

Abstract Logix (ABLX) Digital Sales Agreement

The following, when accepted by you (whether as an individual, or if applicable, acting as the authorized legal representative for an artist, band, group, company or corporation) and us (Abstract Logix) shall constitute our Agreement. We are a North Carolina Corporation with offices located at 103 Sarabande Dr, Cary NC 27513 and are the owner and operator of the web pages at <http://www.abstractlogix.com>. Please read this Agreement carefully. By signing this contract, you will become a party to, and will be bound by this Agreement. We may modify this Agreement as further described in Section 8 below. The “Effective Date” of this Agreement is the date on which you date and sign the agreement.

1. **Authorization:** You hereby appoint us as your authorized representative for the sale of Your Authorized Content as provided herein. The rights that are granted by you to us are non-exclusive, Accordingly, you hereby grant to us the non-exclusive right, during the Term and throughout the Territory, to:
 1. Reproduce and convert Your Authorized Content into Digital Masters;
 2. Perform and make available for promotional purposes, portions of Your Authorized Content (“Clips”) by “streaming” to promote the license, sale and distribution of Digital Masters;
 3. Promote, sell, distribute, and deliver Digital Masters, as individual tracks or entire albums, and associated metadata to purchasers.
 4. Use and distribute Copyright Management Information as embodied in a Digital Master;
 - a. Display and electronically fulfill and deliver Authorized Artwork used in connection with the Your Authorized Content for personal use solely in conjunction with the applicable Digital Master as provided herein;
 - b. Use Your Authorized Content, and Authorized Artwork and metadata as may be reasonably necessary or desirable for us to exercise our rights under and in furtherance of this Agreement; and
5. **Term:** The Term of our Agreement shall commence on the Effective Date and shall continue unless and until terminated by either party upon no less than thirty (30) days notice to the other party.
6. **Payments to You:** We shall pay you an amount equal to sixty-five percent (65%) of the retail prices that you stipulate for the sale or other licensed or approved uses of your Digital Masters. All accounting details are available, and updated in real time to your account in the secure members' login area at http://www.abstractlogix.com/digital_downloads/backend/login.php. We shall make payments to you within the first three business days of the month for the prior month sales, or as subsequently modified by you and us. Such payment obligation shall constitute full consideration for all rights granted and all obligations undertaken by you hereunder. You will have the right to affiliate with a performance rights society and Sound Exchange or other entity to collect monies that may be payable to you for the public performance of Your Authorized Content.
7. **Your Obligations:** You shall obtain and pay for any and all clearances and licenses as may be required in the Territory or any portion thereof for uses of Your Authorized Content, and Authorized Artwork and metadata. Specifically, and without limiting the generality of the foregoing, you shall be responsible for and shall pay (i) any royalties and other sums due to artists, authors, co-authors, copyright owners and co-owners, producers and any other record royalty participants from sales or other uses of Digital Masters, (ii) all mechanical royalties or other sums payable to publishers and/or authors or co-authors of musical compositions embodied in Digital Masters from sales or other uses of Digital Masters, (iii) all payments that may be required under any collective bargaining agreements applicable to you or any third party, and (iv) any other royalties, fees and/or sums payable with respect to Your Authorized Content, and Authorized Artwork, metadata and other materials provided by you to us. You agree that the amount payable to you is inclusive of any so-called “artist royalties” that might otherwise be required to be paid for sales or exploitations pursuant to the applicable laws of any jurisdiction.
8. **Rights to Withdraw Material:** You shall have the right at any time during the Term hereof upon written notice to us to withdraw further authorization for the sale or other uses of Your Authorized Content and Authorized Artwork. Promptly following our receipt of your notice to us hereunder of your requested withdrawal. We are no longer authorized to offer the sale or other use of such of Your Authorized Content or Authorized Artwork as you shall provide us with a withdrawal notice

concerning. The foregoing shall not limit your responsibility for sales and other uses of Your Authorized Content and/or Authorized Artwork occurring prior to the implementation of such withdrawal and shall not limit in any way the rights of end users who have acquired Your Authorized Content or Authorized Artwork.

9. **Names and Likenesses; Promotional Use and Opportunities:**

- a. We may use the names, the approved likenesses of, and the biographical material concerning, any artists, bands, producers and/or songwriters, as well as track and/or album name, and Authorized Artwork, in any marketing materials for the sale, promotion and advertising of the applicable Digital Master which is offered for sale or other use under the terms of this Agreement (e.g., an artist or band name and likeness may be used in an informational fashion, such as by textual displays or other informational passages, to identify and represent authorship, production credits, and performances of the applicable artist or band in connection with the exploitation of applicable Digital Masters).
- b. We shall have the right to market, promote and advertise the Digital Masters as available for purchase as we determine in our discretion and that we make no guarantees whatsoever about there being any minimum sales or uses of any Digital Master.

