



Music License Agreement

By accessing either of Licensor's websites located at <https://www.steven-obrien.net/> and <https://www.rfcow.com/>, by using Licensor's services, or by making a purchase through either of Licensor's websites, you, Licensee are agreeing to be legally bound by the following Agreement with Licensor:

1. Definitions:

- a. **License:** A license, granted by Licensor to Licensee for use of Item/Items under this agreement.
- b. **Licensor:** Steven O'Brien, who is the composer, owner, copyright-holder, and distributor of the musical work(s) being licensed. "I", "me", and "my" refer to Licensor.
- c. **Licensee:** The person or entity who intends to use a Musical Work, or intends to acquire and purchase a License for a Musical Work.
- d. **Receipt:** A document delivered via email to Licensee after a successful purchase made by Licensee to Licensor, which lists one or more Musical Works being licensed, the type of license or licenses, and the associated fees that have been paid in exchange for such license or licenses. Additionally, any subscription plans purchased by Licensee will also be listed on this document.
- e. **Musical Work:** A musical composition or musical compositions and their associated master recording(s) and digital audio file(s), to which Licensor holds the copyright.
- f. **Item/Items:** Each individual Musical Work listed on the Receipt. Additionally, if an "Individual Subscription" or "Organization Subscription" is listed on the Receipt, this term includes any additional Musical Works covered under, and subject to the additional restrictions of Section 6.
- g. **Production:** Any substantially independently created works, created by Licensee, or on Licensee's behalf, in any media now known or hereafter devised, which incorporates an Item.

2. License:

Upon receipt of any and all fees requested by Licensor to Licensee in full, Licensor will send Licensee a Receipt, and grant Licensee, for each Item listed thereon, a separate, worldwide, non-exclusive, perpetual License, subject to the terms and restrictions set out in this agreement, to:

- a. Use, or synchronize the Item with an unlimited number of Productions.
- b. Edit, cut, copy, modify or otherwise manipulate the Item for the purposes of properly using or synchronizing it with such Production.
- c. Transmit, broadcast, publish, perform, copy, and distribute Item within such Production.
- d. Use any associated metadata or other descriptors, including, but not limited to the title of the Item, and the name of Licensor.

3. Delivery:

Upon receipt of full payment of requested fees, and upon granting of the License, Licensor will provide Licensee with a working download link to a .zip archive containing a digital audio file within for each Item. The digital audio file will be in PCM .wav format, with a 44,100Hz sample rate, and a 16-bit bit depth.

4. Creative Commons Usage:

For any Musical Work listed on <https://www.steven-obrien.net/> or <https://www.rfcow.com/> which has been written, composed, created, published, or distributed by Licensor, or to which Licensor otherwise holds the copyright, which is: (i) not listed on a Receipt sent by Licensor to Licensee, (ii) for which Licensee has not paid the fee requested by Licensor in full, or (iii) for which Licensee does not hold a valid License, Licensee agrees to be bound by the terms of the Creative Commons Attribution-NoDerivatives 4.0 International License, the text of which can be accessed at <https://creativecommons.org/licenses/by-nd/4.0/legalcode>, in relation to any use of such Musical Work, subject to the restrictions listed in Section 5 of this agreement.

As required by the Creative Commons Attribution-NoDerivatives 4.0 International License, Licensee should give attribution in the following form, with the <names of tracks used> text substituted with a list of the titles of all tracks used with or within the relevant Production. Licensee must ensure that the attribution given is always distributed with, or within the content, in such a way that it is always easily accessible and easily discoverable.

