

# Agreement for the Production and Licensing of Original Musical Composition

Contract No.

Approved by the Producers and Composers of Applied Music *and* the Institute of Practitioners in Advertising

Between (name and address)

(the Music Producer) of the one part

and (name and address)

(the Agency) of the other part

**whereby** it is agreed that subject to the conditions set out overleaf (such conditions being in the form approved by the Producers and Composers of Applied Music (PCAM) and the Institute of Practitioners in Advertising (IPA) and signed by them on 8<sup>th</sup> April 2009 **and subject to such amendments or additions agreed upon between the parties hereto as appear overleaf - see Special Stipulations**) and for the consideration hereinafter appearing the Music Producer agrees to produce and the Agency agrees to accept a licence ('the Licence') in respect of the under mentioned original musical composition for the usage stipulated below.

**Name of the Work** ('the Work')

## Job details

Client	Product
Name of commercial(s)	
No. of commercial(s)	Length(s)
Ident/Clock Number(s)	

## Consideration

	Currency	Amount	Comments
1 Demo	_____	_____	_____
2 Original composition fee	_____	_____	_____
3 Musicians and direction	_____	_____	_____
4 Artists' fees	_____	_____	_____
5 Studio costs	_____	_____	_____
6 Usage charges	_____	_____	_____
7 Mark-up	_____	_____	_____
Total fee (ex VAT)	_____	=====	_____

## Artists

No. of musicians	Basic session fee(s)	Use fee to be paid by
No. of singers	Basic session fee(s)	Use fee to be paid by
No. of voice overs	Basic session fee(s)	Use fee to be paid by

**Composer(s)** Original Composition Fee

Date of Recording Date of first transmission

Term of Use from date of first transmission Use expiry date

## Licensed Media

UK Television# <input type="checkbox"/>	Internet <input type="checkbox"/>	In-store/Trade Fairs <input type="checkbox"/>	Sponsorship <input type="checkbox"/>
UK Television - restricted <input type="checkbox"/>	Video/DVD/CD Rom <input type="checkbox"/>	International <input type="checkbox"/>	Editorial <input type="checkbox"/>
UK Cinema <input type="checkbox"/>	UK Radio <input type="checkbox"/>	Telephone Hold <input type="checkbox"/>	Other Media <input type="checkbox"/>
Non-commercial/showreel <input type="checkbox"/>	Ancillary <input type="checkbox"/>		

Detailed description of use and territories

*# Definitions of Combined Use Fee, Ancillary Use and UK Television on reverse*

## Consignment Note details

Composer(s)  
 Music Production House  
 Publisher/copyright owner(s)  
 Duration of music

It is expressly understood that the copyright in any arrangement of an existing work will be the property of the copyright owner of the work that has been arranged. This does not apply to arrangements of public domain works where a creative contribution has been made, which shall be treated as original compositions and licensed as such. This Licence shall be exclusive to the Agency for all advertising purposes. Any other usage shall be subject to the agreement of the Agency and the copyright owner of the work that has been arranged. Signed, agreed and dated by the parties or their duly authorised representatives:

Music Producer Agency

Dated Dated

# CONDITIONS

## 1. Definitions

- a) Original musical composition shall mean a musical composition which is original within the meaning of the Copyright Designs and Patents Act 1988 or any statutory modifications or re-enactment thereof for the time being in force.
- b) UK Television and/or Radio shall mean any or all television channels and/or radio stations irrespective of signal delivery system ie terrestrial, cable, satellite, digital or any other means.
- c) Combined Ancillary Use Fee shall mean ancillary use of the commercial incorporating the music from any recording session as defined in Clause 1) in any medium not covered by Clause 1 including (without limitation):
  - i) in-store/point of sale
  - ii) trade fairs
  - iii) places of entertainment (eg discos, clubs, pubs etc)
  - iv) phonelines
  - v) videotapes/videograms/videodiscs for direct mail, hire or sale
  - vi) transport (eg taxis, buses, trains, boats, planes etc)
  - vii) sports stadia/venues
  - viii) new technology (eg Internet, Intranet, World Wide Web, kiosks)
- d) Specific ancillary use shall mean any one or combination of uses as defined in i) - viii) above.

## 2. Obligations of the Music Producer

In consideration of the agreements and undertakings on the part of the Agency set out below the Music Producer agrees to compose and arrange or to procure a composition and arrangement of an original musical composition as identified overleaf and to produce and deliver a soundtrack recording of the same ('the Work').

## 3. Moral Rights

The Music Producer in recognition of the Agency's requirement to be able to use and adapt subject only to Condition 6 b) ii) below the Work for the purpose specified in the Licence hereby warrants that all moral rights, wherever in the world enforceable, vested in the Music Producer or any other person engaged in the creation or production of the Work or any part thereof (whether such person is a company employee or an independent contractor) have been irrevocably and unconditionally waived. Notwithstanding the above, the composer and his publisher/agent may be afforded a printed credit wherever the Agency, client and film director receive such a credit.

## 4. Reservation of other Rights

Other than the Licence no rights of any kind whatsoever in or relating to the Work are hereby granted or otherwise deemed to be granted to the Agency and in particular but without detracting from the generality of the foregoing.

- a) No right or interest in respect of the copyright in the Work is granted to the Agency;
- b) Except as described in the Licenced Media the Licence does not confer:
  - i) any right to sell, hire or otherwise dispose of copies of the Production;
  - ii) any right to make any arrangement or re-recording of the Work without the prior consent of the Music Producer (such consent not to be unreasonably withheld or delayed);
  - iii) any right to manufacture, sell or use the Production separately from or independently of the particular purpose authorised by the Licence;
  - iv) any right to perform the Work in public or broadcast;
  - v) any and all so-called publishing rights;
  - vi) any right to authorise others to do any of the above acts in relation to the Work or the Production.

