

LEGAL DISCLAIMER

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This contract has been compiled by solicitors who wish to emphasise that these notes and agreements are not a substitute for specific legal advice and are designed for very general guidance only.

Composers Agreement (Original score)

This is a guideline only and should not be relied upon without taking legal advice.

THIS AGREEMENT is made theday of199..

BETWEEN:.....

hereinafter called "the Company" which expression includes it's successors in title licensees and assigns)

AND.....

(hereinafter called "the Composer")

WHEREAS:

The Company is currently engaged in the production of a film called "....." ("the Film") and wishes to engage the services of the Composer to write compose and arrange the Music and record the Recordings (as hereinafter defined) to be included in the Film upon the following terms.

NOW THEREFORE IT IS HEREBY AGREED AS FOLLOWS:-

1. The Company hereby engages the Composer and the Composer undertakes to make available his services as hereinafter provided (hereinafter called "the Services") on the terms and conditions herein contained:

1.1. The Composer shall compose and arrange the music ("the Music")

1.2. The Composer shall perform and record the Music ("the Recordings") and shall record the Music in a first class recording studio to a commercial and technical quality suitable for the synchronisation of the Recordings made therefrom in timed relation with the Film and for the reproduction therefrom of Records for sale to the public. The Composer shall deliver the Recordings to the Company on or before.....199..

1.3. The Composer acknowledges that the soundtrack for the Film shall include certain music and recordings thereof ("the Licensed Music") written and recorded prior to the date hereof and owned or controlled by third parties. The details of the Licensed Music are specified in Schedule A hereof and in rendering the Services hereunder the Composer shall take account of such Licensed Music to be included in the Film and such Licensed Music shall not be deemed to be Recordings or Music hereunder. The Composer shall arrange clearance and pay all necessary fees for all Licensed Music

2. The Composer hereby agrees, warrants and undertakes with the Company that:

2.1 The Composer will render the Services hereunder to the full extent of his creative and artistic skill and technical ability.

2.2. The Music and the Recordings will be wholly original to the Composer and will not infringe the copyright or any other like right of any person firm or company.

2.3. The Composer is free to enter into this Agreement and that he has the unencumbered right to grant to the Company all of the rights and Services hereby granted and that no prior contract or agreement of any kind entered into by the Composer will interfere in any way with the proper performance of this Agreement by the Composer.

2.4. The Composer will execute do and deliver all such acts deeds and instruments as the Company may at it's own expense from time to time require for the purpose of confirming or further assuring it's title to the rights assigned or intended to be assigned hereunder.

2.5 The Composer will indemnify and hold the Company harmless against all claims costs proceedings demands losses damages and expenses arising out of any breach of any of the warranties and representations and agreements on his part contained in this Agreement.

2.6 That no material composed by the Composer recorded on the Recordings will in any way infringe the rights of any third party.

2.7 That the Composer hereby grants to the Company (and it's licensees and assignees) on behalf of the Composer and any person whose performances are embodied on the Recordings the requisite consents pursuant to the provisions of the Copyright Designs and Patents Act 1988 or any similar legislation throughout the world in order that the Company and it's licensees an assignees shall have the fullest use of the Composer's and such persons services hereunder and the products thereof.

2.8 That the Composer and all other persons who have performed on the Recordings hereby irrevocably and unconditionally waive any and all moral rental lending and like rights the composer and such persons may have pursuant to the Copyright Designs and Patents Act 1988 or otherwise in respect of the Recordings the Music and the performances embodied thereon.

3. In consideration of the agreements on the Company's behalf herein contained the Composer with full title guarantee hereby assigns (subject to the rights in the Music vested in the Performing Rights Society Limited ("PRS") and it's affiliated societies by virtue of the Composer's membership of PRS) to the Company and it's successors in title (and so far as the same has not been completed at the date hereof by way of immediate assignment of future copyright) and for the full periods of copyright and all renewals and extensions thereof throughout the world ("the Territory") whether now or hereafter existing the entire copyright rental rights and all like rights whether now or hereafter existing in the Recordings and the product of the Services and all Masters thereof and the Composer hereby grants to the Company (it's licensees and assigns) the exclusive right and licence to use the Music in synchronisation with the Film and to use the Music as incorporated in trailers therefor and to record broadcast transmit exhibit and perform for an unlimited number of times and otherwise distribute and exploit by sale hire or otherwise in all and any media (including videos) the Music as part of or in synchronisation with the Film or trailers therefor or upon Records incorporating all or part of the soundtrack of the Film for the full period of copyright and any and all renewals and extensions thereof throughout the universe TO HOLD the same unto the Company absolutely throughout the Territory.

4. The Composer hereby grants to the Company (and warrants and undertakes that it is entitled to make such grant):

4.1. The irrevocable right to issue publicity concerning the Composer's Services and the product of the Services hereunder including the right to use and allow others to use the names professional names likeness, photograph and biography of the Composer and all musicians featured on the Recordings in Connection with the Music, the Recordings and/or the Film and the exercise of the rights granted hereunder.

