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# Anatomy of a **Commission** **Discussion Guide**



## About **American Composers Forum**

**ACF supports and advocates for individuals and groups creating music today by demonstrating the vitality and relevance of their art. We connect artists with collaborators, organizations, audiences, and resources. Through storytelling, publications, recordings, hosted gatherings, and industry leadership, we activate equitable opportunities for artists. We provide direct funding and mentorship to a broad and diverse field of music creators, highlighting those who have been historically excluded from participation.**

Founded in 1973 by composers Libby Larsen and Stephen Paulus as the Minnesota Composers Forum, the organization continues to invest in its Minnesota home while connecting artists and advocates across the United States, its territories, and beyond. ACF frames our work with a focus on racial equity and includes within that scope, but does not limit it to: diverse gender identities, musical approaches and perspectives, religions, ages, (dis)abilities, cultures, backgrounds, sexual orientations, and broad definitions of “American.” Visit [www.composersforum.org](http://www.composersforum.org) for more information.

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# Anatomy of a **Commission Discussion Guide**

Designed for both music creators and their collaborators, “Anatomy of a Commission” is a digital resource that aims to increase transparency about the commissioning process.

 **The primary purpose of this Discussion Guide is to provide a shared resource for commissioners and composers to discuss terms regarding the commissioning of a new concert work for large ensemble.**

The document can function as a checklist to help guide discussions of surface goals, objectives, and expectations. We view this Discussion Guide as a toolkit to be used during the development stage of the commissioning process, when preliminary discussions about the creation and funding of a new work are taking place.

American Composers Forum led the process of creating this Discussion Guide with input from music lawyer Ari Solotoff in consultation with ACF staff, our partners, and an initial cohort of composers, publishers, and industry leaders.

This document is not intended to serve as a substitute for professional legal advice. The specific circumstances leading to a commission will differ in every instance, resulting in the need for a variety of formal contract terms. Readers are encouraged to seek out and consult with a legal advisor or other music publishing professional when working with these materials.

# The **Five** **Stages** of the **Commissioning** **Process**

Within the Anatomy of a Commission project, we imagine that the life cycle of a new work includes five stages:

- 1 The Development Stage**, when preliminary discussions are taking place between the composer and commissioner regarding the creation and funding of a new work.
- 2 The Contract Stage**, when the parties begin to align on the vision, artistic elements, timelines, and other material terms for the commissioning project.
- 3 The Preparation and Delivery Stage**, when the composer is focused on creating, composing, and delivering the commissioned work. This stage may also include readings and workshops.
- 4 The Premiere Stage**, when the work is given its first rehearsals and public performances.
- 5 The Post-Premiere Stage**, when subsequent performances, regional premieres, and the first recordings of the work may take place.

# The **Who**

**A good first step in the commissioning process is to be clear on all of the parties who will be involved.** Who is coming together to produce the commission and help bring this new project to life? Who will be supporting the development, funding, and production of the commission? Who is taking the lead, and what are their responsibilities?

## **Composer**

Specify the composer's name, contact information, and affiliated performing rights organization (ASCAP, BMI, etc.).

## **Publisher or Composer Representative**

If the composer is represented by a music publisher or another agent, identify the applicable party and primary contact(s). Even a self-published composer may be working with third party representatives.

## **Commissioner**

A commissioner may be acting alone or working as part of a consortium. Specify who is acting as the "lead commissioner" (the "lead commissioner" is often the producer of the world premiere of the work).

## **Co-Commissioners**

List the names of co-commissioners, if applicable, and specify whether the lead commissioner or the composer is responsible for securing co-commissioners.

## **Attached Artists**

Specify the names of attached artists, who may have a specific role in the project's future (e.g., a concerto written for a specific soloist). Attached artists can include ensembles, a particular conductor or soloist(s), and other creative contributors who are helping to champion, develop, workshop, or perform the commissioned work.

# The **What**

## **Premiere/Performance Dates and Venues**

Specify the anticipated world premiere and regional performance date(s), cities, and venues for the work.