## 5. Life of Recording

- a) The life of the recording is three years from the date of first transmission.
- b) The Agency shall have an exclusive option period throughout the life of the recording and for three months after expiry of the life of the recording to extend or renew the licence and the Music Producer will be prepared to enter into reasonable negotiations with the Agency for any alteration in the conditions of the Licence (whether as to media, territory, purpose or otherwise) and for an extension in the term of the Licence, subject in any such case to whatever mutually acceptable terms and conditions may be agreed between the parties. The Music Producer's agreement to such an alteration or extension may not be delayed or unreasonably withheld.
- c) During the life of the recording, both the Music Producer and Agency may use the production including the Work for awards and showreel purposes. This may be in any medium, including the Internet, save that the Agency must confirm that the necessary permissions from third parties has been obtained, and if this has not been forthcoming, the Agency reserves the right to refuse such permission. Notwithstanding the above, neither Agency nor Music Producer may use the production in any medium until after its first transmission.

## 6. Payment

- a) In consideration of the Agreement the Agency agrees to pay the Music Producer the total consideration specified in the Agreement comprising the total cost of the Production as set out therein plus value added tax thereon ('the fee') and such extra charges (if any) as may be agreed. The fee shall be paid by the Agency to the Music Producer no later than 21 days from receipt of invoice ('the due date').

- b) If the fee is not paid on or before the seventh day following the due date the Music Producer may, at his sole discretion on this day and at any time thereafter (so long as the fee or any part thereof remains outstanding), cancel the Licence after giving the Agency prior notice of his intention to do so. The said Licence shall then cease and determine and be of no further effect.
- c) In the event that the fee is not paid by the seventh day following the due date the Music Producer shall be entitled to seek and to enforce the payment thereof notwithstanding the determination of the Licence in accordance with sub-clause a) above.

## 7. Trade Union Agreements

The Music Producer hereby undertakes and the Agency agrees that the musicians engaged in the production of the soundtrack will be employed under the terms and conditions of the appropriate trade agreement made with the IPA with the Musicians Union and/or any other existing trade union agreements where applicable or necessary; and the Agency agrees and undertakes with the Music Producer that it will at all times observe and comply with the terms and conditions of any such trade agreements insofar as and to the extent that any such agreement relates or is applicable to the use by the Agency of the Work.

## 8. Indemnity

The Agency hereby undertakes and agrees that:

- a) The Music Producer warrants that the Work is an original musical composition and hereby agrees to indemnify the Agency against all actions claims and demands (including legal fees) in respect of breach of copyright relating to the Work. The Music Producer further warrants that the Agreement is executed with the full knowledge and agreement of the composer, if the Music Producer himself is not the composer, and that it does not conflict with any other agreement which the Music Producer has made and which is currently in force, and agrees to indemnify the Agency against any breach of these warranties.
- b) The Agency agrees that it will fully and effectively indemnify the Music Producer against all costs claims expenses and damages (including legal fees) arising from any breach by the Agency of the agreements warranties and undertakings on its part contained in the Agreement.
- c) Should the Production include any so-called samples or other additional copyright material, the Music Producer shall be responsible for all appropriate clearances to meet all terms of the Licence.
- d) Where there is doubt about the originality of the Work by either the Music Producer or the Agency it is agreed that the opinion of an independent musicologist be sought and the expense shared between both parties. The parties will abide by the opinion given by the musicologist and should either party choose to ignore such opinion the other is released from their obligations in regard to clauses 8a), 8b) and 8c) of this Agreement.

## 9. Assignment

The Agency may assign the whole (but not part) of its interest under this Agreement provided that written notice of the assignment is given to the Music Producer, and that any such assignment or transfer shall be made strictly subject to all terms and conditions of this Agreement.

## 10. Settlement of Dispute

- a) In the event of a dispute arising between the Music Producer and the Licensee the matter shall be referred to the Secretaries of the IPA and PCAM who shall, in the first instance, seek to resolve the matter by discussion with the parties concerned.
- b) Should a dispute not be resolved in accordance with the procedure in sub-clause a) above, the matter shall be referred to arbitration. The arbitration body shall consist of an independent chairman and a representative from the IPA and PCAM. The Secretaries of the IPA and PCAM shall act as joint Secretaries of the arbitration body.

## 11. Licence

Subject to the terms of the licence ('the Licence') set out overleaf which together with the special stipulations set out below, the Music Producer as owner or (as the case may be) the agent of the owner of whatever copyright may subsist in the Work grants to the Agency a licence to exploit the Work only in the Media in the Territory for the purpose(s) and otherwise in accordance with the provisions set out overleaf ('the Licence').

## 12. Required Notifications

The Agency hereby undertakes and agrees that:

- a) It will provide the Music Producer from time to time as requested with full written details of all uses of the Work including the periods and the media and territories in which the production is used, provided that the Music Producer shall not make any such requests which are unreasonable by virtue of the amount of detail required.
- b) It will at all times notify and keep the appropriate broadcasting/transmitting authority fully informed of full details of the Work its composer and copyright owner in order that such authority may fully comply with its obligations in respect of payment for the use thereof to such bodies as the Performing Right Society Limited.

## 13. Law

Any dispute arising from or in any way connected with this Agreement will be governed by the law of England and Wales.

**SPECIAL STIPULATIONS** (If more space is required please attach a separate sheet)