

Sample Commissioning Agreement: Orchestral Work

COMMISSIONING AGREEMENT

For

COMPOSER NAME

This document constitutes the agreement between _____ (the “Orchestra”), _____ (the “Composer”) and _____ (the “Publisher”) for the preparation by the Composer of an original work (the “Work”) for the Orchestra.

- 1) Composer agrees to write the Work of approximately ____ (__) minutes duration for Orchestra (see attachment A for instrumentation).
- 2) The premiere performance of the Work is scheduled for _____, during the Orchestra’s 20__-20__ Subscription Season.
- 3) The Orchestra’s payment hereunder is \$_____ (__dollars) payable by check or wire transfer as follows:
 - (a) \$_____ (__dollars) to Composer within 10 (ten) days of execution of this agreement by all parties hereto.
 - (b) \$_____ (__dollars) to Composer upon delivery of the completed solo part and score of the Work, such copy to be clean and ready for reproduction, and to be delivered to the Orchestra not later than (date).
- 4) The fee described in Paragraph 3 shall include (without any rental or royalty payments to Composer, Composer’s publisher, or others with rights deriving from Composer except for the payment referred to in paragraph 10 below) the premiere performance plus any other performances occurring within the period of 14 (fourteen) months from the premiere performance, and radio and/or television broadcast of any of these performances.

The Orchestra shall have the right to record the Composer’s performance(s) at Orchestra Hall on __ (_____ [perf. dates]) for delayed broadcast of the program over public radio stations in the United States and Puerto Rico. Public stations shall have the option of a one-time-only tape-delayed broadcast which shall occur no later than twelve months following the last performance taped. The sole exception to these provisions for tape-delayed broadcast is that the Orchestra shall have the right to provide live the Composer’s performance on _____ (_____ [perf. dates]) for a one-time, live regional broadcast over the member stations of National Public Radio. It is agreed that payment for these rights of broadcast are included in the Composer’s above designated compensation.

- 5) Performances which take place after the period listed in Paragraph 4 shall be subject to customary rental or royalty rates. Orchestra shall always have the right to perform the Work subject to making the payment specified in the preceding sentence.

- 6) Composer agrees to travel to Orchestra City, to be present during the rehearsal of the Work, and attend the premiere of the Work. Composer's travel schedule and duration of stay in Orchestra City for purposes of this paragraph will be determined by mutual agreement between Orchestra and Composer no later than _____ ([date]). Orchestra will assume the expense of airfare to and from Orchestra City, the ticket for such coach-class air travel to be acquired by the Orchestra. Orchestra will also assume the expense of hotel accommodations in the hotel normally used by the Orchestra for visiting artists, if required by Composer, for up to (number) nights, in Orchestra City, such accommodations to be booked by the Orchestra. Funds for hotel accommodations are allocated solely to cover actual accommodation expenses as may be incurred by Composer for the purposes of assisting with and attending the premiere of the Work, and are not transferable or payable in cash to the Composer. A sum of \$_____ (___dollars) honorarium will be paid to Composer as per diem during his stay in Orchestra City.
- 7) For the same period listed in Paragraph 4, the Orchestra shall have the right of first refusal of
 - (a) any form of recording of the Work, and
 - (b) the first performance of the Work in any city where the Orchestra appears on tour.
- 8) The copyright shall remain the property of the Composer or Publisher, as their respective interest may appear. The Orchestra shall have no responsibility or duty in respect of obtaining or maintaining a copyright or other indicia of ownership in respect of the Work.
- 9) The Orchestra agrees to pay up to \$_____ (___ dollars) upon receipt of copies of invoices for music preparation including extraction and copying of parts, and reproduction of three scores and one complete set of orchestra parts which shall retained by the Orchestra on permanent loan for its exclusive use, subject to the terms of Paragraphs 3, 4, and 5. The original score and masters of orchestra parts shall be returned to and remain the property of the Composer or his/her designee. The orchestral material being retained by the Orchestra shall be for its sole and exclusive use, subject to the terms of Paragraphs 3, 4, and 5, and shall not be given, loaned, sold, or rented to any other party without the expressed written consent of the copyright owner.
- 10) There shall be no additional performing rights or royalty fees payable for the performance described in Paragraph 4 beyond those covered by ASCAP, BMI, SESAC and those set forth herein.
- 11) The original score and all published editions shall bear on the title page an inscription to be specified by the Orchestra no later than _____ ([date]).
- 12) If for any cause beyond the control of the Composer such as, but not limited to, illness or accident, the Composer is unable to fulfill the terms of this commission, Composer's sole liability to Orchestra shall be the refund of the commission fees paid. If, for any reason, the terms of this commission are not fulfilled by Composer according to the schedule in Paragraph 3, all monies paid by the Orchestra to Composer shall be returned to Orchestra in which event neither party hereto shall be under any further obligation to the other party, unless a revised version of score delivery and/or fee payment, mutually acceptable to Composer and Orchestra, can be agreed to on or before the date scheduled in Paragraph 3.
- 13) Composer warrants that the Composer has the authority to enter into this agreement.

- 14) Composer shall, from time to time, report to the Orchestra on the status of the composition of the Work. Composer shall reply to reasonable requests from the Orchestra on the status of the Work.
- 15) This agreement constitutes the entire agreement among the parties hereto. Any amendments to this agreement must be in writing, and must carry the written consent of both parties hereto.
- 16) This agreement will be governed by and construed under the laws of the State of _____.

AGREED AND ACCEPTED

ORCHESTRA NAME

by

[Orchestra Executive]

Date _____

COMPOSER

(composer name)

Date _____

PUBLISHER

(publisher name)

Date _____

Commissioning Agreement for
COMPOSER NAME

Attachment A

Maximum Standard Complement of the Orchestra - SAMPLE

<u>Instruments</u>	<u>Maximum Number</u>	<u>Stipulations</u>
Flutes/Piccolo	4	If Piccolo is a doubling part, it should combine with the lowest Flute part.
Oboes/English Horn	4	If English Horn is doubling a part, it should combine with the lowest Oboe part.
Clarinet/Bass Clarinet	4	If Bass Clarinet is a doubling part, it should combine with the lowest Clarinet part.
Bassoon/Contrabassoon	4	If a Contrabassoon is a doubling part, it should combine with the lowest Bassoon part.
Horns	4	
Trumpets	4	
Trombones	3	3rd Trombone is Bass Trombone.
Tuba	1	
Timpani	1	No percussion in Timpani part.
Percussion	3	No more than 2 mallet parts at one time.
Harp	1	
Piano/Celesta	1	No Organ or Harpsichord.
String parts required	11-9-8-7-5	Numbers are stands/desks, not players.