

Music Licensing Representation Agreement

This agreement is made as of _____, 2013, by and between Newmusicfm.com LLC (hereinafter "Newmusic.fm ") with offices at 1157 3rd Avenue, New York, NY 10065 and _____ (hereinafter "Music Licensor"). Newmusic.fm and Music Licensor are sometimes hereinafter referred to collectively as the "Parties." This agreement includes: Summary of Terms below, and Terms & Conditions and Schedule A attached, and will collectively be referred to as the "Agreement."

Whereas, Newmusic.fm is on-line music licensing service that facilitates the sub-licensing of musical works in a wide variety of contexts, including, but not limited to, motion pictures, television programs, documentaries, commercials, video or electronic games, websites, multimedia projects, and compilations, and other audio or audiovisual projects

Music Licensor owns and/or represents musical works for licensing purposes and wishes for Newmusic.fm to pursue non-exclusive licenses.

The Parties agree as follows:

Summary of Terms

This Summary of Terms is for your convenience, but all the provisions in the **Terms & Conditions** below shall apply to our agreement.

1. Non-Exclusive Grant of Rights: Music Licensor grants Newmusic.fm the non-exclusive right to Represent Music Licensor for purposes of issuing Licenses for all Music Licensor's Music Work(s) throughout the Territory. Licensor retains the right to license the Music Works to third parties provided that Licensor shall not enter into an "exclusive" license such that the Musical Work could not be licensed by Newmusic.fm for another purpose.
2. Rate Card: Music Licensor acknowledges that Newmusic.fm may license the Musical Licensor's musical Work at the rates set forth in the attached rate card ("Rate Card") for the purposes and projects set forth in the Rate Card.
2. Term: The Term of this Agreement shall be two (2) years from the date above and shall continue indefinitely provided that Music Licensor 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.
3. Compensation: Newmusic.fm shall pay fifty percent (50%) of Gross Revenues actually received by Newmusic.fm minus Expenses ("License Payment") payable in accordance with the Terms and Conditions
4. Territory: The grant of rights in paragraph 1 above shall apply throughout the universe.

Initial: _____

5. Original work: All Musical Works submitted to Newmus.fm must be original, and be created by or controlled by the Music Licensor including the recording and underlying musical composition.

6. Music Licensor Information

Full Name _____

Mailing Address _____

Phone Number: _____

Email _____

**AGREED AND ACCEPTED BY:
NEWMUSIC.FM MUSIC, LLC**

MUSIC LICENSOR:

Authorized Signatory

Signature of Parent or Guardian if Music Licensor is Under 18

Print Name: _____

Title (if any): _____

****PLEASE INITIAL EACH PAGE ON INITIAL LINE****

Terms & Conditions

Initial: _____

1. Definitions

- a. **Musical Work(s)** is defined as the sound recordings and the underlying musical compositions that the Music Licensor owns, controls, represents, administers and/or are authorized to provide to Newmusic.fm. The Musical Work(s), listed in Schedule A are those submitted to Newmusic.fm in connection with this Agreement. The definition of Musical Work shall also include all photographs and likenesses of the Music Licensor, the recording artist(s) and songwriter(s), and all musical, artistic literary material (including liner notes, song titles and other metadata), and all other intellectual property connected with the Musical Work(s), including associated names and logos. It is understood that aside from the non-exclusive rights granted to Newmusic.fm in this Agreement, the Music Licensor shall retain all other rights in the Musical Work including the copyrights therein.
- b. **Represent** is defined as copying, distributing, marketing and promoting the use of the Musical Works(s) and services to the general public and potential licensees, and to include the musical Work(s) on any website and controlled by Newmusic.fm, and to offer for license to others and license to third parties the Musical Work(s) listed in Schedule A.
- c. **Licenses** is defined as contracts issued by Newmusic.fm permitting third parties to use Musical Works for any purpose now known or hereafter devised including, but not limited to the projects described in the attached Rate Card. For avoidance of doubt if Newmusic.fm shall have the right to license a Musical Work for a kind of project not listed in the Rate Card such as podcasts, webcasting or Internet Streaming, lyric re-prints and ring-tones or ring-backs. In such event, Newmusic.fm shall have sole discretion to negotiate the terms of such License. Newmusic.fm shall have the right to re-record the Musical Work and to make a new musical arrangement of the musical work provided that it does not change the basic melody, fundamental character or the lyrics of the composition, provided that it may License the Musical Work with or without the lyrics and be permitted to entitle the sub-licensee to change the lyrics, or to use the existing lyrics independently of the musical work. Newmusic shall also be entitled to License a portion of the Musical Work without licensing the Musical Work in its entirety. Newmusic.fm 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 Newmusic.fm, 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

Initial: _____

Licensors, 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.

