

DBE.MUSIC TERMS OF SERVICE AND LICENSE OF SONG AND RECORDING

This agreement (this "Terms of Service" or "TOS") spells out the agreement between the person ("you" "Songwriter" or "Member") signing up to use the dbemusic.com web site to submit songs and recordings for consideration for licensing by Digital Bear Entertainment Corporation d/b/a dBE.Music ("we", "us", "DBE"). This TOS also includes the terms under which you may license one or more of the songs submitted to us. This TOS lasted updated June 1, 2009.

TERMS SPECIFIC TO WEB SITE USE:

1. Membership continues for 1 year after sign up and payment. You may submit to dBE.Music up to 15 songs within that 1 year period. Additional songs may be submitted for an additional fee. All fees are non-refundable, and any number of songs not submitted within the 1 year membership period will not carry forward into the next year.

2. You must be the owner of copyright in all songs and recordings submitted, except as set forth explicitly in either the Co-writer Agreement or the DBE/Label Agreement duly filed with us.

3. YOU WARRANT THAT YOU HAVE THE RIGHT TO SUBMIT THESE SONGS AND RECORDINGS TO DBE FOR THE PURPOSES DESCRIBED HEREIN AND WILL NOT INFRINGE UPON THE RIGHTS OF OTHERS NOR CAUSE DBE TO SO INFRINGE BY EXECUTION OF THE PURPOSES OF THIS AGREEMENT.

4. We will review all submissions within 3 months of actual receipt of the submission, and inform member of any accepted songs within those 3 months by registered letter. All submission must be registered using this web site and then sent through US mail. Member agrees, in advance of any acceptance by us, to the terms of the license of any song submitted; the terms of such license are below. Acceptance by us of any song submitted by you will constitute the consummation of this agreement without further consent from you. You will be required to execute additional documentation as described below.

5. Continued listing in the dBE.Music catalogue and continued efforts by us to place songs shall require continued annual membership, unless waived by DBE at its sole discretion. No notice of such waiver shall be necessary. Cancellation or

discontinuation of membership shall not constitute termination of this agreement nor a request for any song in the DBE catalogue to be removed. Membership renewal will be automatic, unless cancelled by member at least 7 days prior to the renewal date, which is the anniversary of the sign up date. All fees for renewal or otherwise are non-refundable. Member is solely responsible for cancellation of its membership prior to the renewal date, if so desired.

In the case where Member has one or more songs in the DBE catalogue, and chooses does not renew its membership, and DBE elects to continue its placement efforts, all terms and conditions herein as apply to songs/recordings shall continue unaltered until such time as Member shall request removal of said song(s) subject to Paragraph 4.

6. DBE MAKES NO CLAIMS AS TO THE OUTCOME OF SUBMISSION OF MATERIAL THROUGH ITS WEBSITE OR ANY OTHER MEANS. DBE SHALL NOT BE HELD LIABLE FOR ANY LOSS, MATERIAL OR CONSEQUENTIAL, FROM ANY ACTIVITY PERTAINING TO THIS WEB SITE, OR THE SUBMISSION PROCESS.

TERMS SPECIFIC TO SONGS/RECORDINGS IF ACCEPTED BY DBE:

In the event DBE accepts one or more submitted songs into its catalogue, you will be informed, as mentioned above, within 3 months of submission by registered letter.

1. **ADDITIONAL DOCUMENTATION:** You will be required to execute and return to DBE the following documents:

- a) Sideman/Producer Agreement signed by any and all musicians, producers, performers on the recording of each song accepted.
- b) Co-writer Agreement signed by any and all songwriters of each song accepted with accurate ownership percentages stipulated.
- c) Publisher/Label Agreement signed by authorized representatives of any publishing companies that hold rights to Song and any record labels that hold rights to the master recording of Song with accurate ownership percentages stipulated.

In the event that no person or entity shall exist that fits the descriptions in paragraphs a, b, and c above, no such Agreement shall be necessary.

