

PRODUCER AGREEMENT

THIS PRODUCER AGREEMENT (the “Agreement”) is entered into as of _____ between **Damaso Del Rosario** p/k/a **maso/duhmaso** (the “Producer”) of **Gainesville, FL** on the one hand, and _____ p/k/a _____ (the “Artist”) of _____ on the other, in connection with the production of one (1) master recording (the “Master”) embodying the Artist’s performance of the musical composition entitled “_____” (the “Composition”). For good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. **TERM.** The term of this agreement will be deemed to have commenced upon the date Producer first rendered services in connection with the Master, and will continue until the delivery to and acceptance by Artist of the Master as technically and commercially satisfactory, in Artist's sole discretion, for the manufacture and sale of records ("**Delivery**").
2. **GRANT OF RIGHTS.** Subject to all the terms and conditions contained herein, Artist shall be entitled to and shall solely and exclusively own the results and proceeds of Producer's services (excluding songwriting) hereunder in connection with the Master and all rights thereto throughout the world (including but not limited to Copyright in the Master) as a work made for hire for the Artist, as such term is defined in the Copyright Act of 1976 (Title 17, U.S.C.), as amended, and, to the extent any such results and proceeds may not be deemed to be a work made for hire, Producer hereby assigns and transfers to Artist all the foregoing (excluding the Composition) without reservation, condition, or limitation, and no right of any kind, nature, or description is reserved by Producer. Producer hereby agrees to execute and deliver any documents or instruments evidencing the above within five (5) business days of Artist's reasonable written request, otherwise Artist is appointed Producer's limited attorney in fact solely to do the same, provided Artist shall provide Producer with copies of any such documents executed on Producer's behalf. Without limiting Artist's rights, Artist and any of Artist's assignees (including any record company or distributor) will have the sole and exclusive right in perpetuity throughout the universe to do the following: (i) to manufacture, advertise, sell, license or otherwise exploit the Master upon the terms and conditions hereof, and under such trademarks as Artist elect, or, in Artist's sole discretion, to refrain therefrom; and (ii) to perform the Master publicly and to permit the public performance thereof by any method or means now or hereafter known.
3. **ADVANCE.** In consideration for the rights granted to Artist in connection with the Master, Artist shall pay Producer an advance in the amount of _____ (\$____) (**the "Advance"**) promptly following the full execution of this Agreement. All amounts payable to Producer pursuant to this paragraph 3 shall be recoupable from any royalties (excluding mechanical royalties) payable to Producer hereunder.
4. **ROYALTIES.**
- a. As further consideration of all rights granted to Artist in connection with the Master, Artist shall pay or shall instruct and cause its distributor to pay Producer a royalty (the "**Producer Royalty**") equal to **Fifty Percent (50%)** of the "Net Profits" with respect to exploitations of the Master. As used herein the "Net Profits" shall mean the "all-in" royalties and/or "net receipts" payable or credited to Artist in connection with all exploitations of the Master, including the applicable third-party distribution agreement.
- b. The Producer Royalty shall be paid prospectively after the Artist has recouped all recording costs incurred solely in connection with producing, delivering, manufacturing, authoring, and

marketing the Master, as well as all third party distribution fees actually paid directly and solely in connection with such exploitation, all as “off-the-top” expenses in calculating net receipts (but, for the avoidance of doubt, no general overhead expenses shall be deductible when calculating net receipts).

c. In the event that Artist receives or is credited with any monies from third-parties other than a third-party distributor, attributable solely to the exploitation of the Master (“Direct Monies” which, for the avoidance of doubt, exclude so-called “publishing monies”), Artist shall pay Producer’s respective pro-rata share of such Direct Monies. In connection with the foregoing, Artist’s obligation to pay Producer’s pro-rata share of so-called “SoundExchange” Direct Monies shall be satisfied by providing Producer with an irrevocable letter of direction in the form attached as Exhibit A hereto (the “SE Letter of Direction”), executed by Artist, authorizing SoundExchange to render payment to Producer directly of Producer’s pro-rata share of Artist’s appropriate share of such SoundExchange Direct Monies; provided, however, if SoundExchange or any third-party fails or refuses to so pay Producer directly, and Artist receives any portion of such SoundExchange Direct Monies attributable to Producer, the provisions of this Agreement regarding Artist’s payment and accounting obligations set forth below shall apply.

