

Music Licensing Representation Agreement

This agreement (the “Agreement”) is made as of _____, 2014, by and between _____ (“Company”) with offices at _____, and _____ (“Music Licensor”) with an address at _____. Company and Music Licensor are sometimes referred to individually as “Party” and collectively as the “Parties.” This Agreement includes: Summary of Terms below, and Terms & Conditions (the “T&C”) and Schedule A attached.

Whereas, Company is a music licensing company that represents musical works for licensing in a wide variety of contexts, including, but not limited to, motion pictures, television programs, documentaries, commercials, video games, websites, and multimedia projects; and

Music Licensor owns and/or represents musical works for licensing purposes and wishes for Company to pursue licenses for certain musical works;

The Parties therefore agree as follows:

Summary of Terms

1. Non-Exclusive Grant of Rights: Music Licensor grants Company the non-exclusive right to Represent (as defined in the T&C) and enter into Licenses on behalf of Music Licensor for the use of certain Musical Works (as defined in the T&C) designated by both Parties. Licensor retains the right to license the Musical Works to third parties provided that Music Licensor shall not enter into an “exclusive” license such that any Musical Work could not be licensed by Company for another purpose.

Since this is a non-exclusive agreement, the writer, referred to as Music Licensor, reserves the right to license his songs directly or authorize others to do so.
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2. Term: The duration of this Agreement shall be one (1) year from the date above and shall automatically renew for successive one (1) year terms, provided that either Party shall have the right to cancel the Agreement upon ninety (90) days written notice at any time after the first year of the Agreement.

As we discussed, this is a standard duration for a sync rep deal.

3. Compensation: Company shall pay fifty percent (50%) of Gross Revenues (as defined in the T&C) to Licensor payable in accordance with the Terms and Conditions.

This is a standard allocation of monies in sync rep deals although some companies will pay up to eighty percent (80%) to the writer. Gross Revenues is defined in the Terms and conditions as any monies received from Licenses minus recording costs incurred by Company, if any.

4. Territory: The grant of rights in paragraph 1 above shall apply throughout the universe.

5. Music Licensor Information

Mailing Address: _____

Phone Number: _____

Email: _____

AGREED AND ACCEPTED BY:

COMPANY:

MUSIC LICENSOR:

Authorized Signature

Terms & Conditions

1. Definitions

- a. **Musical Work(s)** is defined as (i) the sound recordings and the underlying musical compositions contained in such recordings and (ii) those recordings that the Parties mutually agree shall be covered by this Agreement. Those Musical Works are listed in Schedule A. Company has no rights in any other songs or recordings than the Musical Works. The definition of Musical Work shall also include all musical, artistic literary material (including liner notes, song titles and other metadata), and all other intellectual property connected with the any Musical Works, including associated names and logos.

Note that the Musical Work is defined to include both the recording and the underlying song. If the Company makes a deal in which the song is re-recorded by any third party, such as a movie producer, the income from the license of the song will be shared on a 50/50 basis between the writer and the Company, even though the producer is only paying for the song and not the original recording.

- b. **Represent** is defined as copying, distributing, marketing and promoting the use of the Musical Works and services to the general public and potential licensees, and to include the Musical Works on any website and controlled by Company, and to offer for license to others and license to third parties the Musical Works listed in Schedule A.
- c. **Licenses** is defined as contracts issued by Company permitting third parties to use Musical Works in any audiovisual work including, but not limited to, films, television, video games and audiovisual ad campaigns as well as any other synchronization in any and all media now know or hereinafter developed. Such rights shall also include the right authorize lyric reprints, and to make a musical arrangement to the extent necessary without changing the basic melody, fundamental character or the lyrics of the composition. Company shall be entitled to enter into any license with any third party except for pornography and shall be entitled to negotiate any terms that are reasonable in the sole judgment of Company, provided that no License shall be “exclusive” such that the Musical Work could not be licensed for another purpose. For the purpose of this Agreement, Licensor hereby authorizes to enter into any such License on behalf of Licensor, and for this purpose Licensor hereby grants power of attorney to enter into such License and collect monies from the licensee on behalf of the Parties hereto.

Note that although the Company’s rights are non-exclusive, the writer has no right to approve any deal. That means that the Company can enter into any license it wishes, so long as that license is non-exclusive. A writer with leverage (meaning that they are successful or the Company badly wants to enter a deal with them) may be able to negotiate an approval right.

- d. **Gross Revenues** is defined as any monies that Company actually receives from Licenses for the Musical Works minus actual approved out of pocket expenses such as recordings costs if Music Licensor wishes company to produce any Musical Works.

2. Registration

- a. Music Licensor shall be responsible for, and required to, register the musical compositions embodied in the Musical Works with the Music Licensor's Performing Rights Organization (that is, ASCAP, BMI or SESAC in the United States). Music Licensor shall list the Company as the publisher of the Musical Works,

It is important that a song is registered at a PRO so that the writer and the Company receive performing rights royalties.

- b. In the event that Company enters into a License for the Musical Works, Company will add a registration with the appropriate PRO for the Musical Works with a tag. For instance, if the name of the Musical Work is "The River," Company will reregister the Musical Work at the same PRO as "The River-Company." With respect to such re-registration, Company shall be the publisher. Licensor hereby authorizes Company to re-register the Musical Work for the purposes set forth in this paragraph, and hereby grants Company power of attorney to implement such re-registration on its behalf. For placements that Company secures, Company shall receive 100% of the publisher's share of performance rights royalties and synch license fees which will result in the 50-50 division of Gross Revenues set forth in the Summary of Terms.

