**WORK FOR HIRE TEMPLATE**

Words in blue are explained in the “[Work for Hire Glossary](#WFHGlossary)” (pages 4 – 7)

THIS AGREEMENT is made this **[INSERT DATE HERE]**, by and between **[NAME]** (“Employer”), and **[NAME]** (“Musician”, and collectively, the “Parties”).

WHEREAS, Employer wishes to engage Musician to contribute **[insert a clear description of the work expected of the musician here]** (the “Work”) as a “work for hire”*;* and

WHEREAS, the Parties both intend for Employer to be considered the author of the Work for the purposes of all copyright and intellectual property issues, and for Employer to be the sole and exclusive owner of the copyright in the Work;

THEREFORE, in consideration of the mutual promises, covenants, warranties, and other good and valuable consideration set forth herein, the Parties agree as follows:

1. Work for Hire. After the execution of this Agreement, Musician shall commence **[DESCRIPTION OF WORK TO BE DONE],** to the Work. The Work shall be a work for hire, and Employer shall own the Work, and shall be the sole and exclusive owner of the copyright in the Work, including all rights of copyright registration, renewal and extension. Employer shall also be considered to be the author of the Work for the purposes of U.S. copyright law, and for the purposes of any other applicable state or federal laws. Musician shall make no claim to ownership of the copyright in the Work, nor shall Musician attempt to exercise any rights, privileges or protections afforded to a copyright holder. Musician waives all moral rights in the Work. Musician shall receive no credit or right to credit for work, unless stated otherwise in Section 3 Consideration.
2. Assignment of Rights. If for any reason the Work shall be deemed not to be a work for hire, then Musician hereby transfers and assigns all rights, ownership and interest in the Work to Employer, including all interest in the copyright in the Work, and in any other intellectual property or moral rights in the Work.
3. **If monetary ($) consideration:**

Consideration. Employer shall pay Musician an amount equal to **[$X]** per **[HOUR/DAY/WEEK]** of work on the Work. Such aggregate payment shall be made by Employer to Musician not less than **[X DAYS]** days following the last day that the Musician worked on the Work.

**If non-monetary consideration:**

Consideration. Employer shall duly and justly compensate Musician in the form of **[INSERT CLEAR DESCRIPTION OF COMPENSATION HERE, MAKE SURE TO PROVIDE SPECIFIC EXAMPLES OF WHAT THE EMPLOYER IS REQUIRED TO DO TO FULFILL THE COMPENSATION REQUIREMENTS]**

1. Musician’s Representations and Warranties.

 a. Musician represents and warrants that Musician has obtained all rights, clearances, licenses, or other permissions necessary for the production of the Work, and that the Work does not infringe on the rights of any other person or entity, including any copyright or other intellectual property rights.

 b. Musician represents and warrants that Musician has the legal ability and standing to execute this Agreement without the consent and/or conflict with any other person or entity.

 c. Musician represents and warrants that it has not granted, nor will it attempt to grant in the future, any other person or entity any rights or interest in the Work or in the copyright in the Work.
2. Indemnification. Musician agrees to indemnify and hold harmless Employer from any claims, actions, suits, damages, or other costs arising out of any breach of the representations and warranties set forth in Section 4 above.
3. Independent Contractor. Musician is an independent contractor providing services to Employer, and is not an employee of Employer. Nothing in this Agreement is intended to create or demonstrate an employment relationship between Musician and Employer.
4. Further Acts. Musician agrees to carry out any further actions necessary to ensure that Employer secures the copyright and other intellectual property rights in the Work. delete ???

1. Governing Law. This Agreement shall be construed in accordance with, and governed in all respects by, the laws of the Commonwealth of Massachusetts, without regard to conflicts of law principles.
2. Counterparts. This Agreement may be executed in several counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one agreement.

10. Severability. If any part or parts of this Agreement shall be held unenforceable for any reason, the remainder of this Agreement shall continue in full force and effect. If any provision of this Agreement is deemed invalid or unenforceable by any court of competent jurisdiction, and if limiting such provision would make the provision valid, then such provision shall be deemed to be construed as so limited.

11. Notice. Any notice required or otherwise given pursuant to this Agreement shall be in writing and mailed certified return receipt requested, postage prepaid, or delivered by overnight delivery service, addressed as follows:

If to Employer:

**[EMPLOYER NOTICE ADDRESS]**

 If to Musician:

**[MUSICIAN NOTICE ADDRESS]**

12. Headings. The headings for section herein are for convenience only and shall not affect the meaning of the provisions of this Agreement.

13. Entire Agreement. This Agreement constitutes the entire agreement between Employer and Musician, and supersedes any prior understanding or representation of any kind preceding the date of this Agreement. There are no other promises, conditions, understandings or other agreements, whether oral or written, relating to the subject matter of this Agreement.