Music by: Steven O'Brien

<https://www.steven-obrien.net/>

<names of tracks used>

*(Used for free under a Creative Commons Attribution-NoDerivatives 4.0 License:
<https://creativecommons.org/licenses/by-nd/4.0/>)*

5. Restrictions on License:

- a. Any and all rights in and to the Item/Items not expressly granted hereunder are reserved by Licensor. Licensee acknowledges that License is not a transfer or forfeit by Licensor of any copyright, trademark, trade secret, proprietary information, or moral rights. Additionally, Licensee acknowledges that any use of the phrase "Copyright-free" in relation to Licensor's work does not represent a forfeit or transfer of any rights, and that the aforementioned phrase is in reference to legitimate use of any Musical Work being "free" of the risk of "Copyright strikes" on websites such as YouTube.
- b. The License does not allow Licensee to record or produce new performances, covers, or remixes of Item/Items.
- c. The validity of License is predicated on compliance with this Agreement by Licensee and Licensee's personnel, partners, contractors, and anyone else Licensee authorizes to assist with the creation and distribution of Production. ("Representatives") A License is also predicated on Licensor's receipt of full payment of the applicable price for the License and Item/Items as specified in the Receipt. Any refund, chargeback, or other event initiated by Licensee which deprives Licensor of the full payment stated on the receipt will result in immediate termination of the License.
- d. Licensee acknowledges that any use of the term "Royalty-free" in this document, or on <https://www.steven-obrien.net/> or <https://www.rfcow.com/> does not refer to any royalties owed or due to Performance Rights Organizations. There is no waiver of any Performance Rights Organization royalties or cue sheet obligations. If Item/Items is used as part of any broadcast or any other such public performance, Licensee will make a reasonable effort to ensure an accurate cue sheet is filed either to IMRO directly, or to an established Performing Rights Organization, or such other similar organization local to Licensee (including, but not limited to ASCAP, BMI, SESAC, SACEM, GEMA, SDRM, PRS, MCPS, SOCAN, etc.) which will ensure that IMRO is made aware of the public performance of the Item/Items. Licensee acknowledges that Licensor is a member of IMRO, registered

under the name Steven Edward Lawrence O'Brien, and has a CAE/IPI number of 843124557.

- e. Licensee may not allow any third party to directly access Item/Items, except for the purpose of creation, broadcast, transmission, publication, or distribution of Productions created under the terms of the License. If Licensee becomes aware of any unauthorized access to any Item/Items, Licensee is required to notify Licensor via email within 48 hours of the discovery. Licensee may not superficially modify any Item/Items and sell or license it to third parties.
- f. Licensee may not use the Item/Items to manufacture, distribute, or sell predominantly audio products such as jukeboxes, CDs, records, mp3s, or streaming services, if Item/Items are not synchronized or combined with other audio or visual content to create a derivative work as permitted by the License. Licensee cannot use Item/Items to create a CD, soundtrack album, or other music compilation to give away or sell.
- g. Licensee may not place the Item/Items on or in any product or platform that makes it available in a manner such that a third party can, without extraordinary effort, extract, access or reproduce it as a digital audio file. (An exception is granted for distribution of digital audio files with software developed by Licensee or other such multimedia products created by Licensee which utilizes the Item/Items).
- h. Licensee may not sell or license Item/Items as ringtones, in-store background music, or music for use on telephony systems.
- i. Licensee may not misrepresent their License as an endorsement by, collaboration with, or any other such association with Licensor without express written permission.
- j. Licensee may not use the Item/Items in any way that would hinder legitimate use by other licensees, including, but not limited to registration in digital fingerprinting systems such as YouTube's Content ID.

6. Subscriptions:

If Licensee has purchased an "Individual Subscription" or "Organization Subscription" (a "subscription plan") as listed on the Receipt, Licensor grants Licensee a License for every Musical Work listed on <https://www.steven-obrien.net/> and <https://www.rfcow.com/> as laid out in Section 2, with the following additional restrictions:

- a. License is valid for a term of one (1) year, beginning on the date and time at which Licensee's payment was successfully processed. When the aforementioned period lapses, the License will expire.
- b. Notwithstanding any license granted by other valid agreements, Licensee may no longer use any Musical Work in any new Production released, published, uploaded, or put into circulation once the License has expired. The definition of what constitutes a "new Production" will be at the sole discretion of Licensor.
- c. Subject to the limitations and restrictions of this agreement, licensee may continue to use the License granted in Section 2 in any Production that was completed and released, published, uploaded, or put into circulation before the License's date and time of expiration.
- d. Any "renewal" of any subscription plan will be considered as being related to a new, separate agreement.