2. **RIGHTS GRANTED:**

a) You give us the exclusive right to represent your Song and the sound recording of the Song (your "Recording") worldwide subject to Paragraph 4. We will try to get the Song, and possibly the Recording, used (a "Synchronization License" if for a Song; a "Master Use License" if for the Recording) in television, film or advertising (the "Field"). You will retain the right to release the Recording on albums or to let a record label do so, with 2 exceptions: we retain the right to grant all Master Use Licenses and we retain the right to grant licenses for albums derived from any soundtrack.

b) Paragraph 4 notwithstanding, you give us the exclusive right in perpetuity to renew, extend, or re-negotiate all licenses, and to grant new licenses for derivative works, for Song or Recording for which we granted a license under the terms and during the term of this agreement.

c) This agreement shall renew annually under the terms of the then current TOS, subject to paragraph 4.

3. **ADDITIONAL RIGHTS TO THE RECORDING:**

a) We may elect to produce a compilation of musical compositions represented by us for release on phonorecords (*e.g.*, compact discs, tapes, or other audio devices), and may elect, in its sole discretion, to include the Song and/or Recording in such compilation(s), for purposes of promoting our catalog. No mechanical royalties or artist's royalties shall be paid on phonorecords given away or distributed for promotional purposes as aforesaid. You acknowledge that we are under no obligation to produce any compilation(s).

b) Songwriter represents, and warrants that, except as set forth on the DBE/Label Agreement filed with DBE, he or she is the sole producer, musician, vocalist and owner of all rights in and to the Recording. Songwriter represents and warrants that the Recording is Songwriter's original work and does not infringe any valid rights of any third party, and that no digital samples of third-party-controlled recordings are included in the Recording. Songwriter agrees that except as specifically provided herein, DBE shall not be liable to pay any fees, royalties, or other sums relating to the Recording. Songwriter has the full right, power and authority to enter into and grant the rights granted herein to DBE, and that there are no other agreements with any other person, firm or corporation in conflict with such grant.

c) In the event that any other producer, musician or vocalist has participated in the production of the Recording, Songwriter shall identify all such persons, secure their consent to and approval of Songwriter's grant of rights herein to DBE, by having all such person(s) execute the Sideman/Producer Agreement and file such with DBE.

4. **TERMINATION:** You may withdraw your song for our catalogue at any time providing that you do so by registered letter. However, the withdrawal will only be effective 6 months after the receipt of that letter. Furthermore, cancellation of your membership, as detailed above, will not withdraw your song from our catalogue. Non-renewal of your membership may, at DBE's sole discretion, result in withdrawal of your songs from our catalogue but will only be effective 6 months after the renewal date.

5. **WARRANTIES; INDEMNITY:**

(a) Songwriter hereby warrants and represents that the Song and the Recording are original works, that neither the Song, the Recording, nor any part of either infringes upon the title, literary or musical property or copyright of any other work nor the statutory, common law or other rights (including rights of privacy or publicity) of any person, firm or corporation; that he or she has not sold, assigned, transferred, or encumbered any right, title or interest in or to the Song or Recording, or any part thereof or any of the rights herein conveyed; that he or she has not made or entered into any contract with any other person, firm or corporation affecting the Song, or the Recording, or any right, title or interest therein or in the copyright in the Song or Recording; that no person, firm or corporation other than Songwriter has or has had claims or has claimed any right, title or interest in or to the Song, or Recording or any part of either, any use thereof or any copyright therein; that neither the Song or Recording has ever been published or distributed, except as set forth in any Co-writer Agreement and Publisher/Label agreement and duly filed with DBE. Further, that Songwriter has full right, power and authority to enter into this Agreement.

(b) Songwriter agrees to defend, indemnify and hold DBE and its officers, directors and agents, harmless from any costs, expenses (including attorneys' fees and costs), losses, claims, liabilities, drawings or obligations arising out of or connected with the breach of any agreement, representation or warranty herein made by Songwriter.

