

# Commission Contract for Original Musical Work between Full Name of Organization and Mari Esabel Valverde, Composer

- I. This contract represents an agreement between Mari Esabel Valverde [COMPOSER] and Full Name of Organization [COMMISSIONING PARTY].
- II. COMPOSER agrees to create an original musical work for e.g. mixed voices and piano [THE WORK] of between X minutes and X minutes in length to be premiered by COMMISSIONING PARTY as per agreement with Artistic Director's Name, Artistic Director of Full Name of Organization [ARTISTIC DIRECTOR] on a text to be mutually agreed upon by the ARTISTIC DIRECTOR and COMPOSER. COMPOSER shall, if necessary, bear the responsibility to obtain permission to set any text currently protected under copyright. THE WORK is scheduled to premiere on Weekday, the Day of Month, Year (with additional performances on dates to be determined) at Venue in City, State, Province, or Country.
- III. This agreement does not include any exclusive rights for COMMISSIONING PARTY to perform THE WORK beyond the première itself. COMPOSER agrees that THE WORK shall not be performed by any ensemble other than Full Name of Organization on or before the date of the première.
- IV. COMPOSER's compensation for THE WORK shall be \$full.00 USD. The first half of the compensation (\$half.00) shall be paid by COMMISSIONING PARTY to COMPOSER upon the signing of this contract by both parties. The remaining balance (\$half.00) shall be paid by COMMISSIONING PARTY to COMPOSER upon receipt and approval of the final score of THE WORK by ARTISTIC DIRECTOR. COMPOSER will send an invoice for each payment installment.
- V. All music [score(s) and part(s) as appropriate] shall be delivered to ARTISTIC DIRECTOR no later than Weekday, the Day of Month, Year. Any deviations from this date may be agreed upon verbally by COMPOSER and ARTISTIC DIRECTOR.
- VI. Failure by COMMISSIONING PARTY to Perform Their Responsibilities and/or Cancellation of the Commission by COMMISSIONING PARTY

If notification by COMMISSIONING PARTY that they cannot perform their responsibilities herein set forth occurs before THE WORK is 50% complete according to COMPOSER's estimate, COMPOSER shall retain the full initial payment (\$half.00 of the full commission fee of \$full.00) originally paid to COMPOSER by COMMISSIONING PARTY upon signing of this contract, and the obligation for COMMISSIONING PARTY to pay the remaining balance of \$half.00 shall be deemed null and void, unless both parties agree that the project can be postponed, in which case this contract may be amended accordingly.

If notification by COMMISSIONING PARTY that they cannot perform their responsibilities herein set forth occurs after THE WORK is between 50% and 75% complete according to COMPOSER's estimate, COMPOSER shall retain the full initial payment (\$**half.00** of the full commission fee of \$**full.00**) originally paid to COMPOSER by COMMISSIONING PARTY upon signing this contract, plus an additional 25% (\$**quarter.00**) of the full commission fee of \$**full.00** shall be paid to COMPOSER immediately by COMMISSIONING PARTY, comprising a total of 75% (\$**three quarters.00**) of the full commission fee of \$**full.00**, and the obligation for COMMISSIONING PARTY to pay the remaining balance of \$**quarter.00** shall be deemed null and void, unless both parties agree that the project can be postponed, in which case this contract may be amended accordingly.

If notification by COMMISSIONING PARTY that they cannot perform their responsibilities herein set forth occurs after THE WORK is between 75% and 100% complete according to COMPOSER's estimate, COMPOSER shall retain the full initial payment (\$**half.00** of the full commission fee of \$**full.00**) originally paid to COMPOSER by COMMISSIONING PARTY upon signing this contract, and the remaining balance (\$**half.00**) of the full commissioning fee of \$**full.00** shall be paid to COMPOSER immediately by COMMISSIONING PARTY.

- VII. Furthermore, if COMMISSIONING PARTY cannot perform their responsibilities at any point before, during, or after the composition process, COMMISSIONING PARTY relinquishes all rights to première any or all of THE WORK composed up to the date of notification, and COMPOSER shall be free to exploit any or all portions of THE WORK composed and conceived up to the date of notification as she sees fit.
- VIII. If COMPOSER cannot complete the commission as herein set forth, COMPOSER shall immediately refund to COMMISSIONING PARTY any or all of the total commissioning fee paid by COMMISSIONING PARTY to COMPOSER prior to date on which COMPOSER notifies COMMISSIONING PARTY of inability to complete the THE WORK.
- IX. Ownership of Materials, including Scores, Parts, and Audio and Video Recordings

A. Scores and Parts

All materials for THE WORK submitted, as well as any copies made from them shall remain the property of COMMISSIONING PARTY. These materials shall be distributed to the Participating Ensemble(s), but shall not be loaned or rented to any ensemble outside of the Participating Ensemble(s) without the express written consent of COMPOSER. This agreement does not preclude COMPOSER from having THE WORK published. However, no publishing agreement obtained by COMPOSER shall require any member of COMMISSIONING PARTY or other participating ensemble(s) to destroy their materials or to purchase published scores.

B. Audio and/or Video Recordings and/or Documentation

COMMISSIONING PARTY shall retain sole ownership of any archival audio recordings and/or video documentation made from live performances (or rehearsals) of THE WORK covered in this contract. In addition, any audio recordings and/or video documentation of THE WORK shall be made available to COMPOSER upon request for purposes of demonstration, promotion, or study, including the publishing and sharing of the audio recordings and/or video documentation on COMPOSER's official website, social media (Facebook, Twitter, etc.), SoundCloud page, and YouTube channel as well as for other similar uses.