4.2. The right to decide when and/or whether to commence cease or recommence the production of Records embodying the Recordings on whatsoever label and the right to fix and alter the price at which such Records are sold.

4.3. The right to licence grant transfer or assign without having to obtain any further consent from the Composer all or any of it's rights (including without limitation any or all of it's rights in the Recordings and the Music) hereunder and the benefit of this Agreement to any third party.

5. The Composer hereby further authorises and empowers the Company at the Company's expense to take such steps and proceedings as the Company may from time to time consider or be advised are necessary to protect and reserve to the Company all rights hereby granted or expressed to be granted to the Company and the Composer hereby further authorises and empowers the Company and hereby appoints the Company his Attorney to institute actions and proceedings in the name of the Composer (but in any event at the Company's expense) or otherwise in respect of the infringement or violation of any of the rights hereby assigned or granted or expressed to be assigned or granted.

6. The Composer shall at the Company's request and expense take such steps and proceedings as the Company may require and to execute all or any further documents to vest in the Company and/or to renew and extend any and all rights an/or copyrights assigned or agreed to be assigned hereunder and which are or may hereafter be secured upon the Music and the Recordings or any part thereof and after such renewal or extension to transfer and assign to the Company the rights herein granted for such renewal or extended term. In the event that the Composer shall fail so to do within 7 (seven) business days of receiving a request therefor the Company is hereby authorised and empowered to exercise and perform such acts and to take such proceedings in the name and on behalf of the Composer and as the Attorney-in-fact for the Composer.

7. 7.1. As full and final consideration for the Services hereunder and for the grant of rights in respect of the Music and the Recordings contained herein and for the physical tapes and for all expenses incurred by the Composer in arranging the Recordings the Company shall pay to the Composer the

7.1.1. The sum of £.....(.....pounds) payable on signature hereof (receipt of which is hereby acknowledged).

7.1.2. A royalty in respect of Records reproducing only the Recordings sole paid for and not returned and the said royalty shall be calculated upon the Royalty Base Price of each such Record at the rate of 7% (seven percent) ("the Royalty Rate") and subject as hereinafter appears.

7.2. The remuneration payable to the Composer by the Company pursuant to clauses 7.1.1. and 7.1.2. in respect of the Services is and shall represent full and final consideration for the Services and the entire product of such Services and the rights granted to the Company hereunder and shall include any and all residual repeat rerun foreign use exploitation and other fees and payments of whatever nature due to the Composer or the Composer by virtue of any guild or trade union agreement and any and all payments due to the funds of any guild or union or other similar taxes and state and government and social security contributions. No further or additional payment shall be due from the Company to the Composer in respect of any of the foregoing or by reason of the number of hours in a day or days in the week in which the Services shall have been rendered or for any other reason whatever.

7.3. The Company shall ensure that mechanical royalties are payable to the appropriate collection society and/or publisher in respect of the sale of Records embodying the Music.

8.1 . In respect of a Record reproducing the Recordings and also recordings not the subject of this Agreement the royalty payable to the Composer shall be that proportion of the Royalty Rate which the Recordings reproduced on such Record bear to the total number of recordings reproduced thereon.

8.2. No royalties shall be payable upon promotional Records given away free goods Records sold or distributed under any arrangement for the sale of deleted Records promotional Records for which the Company is not paid Records sold at a discount at 50% (fifty percent) or more from published price audio-visual Records.

8.3. If in any agreement made between the Company and the Company's licensees or assigns the royalty payable to the Company by the Company's licensees or assigns or the basis upon which such royalty is calculated shall be reduced (including all reduced rate half rate terminal reductions and royalty free provisions) then the royalty and Royalty Rate payable to the Composer shall be reduced by a like proportion.

8.4. The Composer shall have the first option to produce any soundtrack Record of the Film upon terms to be agreed if the Company in it's sole discretion decides to release such a Record. The costs of editing, remixing and converting the Recordings produced for the Film for the purpose of reproducing the Recordings upon Records shall be treated as an advance

against the first recoupable from any and all royalties due to the Composer hereunder pursuant to clause 7.1.

9. 9.1. The Company shall supply to the Composer within 90 (ninety) days after the end of June and December in each year a statement showing the latest information received by the Company during such half year period as to the number of Records sold and the amount of royalty due to the Composer. The Company shall be entitled to establish a reserve for potential returns of Records apparently sold in any half year in a reasonable quantity. The Company's liability to pay royalty to the Composer hereunder shall be limited to the amounts thereof actually received by the Company and the Company may deduct and retain from any sum payable to the Composer hereunder any withholding taxes required to be deducted by any government or law.

9.2. The Composer hereby directs the Company to make all payments due to the Composer to (name of agent if any) whose receipt thereof shall be a full and sufficient discharge of the Company's obligations in respect of such payments.

10. 10.1 The Company shall accord the Composer on all positive prints of the Film made by or to the order of the Company a main title credit on a separate card substantially in the form "Original Music by".