- d. **Gross Revenues** is defined as any monies actually received by Newmusic from a License.
- e. **Expenses** is defined as any sales taxes, transactional costs (to PayPal) payable by Newmusic.fm, and costs associated with collecting monies owed by a sub-licensee in connection with a particular Musical Work, including collection agency fees or attorneys' fees, and if needed Newmusic.fm's legal fees to negotiate this Agreement. For the avoidance of doubt, Music Licensor shall be responsible for any taxes due in connection with the Licensor's receipt of License Payments from Newmusic.fm and Newmusic.fm shall not be responsible for any taxes which Licensor is obligated to pay.

2. Registration

- a. Music Licensor shall be responsible for, and required to, register the musical compositions embodied in the Musical Works(s) with a Performing Rights Organization ("PRO"), that is, ASCAP, BMI or SESAC in the United States, or the official PRO in any foreign country.
- b. In the event that Newmusic.fm enters into a License for the Musical Work(s), Newmusic.fm will add a registration with the appropriate PRO for the Musical Work(s) with a tag. For instance, if the name of the Musical Work is "The River," Newmusic.fm will reregister the Musical Work at the same PRO as "The River-Newmusic.fm." With respect to such reregistration, Newmusic.fm shall be the publisher. Licensor hereby authorizes Newmusic.fm to reregister the Musical Work(s) for the purposes set forth in this paragraph, and hereby grants Newmusic.fm power of attorney to implement such reregistration on its behalf. For placements that Newmusic.fm Music secures, Newmusic.fm Music 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.
- c. Newmusic.fm reserves the right to register the Musical Work(s) at SoundExchange for purposes of collecting royalties for the use of the sound recording embodied in the Musical Work on Internet radio or Satellite radio (Sirius/XM), or any other format licensed by SoundExchange. Any royalties payable by Sound Exchange shall be subject to 50-50 division of Gross Revenues set forth in the Summary of Terms.

3. Termination of Agreement

Initial: _____

- a. Notwithstanding anything to the contrary in the summary of Terms, if Music licensor decides to cancel this agreement upon ninety (90) days notice, the Term shall be extended in regard to any Musical Work that Newmusic.fm is currently negotiating a deal for in case such negotiation takes longer than ninety (90) days. Newmusic.fm may terminate this Agreement, with or without cause, at any time during the Term, upon notice to Music Licensor.
- b. Newmusic.fm shall have the right to take down from its website and Soundcloud account any Musical Work for any reason upon notice to Music Licensor.

4. Representations and Warranties

- a. Licensor hereby represents and warrants that Licensor is the sole and exclusive owner of any and all rights in and to Musical Work(s) 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 Newmusic.fm use of the Musical Work(s) as set forth in this Agreement. Licensor represents and warrants that Licensor is free to enter into and abide by the terms of this Agreement and that Licensor owns and/or controls all necessary rights required to legally provide/license/offer the Musical Work(s) submitted to Newmusic.fm in accordance with the terms of this Agreement. Licensor represent and warrants that Musical Work(s) do not contain: samples, covers, or any part of another's copyright 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 royalty payments arising from Newmusic.fm's use of the Musical Work(s) as described in this Agreement. "Cleared" shall mean all copyrights in the sound recordings, including the underlying compositions, are authorized by Music Licensor for Licensing to, for and by Newmusic.fm under the terms of this Agreement and Music Licensor owns, controls, administers and/or has the authority to authorize the uses of the copyrights in the Musical Work(s) subject to this Agreement. Newmusic.fm shall use a tag line in promotional materials that will read as follows: "Original songs pre-cleared for film, television, new media and advertising," provided that Newmusic.fm may modify such tag line from time to time.
- c. Licensor hereby expressly warrants and represents that Licensor is and shall be solely responsible for any and all applicable royalties or other fees due to the holder(s) of any rights (or sub-rights) in and to any Musical Work(s) by reason of any use of the Musical Work(s) as authorized in this Agreement. Licensor further agrees to and shall indemnify and hold Newmusic.fm Music, LLC (and its owners, officers, directors, employees,

Initial: _____

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 services of the artists, musicians, song writers, and any other rights holder(s) whose Musical Work(s) (or a portion of whose work) Licensor allows Juxtapose to license.