14. Confidentiality. Musician agrees to treat and hold in confidence and not disclose all Confidential Information that Musician may have obtained from Employer or any affiliate of the Employer as a result of working on the Work and in the performance of this Agreement. In the event that Musician is requested or required (by oral question or written request for information or documents in any legal proceeding, interrogatory, subpoena, civil investigative demand, or similar legal proceeding) to disclose any Confidential Information, Musician shall notify Employer promptly of the request or requirement. For the purposes of this Agreement, “Confidential Information” means (i) the terms and provisions of this Agreement and (ii) all confidential or trade secret information owned by Employer or any of its affiliates or licensed from third parties regarding (a) music, lyrics, songs, music concepts, lyric concepts and song concepts; (b) lists of artists, bands and concepts for an artist and/or band; (c) research, development, products, services, marketing, selling, business plans, budgets, unpublished financial statements, licenses, prices, costs, contracts and other agreements, suppliers, customers, and customer lists; (d) the identity, skills and compensation of employees, contractors, artists, writers and consultants; (e) specialized training; and (f) information related to Creative Material owned by Employer or any of its affiliates or licensed from third parties.. The term “Creative Material” means music; lyrics; songs; discoveries; developments; trade secrets; processes; formulas; data; lists; software programs; and all other works of authorship, mask works, ideas, concepts, know-how, designs, and techniques, whether or not any of the foregoing is or are patentable, copyrightable, or registrable under any intellectual property laws or industrial property laws in the United States or elsewhere.. Confidential Information shall not include any information (a) which is disclosed pursuant to subpoena or other legal process, (b) which has been publicly disclosed, or (c) which is subsequently disclosed to any third party not in breach of a confidentiality agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed the day and year first above written.

**EMPLOYER**

**[EMPLOYER NAME]** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**MUSICIAN**

**[MUSICIAN NAME]** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**WORK FOR HIRE SPECIFIC GLOSSARY**

**GENERAL CONTRACT KNOWLEDGE:**

**Work for Hire Agreement:** A work for hire is used to ensure that one company or person retains the full copyright ownership of a work when commissioning a person to contribute. In simpler words, a work for hire makes sure that a session player, background vocalist, etc. doesn’t have copyright claim to a work they’ve contributed to. This ensures that the work is entirely controlled by one, and that you can license your song on RAIDAR.

**Elements that make a contract valid:** Intent, Consideration and Capacity are needed for a contract to be valid... But what does that mean?

**Consideration:** Consideration within a contract basically means that there is an exchange of goods or services, that shows an understanding of the value of a service being offered.

**Capacity:** Capacity is a person’s legal ability to enter into a contract. There are a lot of things that make someone *non compos mentis,* or “of unsound mind,” and these include (but aren’t limited to):

* Age (minors under the age of 18 in most states must have a parent/legal guardian to sign off for them)
* Intoxication (people who sign a contract while intoxicated *can* be considered lacking capacity to enter into a contract. So have your celebratory beers after you sign that contract!)
* Mental Incapacity (mental capacity is usually determined by whether or not the person who signed understood the meaning and effect of the words comprising the contract. This usually comes into play when a signing party has a serious mental disorder.)

**Intent:** Intent refers to the mutual determination of parties to enter into the agreement, and it explains why you always see something like this at the beginning of a contract:

*THIS AGREEMENT is made this 14th (fourteenth) of June, 2020, by and between Jane Doe (“Employer”), and John Doe (“Musician”, and collectively, the “Parties”).*

*WHEREAS, Employer wishes to engage Musician to contribute to the work by writing original and creative melodies to be played and recorded as electric guitar parts to contribute to the musical whole (the “Work”) as a “work for hire”; and*

*WHEREAS, the Parties both intend for Employer to be considered the author of the Work for the purposes of all copyright and intellectual property issues, and for Employer to be the sole and exclusive owner of the copyright in the Work;*

*THEREFORE, in consideration of the mutual promises, covenants, warranties, and other good and valuable consideration set forth herein, the Parties agree as follows:*

These **clear statements of intent** set up the parties for an understanding of the general reasoning for the agreement, and acts almost like a thesis statement- telling the reader the main purpose of the contract.

**SPECIFIC TO THE CONTRACT:**

**Employer:** The person who will ultimately own the full copyright of the work. This is whoever is compensating the musician to contribute in some way to the musical work.

**Musician:** The person who is ceding their rights to copyright ownership in the work. This is whoever is getting compensated to contribute in some way to the musical work.

**Work:** the final musical piece which the musician is ceding their rights to ownership in, so that the Employer can own and control the work in full.

**Ramifications for the Employer:** When this work for hire has been signed, the Employer will have signed off to the following:

1. They understand that they are now considered to be the author of the work by Copyright Law.
2. They understand that they are now the owner and controller of the composition, meaning that they have the full right (and responsibility) to copyright renewal and registration.
3. They agree to compensate the Musician in exact accordance with the consideration outline in the contract.
4. They understand that the Musician, not them, is 100% financially responsible for any damages arising out of the “Representations and Warranties” clause.
5. They understand that the Musician is an independent contractor, and not an employee of them.
6. They understand that the stated location of Governing law will determine which set of laws will be used to govern the agreement if disputes arise

 **Ramifications for the Musician:** When this work for hire has been signed, the Musician will have signed off to the following:

1. They understand that they give up any claim to copyright ownership in the work they contribute to.
2. They agree that their stated consideration in the contract will be their full and only compensation for the services they provide.
3. They understand that the stated location of Governing law will determine which set of laws will be used to govern the agreement if disputes arise
4. They understand that they waive all moral rights in the work.
5. They understand that they must represent and warrant that they have the right to enter into this agreement. This includes having all proper licenses to contribute what they want to contribute to the work (this includes sample clearances), that they’re not currently in any other agreements that interfere with their work for the Employer, and that they will never attempt to grant rights or interest to another person or entity.
6. They understand they will be 100% financially responsible for any damages arising out of the “Representations and Warranties” clause.
7. They understand that they are an independent contractor, and not an employee of the Employer.
8. They understand that they are legally required to not disclose any confidential information as defined by the contract.

 **Moral Rights:** In places other than the US, creators may have “moral rights.” These rights ensure attribution when their work is used, and allows artists to object to use of their work when they feel use is harmful to their reputation. These rights include:

1. The Right of Attribution: The right of the creator to be credited when a work is copied or otherwise used.
2. The Right of Anonymity (or Pseudonymity): The right of the creator to not be attributed or to be attributed under a different name if they chose.
3. The Right of Integrity: The right to prevent uses of the work that might be offensive to the creator or harmful to their reputation

**Assignment of Rights:** Essentially, this clause ensures that if for some reason the work done by the musician can’t be considered a work for hire and is given joint ownership, the Musician *still* agrees to transfer over their copyright to the Employer. This clause clarifies that the copyright will be fully held by the Employer.

**Consideration:** In order for a contract to be valid, the Employer must provide the Musician consideration (also known as some sort of *compensation*). Consideration basically means that the Employer recognizes the value of the work the Musician has put in, and promises to do something for the Musician in return for their services. Consideration is usually given in the form of money, and although monetary compensation is of course the preferred form of consideration, if the Musician agrees, the Employer can also compensate them in other various forms, such as credit or promotion.

It’s essential, however, that if the Musician agrees to consideration in a form other than monetary, that they are clear and specific about their expectations for alternate consideration. For example, consideration in the form of social promotion might entail four social media posts of the Musician on x’s account, with a tag to their Instagram handle, and media and a caption mutually agreed upon by the Employer and Musician.

**Representations and Warranties:** A representation is an assertion that what you are signing to is factual and true. A warranty is a promise of indemnity if the assertion is false.

In other words, in this Work for Hire, as the Musician, you are asserting (a representation) that the work you have contributed to the piece is yours (for example, you’re not using any uncleared samples, plagiarized lyrics, etc.) and that you are legally able to carry out the agreement you’re signing on (you’re not in any other agreement that has to approve before you yourself sign, for example). The warranty makes sure that you’ll have to pay up if you’ve lied.

**Indemnification:** Indemnity is a contractual agreement between two parties where one party agrees to pay for potential losses or damages caused by another party. Basically, this contract means the musician will be 100% financially responsible for any damages arising out of the “Representations and Warranties” clause.

**Independent Contractor:** An independent contractor is a person who has been contracted to provide a service to another person as a nonemployee. This clause is here to show this is contracted work, and that there are no future expectations or requirements of the Musician or Employer to continue work together after the terms of this agreement have been fulfilled.

**Governing Law:** This clause clarifies which set of laws will be used to govern the agreement if disputes arise. Different commonwealths have different rules and laws, so it’s important that you know where thee agreement is governed, in case of dispute.

**Severability:** A severability clause in a contract states that its terms are independent of one another. This makes sure that the rest of the contract will remain in force even if a court decides one or more of its provisions is unenforceable.

**Notice:** This essentially tells both parties how to receive or send notices about contractual matters. A notice is the legal concept describing a requirement that a party be aware of legal processes affecting their rights, obligations or duties. For this clause, you’ll have to provide an address where you’d like to receive all notices, should they arise.

**Clause 13: Entire Agreement:** This clause has a very important subtext for the Musician. If the Employer told the Musician earlier that you’ll have joint ownership of the composition, you can’t use that claim later, as you’re signing that you understand previous “handshake agreements” are now void. This clause essentially means that you understand any and all prior agreements relating to copyright ownership of the work will be overridden and deemed invalid.

**Confidentiality:** A confidentiality clause legally binds a person to not disclose any confidential information, as defined within the agreement. In this contract, it encompasses any confidential information that may have (even accidentally) been disclosed by the Employer to the Musician. If for some legal reason the Musician *must* disclose information, the Musician is required to notify the Employer of this right away.

In this clause, you’ll find that there’s a long list that clearly outlines what is considered “Confidential Information.” Following the definition of what “Confidential Information” entails is a brief statement of what it *doesn’t* entail: information (a) which is disclosed pursuant to subpoena or other legal process, (b) which has been publicly disclosed, or (c) which is subsequently disclosed to any third party not in breach of a confidentiality agreement.

**Trade secrets:** Broadly, trade secrets include any type of confidential business information, ideas, formulas, designs, etc. that give a company or individual a competitive advantage.