7. Representations, Warranties, Indemnity:

- a. Licensor and Licensee represent to each other that they have the full right, power, and authority to execute, deliver, and perform all provisions of this agreement.
- b. Licensor warrants that Item/Items, when used in compliance with this agreement, and in compliance with applicable laws, and with respect to which Licensee has fulfilled

Licensee's obligations under this Agreement, including full payment of all applicable fees as listed in Receipt, will not infringe any copyright, trademark, or other intellectual property right, and will not violate any third parties' rights of privacy or publicity rights.

- c. Licensor warrants that there are no defects known to Licensor in the Item/Items which would prevent them from being used as permitted in the License. If material defects are discovered by Licensee in the Item/Items, Licensee's exclusive remedy under this paragraph will be as follows: (i) upon request to me within 30 days of the download of such Item/Items, Licensee will be permitted to download the Item/Items again to obtain a replacement copy of the Item/Items; or (ii) if I determine, in my sole discretion, that defects would continue to prevent it from being downloaded or used as permitted herein successfully, I will refund the fee actually paid by Licensee for such Item/Items.
- d. Licensor will defend, indemnify and hold Licensee harmless from any actual or threatened third party lawsuit, claim, or legal proceeding (each, a "Claim") alleging a breach or facts that if true would constitute a breach of any of my express representations and warranties in this Agreement or that the distribution or use of Item/Items used by Licensee pursuant to this Agreement would result in the breach of any of such representations and warranties, provided in each case that Licensee has paid all amounts due to Licensor and has not otherwise materially breached the terms of the Agreement.
- e. Licensee agrees to indemnify and hold me, and any of my affiliates harmless from and against any and all damages, liabilities, costs and expenses (including reasonable attorneys' fees and costs) arising out of or relating to License.
- f. Licensee represents that they are not a citizen of, or otherwise located within an embargoed nation, and that they are not prohibited under Export Laws from making a purchase from Licensor.
- g. If Licensee has purchased an Item containing within the title the phrase "Individual License" or "Individual Subscription" on the Receipt, Licensee represents that they are a Natural Person or Sole Proprietor, and represents that they are not, and are not representing or acting on behalf of, a company, corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, association, or any other organization which exists separately and distinctly from its members.

8. Limitation of Liability:

- a. Licensor shall not be liable to Licensee or any other person or entity for any punitive, special, indirect, consequential, incidental, or other similar damages, costs, or losses arising out of this agreement, even if Licensor has been advised of the possibility of such damages.
- b. The maximum aggregate amount of Licensor's liability related to all uses and purchases made by Licensee shall not exceed five thousand U.S. Dollars (\$5,000).

9. Payments and Taxes:

- a. Licensor is under no obligation to refund any fees paid by Licensee for Item/Items under any circumstances, except upon a material breach of one of Licensor's express representations and warranties set forth herein for such Item/Items. However, if Licensee requests a refund, and I, in my sole discretion, determine to provide Licensee with a refund, the License granted in this Agreement for the Item/Items will be rescinded as if never granted. Any refund will be made by such means as I determine is appropriate. This does not affect Licensee's statutory rights.
- b. Licensee is responsible for promptly paying any and all applicable sales taxes, use taxes, value added taxes, property tax, customs, duties and any related interest or penalties imposed by any jurisdiction as a result of the License or any use of the Item/Items.
- c. Licensee must pay all amounts due without any set off, deduction or withholding of any kind, including tax withholdings or amounts charged for currency conversion. To the extent

that Licensee determines that Licensee is required under law (e.g., under a tax law) to withhold any amount from payments due to me or a financial institution or other intermediary deducts any amount for currency conversion or other services from Licensee's payment to me, the price for the applicable License is hereby increased by the amount that would cause the net amount actually received by Licensor to equal the price that would otherwise apply for the sale of the License.