6. **COMPENSATION:** In consideration of the Agreement and of the rights and interests hereby conveyed and granted, DBE agrees to pay to Songwriter the following royalties in respect of the Song, provided Songwriter has not breached the terms of this agreement:

(b) Fifty percent (50%) of any and all net sums actually received (less any cost for collection) by DBE in the United States from the exploitation in the United States and Canada by licensees of DBE of mechanical rights, motion picture and television synchronization rights, except public performance rights which are covered in 6(c) below), whether or not such licensees are affiliated with, owned in whole or in part by, or controlled by DBE.

(c) Songwriter shall receive his or her public performance royalties throughout the world directly from his or her own affiliated performing rights society and shall have no claim whatsoever against DBE for any royalties received by DBE from any performing rights society which makes payment directly (or indirectly other than through DBE) to writers, authors and Songwriters. If, however, DBE shall collect both the Songwriter's and DBE's share of performance income directly and such income shall not be collected by Songwriter's public performance society, DBE shall pay to Songwriter fifty percent (50%) of all such net sums which are received by DBE in the United States from the exploitation of such rights in the Songs throughout the world.

(d) Fifty percent (50%) of any and all net sums, after deduction of foreign taxes, actually received (less any reasonable costs for collection) by DBE in the United States from sales, licenses and other uses of the Song in countries outside of the United States and Canada (other than public performance royalties as hereinabove mentioned in Subclause 6(c)) from collection agents, licensees, subpublishers or others, whether or not same are affiliated with, owned in whole or in part by, or controlled by DBE.

(e) DBE shall not be required to pay any royalties on promotional copies of the Song or copies of phonorecords of the Song which are distributed to performing artists, music supervisors, advertising agencies and/or disc jockeys for advertising or promotional purposes

(f) Except as herein expressly provided, no other royalties or monies shall be paid

to Songwriter. In no event shall Songwriter be entitled to share in any advance payments, or minimum royalty payments which DBE may receive in connection with any subpublishing agreement, collection agreement, licensing agreement or any other agreement covering the musical compositions owned or controlled by DBE, except advances or minimum royalty payments paid to DBE pursuant to agreements concerning solely the Song and no other compositions of the DBE.

7. **STATEMENTS:** Within ninety (90) days after the last days of June and December in each year during which earnings have been received in the United States by DBE in respect of the Song or the Recording, DBE will prepare and furnish a semi-annual statement to Songwriter hereunder, and each such statement shall be accompanied by payment of any and all sums shown to be due thereby, after deduction of any and all recoupable costs or advances to Songwriter under this or any other agreement between Songwriter and DBE. Songwriter shall notify DBE in writing of any specific objection to such statements no later than one (1) year after the receipt thereof by Songwriter. Any and all objections, questions, or disputes concerning any such statement shall be waived by Songwriter unless such written objection is received by DBE within such one (1) year period. Songwriter or a certified public accountant in his behalf may, at Songwriter's expense, at reasonable intervals, examine DBE's books insofar as same concern Songwriter, during DBE's usual business hours and upon reasonable written notice, for the purpose of verifying the accuracy of any statements rendered to Songwriter hereunder. DBE's books relating to activities during any accounting period may only be examined as aforesaid during the one (1) year period following receipt by Songwriter of the statement for said accounting period. If DBE shall not receive payment in United States dollars in the United States in respect of any exploitation of the Song, royalties in respect thereof shall not be credited to Songwriter's royalty account hereunder. DBE shall, however, if DBE is able to do so, accept such payments in foreign currency and deposit in a foreign bank or other depository, at Songwriter's expense, in such foreign currency such portion thereof, if any, as shall equal the royalties which would have actually been payable to Songwriter hereunder in respect of such exploitation had such payments been made to DBE in United States dollars in the United States, and DBE shall notify Songwriter thereof promptly. This deposit shall fulfill DBE's royalty obligations hereunder as to such exploitation.

8. **NAME AND LIKENESS:** Songwriter grants to DBE the perpetual right to use and publish and to permit others to use and publish Songwriter's name (including any professional name heretofore or hereafter adopted by Songwriter), likeness and biographical material, or any reproduction or simulation thereof and the title of the Song in connection with the printing, sale, advertising, distribution and exploitation of music, recordings, performances and otherwise concerning the Song, and for any other purpose related to the business of DBE, its associates, affiliates and subsidiaries, or to refrain therefrom.