### **Sample Language for Documenting World Premiere and Regional Premiere Terms**

*The World Premiere is scheduled to be presented during the 202X-202X season and for performances to take place at [Venue] (the “World Premiere”).*

*The [Regional] Premiere is scheduled for 202X-202X season in [City] at [Venue] (the “Regional Premiere”).*

### **Instrumentation**

List proposed instrumentation for the work, soloists, choral elements, or any other key artistic elements. Identify any electronics or other visual or special effects that may be contemplated as part of the work. The parties may wish to specify a “not-to-exceed” instrumentation here.

### **Duration**

Identify the approximate duration, or a range of duration in time, for the work.

### **Third-Party Underlying Rights**

If the work is based on, incorporates, or adapts any pre-existing material, identify any underlying rights that may need to be secured in connection with the literary work, poetry or textual material, life story rights, or other adaptation rights. The parties should specify who will take responsibility for securing any underlying rights.

# The **Why**

**In addition to documenting the basic elements of the commission (i.e., instrumentation, duration, etc.), it's important to discuss and document the motivation behind the commissioning project.**

For example:

- What circumstances are giving rise to the development of this new work?
- Is the composition responding to a historic event, community issue, or topical idea?
- Is the work a celebration, or a memorialization dedicated to a member of the community?
- What are the social impact goals of this project, if any?

## **Artistic Objectives**

The composer and commissioner may wish to collaborate on drafting a description of the context and circumstances giving rise to the new work.

Consider the following questions:

- What are the creative and artistic goals for the commission?
- What are the other anticipated musical works on the program?
- Where will this work be placed on the program, and why?

## **Social Impact Goals**

Identify whether there are motivations or objectives for the commission that are grounded in broader social impact goals. We recommend being explicit about context – such as certain themes framing the piece – and including how that context will be supported through other channels (i.e., marketing; education and community engagement).

## **Cultural Property Acknowledgement**

If the work is going to incorporate or reference material that is considered traditional cultural property, the composer and commissioner may wish to document this information in a corresponding cultural property acknowledgement that can be included in future materials.

# Development Materials and Fees

An often-overlooked mechanism to help incubate new commissioning projects is to provide the composer with funding to support the creation of “development materials.” Development materials may include a written description of the proposed work, initial artistic concepts, early ideas about featured artistic collaborators, or any other materials that might be used to help pitch the project to other artists, co-commissioning parties, and/or funders.

When including the creation of development materials in the project timeline, the relative risk to the commissioner is low, and the composer is given the opportunity to dedicate real, meaningful time to envisioning the work before fully committing to the commission.

Providing the composer with a development fee to create these materials supports a more equitable arrangement so that the composer is not rendering creative services for free, especially if the project or commission does not move forward.

The parties may wish to prepare separate documentation that would solely address the creation, delivery, compensation, exclusivity, ownership, and confidentiality terms in connection with preparing development materials.

## Sample Language for Documenting a Development Fee for Preparation of Development Materials

*Commissioner shall pay **[\$TBD]** (the “Development Fee”) to Composer to render services and to prepare development materials, which may include a written description of the Work, initial concepts, or other materials necessary to assist the parties in determining whether to proceed and identifying Co-Commissioners and/or other funders (“Development Materials”).*

*Said Development Fee shall be payable to Composer:*

- **[\$TBD]** by **[Date]**;
- Remaining **[\$TBD]** upon delivery of the Development Materials.

*Composer shall retain ownership of the Development Materials. If Composer and Commissioner are unable to secure the funding necessary for the commission within **[X months of delivery of the Development Materials]**, the Composer is free to pitch the concept to other potential commissioning parties.*



# Funding

**Commissions may be funded from organizational operating funds, designated philanthropic support from one or more donors (individual and/or institutional), restricted endowment funds, or a combination of sources.**

Funding can also vary at different stages of the commissioning process. For example, a composer and commissioner may seek funding solely for the creation of development materials. Alternatively, a project that proceeds directly to the commissioning of a new work may include funding commitments from co-commissioners.