10. **Ownership:** Subject to our rights hereunder or under any prior agreement between you and us, insofar as we are concerned, all right, title and interest in and to (i) Your Authorized Content and Authorized Artwork, (ii) the Digital Masters, (iii) the Clips, (iv) all copyrights and equivalent rights embodied therein, and (v) all materials furnished by you, shall be and remain your property.

11. **Modification, Termination and Effect of Termination:**

- a. We reserve the right to change, modify, add to or remove all or part of this Agreement. Notice of any such changes shall be sent to you by email at least seven (7) days prior to their effective date. In the event that you do not consent to any such proposed changes your sole recourse shall be to terminate the Term of this Agreement by notice to us as provided above, and your failure to do so within ten (10) days of the date of any such email from us to you shall constitute your acceptance of such changes.
- b. The expiration of the Term of this Agreement shall not relieve either party from their respective obligations incurred prior to or during the Term. Accordingly, provisions of this Agreement will continue to apply even after the expiration of the Term.

12. **Indemnification:** If we receive a claim that the use of Your Authorized Content or Authorized Artwork or any other materials provided or authorized by you is in violation of any third party rights, you agree to fully indemnify and hold us harmless, and upon our request, defend us and our affiliates (and their respective directors, officers and employees) from and against any and all losses, liabilities, damages, costs or expenses (including reasonable attorneys' fees and costs) concerning any such claim. Accordingly, you agree to reimburse us and our affiliates on demand for any payments made in resolution of any liability or claim that is subject to indemnification under this Section 9, provided that we obtain your written consent prior to making any such payments. You agree that your consent will not to be unreasonably withheld, delayed or conditioned. We shall promptly notify you of any such claim, and by obtaining and posting and maintaining an appropriate bond for our benefit you may assume control of the defense of such claim, provided that we shall have the right in all events to participate in the defense thereof.

13. **Additional Representations and Warranties of the Parties:**

- a. You represent and warrant that you have the full authority to act on behalf of any and all owners of any right, title or interest in and to Your Authorized Content or Authorized Artwork.
- b. You represent and warrant that you own or control the necessary rights in order to make the grant of rights, licenses and permissions herein, and that the exercise of such rights, licenses and permissions by us and our Licensees shall not violate or infringe the rights of any third party.
- c. Each party represents and warrants that it has full authority to enter into and fully perform its obligations under this Agreement and has obtained all necessary third-party consents, licenses and permissions necessary to do so.
- d. Each party represents and warrants that it shall not act in any manner which conflicts or interferes with any existing commitment or obligation of such party, and that no agreement previously entered into by such party will interfere with such party's performance of its obligations under this Agreement.

- e. Each party represents and warrants that it shall perform their obligations hereunder in compliance with any applicable laws, rules and regulations of any governmental authority having jurisdiction over such performance.
14. **General Provisions:**
- a. The parties agree and acknowledge that the relationship between the parties is that of independent contractors. This Agreement shall not be deemed to create a partnership or joint venture, and neither party is the other's agent, partner, or employee.
 - b. This Agreement contains the entire understanding of the parties relating to the subject matter hereof, and supersedes all previous agreements or arrangements between the parties relating to the subject matter hereof, provided that if you previously entered into a digital distribution agreement with us in the past, and elected any options, those options shall remain in place under this Agreement. This Agreement cannot be changed or modified except as provided herein. A waiver by either party of any term or condition of this Agreement in any instance shall not be deemed or construed as a waiver of such term or condition for the future, or of any subsequent breach thereof. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable, such determination shall not affect any other provision hereof, and the unenforceable provision shall be replaced by an enforceable provision that most closely meets the commercial intent of the parties.
 - c. This Agreement shall be binding on the assigns, heirs, executors, personal representatives, administrators, and successors (whether through merger, operation of law, or otherwise) of each of the parties.
 - d. Any notice, approval, request, authorization, direction or other communication under this Agreement shall be given in writing and shall be deemed to have been delivered and given for all purposes on the delivery date if sent by electronic mail to the addresses provided to and by you upon signing this agreement, or as properly updated.
 - e. This Agreement shall be governed and interpreted in accordance with the internal laws of the State of North Carolina applicable to agreements entered into and to be wholly performed therein, without regard to principles of conflict of laws.
 - f. To the extent permitted by applicable law, the rights and remedies of the parties provided under this Agreement are cumulative and are in addition to any other rights and remedies of the parties at law or equity.
 - g. The titles used in this Agreement are for convenience only and are not to be considered in construing or interpreting this Agreement.
 - h. This Agreement is for the sole benefit of the parties hereto and their authorized successors and permitted assigns. Nothing herein, express or implied, is intended to or shall confer upon any person or entity, other than the parties hereto and their authorized successors and permitted assigns, any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.
15. **Certain Definitions:** The following capitalized terms shall have the following meanings for purposes of this Agreement:
- a. "Authorized Artwork" means album cover artwork and any other artwork relating to Your Authorized Content that you provide to us. All such artwork shall be deemed to have been cleared by you for all purposes unless you shall have provided us with written notice to the contrary.
 - b. "Authorized Territory" means the Universe or such other more limited territories as you shall elect as provided in the registration process.
 - c. "Copyright Management Information" means the digital information conveying information regarding a Digital Master, such as your name, the title of the applicable album, the name of the song and the record company name, and same shall be subject to the protection of Title 17, Section 1202 of the United States Copyright Law.
 - d. "Digital Master" or "Digital Masters" means a copy or copies of Your Authorized Content in digital form.
 - e. "Your Authorized Content" means sound and video recordings and underlying musical compositions that you have designated for digital distribution by us. Any such sound and video recordings and the underlying musical compositions must be owned or controlled by you and/or have been cleared by you for all purposes and rights granted and authorized hereunder by you. In