10. Termination:

- a. If Licensee fails to cure a material breach or other material failure to comply with any provision of this Agreement within 14 days of written notice from Licensor of the same, the License will terminate automatically without notice from Licensor. Upon termination, to the extent reasonably practical, Licensee must, and must ensure Licensee's Representatives immediately cease use of the Item/Items, and destroy or delete all copies of Item/Items.
- b. The provisions and obligations of Section 1, and Sections 3 through 10 shall survive termination or expiration of this Agreement, or of the License.
- c. Upon termination or expiration of this Agreement, or of the License, Licensee agrees to be bound by the terms of the Creative Commons Attribution-NoDerivatives 4.0 International license, the text of which can be accessed at <https://creativecommons.org/licenses/by-nd/4.0/legalcode>, for any Musical Work written, created, published, or distributed by Licensor, or to which Licensor otherwise holds the copyright.

11. Miscellaneous:

- a. Unless the context requires otherwise, in any part of this Agreement: (i) "including" (and any of its derivative forms, e.g. "includes"), "e.g." and "for example" means "including but not limited to"; (ii) "must not", "should not", "shall not" and "may not" are expressions of prohibition, and "will", "must", "should" and "shall" are expressions of command, and not merely expressions of future intent or expectation; (iii) use of the singular imports the plural and vice versa; (iv) references to one or no gender include the other or no gender; (v) when applied to a company, "Affiliate(s)" means any/all companies that from time to time directly or indirectly are owned or controlled by such company, under common ownership or control with such company or own or control such company; (vi) "Person" means an individual or legal entity, including a company or a governmental agency or instrumentality; and (vii) the headings, line-breaks, and page-breaks in this Agreement are for ease of reference only and shall not affect its interpretation.
- b. The parties to this Agreement are independent contractors, and nothing in this Agreement or the License shall create a joint venture, endorsement, partnership, franchise, or fiduciary relationship between the Licensor and Licensee.
- c. Any notice required or permitted to be given under this Agreement shall be in writing, delivered by hand, national recognized overnight courier service, email, or registered or certified mail by email to Licensor at steven@steven-obrien.net, and to Licensee at the email provided at the time of purchase.
- d. Licensee consents to receive communications from Licensor via email and agrees that all agreements, receipts, notices, disclosures, and other communications satisfy any legal requirement that such communications be in writing.
- e. If any provision, or portion thereof, of this Agreement, or its application to any person or circumstance, shall be invalid, illegal or unenforceable to any extent, the remainder of this Agreement, or such provision and their application shall not be affected thereby, but shall be interpreted without such unenforceable provision or portion thereof so as to give effect, insofar as is possible, to the original intent of the parties, and shall otherwise be enforceable to the fullest extent permitted by law.

- f. All of the covenants, terms, provisions and agreements contained in this Agreement shall be binding upon, and inure to the benefit of, the parties hereto and, to the extent permitted by this Agreement, their respective heirs, legal representatives, successors and permitted assigns.
- g. If Licensee breaches any provision of this Agreement and I take no action, I will still be entitled to use my rights and remedies in any other situation where this Agreement has been breached. Licensee's obligations, the limitations and my rights and remedies set out in this Agreement are cumulative and are in addition to the copyright owner's rights and remedies at law or in equity.
- h. This Agreement and License are non-transferable unless Licensor grants explicit written permission to Licensee. Licensee may not resell, rent, sublicense, loan, assign or transfer the Item/Items to any third party, provided that no restriction on transferability in this Agreement applies to Licensee's Productions that incorporate Item/Items pursuant to the License. Licensor may assign this Agreement without Licensee's consent to an affiliate, successor-in-interest, acquirer, or any other person or entity if such person or entity agrees to be bound by its terms and restrictions.

Document last updated on: 14th October 2022, 16:50 UTC