If special funding circumstances surround a commission, the parties may wish to credit and identify any donors, endowed funds, or other funding partners.

## Sample Language Documenting Funding Credits

*This commission is being underwritten through the support of **[Commissioner]’s [Insert Name of Fund]**, which was endowed by **[Donor]** for the purpose of supporting new works by living composers.*

If the commission is part of a consortium, identify the respective financial commitment of the lead commissioner and co-commissioners in the composer’s contract.

## Sample Language Documenting the Financial Commitment of the Lead Commissioner and Co-Commissioner(s)

*Lead Commissioner will contribute **[\$TBD]** to the commission.*

*Co-Commissioner 1 will contribute **[\$TBD]** to the commission.*

*Co-Commissioner 2 will contribute **[\$TBD]** to the commission.*

# Composer Contract: Fees, Payment Terms, and Other Reimbursements

Commissioning fees are payments made to the composer specifically for the composer to render composing services and to deliver the new work. The composer's fee may be negotiated based on the duration of the piece (i.e., per minute), size of instrumentation, delivery timelines, or any combination of these and other factors.

Typically, commissioning fees are paid in multiple installments: 1) an initial payment upon signing a commission agreement; 2) progress payments (if applicable); and 3) a final payment due upon delivery of the score and parts.

The parties may also choose to include reimbursement of travel expenses for the composer to attend the world premiere or any other events during the commissioning process.

## Sample Language Describing the Payment of a Composer's Fee in Installments

*In consideration of Composer's acceptance of Commissioner's commission, Commissioner shall pay **[\$TBD]** to Composer (the "Fee"). The Fee shall be payable within **[X]** days of signing of this agreement; and **[\$TBD]** upon delivery of the **[manuscript score / score and performance materials]**.*

Determining an equitable commissioning fee is a complex conversation that is too large to address within the context of this discussion guide. We look forward to adding more resources on this topic to the Anatomy of a Commission series.

For more insight on commissioning fees, we recommend the following essays, written by composers.

Stephanie Ann Boyd, "[Anatomy of a Commission: A Composer's Guide to Orchestra Commissions](#)"

Gemma Peacocke, "[Anatomy of a Commission: Transcending a Capitalist Valuation of Commissioning Fees](#)"

Yaz Lancaster, "[Anatomy of a Commission: Building an Accessible and Community-Focused Practice](#)"

# Composer Contract: Readings, Workshops, and Rehearsals

By including readings and workshops in the composer's contract, the parties can create more space for refining the work before its eventual premiere. As materials are taking shape, readings and workshops can provide beneficial opportunities for the composer to experiment with new ideas and try out initial concepts, while providing the commissioner with greater insight into the work's progress and development.

In addition, the parties can specify whether the composer will be given additional rehearsal time for the work in advance of the world premiere. Providing such an opportunity could enhance the overall reception of the work.

If the project includes an opportunity for the composer to workshop the commission, it may be necessary to document terms for the preparation of workshop materials.

## Sample Language for Documenting Preparation of Workshop Materials

*Commissioner shall pay **[\$TBD]** (the "Workshop Fee") to Composer to render services to prepare workshop materials for readings of the Work scheduled for **[Date]** (the "Workshop Materials").*

*Said Workshop Fee shall be payable to Composer:*

- **[\$TBD]** by **[Date]**
- Remaining **[\$TBD]** upon delivery of the Workshop Materials.

*The Composer shall retain ownership of the Workshop Materials. Commissioner agrees to supply Composer with an audio recording of the Workshop readings of the Work solely for Composer's personal use.*

# Composer Contract: Preparation and Delivery of Performance Materials

Performance materials include printed scores and physical parts, in addition to any other deliverables that may be part of an interdisciplinary work.

Specify who is responsible for the costs of preparing the performance materials, including engraving, parts extraction, printing, and shipping. The composer's fee may be negotiated as an all-in "package fee" that includes funds for composing services, parts preparation, and copying costs. In this instance, the composer remains responsible for the costs associated with preparing and delivering the performance materials.

