

SYNCHRONIZATION LICENSE EXPLAINER

GENERAL CONTRACT KNOWLEDGE:

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 (ie; Meeting of the Minds): Intent refers to the mutual determination of parties to enter into the agreement, and it explains why you usually 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.

SPECIFICS TO THE CONTRACT:

Licensor: The Berklee student who desires their composition be used in a film

Licensee: The Lesley student who wants to use the Berklee student's composition in their film

"Program": The visual work used in connection with the composition, set forth in Exhibit A

"Composition(s)": The composition(s) to be used in connection with the visual work, set forth in Exhibit A

"Event Recordings": Any performance that is captured ranging from full concert videos, individual song performance videos or promotional trailers, compilations etc.

Copyright © – the exclusive rights held by a person or entity who owns a creative work.

Designate (v) – assign or appoint someone to an entity, with respect to authority or responsibility.

Exclusive – Held by or granted to a single person or entity, at the exclusion of all others; restricted to the person, group, or area concerned, barring access to all others.

Exploitation: The ability to develop or make use of the copyright(s) granted to the holder(s) for monetary or non-monetary gain.

Facsimile: an exact copy

Fiduciary relationship: A fiduciary relationship comprises a fiduciary duty, which exists where a person or company is required to put another person's interests before their own. An attorney-client relationship is a fiduciary relationship.

"In accordance with" – by the rules of; as stated by.

Indemnify – compensate (someone) for harm or loss; secure (someone) against legal responsibility for their actions.

"Include, but are not limited to/ including, but not limited to" – includes all the things on the following list, and probably other things as well.

Inure: To come into operation or take effect

Joint venture: a business entity created by two or more parties, generally characterized by shared ownership, shared returns and risks, and shared governance.

Jurisdiction: the practical authority granted to a legal body to administer justice.

Jurisdiction – The official power to make legal decisions and judgements; The territory or sphere of activity over which the legal authority of a court or other institution extends.

Non-exclusive: an agreement where two parties agree to a contract of goods or services, but can also contract with other parties as to those same goods or services. In other words, in a non-exclusive sync license, the licensor can license the same composition to be used in multiple films.

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.

Positive prints of the picture: A picture as normally seen on a television picture tube or in a photograph, having the same rendition of light and shade as in the original scene.

Profit – financial gain; all income attained through means related to a specific business.

Provision – Generally, something that is supplied; in contracts, refers to a section or actionable clause in a contract.

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.

Remedies: the means with which a court of law, usually in the exercise of civil law jurisdiction, enforces a right, imposes a penalty, or makes another court order to impose its will in order to compensate for the harm of a wrongful act inflicted upon an individual

Representation – In a legal context, the action of speaking or acting on behalf of someone, or the state of being represented. In most music-related instances, the person representing another will be a professional, typically a lawyer or manager.

Screen Credit: Closing credits or end credits presented in the form of a list on screen in an audiovisual format based work

Service – an action or provision performed for profit (i.e. the service of public performance).

Trademark™ — a symbol, word, or words which are (either) legally registered or established by their use as representing a company or product.

Warrant (v) — to allow, especially in regards to a set of existing laws or standards.

"With respect to" — in relation to; regarding.