10.2. The Company shall instruct the distributors and exhibitors of the Film to accord the Composer credit as hereinabove provided on all prints of the Film issued by such distributors and exhibitors but the Company shall not be liable for the neglect or default of any such distributors or exhibitors so long as it shall have notified the distributors of the credit to which the Composer is entitled hereunder.

10.3. The Company shall use its best endeavours to afford a credit to the Composer upon all paid advertising for the Film subject to the distributor's usual credit exclusions.

10.4. In respect of soundtrack Records of the Film the Company shall accord the Composer a credit in the form "Original Music by" on the back cover and label of the Record save that such credit shall appear on the front cover and label of the said Records if 50% (fifty percent) or more of the Recordings featured on such Record were performed by the Composer and a credit "Produced by Stephen Warbeck" if 50% (fifty percent) or more of the Recordings featured on such Record were produced by the Composer on the back cover and label thereof but otherwise on the same terms and conditions as set out in this clause.

10.5. No casual or inadvertent failure to accord the Composer or any other party credit hereunder shall constitute a breach of this Agreement by the Company and/or the Composer's remedies in the event of a breach shall be confined to recovery of damages.

11. The Composer acknowledges that it and the Composer has prior to signature hereof received independent expert advice on the contents hereof to enable him to understand fully the terms of this Agreement.

12. In the event of a breach of this Agreement by Company the Composer shall not be entitled to equitable relief or to terminate or rescind this Agreement or any of the rights granted to Company herein or to restrain enjoin or otherwise impair the production distribution advertising or other exploitation of the Film the Composer's sole remedy being an action at law for damages if any.

13. For the purposes hereof the following words shall have the following meanings:

"Record" - shall mean vinyl records, compact discs, tapes, cassettes, CDI, CD Roms or any other device or contrivance whether now known or to be invented in the future reproducing sound alone (with or without visual images) but excluding videocassettes, videotapes and/or videodiscs embodying the Film.

"Recordings" - shall mean the original sound recordings or combination of recordings recorded hereunder and embodying the Music or any part thereof (whether on recording tape lacquer wax disc or any other material).

"Master" - shall mean a 2(two) track stereo Dolby tape recording fully edited equalised and leadered and of a first class standard suitable for synchronisation with the Film and the reproduction of Records therefrom..

“Royalty Base Price” - shall mean the retail price upon which royalties payable to the Company are calculated by its licensees and assigns (net of packaging allowances and sales taxes).

“Copyright” - shall mean the entire copyright and design right subsisting under the laws of the United Kingdom and all analogous rights subsisting under the laws of each and every jurisdiction throughout the world.

14. All notices writs legal process or any other documents served under or in respect of this Agreement shall be addressed to the party to be served at the address of that party hereinbefore appearing or at such other address for service as may be notified by each to the other in writing and shall be sent by registered letter or recorded delivery in which event such notice shall be deemed to have been received 3 (three) days after the posting thereof.

15. This Agreement shall be exclusively governed by English law and the High Court of Justice in England shall be the exclusive Court of Jurisdiction. Nothing herein contained shall constitute or create or be deemed to create or constitute a partnership between the parties hereto.

AS WITNESS the hand of the parties the day and year first before written

SIGNED by.....(.....)
for and on behalf of.....(.....)
in the presence of:.....(.....)

SIGNED.....(.....)
in the presence of(.....)

Accompanying Notes

Clause 1.3: The Composer (or sometimes the Producer) has to arrange for the use of pre existing music that is incorporated in the soundtrack and arrange and pay for licences to use any such music.

Clause 3: A Composer cannot assign his/her right to receive payment from PRS and they remain the beneficiaries of any income paid to the PRS, which is a collection society for musicians. The Composer must specifically grant the right to allow the music to be played in sync with the film. This is a specific right. This agreement only allows the Producer to use the music for this purpose and does NOT allow the Producer to publish the music.

Clause 5: This gives the Producer the ability to take any legal action to prevent a third party using the music for their film if the Composer does not agree to do so.

Clause 6: A “further assurance” clause is used in contracts where a grant or licence of rights is made. This ensures the producer has all the necessary documents to perfect their right or interests in the licence or grant of rights.

Clause 7.12: A Composer will often get a royalty from any records made whether the Producer acts as the music publisher or whether they negotiate a deal with a third party. This royalty obligation must be made clear to any publisher as the Producer is primarily liable under this type of agreement to make any such payment to the Composer.

Clause 7.3: Mechanical royalties are paid to MCPS and are due when the records are sold.

Clause 8.1: The Composer gets a proportion of the royalty rate according to the proportion of his/her music incorporated on the recording i.e. if there were 6 tracks and only 3 were the Composer’s music he/she would get half the royalty.

Clause 8.3: If the Producer assigns the Composer's agreement to a third party (i.e the distributor/financier) and under it's deal it gets a lower Royalty Rate then the Composer agrees to accept that lower rate.

Clause 8.4: The Composer is given the chance to arrange the music for any record produced.