hours rehearsal on a day where no recording is scheduled £46.20

Extra rehearsal time immediately preceding or following a recording or rehearsal session £8.70 per 30 minutes (or part thereof)

209. Additional Performance Time

£4.40 per 15 minutes (or part thereof)

Additional performance time is limited to 30 minutes. A new session fee will be due from the start of additional performance time exceeding this limit.

210. Doubling

For each additional instrument a musician is required to perform on a further 10% of engagement fees, and where applicable rehearsal fees, per instrument will be paid. This excludes an accepted range of keyboard, percussion and other instruments. The following groupings count as one instrument:

Keyboard instruments	Percussion instruments
piano, synthesiser, electronic keyboards	tuned (mallet) instruments (vibraphone, xylophone, marimba, glockenspiel, tubular bells)
celeste	
organ, harmonium	
harpsichord, spinet, clavichord, virginals	Latin American rhythm instruments
	drums (bass drum, snare drum, tom-toms cymbals and the usual small accessories
	timpani (up to 4)

211. Overdubbing

If a musician overdubs his/her own performance within a session, or is called for a subsequent session for the purpose of such overdubs, he/she shall be paid an additional 110% the Basic Recording Session Fee for each overdub.

SECTION 3: ADDITIONAL USES

300. Extracts

Upon payment to the MU Benevolent Fund of an amount equal to 150% of the Basic Session Recording Fee specified in clause 200(i)(a) the BBC shall be entitled to use one or more extracts from recordings from any source (excluding commercial advertisements and commercial audio recordings) not exceeding in total aggregate length 6 minutes, provided that within each 30 minutes of transmitted programme, no individual extract exceeds 4 minutes in duration. The BBC shall be entitled to exploit programmes containing such extracts in all media throughout the world in perpetuity.

Extracts from radio programmes may be used in television programmes on payment of the rates outlined in the BBC/MU Television Agreement.

The BBC shall be entitled to use extracts from commercial advertisements containing musicians' performances upon payment of a fee of £8.70 per musician.

301. Extracts for Promotional and Publicity Purposes

Music recorded under this agreement may be used for promotional and publicity purposes by the BBC, BBC Worldwide and its licensees and assigns, including trailers, other promotional material for programmes, campaigns for BBC interest channels or for promotion and publicity of BBC programmes on other channels (between programmes or within review programmes) and in all media without further payment provided that such use does not in itself constitute secondary commercial exploitation.

Recording for trailer purposes during rehearsals, balance tests or previous performances of a concert or opera performance is permitted without payment.

In the event that the BBC wishes to engage a musician to record for trailer [promotional/publicity] purposes only, the appropriate session fees will be payable, and the BBC shall be entitled to use such recordings in all media in perpetuity.

302. Extracts for use in Obituary Programmes

Upon payment to the MU Benevolent Fund of an amount equal to 200% of the Basic Recording Session Fee specified in clause 200(i)(a) the BBC shall be entitled to use one or more extracts from recordings, such extracts shall not exceed 2 minutes each in duration and provided that in each 30 minutes of transmitted programme extracts shall not exceed 10 minutes in aggregate duration.

SECTION 4: SECONDARY USES

NB The Residual Basic Fee is defined as one of the following: the Basic Recording Session Fee as set out in Clause 200(i)a), Relay Fees as set out in Clause 202, Short Items Fees as set out in Clause 203 or Short Session/Relay fees as set out in Clause 204 (e) for musicians or MDs but excluding any enhancements, fees for rehearsals, overtime payments or additional performance fees. The Residual Basic Fee for Established Self Contained Groups 204 (a) - (d) is the Basic Recording Session Fee as set out in 200(i)a).

For use of material after 3 years from first transmission the percentages below apply to the appropriate rates in the BBC/MU agreement at the time of use.

A. Public Service Uses

400. Core Services

Repeat transmissions may be made non-simultaneously by each BBC Region provided that the use is within 30 days of the original transmission.

(i) Repeats

Repeat fees in respect of programmes first transmitted the BBC's Core Services shall be:

where paid together with the initial engagement or relay fee -
35% of the appropriate Residual Basic Fee

when paid at the time of repeat transmission -
50% of the appropriate Residual Basic Fee

On payment of the repeat fee the performance can be repeated once in up to 4 parts or once in an unlimited number of parts (nb complete compositions only) if a symphony or chamber orchestra studio session or if engaged under 200(i) b) or 204(c)).

(ii) Archive Programmes (recordings made before 1.1.80)

The BBC shall be entitled to repeat programmes in an archival and/or artist-related context upon payment direct to the Musicians' Union of a fee at a rate of £1,155 per hour or pro rata. This payment also includes the right to make the recording available on-demand for a period of 7 days from transmission (NB BBC Public Service use only).

(iii) Public Concerts relayed by Radio 1

As an alternative to (i) above, on payment of a repeat fee Radio 1 may transmit either:

- (a) one item four times, or;
- (b) four items once.

401. Non-Core Public Service Uses

On payment of the following percentages of the appropriate Residual Basic Fee, the BBC acquires the following additional Public Service rights (i.e. any licence fee or Grant-in-Aid (World Service) funded service including, but not limited to, Digital Radio, on-demand access and unlimited transmissions on Radio 3's Through the Night Service) but excluding Core Service (Radios 1 - 5, National stations) and Local Radio repeats and World Service repeat cycles for the terms specified below:

3%	1 year
5%	3 years
10%	buy-out of all non-core public service uses

402. World Service Repeat Cycle

This is defined as use within an eight day period to allow access to one repeat throughout the world.

