

INDEMNITY AGREEMENT

THIS INDEMNITY AGREEMENT made of this _____

BETWEEN: David Rattler 14455 N. Hayden Road Scottsdale, Arizona United States.85260

Rattler Publishing 14455 N. Hayden Road Scottsdale, Arizona United States.85260

Melanated Community Radio 14455 N. Hayden Road Scottsdale, Arizona United States.85260

Gemini Website Design and Hosting 14455 N. Hayden Road Scottsdale, Arizona United States.85260

(Collectively and Individually the “Indemnitee”)

OF THE FIRST PART

and

of _____

(The “Indemnifier”)

OF THE SECOND PART

BACKGROUND:

1. The Indemnitee desires protection against any personal liability, claims, suit, action, loss, or damages that may result in the Indemnitee's participation in the Transaction.
2. The Indemnifier wishes to minimize any hardship the Indemnitee might suffer as the result of personal liability, claims, suit, action, loss, or damages that may result from the Indemnitee's participation in the Transaction.

IN CONSIDERATION and as a condition of the Indemnifier and the Indemnitee entering into this agreement and other valuable consideration, the receipt and sufficiency of which consideration is acknowledged, the Indemnifier and the Indemnitee agree as follows:

Definitions

1. The following definitions apply to this agreement:
 - a) “Transaction means the following:
Marketing and or promoting music through electronic files for the purpose of promoting local, national, and international composers and musicians through the Cultural Music program of Melanated Community Radio
 - b) “Expenses” all cost incurred in the defense of any claim or action brought against the Indemnitee including attorney fees
 - c) “Notice of claim” means a notice that has been provided by the Indemnitee to the Indemnifier describing a claim or action that has been brought against Indemnitee by Third Party
 - d) “Notice of Indemnity” means a notice that has been provided by the Indemnitee to the Indemnifier describing an amount owing under this agreement by the Indemnifier to the Indemnitee.
 - e) “Parties” means both the Indemnitee and the Indemnifier.
 - f) “Party” means either the Indemnitee or the Indemnifier.
 - g) “Third Party” means any person other than the Indemnifier or the Indemnitee.

Indemnification

2. The indemnifier will hold harmless the Indemnitee against any and all claims and actions arising out of the participation of the Indemnitee in the Transaction, including without limitations, Expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with any liability, suit, action, loss, or damage arising or resulting from the Indemnitee's participation in the Transaction, subject to the limits on Indemnification described in the section titled Exceptions to Indemnification. Where prohibited by law, the above indemnification does not include indemnification of the Indemnitee against a claim caused by the negligence or fault of the Indemnitee, its agents, employee, or any third party under the control or supervision of the Indemnitee, other than the Indemnifier or its agent, employee or subcontractors.
3. In the case of criminal proceedings the Indemnifier will indemnify the Indemnitee against all amounts including, without limitation, Expenses, judgments, fines, settlements and other amounts actually and reasonably incurred by the Indemnitee subject to the limits on indemnification described in the section titled Exceptions to Indemnification.

Exceptions to Indemnification

4. The Indemnitee will not be entitled to indemnification from the Indemnifier for any Expenses, judgments, fines, settlements and other amounts incurred as the result of the Indemnitee in the Transaction where;
 - a) in the case of a civil claim, the Indemnitee did not act in good faith and in a reasonable manner;
 - b) in the case of a criminal action, the Indemnitee had reasonable cause to believe its conduct was unlawful;
 - c) the actions or conduct of the Indemnitee constituted willful misconduct or was knowingly fraudulent or deliberately dishonest;
 - d) the Indemnitee will or has received payment under a valid and collectible insurance policy or under a valid and enforceable indemnity clause, bylaw or agreement, except where payment under this insurance policy, clause, bylaw or agreement is not sufficient to fully indemnify the Indemnitee in which case the Indemnifier will be responsible for any shortfall in payment received, or
 - e) an action or proceeding was initiated in whole or in part by the Indemnitee whether alone or along with one or more other claimants unless the action or proceeding has the written consent of the Indemnifier.
5. If one Indemnitee is not entitled to indemnification under this section then all Indemnitees are not entitled to indemnification.

Notice of Claim

6. In the event of any claim or action, the Indemnitee will promptly provide the Indemnifier with written notice of the claim or action and will notify the Indemnifier within five (5) business days of the commencement of any legal proceedings relating to the claim or action. The Indemnitee will provide the Indemnifier with all available information known to the Indemnitee relating to the claim or action.