If the composer lends the scores and physical parts to the commissioner, consider how and when the materials will be returned and who will bear the costs of shipping.

Alternatively, a composer may wish to negotiate a fee where the parts are delivered to the commissioner in a digital format and the commissioner takes responsibility for printing, reproducing, and distributing the physical parts – with the understanding that the commissioner may retain ownership of the printed materials, subject to separate rental fees and reporting of public performances.

Upon delivery, the general expectation is that the composer/publisher retains ownership of the performance materials, but may agree to provide the commissioner with a specified number of full scores to retain in its archives.

## Sample Language for Documenting Timelines for Delivery

*The parties agree that the timelines for delivery shall be as follows:*

- *Reading/Workshop Materials (if applicable) by **[Date]***
- *Final manuscript of the score by **[Date]**\**
- *Title of the Work by **[Date]***
- *Performance Materials by **[Date]**, which date shall be no less than **[X]** days before the commissioner's first rehearsal.*

**\*Special Note:** For copyright purposes, delivery of the final score and parts to the commissioner may trigger "publication" under copyright law. Composers should take note of this date for purposes of evaluating copyright registration considerations.

# Composer Contract: Grant of Rights

A core feature of a composer's contract is the grant of rights, which provides contract and intellectual property rights to the commissioner for the world premiere performance, subsequent performances, and recordings. The composer frequently reserves all other rights not expressly granted, including copyright ownership of the resulting work.

## Exclusivity

By contract, the composer may specify who holds the exclusive right to present and perform the world premiere of the new work. In addition, the composer and commissioner may determine whether the commissioner has the exclusive right to present or perform the work for a fixed period of time, after which any party is free to perform the work at the composer's discretion.

## Sample Language Documenting the Grant of Rights

*In consideration for payment of the Fee, Composer grants commissioner the following rights:*

- *The exclusive right to present and perform the world premiere public performance(s) of the work;*
- *The **[exclusive / non-exclusive]** right to present and perform additional live performances of the work **[with or without payment of additional rental fees]** for **[a period of X months]** following the world premiere.*

## Non-Commercial Audio Recording Rights

Composers may choose to grant rights for the commissioner to make, capture, record, and authorize non-commercial recordings of the work in audio-only formats, with or without additional compensation.

## Continued: Composer Contract: Grant of Rights

### Sample Language Documenting Non-Commercial Audio Recording Rights

Composer further grants commissioner the following non-exclusive rights:

- **Audio Archival Capture:** *The right to capture and record rehearsals and performances of the work in the form of archival sound recordings that may be stored and encoded by the commissioner for future use.*
- **Terrestrial Radio Broadcast:** *The right to authorize a live or delayed terrestrial radio broadcast on a local radio station for a period of time not to exceed [X] months.*
- **Non-Commercial Audio Streaming:** *For a period of time not to exceed [X] months, the right to make an audio recording of the work available on the commissioner’s website or a third-party website for “on-demand audio streaming,” on the condition that commissioner or such third party maintains digital public performance licenses, audio streaming is not behind a paywall, and audio streams are not available for download.*

### Commercial Audio Recording Rights

The composer may grant the commissioner the right to manufacture, reproduce, and distribute the first full-length commercial audio recording of the work for a designated period of time following the date of the world premiere.

Under US copyright law, the composer of a musical work holds the exclusive right and authority to determine when the first recording of the work is distributed to the public as part of a manufactured physical product or digitally (i.e., permanent downloads, limited downloads, or interactive streams). Once the first authorized sound recording has been made, any party may secure a mechanical license to manufacture and reproduce recordings of the work, subject to payment of applicable mechanical licensing fees.

In the event that the commissioner exercises this commercial recording option, the parties can negotiate a separate agreement.

### Audiovisual Recording Rights (i.e., Synchronization Rights)

As with audio-only recordings, composers can similarly grant rights to make, capture, record, and synchronize the work in connection with audiovisual uses.