- d. Licensor further warrants and represents that there are no liens, encumbrances and/or obligations upon and/or in connection with any Musical Work(s) including any musical composition embodied therein. In addition, Licensor represents that they are free to enter into and abide by the terms of this agreement and has the right to make each and all of the grants herein made to Newmusic.fm, and that no person, form or corporation has any right, title or interest in or to the Musical Work(s) as defined herein, that are inconsistent with the Licensor's grant of rights to Newmusic.fm Music, LLC.
- 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 Newmusic.fm. Consent shall not be unreasonably withheld. Any such purported assignment without consent is null and void.
- f. Music Licensor is responsible for notifying Newmusic.fm in writing in the event Music Licensor no longer represents 100% of the rights of Musical Works(s) and/or enters into any conflicting agreement.
- h. **ARTIST CURRENTLY IS NOT BOUND BY AN EXCLUSIVE AGREEMENT WITH ANY RECORD COMPANY AND ARTIST DOES NOT REQUIRE THE PERMISSION OR ANY OTHER PARTY TO ENTER INTO THIS AGREEMENT.** Artist shall provide Newmusic.fm immediate notice if it enters into an exclusive agreement with any record label.
- i. Artist shall indemnify and defend Newmusic.fm and hold Newmusic.fm harmless from and against any and all costs, liabilities, losses, damages and expenses arising out of any claims, actions, suits, or proceedings of any kind from any third party claim relating to (i) a breach of Artist's warranties and/or duties under this Agreement, (ii) any claim for royalties and/or infringement of copyright, trademark, patent or other intellectual property rights or (iii) any third party claims arising out of Artist's conduct or representations under this Agreement. Further, in the event that a third party infringement claim is brought, Newmusic.fm shall have no obligation hereunder to defend or protect Artist's copyright interests.
- j. **NEWMUSIC.FM MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

Initial: _____

- k. **Limitations on Liability.** Newmusic.fm makes no warranty with respect to the accuracy or effectiveness of the Newmusic.fm website, including content contained therein, nor any errors or problems of any kind that may arise from the website. Newmusic.fm shall not be responsible for losses, damages, costs, or expenses of any kind resulting from the use or distribution of the Work by Newmusic.fm or use by any consumer or end-user. This includes, without limitation, any liability for business expenses or damages experienced by Artist or any third persons as a result of any deficiency, defect, error, or malfunction with the Website or the transfer or distribution of the Work. Newmusic.fm shall not be liable for any indirect, special, incidental, or consequential damages relating to or arising out of the subject matter of this Agreement.

5. Accounting and Payments

- a. License Payments due to Music Licensor will be paid 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 Newmusic.fm.
- b. All payment due to music Licensor shall be made by PayPal and Music Licensor is responsible for initiating a PayPal account. Notwithstanding the forgoing (i) Newmusic.fm may consider Music licensor's request for payment in a different manner, for example, by check or electronic deposit, but Music Licensor must secure Newmusic.fm's prior written approval; (ii) Newmusicfm.com may change the manner of payment from PayPal to another manner of payment upon notice to Music Licensor.
- c. Newmusic.fm will accumulate amounts payable to Music Licensor until Music Licensor's account balance reaches \$10.00 at which time Newmusic.fm will pay Music Licensor according to the normal distribution schedule listed in this paragraph 5. In the event Music Licensor or Newmusic.fm elects to terminated this agreement, all monies owed to Music Licensor will be paid upon termination regardless of account balances.
- d. 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 Newmusic.fm.

6. Content Delivery, Marketing & Promotion

- a. Music Licensor agrees to deliver the Musical Works and all associated metadata in accordance with Newmusic.fm's instructions as provided in the Newmusic.fm's website. It is understood that Newmusic.fm currently uses a Soundcloud account for the purposes of permitting users to listen to the Musical Work. Music Licensor shall also be

Initial: _____

responsible for delivery of the Musical Work at to any sub-licensee in the format specified by the sub-licensee.

