

Art Commissioning Agreement

[ARTIST NAME] and [CLIENT NAME—Real Name, required]

May 23, 2020

THIS ART COMMISSIONING AGREEMENT (this "Agreement") is made and entered into as of the [CONTRACT DATE] by and among [CLIENT NAME—Real Name, required] of [CLIENT ADDRESS—If Shared, not required] (the "Commissioner"), and [ARTIST NAME] of [ARTIST ADDRESS] (the "Writer").

WHEREAS, the Writer is recognized as a skilled author; and

WHEREAS, the Commissioner desires for the Writer to produce specific written materials;

NOW, THEREFORE, in consideration of the premises and the mutual conditions and promises herein contained, the parties hereto agree as follows:

1. Writing. The Writer shall furnish the Commissioner with a written material in accordance with the desires of the Commissioner.
2. Compensation. The Commissioner will pay sixty United States Dollars (\$60.00 USD) for the written material. The Commissioner further agrees to pay an extra fifteen United States Dollars (\$15.00 USD) for each page above eight pages and twenty United States Dollars (\$20.00 USD) for each illustration typeset into the work. Calculations of page length shall not include fore-matter of the work. Fees will be limited to a maximum of [MAX BUDGET]. No compensation is to be rendered if the written materials are not fully drafted by [DATE OF DELIVERY] and fully completed by [DATE OF COMPLETION].
3. Billing. The Commissioner agrees to pay the full amount invoiced within seven (7) days of receiving the invoice. The Commissioner agrees that late payment will result in a fee of five United States Dollars (\$5.00 USD) per day that invoices are overdue. The Commissioner further agrees to indemnify the Writer against any and all fees required for the collection of the amount due. The Commissioner agrees that in the event of a dispute over fees and billing, all fees must still be paid as invoiced by the invoice due date. If a dispute is resolved by any means in favour of the Commissioner, any amount to be refunded, minus mailing costs, will be returned via personal check sent via US Post.
4. Confidential Information and Intellectual Property.

- (a) The Writer shall maintain in strict confidence, and not use or disclose except pursuant to written instructions from the Commissioner, the name, address, telephone, or e-mail address of the Commissioner provided that the obligation to protect the confidentiality of any such information or data shall not be excused if such information or data ceases to be protected as a result of the acts or omissions of the Writer.
- (b) The Commissioner shall maintain in strict confidence, and not use or disclose except pursuant to written instructions from the Writer, the name, address, telephone, or e-mail address of the Writer provided that the obligation to protect the confidentiality of any such information or data shall not be excused if such information or data ceases to be protected as a result of the acts or omissions of the Commissioner.
- (c) The Writer and The Commissioner may disclose protected information pursuant to any order or legal process requiring the disclosing party (in its legal counsel's reasonable opinion) to do so. This includes, but is not limited to, actions for the collection of funds owed under this agreement.
- (d) All original works of authorship that result from the performance by the Writer of its duties hereunder, will be and will remain the sole and exclusive property of the Writer. The Commissioner will not, in any circumstance, use any original work of authorship in a manner inconsistent with the licensing and instruction of the Writer.
- (e) Certain intellectual property (including character designs) belonging to the Commissioner may be used in the creation of the written materials. The Commissioner agrees to licence these materials to the Writer for the Writer's use in these materials.
- (f) The existence of any claim or cause of action that Writer may have against the Commissioner will constitute a defence to the enforcement by the Commissioner of the restrictions or rights provided by this Section if the restriction of these rights would impair the Writer's claim or cause of action against the Commissioner. The failure to assert such claim or cause of action shall not be deemed to be a waiver of such claim or cause of action.

5. Acts Discreditable.

- (a) Writer shall at all times refer to Commissioner in terms that further his business and personal objectives. Writer shall not refer to Commissioner in a manner that damages Commissioner's position in the marketplace.
- (b) Commissioner shall at all times refer to Writer in terms that further his business and personal objectives. Commissioner shall not refer to Writer in a manner that damages Writer's position in the marketplace.

- (c) This section titled Acts Discreditable will be waived if the Commissioner fails to adhere to the section titled Compensation or the section titled Billing and the Writer determines that it is in the best interests of fellow artists and writers to reveal the identity of the Commissioner as a person who has not complied with with the pay and billing requirements contained herein.
6. Termination. This Agreement may be terminated by either party upon written notice. The Commissioner shall not terminate this agreement unless all invoices sent under this agreement have been paid in full.
7. Severable Provisions. The provisions of this Agreement are severable, and if any one or more provisions may be determined to be illegal or otherwise unenforceable, in whole or in part, the remaining provisions, and any partially enforceable provision to the extent enforceable in any jurisdiction, shall nevertheless be binding and enforceable.
8. Binding Agreement. The rights and obligations of the Commissioner under this Agreement shall inure to the benefit of and shall be binding upon the successors and assigns of the Commissioner. The rights and obligations of the Writer under this Agreement shall inure to the benefit of and shall be binding upon the successors and assigns of the Writer.
9. Relationship of Parties. The Writer and the Commissioner are independent contractors. Both parties acknowledge and agree that the Writer's engagement hereunder is not exclusive and that either party may provide to, or retain from, others similar such services provided that it does so in a manner that does not otherwise breach this Agreement. Neither party is, nor shall claim to be, a legal agent, representative, partner or employee of the other, and neither shall have the right or authority to contract in the name of the other nor shall it assume or create any obligations, debts, accounts or liabilities for the other.
10. Notices. Any notices or other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given and delivered when delivered in person, twelve (12) days after being mailed postage prepaid by certified or registered mail with return receipt requested, or when delivered by overnight delivery service, by facsimile or by email with return receipt to the recipient.
11. Waiver. Either party's failure to enforce any provision or provisions of this Agreement shall not be construed as a waiver of any such provision or provisions as to future violations thereof, nor prevent that party thereafter from enforcing each and every other provision of this Agreement. The rights granted the parties herein are cumulative and the waiver by a party of any single remedy shall not constitute a waiver of such party's right to assert all other legal remedies available to it under the circumstances.

12. Governing Law. This Agreement will be governed by and interpreted in accordance with the substantive laws of the State of Texas and the United States without reference to conflicts of law.
13. Captions and Section Headings. The various captions and section headings contained in this Agreement are inserted only as a matter of convenience and in no way define, limit or extend the scope or intent of any of the provisions of this Agreement.
14. Entire Agreement. With respect to its subject matter, this Agreement and its Exhibits constitute the entire understanding of the parties superseding all prior agreements, understandings, negotiations and discussions between them whether written or oral, and there are no other understandings, representations, warranties or commitments with respect thereto.
15. Validity. This agreement shall be held valid if it is agreed to in electronic mail, by voice, by active text conversation or by signature.