5. CREDIT. Artist shall accord Producer an appropriate credit on the packaging, labels, and liner notes (and wherever digital metadata permits) of records in all configurations derived from the Master, and on the back covers of singles of the Master in substantially the following form: **“Produced by maso/duhmaso.”** Artist shall also accord Producer such credit in all one-half (1/2) page or larger trade or consumer advertisements, and so-called “strip-ads”, placed by Artist or under Artist’s control, which relate solely to the Master. Artist’s inadvertent, non-repetitive failure or Artist’s failure to comply with any of the foregoing shall not be deemed a breach of this Agreement; provided, however, that following notice from Producer, Artist shall cure any such failure, on a prospective basis.

6. LIKENESS. Producer hereby grants to Artist the right to use Producer’s name, approved likeness and approved biographical material (the “ID Materials”) concerning Producer solely in connection with the sale, advertising and exploitation and promotion of the Master. Producer shall have the right to approve any ID Materials selected or commissioned by Artist provided that Producer’s consent to the ID Materials shall not be unreasonably withheld or delayed and shall be deemed given within five (5) business days after the date such materials are received by Producer.

7. ACCOUNTING.

a. Artist shall execute from time to time customary letters of direction to the applicable distributor and other third parties (e.g., with respect to Direct Monies), to direct and authorize payments to Producer of royalties due to Producer at the same time as sums are paid to or on behalf of Artist. In absence of direct payment from third parties, the Artist shall pay the Producer Royalty and provide Producer with accounting statements within thirty (30) days of Artist’s receipt thereof from the applicable third-party (e.g. the distributor). In so accounting to Producer, the Artist shall have the right to relay on the statements rendered to Artist by any record company or distributor, as applicable.

b. All statements and accountings rendered to Producer will be binding and not subject to any objection for any reason unless Producer notifies Artist in writing of Producer’s specific objection thereto, stating the basis thereof, within three (3) years after the date such statement is rendered. Producer shall have the right to engage a certified public accountant or licensed attorney to audit the Artist’s books and records solely as they pertain to the calculation and payment of monies to Producer hereunder to verify the accuracy of such statements, no more than once with respect to any statement, no more than

once in each calendar year, at Producer's sole expense. Any objection relating to any accounting statement, or any lawsuit arising therefrom, must be made (and any lawsuit commenced), no later than three (3) years after the date the statement is received. In the event Artist audits its distributor and recovers any additional monies, Producer shall be entitled to receive Producer's pro-rata share thereof.

8. CONTROLLED COMPOSITIONS

a. All musical compositions recorded or produced hereunder, and all other materials embodied on the Master, which are written or composed (either in whole or in part) or owned or controlled (either directly or indirectly) by Producer or Producer's designee, or by any person or entity owned, controlled by or affiliated with Producer or Producer's designee that renders services in connection with the Master (the "Controlled Composition") are hereby mechanically licensed on a "first-use" basis (which shall include, for the avoidance of doubt, all video rights as set forth below) at a rate equal to one hundred percent (100%) of the relevant, prevailing statutory rate, but otherwise upon the same terms and conditions as applicable to Artist's respective ownership share thereof pursuant to any recording or distribution agreement, if applicable.

b. Without limiting the generality of the foregoing, Producer shall grant (and shall cause Producer's respective licensees, designees and affiliates to grant) to Artist a license to reproduce the Composition in synchronization with and in time relation to visual images featuring Artist's performances in so-called non-commercial promotional "video programs" on a royalty-free basis, only in the event that Artist does not receive any compensation for said promotional use.

c. The parties hereby acknowledge and agree, on behalf of themselves and each of their respective publishing designees, that the authorship of the Composition is as set forth on Exhibit B and control of the worldwide right, title and interest in and to the Composition shall be divided according to the percentages outlined in the split sheet attached as Exhibit B hereto and incorporated herein.

d. The parties hereby acknowledge and agree that Producer, Artist and each other writer (if any) (or their respective publishing designees) shall have the right to solely administer their respective interest in and to the Composition, throughout the world, during the full term of worldwide copyright.