- b. Music Licensor will make reasonable efforts to promote its association with Newmusic.fm and the availability of its Music Works in the Newmusic.fm website including websites controlled by the Music Licensor and the Facebook and Twitter accounts controlled by Licensor.
- 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 Newmusic.fm's instructions.
- d. Music Licensor may submit videos or video footage to Newmusic.fm to promote the Musical Work provided that Newmusic.fm shall have the right to use or not to use said videos. Newmusic shall further have the right to display such videos in its site or its Youtube account.

7. Song Selection

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

8. Website

- a. Musical Licensor grants the right to Newmusic.fm the right to allow users of its website, including potential sub-licensees to listen to any Musical Work up to its entirety for private listening purposes. Newmusic.fm shall include in its Terms and Conditions with users, that they shall not be permitted to download the Musical Work.
- b. Newmusic.fm shall be entitled to stream loops of the songs including the Musical work in playlists to promote the Site and/or the Musical Work.
- c. Newmusic.fm shall have the right to allow third parties to publicly stream such loops as background music for its business provided that if Newmusic.fm enters into such a license Newmusic.fm shall pay the Music Licensor a License Fee for the Musical Work pro-rated by the number of performances of the musical Work divided by the number of performances of other songs.
- d. With respect to the use of the musical work on the site, Music Licensor grants to Newmusic.fm a gratis license to publicly perform both the recording and the underlying

Initial: _____

song embodied in the Music Work., and Newmusic.fm shall have no obligation to secure a license from a public performance organization such as ASCAP or BMI.

- e. If Newmusic.fm receives advertising or sponsorship revenues, Musical Licensor shall not be entitled to share in such revenue unless the advertiser or sponsor wishes to use the musical work to directly endorse its products or services.

9. Notice

a. Any official notice required under this Agreement shall be made by physical delivery to the addresses above, or by email delivered to Newmusic.fm at info@newmusic.fm and to Music Licensor to the email address provided above, provided that each party can change such physical address or email address for the purposes of the Agreement by written notice to the party.

b. Music Licensor is responsible for notifying Newmusic.fm in writing if Music Licensor's PayPal account information, i.e., the email address and/or physical address changes.

10. General Provisions

- a. If either party breached 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 30 days, the breach has not been cured or a resolution has not been made, the non-breaching party may terminate the Agreement.
- b. Newmusic.fm Music reserves the right to refuse or cease representing the Musical Works of Music Licensor and/or any Rights Holder at any time for any reason whatsoever.
- c. This Agreement, and any dispute in connection with this Agreement, shall be governed by the laws of the State of New York without regard to conflicts of laws provisions and as if the contract was to be performed entirely in the State of New York, provided that the courts of the state in which Newmusic.fm has its corporate headquarters at the time that any action is brought in connection with this Agreement, shall have exclusive jurisdiction over such dispute.
- d. This Agreement and all rights and obligations hereunder will be binding upon the successors, licensees and assigns of each party.

Initial: _____

- e. Newmusic.fm LLC will not be liable for indirect, incidental, special, punitive, statutory or consequential damages, even if advised of the possibility thereof, in connection with any breach of this Agreement.
- f. The parties agree that this Agreement is the complete and exclusive statement thereof between the parties. This Agreement may not be modified or altered except in writing signed by both parties.
- g. **Waiver and Severability.** The failure of either party to require performance by the other party of any provision hereof shall not affect the full right to require such performance at any time thereafter; nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of the provision itself. In the event that any provision of this Agreement shall be unenforceable or invalid under any applicable law or be so held by applicable court decision, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole, and in such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such provisions within the limits of applicable law or applicable court decisions.
- h. Newmusic.fm shall have a right to assign this agreement including its rights and/or obligations to a third party.
- i. **ARTIST HEREBY ACKNOWLEDGES THAT ARIST HAS BEEN ADVISED TO SEEK AND RECEIVE LEGAL ADVICE FROM INDEPENDENT COUNSEL WITH RESPECT TO THE TERMS AND PROVISIONS OF THIS AGREEMENT. ARTIST HAS EITHER CONSULTED WITH SUCH ATTORNEY OR HAS WAIVED SUCH RIGHT AND DECIDED TO ENTER INTO THIS AGREEMENT FREELY HAVING READ AND AGREED TO EACH AND EVERY PROVISION HERETO.**

ACCEPTED AND AGREED:

MUSIC LICENSOR

Print name: _____

SS# _____

NEWMUSIC.FM LLC

Authorized Signatory

Initial: _____

Initial: _____