## Continued: Composer Contract: Grant of Rights

### Sample Language Documenting Synchronization Rights

*In consideration for payment of a synchronization fee of [\$TBD], Composer further grants commissioner the following non-exclusive rights:*

- **Audiovisual Archival Capture:** *The right to capture and record the rehearsals and performances in the form of archival audiovisual recordings that may be stored and encoded by the commissioner for future use.*
- **Live Streaming:** *The right to make a live audiovisual stream of the world premiere available on the commissioner's website on the condition that it is not behind a paywall.*
- **Audiovisual Promotional Use:** *The right to use excerpts of in-context performance footage from the world premiere as part of a non-downloadable, on-demand stream on the commissioner's website and social media channels for a designated period of time not to exceed [X] months.*

### Composer's Promotional Use

A composer may wish to feature performances of the work on their websites and in their promotional materials. Subject to applicable union/guild limitations, the commissioner may agree to provide copies of the archival audio and audiovisual recordings of the work to the composer.

### Sample Language Documenting Composer's Promotional Use Rights

*Commissioner grants composer the following non-exclusive rights:*

- **Audio Promotional Use:** *The right to use and make available excerpts of the audio recording of commissioner's performance of the work on composer's website solely for promotional purposes and in non-downloadable format.*
- **Audiovisual Promotional Use:** *The right to use and make available excerpts of the audiovisual recording of commissioner's performance of the work on composer's website and social media channels solely for promotional purposes and in non-downloadable format.*
- **Audio Perusal:** *The right to make a full-length audio-only archival recording of commissioner's performance of the work available via a private, secure, and non-downloadable URL solely for perusal purposes by third parties.*

# Composer Contract: Credit, Publicity and Ancillary Services

Frequently, the commissioned composer's name is omitted from the title of the program and advertising campaigns, instead featuring more well-known (and often deceased) composers.

We recommend discussing how the composer will be credited, including how their name will be featured along with the names of other composers in advertising, promotional materials, and within the program book. In these conversations, the composer can grant the commissioner the right to use their name, likeness, and approved biography in connection with advertising and promotion of the work and the world premiere performances.

## Sample Language Documenting a Composer's Credit in Commissioner's Advertising and Promotional Materials

*Commissioner agrees to accord credit to Composer and the work in all printed and digital materials advertising and promoting the program. Such credit shall be in a style and size equal to other composers featured on the program.*

## Title, Commissioning Credit, and Inscription

Beyond the composer's credit, the parties may wish to discuss and consider the inscription that will appear on the title page of the score, including any commissioner and funder credits. An example of this inscription page might be formatted as:

**[Title of the Work]**  
by **[Composer]**  
Commissioned by **[Commissioner's Name]** with additional  
Co-Commissioning support from **[Co-Commissioners]**  
With generous support provided by **[Funders]**

## Ancillary Activities

Specify whether the composer will participate in press interviews, video interviews, digital media, pre-concert lectures, or any other community activities; when those activities will take place; and whether the composer will receive separate compensation or reimbursement for these services.



# The **What-ifs**

**Not every relationship will necessarily work out according to plan or result in the delivery and premiere of a new work. Address these “what-ifs” ahead of time and plan for a number of considerations that may or may not come to pass.**

## **Non-Fulfillment and Withdrawal; Incapacity**

The parties may wish to specify a date by which the composer can withdraw from the commission without penalty. After this date, the parties can negotiate whether the composer would bear any responsibility beyond returning any fees paid for services not yet rendered.

The parties may also wish to specify what would happen in the event of the composer’s untimely death or unexpected incapacity. This could include a discussion of whether the commissioner would have rights to engage other composers to help finish the work, or whether the composer’s estate would retain such rights, subject to a time limitation.

## **Amended Timelines; Unforeseen Circumstances**

In the event of unforeseen circumstances, consider how the parties will mutually agree to revised timelines. A force majeure provision may be appropriate for a performer’s contract where one or both parties are prevented from performing their obligations. However, if the composer has substantially composed the work and the commissioner needs to reschedule due to force majeure events, the parties may wish to specify that rescheduling is the primary tool for mitigating unforeseen circumstances, rather than cancellation or termination of the composer’s contract.



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