connection with rights in and to musical compositions, please read carefully the material contained on our site at http://www.abstractlogix.com/digital_downloads.

13. **Notices.** All notices, payments, accountings and other data which Abstract Logix is required or may desire to send or deliver to or serve upon you shall be delivered in person to you or deposited in the United States mails, postage prepaid, or delivered by certified, return receipt mail or via UPS, Federal Express (or similar carrier), or sent via electronic mail shall be addressed to you at:

Name

Street

City, State, ZIP

Email Address

Or such other address or addresses as company may designate from time to time in writing.

All Notices, payments, accountings and other data which you are required or may desire to send or deliver upon us shall be delivered in person, or deposited in the United States mails, postage prepaid, or delivered by certified, return receipt mail or via UPS, Federal Express (or similar carrier), or sent via electronic mail shall be addressed to us at:

Abstract Logix
103 Sarabande Dr.
Cary NC 27513
orders@abstractlogix.com
Fax: (866) 224-6829

YOU NEED FULL PERMISSION TO DO THIS!

- **You must own the copyright for the sound or video recordings or have the authority or permission from the owner(s).**
- If you didn't write the song/composition, that's OK, but you **must** find out who the copyright owners are, and pay the publisher their mechanical royalties the same way you would for CDs sold, but based on your download/sales activity.
- **If you have samples in your music, they must all be legally cleared and paid-for. No “mix tapes” of other people's music, even if you are mixing in your own music.**

- It's VERY important you have all rights and permission! **Files distributed on the internet are watched very carefully by lawyers.** You can't just “get away with it”. Do everything thoroughly and legit.

AGREED TO ON THIS DATE: _____

BY: _____

Signature

Printed Name

AGREED TO ON THIS DATE: _____

BY: _____

Signature

Printed Name

If you do not own the Copyright for the sound or video recording you must first:

Identify the Copyright Owner - the publisher

The first step is to identify the owner(s) of the copyright to the song. The publisher.

The easiest way to do this is to search the song writer/publisher databases, here:

- BMI (bmi.com)
- ASCAP (ascap.com)

- SESAC (sesac.com)
- Harry Fox (songfile.com)
- U.S. Copyright Office (copyright.gov)

Keep in mind that **the owner of these rights is typically a publisher**, and that the owner of the rights in the song is not the same as the owner of the rights to any particular recording of the song. In other words, Record Labels are almost never the owners of the copyright to the musical composition - they typically own only sound recordings.

You should be looking for the name of a publisher (or in some cases an individual).

Be careful to **identify the exact song you want, as there are many songs with the same names.** If you cannot find the owner through these websites, search the records of the Copyright Office online.

If you cannot find the copyright holder(s) after a thorough search, you can send the letter to the Copyright Office, along with a small filing fee, currently \$12.00. See the Copyright Office website for the proper address and current filing fees if you are going to be sending the letter of intent to them.

Instructions on how to do that are on “Circular 73” from the U.S. Copyright Office, on a PDF file, here: copyright.gov/circs/circ73.pdf. WE STRONGLY RECOMMEND DOWNLOADING AND READING THIS FILE, because it carries the essence of this entire article.

Send a Letter of Intent - EXACTLY like this:

You must send **one letter for each song** for which you seek a compulsory license **30 days** before you begin distribution of your downloads. **The letter must be sent by registered or certified mail and contain the following:**

16. a clear subject line/title that says “**Notice of Intention to Obtain a Compulsory License for Making and Distributing Phonorecords**”
17. **your full legal name**
18. all fictitious/assumed names (**stage name, band name**) used
19. the names of each individual owning a 25% interest or more in the distribution of the song (**band members**, if you split your sales income)
20. your **fiscal year** (usually January 1st - December 31st)
21. your full **physical address** - P.O. boxes are unacceptable, unless that is the only option for addresses in your geographic region
22. the **title of the song**
23. **name(s) of the author(s)** of that song
24. the type of configuration expecting to be made (a music file distributed over the Internet is called a “**Digital Phonorecord Delivery**” (DPD))
25. the **expected first date of distribution**
26. the **name of the performer/band doing the cover**
27. **your signature.**

If there is more than one publisher listed, sending a letter to one of them is sufficient for the compulsory mechanical license; however, if one or more of the copyright holders is not from the United States, it is best to send the notice to all copyright holders.