Repeat fees for BBC originated programmes are payable as follows:

when paid together with the engagement or relay fees -
10.5% of the appropriate Residual Basic Fee

when paid at the time of transmission -
15% of the appropriate Residual Basic Fee

403. Local Radio Repeats

If a programme originally transmitted on a single local radio station is repeated on that station, 100% of the reduced rate is payable.

If a programme is subsequently transmitted on another local radio station, 100% of the reduced rate is payable.

If prior to its first transmission the decision is made to transmit the programme on the full network, the fee is made up to the full amount.

Where the full engagement fee has been paid to acquire non-simultaneous transmissions in up to four Local Radio or Gaelic/Welsh-language stations then a repeat fee as described under paragraph 400 is payable to allow a further one transmission from each of the four stations.

404. National Regional Networking

A National Region which does not transmit simultaneously with the National Region(s) originating the first transmission or repeat may without further payment give one deferred transmission or repeat within 30 days.

B. Commercial Uses

405. Programme Sales

The BBC shall be entitled in perpetuity to exploit recordings made hereunder in all media (excluding commercial audio recordings) now known or hereinafter invented upon payment in accordance with the following terms:

(i) Sales throughout the world

145% of Residual Basic Fee	exploitation in all media excluding Public Service Uses, Commercial Audio Recordings and World Service repeat cycles
125% of Residual Basic Fee	exploitation of radio rights throughout the World excluding Public Service Uses, Commercial Audio Recordings and World Service repeat cycles
20% of Residual Basic Fee	supplementary payment for commercial internet streaming uses where all radio rights have already been paid for under this clause
£50	commercial internet streaming rights in archive programmes where no previous payment for radio sales has been made

(ii) Sales in Selected Territories

50% of rates in (i) above	British Commonwealth, British Forces overseas and Eire only
25% of rates in (i) above	USA
25% of rates in (i) above	Rest of World (excluding UK)

(iii) Item Use

All rights in items taken from Recording Sessions or Relays can be bought out at the above percentage rates based on 20% of the appropriate Residual Basic Fee

406. Non-theatric rights throughout the world

World non-theatric rights in perpetuity may be acquired in all material recorded prior to February 1999 subject to payment of royalties specified in 408 below or by paying on first use an amount equal to 3% of the appropriate Residual Basic Fee.

407. Minor Contributions

On payment of an amount equal to 35% of the Residual Basic Fee all further uses are acquired in all programmes except those which contain predominantly music performance.

408. Multi-media Royalty

As an alternative to the residual payments set out above, or in respect of any secondary exploitation not covered in the foregoing clauses, the BBC may elect to pay a royalty based on the gross income and/or agreed deemed gross receipts accruing to the BBC, its subsidiaries, its licensees and assignees.

Artists will share in a royalty of:

- (i) 5% , such royalty to be shared amongst the musicians in proportion to their Residual Basic Fee or;
- (ii) 17% in respect of programmes that contain predominately music performance provided that such programmes do not include Equity-type contributions such royalty to be shared among the musicians in proportion to their Residual Basic Fee, or;
- (iii) 25% in respect of Opera, Concerts and Pop programmes containing both MU and Equity type contributions, such royalty to be shared amongst all such artists in proportion to their Residual Basic Fees.

409. Commercial Audio Recordings

For the release of featured music in commercial audio recordings, and subject to any separate BBC/ Worldwide / MU terms, the BBC will pay an additional fee for every 20 minutes (or part thereof) of recorded music incorporated in the commercial audio recording. The fee payable will be in accordance with the BPI/MU Agreement.

SECTION 5: GENERAL

500. Out of Town Allowances

For engagements taking place 15 miles or more from the recognised centre of the city in which the musicians are based:

Returning before midnight	£15.20
Returning after midnight	£20.20

501. Night Work

For work between 0000-0800	£15.20
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502. Allowances

The rates for travelling and subsistence will be in line with that agreed for other BBC staff/freelancers.

503. Instrument Hire

All instrument hire arrangements should be agreed in advance between the musician and Production.

504. Porterage

Paid only where appropriate (i.e. for bringing instruments to and from studio/location). However, where an instrument van is provided or where instruments are stored no porterage payments will be made.

Group A	£13.80	Chimes Drums Marimba Vibraphone Xylophone
Group B	£11.00	Electric Accordion Electric Guitar Bass Saxophone Tuba Double Bass

Note: Limit of payment in Group B for two or more instruments is £21. 90

Group C	£7.30	Contra Bassoon Glockenspiel Baritone Saxophone Trombone plus 1 other brass instrument French Horn plus 1 other brass instrument 2 saxophones cello bass clarinet plus 1 other instrument
Group D	£5.50	Piano Accordions
Group E	negotiable	Harp - Timps - Organ

505. Pension

The following sets out the terms agreed between the BBC and MU for contributions made to the MU Pension Scheme.

Where the Musician is a member of the Pension Scheme and has elected to make a contribution the BBC will contribute 7.5% of those fees designated as pensionable payments and the Musician will contribute 5% of those fees designated as pensionable payments. Fees designated as pensionable are as follows: recording session, public concert, relay, short item, established self-contained groups, signature tune, station identifications, doubling, additional performance and supplementary fees to bring regional rates up to standard rates.

The BBC will remit their contribution and the Musician's contribution direct to the Pension Fund on a monthly basis.