9. REPRESENTATIONS AND WARRANTIES.

a. Producer hereby represents and warrants that: (i) Producer is free to enter into and perform this agreement, and is not and will not be under any disability, restriction or prohibition, contractual or otherwise with respect to Producer's right to execute this agreement, grant all of the rights granted to Artist hereunder and fully perform each and every term hereof; (ii) All materials furnished by Producer in connection with the Master and Composition, as applicable, shall be original and not infringe upon or violate the rights of any third parties; and (iii) Producer is not subject to a recording agreement or any other restriction that would require Artist to obtain any third-party clearances in connection with Producer's services hereunder.

b. Artist hereby represents and warrants that: (i) Artist is free to enter and perform this Agreement, and is not under any disability, restriction or prohibition, contractual or otherwise, with respect to Artist's right to execute this Agreement and Artist's right to fully perform each and every term and provision hereof; and (ii) none of the materials, ideas or other properties furnished or contributed by Artist or any third party engaged or furnished by Artist (excluding Producer), and embodied in the Master,

Composition, or the packaging or advertising thereof, shall violate any law or infringe upon any common law or statutory rights of any party, including without limit, contractual rights, copyrights and rights of privacy.

10. INDEMNIFICATION. The parties each hereby agree to mutually indemnify and hold each other harmless against any third-party claim, liability, documented cost and expense (including reasonable outside attorneys' fees and reasonable, actual and documented court costs) in connection with any third-party claim which is inconsistent with any agreement, covenant, representation, or warranty made by that party hereunder, provided such claim is reduced to a final, adverse judgment by a court of competent jurisdiction or settled with the indemnifying party's prior written consent.

11. INDEPENDENT CONTRACTOR. Producer is an independent contractor and nothing in this Agreement is intended or shall be construed to create an employer-employee, joint venture, or business relationship other than independent contractor as between the Artist and Producer.

12. ASSIGNMENT. Artist may, at Artist's election, assign this agreement, in whole or in part, to any person, firm or corporation. Producer may not delegate any of Producer's obligations or assign any of Producer's rights hereunder, except that Producer may assign Producer's right to receive income hereunder to a so-called "loan out" company.

13. NOTICES. Notices hereunder shall be in writing, via email (if written confirmation may be obtained), facsimile (if written confirmation may be obtained), or certified mail. The date and time of confirmation (for facsimile or email) or certification shall be the date and time of such notice, unless such date and time do not fall between 9:00 a.m. and 5:00 p.m. (recipient's time zone) on a business day, in which case the date and time shall be deemed to be 9:00 a.m. on the next business day.

14. REMEDIES. Under no circumstances will the Producer be entitled to seek to enjoin the exploitation of the Master, for any reason, it being agreed that money damages shall be an adequate remedy. This Agreement shall be governed by the laws of **Florida**, and any controversy or claim arising out of or in relation to this Agreement, including the validity, construction or performance of this Agreement, shall be submitted exclusively to the jurisdiction of the state courts of the State of **Florida** or the Federal District courts, located in the County of **Alachua**. With respect to any breach which is capable of cure, neither party shall be in breach of this Agreement unless that party fails to cure any breach within thirty (30) days of receipt of written notice of the breach. A waiver of any breach shall not waive a prior or subsequent breach.

15. MISCELLANEOUS. This Agreement contains the entire understanding of the parties as to the subject matter hereof, and all prior Agreements as to such subject matter have been merged herein. Artist acknowledges that Artist has had the opportunity to consult with counsel regarding this Agreement. If any provision of this Agreement is invalid, void or unenforceable, the remainder of this Agreement shall remain in full force and effect. This Agreement may not be altered in any way except by an instrument signed by the parties. This Agreement may be signed in counterpart (and/or facsimile and/or PDF), each of which shall be deemed an original, but all of which together shall constitute the Agreement.

ACCEPTED AND AGREED TO BY:

ARTIST

PRODUCER

EXHIBIT A
SOUNDEXCHANGE LETTER OF DIRECTION

EXHIBIT B
THE COMPOSITION

Writer	PRO	IPI#	Pub Designee	Pub IPI#	%
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____