Send Royalty Statements and Pay Royalties

Once you begin distributing the song over the Internet, you must **send monthly statements of royalties on or before the 20th of each month, and pay the royalties.**

The monthly statement must be sent by registered or certified mail and include:

1. a clear title that says “**Monthly Statement of Account Under Compulsory License for Making and Distributing Phonorecords**”
2. the **period (month and year) covered by the statement**
3. **your full legal name**
4. all fictitious/assumed names (**stage name, band name**) used
5. the names of each individual owning a 25% interest or more in the distribution of the song (**band members**, if you split your sales income)
6. your full **physical address** - P.O. boxes are unacceptable, unless that is the only option for addresses in your geographic region

7. the **title of the song**
8. **name(s) of the author(s)** of that song
9. the **name of the performer/band doing the cover**
10. the **playing time (length) of your recording of the song** (minutes:seconds)
11. the number of DPDs made, i.e. **how many times your recording was downloaded**
12. the number of DPDs that were **never delivered due to a failed transmission**
13. the number of DPDs that were **retransmitted in order to complete/replace an incomplete/failed delivery**
14. the **total royalty payable** (number of total DPDs, not counting ones never delivered multiplied by the statutory royalty rate (see below))
15. the following statement: **“I certify that I have examined this Monthly Statement of Account and that all statements of fact contained herein are true, complete, and correct to the best of my knowledge, information, and belief, and are made in good faith”**
16. **your signature**

You must also send an Annual Statement of Account at the end of each calendar year, which is virtually identical in content to the Monthly Statements, but **must be certified by a licensed Certified Public Accountant (CPA)**.

Statutory Royalty Rates

The current (2006) statutory rate for royalties is **9.1¢ for every copy sold** if the playing time for the song is under five minutes.

If the playing time for the song is **longer than five minutes, the rate is 1.75¢ per minute, rounding up to the next minute.**

- under 5 minutes = 9.1¢ per copy
- 5 to 5:59 minutes = 10.5¢ per copy (6 minutes x 1.75¢)
- 6 to 6:59 minutes = 12.25¢ per copy (7 minutes x 1.75¢)
- 7 to 7:59 minutes = 14¢ per copy (8 minutes x 1.75¢)
- etc.

The Copyright Office can always keep the most up to date information concerning statutory royalty rates at this link: <http://www.copyright.gov/carp/m200a.html>

IMPORTANT Notes:

The publisher may tell you to that they don't deal with compulsories, and that you should contact the Harry Fox Agency. Though the Harry Fox Agency can handle mechanical licenses for DPDs for most publishers, you still have right to obtain a compulsory license by following the directions, above.

Remember the **law is on your side. You are entitled to a compulsory license by law. You have permission** - (a compulsory license) - as soon as you send the notice, described above, to the proper publisher.

As long as your notice complies with Copyright Section 115, (described above), the publisher need do nothing other than receive the royalty payments. You don't even need to wait for their reply.

Other Notes:

You may be able to negotiate a better deal for yourself, either with lower royalty rates or less frequent statements of account. If terms are negotiated which deviate from the the standard Section 115 then a mechanical license will be issued by the publisher or HFA.

If you wish to distribute physical copies (e.g., CDs) of a cover song, you must obtain a similar compulsory license.

For more information on compulsory licenses for all forms of distribution, please refer to the Copyright Office's web site, at copyright.gov, and contact your attorney.

Helpful publications available through the Copyright Office include Circular 73 (Compulsory License for Making and Distributing Phonographs), Circular 75 (The Licensing Division of the Copyright Office), and M-200 (Checklists under Section 115 of Title 17).

If you have been distributing a cover song without a compulsory license or an agreement with the copyright owner, you are ineligible to obtain a compulsory license for that recording (!), and you may be subject to civil and/or criminal penalties for copyright infringement.

Be careful to follow the steps **exactly** as described above, in order to be legal.

Download and print/save these files:

- [How to Investigate the Copyright Status of a Work](#)
- [Compulsory License For Making and Distributing Phonorecords](#)
- [Notice of intention to obtain a compulsory license](#)
- [Royalties and statements of account under compulsory license](#)
- [Checklists of Required Information](#)
- [Mechanical Copyright Royalty Rates](#)

These and more available at the U.S. Copyright Office website: copyright.gov