

# CONTRACT FOR COMMISSION OF A MUSICAL WORK

## COMMISSIONING AGREEMENT

A COMMISSIONING AGREEMENT is made as of January 1, 2019 by and between: members of the Benjamin Taylor Commissioning Consortium (hereinafter referred to as "CONSORTIUM MEMBERS"), Benjamin Taylor Commissioning Consortium member and director Andrew Hutchens (hereinafter referred to as "CONSORTIUM DIRECTOR") and Benjamin Taylor (hereinafter referred to as "COMPOSER")

The contract documents for this COMMISSIONING AGREEMENT shall consist of this contract and any riders or modifications, as provided for in paragraph 16. This agreement is made in Indiana and shall be construed in concordance with the laws of the State of Indiana, County and City of Bloomington.

## STATEMENT of COMMISSION

1. CONSORTIUM MEMBERS commission COMPOSER and COMPOSER agrees to write an original work for CONSORTIUM MEMBERS, of approximately 5-7 minutes duration, scored for:  
Unaccompanied Solo Alto Saxophone

2. The COMPOSER warrants that to the best of his/her knowledge:

- a) The WORK is an original composition and the COMPOSER is the owner thereof
- b) The COMPOSER is authorized to enter into this Agreement

3. COMPOSER shall be listed as Benjamin Dean Taylor. Appropriate copyright and performing rights license information shall also appear. The scores and other performance material delivered to CONSORTIUM MEMBERS, and on all published editions of the score shall include, the following inscription:

Commissioned by Andrew Hutchens and consortium members: [alphabetical list of consortium members]

4. COMPOSER agrees to deliver the completed work to CONSORTIUM MEMBERS, as follows:

- a) 1 complete score and set of parts (PDF) shall be delivered by email to CONSORTIUM MEMBERS no later than January 15, 2020.
- b) COMPOSER agrees to periodically advise CONSORTIUM DIRECTOR as to progress made toward its completion as well as provide a working draft by November 1, 2019.

5. The CONSORTIUM MEMBERS agree to give at least 1 performance of the commissioned work during the period of 12 months following delivery of the score to the CONSORTIUM MEMBERS.

6. COMPOSER agrees to furnish an image and biography in electronic form.

## PAYMENT

7. As consideration of this agreement, CONSORTIUM MEMBERS agree to pay COMPOSER a minimum of \$3,000.00. As detailed below, COMPOSER will accept a commitment to perform the work a specified number of times in exchange for a reduced buy-in rate.

a) If CONSORTIUM MEMBERS are a student performer, buy-in options are:

- 1) \$200.00 as a commission fee
- 2) \$150.00 as a commission fee and a commitment to perform the work at least 5 times within 4 years.
- 3) \$100.00 as a commission fee and a commitment to perform the work at least 10 times within 4 years.

b) If CONSORTIUM MEMBERS are a professional performer, buy-in options are:

- 1) \$250.00 as a commission fee
- 2) \$200.00 as a commission fee and a commitment to perform the work at least 5 times within 4 years.
- 3) \$150.00 as a commission fee and a commitment to perform the work at least 10 times within 4 years.

c) CONSORTIUM DIRECTOR agrees to make a total deposit payment of \$750.00 by May 1, 2019. This may be divided into 3 payments of \$250 each. If CONSORTIUM DIRECTOR is unable to find sufficient consortium members to meet the minimum threshold of \$3,000.00 by June 1, 2019 this contract shall be null and void and all payments received shall be returned to CONSORTIUM MEMBERS.

8. It is agreed that COMPOSER is acting as an independent contractor and is exempt from Social Security, State and Federal unemployment insurance and State and Federal withholding requirements. COMPOSER shall indemnify, save and hold harmless CONSORTIUM MEMBERS against any such claims and expenses that may arise from any unemployment issue, such as but not limited to tax withholding requirements relating to services rendered under this agreement.

#### **NON-FULFILLMENT of TERMS**

9. This Agreement and the obligations of CONSORTIUM MEMBERS and/or COMPOSER are subject to conditions beyond the reasonable control such as illness, accidents, family tragedy, failure of instrument or equipment, fire, flood, riots, and/or unforeseen acts of nature. If COMPOSER or CONSORTIUM MEMBERS shall be forced to cancel the work as a result of any of the above events, CONSORTIUM MEMBERS shall be responsible only for any out-of-pocket expenses incurred by COMPOSER directly associated with this engagement. In the event a CONSORTIUM MEMBER elects to not fulfill this contract, that CONSORTIUM MEMBER forfeits any payments.

#### **RIGHTS**

10. CONSORTIUM DIRECTOR shall have the following rights with respect to the commissioned work:

- a) The right of first refusal with respect to the making of the first commercial production of the work, on a record label acceptable to COMPOSER, for a period of 3 years following the completion of the work. After this period, the COMPOSER has the right to record the commissioned work elsewhere.
- b) The right to produce the work for non-commercial use, including online audio and video streaming, so long as a copy of the production is made available to the COMPOSER within 10 working days following the recording session or performance.
- c) The right to give the official world premiere during the first year. This distinction applies regardless of calendar date.
- d) CONSORTIUM DIRECTOR also shares all rights granted to CONSORTIUM MEMBERS.

11. CONSORTIUM MEMBERS shall have the following rights with respect to performance of the commissioned work:

- a) The exclusive right to perform the work including giving the premiere (regional premiere) of the work for a period of 1 year following delivery of the score. CONSORTIUM MEMBERS shall notify COMPOSER of all performances and email a PDF of the concert program to COMPOSER within 10 working days.
- b) The right to produce the work for non-commercial use, including online audio and video streaming, so long as a copy of the recording is made available to the COMPOSER within 10 working days following the recording session or performance.
- c) The right to produce the work for personal uses by CONSORTIUM MEMBERS, so long as a copy of the recording is made available to the COMPOSER within 10 working days following the recording session or performance.

12. COMPOSER grants CONSORTIUM MEMBERS the right, to be exercised in sole discretion, to use and license others to use COMPOSER's name, likeness, and biographical material in connection with the work and its production and presentation.

13. COMPOSER may authorize additional performances during the first year and agrees to notify CONSORTIUM DIRECTOR of any such performances.

14. All rights in the commissioned work not granted to CONSORTIUM MEMBERS are reserved to COMPOSER. CONSORTIUM MEMBERS acknowledge the COMPOSER retains ownership of the commissioned work. COMPOSER is not an employee of CONSORTIUM MEMBERS and CONSORTIUM MEMBERS agree that the resulting commission is not a "work for hire," as defined under current copyright law.

15. COMPOSER warrants that nothing contained herein contravenes any pre-existing agreement with publisher or any other party. COMPOSER agrees that any subsequent agreement with publisher shall be subject to the rights granted to CONSORTIUM MEMBERS hereunder.

MODIFICATIONS OR AMENDMENTS

16. Modifications or amendments to this contract may be made. Any such modification must be in the form of a written rider to this contract, countersigned and dated by both COMPOSER and CONSORTIUM DIRECTOR.

AGREED TO AND ACCEPTED

By COMPOSER:

*Benjamin Taylor*

\_\_\_\_\_  
(Name)

*2/6/2019*

\_\_\_\_\_  
(date)

By CONSORTIUM DIRECTOR:

*Andrew J. Hether*

\_\_\_\_\_  
(Name)

*2/8/2019*

\_\_\_\_\_  
(date)