This provision solves one of the arguments made by the proponents of exclusive licenses. That argument is that the "publisher's share" of performance royalties could be paid to the wrong party. In this agreement, since the Company is receiving 50% Gross Revenue, the Company would be entitled to 100% of the "publisher's share" of performing rights income. This subparagraph makes clear that the Company will be receiving that money directly from the PRO. All the PROs are now able to track particular performances of a song in any audiovisual work that is transmitted on television or the Internet. For instance, if the Company makes a deal with the producers of *Veep* on HBO (for use of the song in a particular episode), the PRO will be able to track that particular song through the use of watermarking or other technical means. So, if a different company licenses the same song on behalf of the writer to a different TV show, or even a different episode of *Veep*, the PRO will not pay the Company. Instead, the PRO will pay the other company the publisher's share of the performance fee.

- c. Company reserves the right to register the Musical Works at SoundExchange for purposes of collecting royalties for the public performance of a Musical Work included in a soundtrack album in connection with a film or television show for which Company

licensed such Musical Work. Any royalties payable by Sound Exchange shall be subject to 50-50 division of Gross Revenues set forth in the Summary of Terms.

This provision is tied to the Company's right to license a Musical Work for a soundtrack album in connection with a film or TV show, in which the Company placed a Musical Work. If for instance, if Pandora or SiriusXM performed the Musical Work, SoundExchange would collect royalties in connection with the performance of the music *recording* contained in the Musical Work.

3. Termination of Agreement

After the initial one (1) year term, either party may choose to terminate this Agreement without cause with ninety (90) days written notice; the result of which will be the termination of this Agreement at the end of the ninety (90) day notice period. In addition, Licensor or Company may remove any Musical Work from the Company service after the first year upon written notice, provided that if Licensor provides such notice Company shall have ninety (90) days to remove the Musical Work and any license secured during that time shall be valid.

4. Representations and Warranties

- a. Music Licensor hereby represents and warrants that Music Licensor is the sole and exclusive owner of any and all rights in and to Musical Works as defined herein, including the copyrights, and/or an authorized representative or agent of the owner(s) (with written authority to act on behalf of the exclusive owner) of any and all such rights for the purposes of Company use of the Musical Works as set forth in this Agreement. Licensor represents and warrants that Music Licensor is free to enter into and abide by the terms of this Agreement and that Music Licensor owns and/or controls all necessary rights required to legally provide/license/offer the Musical Works submitted to Company in accordance with the terms of this Agreement. Music Licensor represents and warrants that no Musical Work will contain unauthorized samples, covers, or any part of any third party's music or literary work.
- b. Licensor agrees and acknowledges that Licensor is responsible for clearing any third party material including songs or samples written, controlled or recorded by third parties, and to pay any required royalty payments. Company shall use a tag line in promotional materials that will read as follows: "Original songs pre-cleared for film, television, new media and advertising.

- c. Music Licensor is responsible for notifying Company in writing in the event Music Licensor no longer represents 100% of the rights of Musical Works.
- d. Music Licensor further agrees to and shall indemnify and hold Company (and its owners, officers, directors, employees, agents, representatives and/or affiliates) harmless against any and all losses, damages, costs, claims, actions and proceedings, including without limitation attorneys fees and costs, resulting from the breach of the warranties and representations above.
- e. This Agreement is personal to Licensor. Licensor may not assign and/or otherwise transfer Licensor's rights and duties under this Agreement without prior consent of Company. Company may assign this Agreement to any third party in which Company is a principal owner.

5. Accounting and Payments

- a. Company shall make the required payments here to the Music Licensor within 45 days after the end of each calendar quarter (March 31, June 30, September 30, and December 31). All fees will be payable in U.S. dollars. All payments shall be accompanied by a statement showing the source of the payment to Company.
- b. In the event Music Licensor or Company elects to terminate this agreement, all monies owed to Music Licensor will be paid upon termination.
- c. All payments and notices will be made by delivering payment to the Music Licensor's address as specified above. All returned mail will be held until a current address is received by Company.

6. Content Delivery, Marketing & Promotion

- a. Music Licensor agrees to deliver the Musical Works and all associated metadata in accordance with Company's instructions.
- b. Music Licensor will make reasonable efforts to promote its association with Company and the availability of its Music Works in the Company Music Licensing websites.
- c. Licensor may deliver additional Musical Works which shall be subject to all the terms of this Agreement by submission of the Musical Work and required metadata in accordance with Company's instructions.

- d. Company, solely at its own discretion, reserves the right to not to license, promote or include in its music library any Musical Work that it considers inappropriate for its service.

7. General Provisions

- a. If either Party breaches any term or condition of this Agreement, the breaching party will have thirty (30) days to cure such breach after the first day of written notice from the non-breaching party. If after thirty (30) days, the breach has not been cured or a resolution has not been made, the non-breaching party may terminate the Agreement.
- b. This Agreement is governed by the laws of the State of New York applicable to contract made and to be performed there and the courts of the State of New shall have exclusive jurisdiction over any disputes arising from this Agreement.
- c. This Agreement and all rights and obligations hereunder will be binding upon the successors, licensees and assigns of each party.
- d. Should any part of this Agreement be determined to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect.
- e. The parties agree that this Agreement is the complete and exclusive understanding between the parties. This Agreement may not be modified or altered except in writing signed by both parties.

SCHEDULE A

MUSICAL WORKS

Song Title	Performed by	Album (if any) /Label (if any)	Writer(s)