X. Commercial and Non-Commercial Recordings of THE WORK

In the event that COMMISSIONING PARTY desires to record THE WORK for release on a commercial recording offered for sale, a separate agreement concerning mechanical rights shall be negotiated between COMMISSIONING PARTY and COMPOSER.

XI. Commissioning Statement, Dedication and Credits for Both Parties

Commissioning Statement, Dedication and/or Credits shall be decided prior to final preparation of the score and shall appear in every publication of THE WORK and associated materials as agreed upon between COMPOSER and **ARTISTIC DIRECTOR**.

e.g., traditionally published in *italics*: "commissioned by," or, "commissioned for" [name of the ensemble], [name of conductor or director], "conductor," or, "director," [City, State or Country] "in the occasion of" [anniversary, honor performance at a convention, etc.]; "in loving memory of," or, "dedicated to" [name]

XII. Copyright, Performing Rights, and Other Rights

All parties agree that the copyright of THE WORK, together with all rights not specifically granted to COMMISSIONING PARTY herein, are and remain the property of COMPOSER, and that THE WORK is subject to all performing rights licenses with the American Society of Composers, Authors and Publishers (ASCAP) and/or Broadcast Music, Inc. (BMI), and any other performing rights organizations.

COMMISSIONING PARTY agrees to pay fees for a valid performing rights license from ASCAP—the performing rights licensing agency with which the COMPOSER is registered—for all public performances of THE WORK for which such a license is required by applicable performing rights licensing practices.

COMMISSIONING PARTY further agrees to provide COMPOSER with a **minimum of two** "hard," printed copies of the official program, a PDF of the official program, and other similar evidence of the performance(s) as needed for the purpose of reporting the performance(s) to COMPOSER's performing rights organization—ASCAP.

XIII. Relationship of Parties

It is understood by the parties that THE WORK is not a "work for hire"; i.e., COMPOSER is an independent contractor with respect to COMMISSIONING PARTY and not their employee. COMMISSIONING PARTY does not offer or provide any other benefits to COMPOSER. The compensation described in **section IV** above is the sole consideration from COMMISSIONING PARTY for COMPOSER's services for composition of THE WORK.

XIV. Possibility of Residency

A. For a Formal Residency

COMMISSIONING PARTY agrees to bring COMPOSER to **Location** for rehearsals and for the première of THE WORK beginning **Weekday**, the **Day of Month, Year** (travel date) through **Weekday**, the **Day of Month, Year** (return date). Residency shall include COMPOSER's participation in rehearsals to provide feedback to **Conductor or Director** and the performers about THE WORK. Other responsibilities may be agreed upon between COMPOSER and **ARTISTIC DIRECTOR**, if desired, as per verbal or written agreement.

COMPOSER shall charge no fees for the Residency in addition to the commissioning fee (\$full.00); however, COMMISSIONING PARTY agrees to pay in advance or reimburse COMPOSER in full for the costs of housing, transportation, and meals.

B. For a Local, "Informal" Residency

COMPOSER agrees to attend rehearsals per verbal agreement with ARTISTIC DIRECTOR at no extra fee beyond compensation for the commissioning fee as described in section IV above. The number of rehearsals and dates shall be negotiated verbally between COMPOSER and ARTISTIC DIRECTOR.

C. No Residency

It is agreed between COMPOSER and COMMISSIONING PARTY that there is no formal residency associated with this commission and that COMMISSIONING PARTY does not expect COMPOSER to be in attendance at rehearsals or at the première; however, COMPOSER and Conductor or Director may determine methods by which COMPOSER can give feedback to the Conductor or Director and the performers in order to help facilitate the première, e.g. via phone, email, Skype, etc. If COMMISSIONING PARTY decides to bring COMPOSER to Location for rehearsals and/or the première, this section of the contract may be amended accordingly.

XV. Entire Agreement

This Agreement contains the entire agreement of the parties and there are no other promises or conditions in any other agreement whether oral or written. This Agreement supersedes any prior written or oral agreement between the parties.

XVI. Amendment

This Agreement may be modified or amended if the modification and/or amendment is made in writing and is signed by both parties.

XVII. Severability

If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

XVIII. Force Majeure

A party is not liable for failure to perform the party's obligations if such failure is as a result of Acts of God (including fire, flood, earthquake, storm, hurricane or other natural disaster), illness, war, invasion, act of foreign enemies, hostilities (regardless of whether war is declared), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalization, government sanction, blockage, embargo, labor dispute, strike, lockout or interruption or failure of electricity or telephone service. No party is entitled to terminate this Agreement in such circumstances.

If a party asserts Force Majeure as an excuse for failure to perform the party's obligation, then the nonperforming party must prove that the party took reasonable steps to minimize delay or damages caused by foreseeable events, that the party substantially fulfilled all non-excused obligations, and that the other party was timely notified of the likelihood or actual occurrence of an event described in this clause (Force Majeure).

XIX. Waiver of Contractual Right

The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

XX. Both COMPOSER and COMMISSIONING PARTY represent that they have full power and authority to establish this Agreement. This Agreement and the obligations of COMPOSER and COMMISSIONING PARTY shall be governed by, construed, and enforced under the laws of **the State of**

Signé:

**Commissioning Party**

**Composer**

x \_\_\_\_\_  
Artistic Director's Name,  
Full Title  
Email

\_\_\_\_\_  
Mari Ésabel Valverde,  
Composer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date