9. **POWER OF ATTORNEY:** Songwriter does hereby irrevocably empower and appoint DBE, and any of its officers, Songwriter's true and lawful attorney (with full power of substitution and delegation) in Songwriter's name, and in Songwriter's place and stead, or in DBE's name, to take and do such action, and to make, sign, execute, acknowledge, deliver, and record any and all instruments or documents which DBE, from time to time, may deem desirable or necessary to vest in DBE, its successors, assigns and licensees, any of the rights granted by Songwriter hereunder.

10. **CLAIMS OF THIRD PARTY:** DBE may take such action, as it deems necessary, either in Songwriter's name or in its own name, against any person to protect the rights and interest acquired by DBE hereunder. DBE will promptly notify Songwriter of any claims, action, demand or proceeding which may affect DBE or Songwriter's interest in the Song. Songwriter will, at DBE's request, cooperate fully with DBE in any controversy which may arise or litigation which may be brought concerning DBE's rights and interests acquired hereunder. DBE shall have the right, in its absolute discretion, to employ attorneys and to institute or defend any action or proceeding and to take any other proper steps to protect the right, title and interest of DBE in and to the Song and every portion thereof and in that connection, to settle, compromise or in any other manner dispose of any matter, claim, action or proceeding and to satisfy any judgment that may be rendered, in any manner as DBE in its sole discretion may determine, provided that Songwriter's written consent shall be required to settle any claims and such consent shall not be unreasonably withheld. If Songwriter shall not give written consent to a proposed settlement of a claim which DBE believes is reasonable within three (3) days after the presentation of such settlement offer to Songwriter, then on DBE's request Songwriter shall promptly undertake any further action in regard to the claim at

Songwriter's sole cost and expense, and Songwriter shall thereafter be fully and totally responsible and liable for any damage or costs in excess of the amount set forth in the proposed settlement offer. Any legal action brought by DBE against any alleged infringer of the Song shall be initiated and prosecuted by DBE, and if there is any recovery made by DBE as a result thereof, after deduction of the expense of litigation, including but not limited to attorney's fees and court costs, a sum equal to fifty percent (50%) of such net proceeds shall be paid to Songwriter. If a claim is presented against DBE in respect to the Song, and because thereof DBE is jeopardized, DBE shall have the right thereafter, until said claim has been fully adjudicated or settled, to withhold any and all royalties that may be or become due with respect to the Song earned pursuant to this contract or any other agreement between Songwriter and DBE, sufficient, in the opinion of DBE, to reimburse DBE for any contemplated damages, including court costs and attorneys' fees and costs resulting therefrom. Such withholding shall continue until the final resolution or settlement of any such claim. Songwriter hereby agrees to indemnify and hold DBE harmless from and against any and all costs and damages incurred by DBE in connection with such indemnity and any and all costs and damages sustained by DBE shall be promptly paid to DBE by Songwriter on demand. If Songwriter shall fail to pay the same to DBE, in addition to any other rights and remedies that may be available to DBE hereunder, at law or equity, DBE may deem all such monies an additional advance against any royalties payable to Songwriter under this contract or any other agreement between Songwriter and DBE. Upon the final adjudication or settlement of each and every claim hereunder, all monies withheld shall then be disbursed in accordance with the rights of the parties as provided hereinabove.

11. **ASSIGNMENT:** DBE shall have the right to assign this Agreement and any of its rights hereunder and to delegate any of its obligations hereunder in whole or in part, to any person, firm or corporation. Songwriter shall not transfer nor assign this contract nor any interest therein nor any sums that may be or become due hereunder without the prior written consent of DBE, which shall not be unreasonably withheld. No purported assignment or transfer in violation of this restriction shall be valid to pass any interest to the assignee or transferee.

12. **ENTIRE AGREEMENT:** The Terms of Service and all Agreements mentioned in Paragraph 1 and all of the terms hereof constitute the entire understanding between parties, and all of its terms,