Authorization of Indemnification

7. In any case where the Indemnitee requires Indemnification, the Indemnifier will make the determination of whether indemnification is appropriate having given consideration to the terms described in the Exception of Indemnification section. If the Indemnitee disagrees with the determination of the Indemnifier then the matter be referred for review and determination to independent legal counsel reasonably satisfactory to the Indemnitee. In all cases the Indemnifier bears all cost of any independent determination.
8. The indemnifier will bear the burden of proving that indemnification is not appropriate.

9. The termination of any claim or action by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent will not, of itself, create a presumption that the person did not act in good faith and in a reasonable manner, or in the case of a criminal action, that the indemnitee had reasonable cause to believe that the Indemnitee's conduct was unlawful.

Assumption of Defense

10. On being notified of any impending action or claim, the Indemnifier may, at its own Expense, participate in the defense of any action or claim and may, alone or with other indemnifying party, assume the defense against the action or claim using counsel that are reasonably satisfactory to the Indemnitee.
11. Once the Indemnifier is notified the Indemnitee of the intention to assume the defense, the Indemnifier will no longer be liable to the indemnitee for any further legal or other Expenses subsequently incurred by the Indemnitee in relation to the defense of the claim. Once the Indemnifier gives notice to the Indemnitee that the defense of claim has been assumed by the Indemnifier, the Indemnitee may employ or continue to employ its own legal counsel however any fees or Expenses incurred by the Indemnitee subsequent to the notice of defense by the Indemnifier will be sole responsibility of the Indemnitee.

Failure to Defend

12. If the Indemnifier elects not to assume the defense against the claim or action then the Indemnitee may defend against the claim or action in any manner the Indemnitee deems appropriate. The Indemnifier will promptly reimburse the Indemnitee for Expenses, judgments, fines, settlements and any other amounts actually and reasonably incurred in connection with the defense of the claim or action subject to the limit on indemnification described in the section titled Exceptions to Indemnification.

13. Settlements and Consent to Indemnifier

The Indemnitee will not settle any claim or action without first obtaining the written consent of the Indemnifier. The Indemnifier will not be liable for any amount paid in settlement of any claim or action where written consent of the Indemnifier was not first obtained. The Indemnifier will not unreasonably withhold consent to any settlement.

Settlement and Consent of Indemnitee

14. The Indemnifier will not settle any claim or action without first obtaining the written consent of the Indemnitee. The Indemnitee will not unreasonably withhold consent to any settlement.

Cooperation

15. The Indemnifier agrees to cooperate in good faith and use best efforts to ensure that the Indemnitee is indemnified and reimbursed for any and all expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with the defense of any claim or action resulting from the participation of the Indemnitee in the Transaction.
16. The Indemnitee agrees to cooperate in good faith and provide any and all information within the Indemnitee's power as required for the defense of any claim or action and also to provide any and all information within the Indemnitee's power as required to help in a determination of indemnification as described under the Authorization of Indemnification section

Expenses

17. No costs, charges or Expenses for which indemnity will be sought under this Agreement may be incurred without the Indemnifier's written consent. Any required consent must not be unreasonably withheld.
18. All reasonable Expenses incurred by the Indemnitee to enforce this Agreement, and all cost of defending any Third Party claim or action brought against the Indemnitee under this Agreement will be the sole responsibility of the Indemnifier subject to the limits on indemnification described in the section titled Exceptions to Indemnification.

Advances of Expenses

19. At the written request of the Indemnitee, the Indemnifier will advance to the Indemnitee any Expense, including attorneys' fees, incurred by the Indemnitee in defending any action brought against the Indemnitee. Where reasonable, and to minimized hardship to the Indemnitee, advance payment may be made prior to the disposition of any claim.
20. The Indemnitee agree to repay to the Indemnifier any advances on Expenses where a determination is ultimately made that the Indemnitee's behaviour is not entitled to indemnification for reasons described under Exceptions to Indemnification.

Payment

21. All payment made by the Indemnifier to the Indemnitee will be made in full in immediately available funds within sixty (60) days of receipt of Notice of Indemnity from the Indemnitee and without deduction for any counterclaim, defense, recoupment, or set-off
22. Any Notice of Indemnity sent by the Indemnitee to the Indemnifier must be made in writing and contain a full listing of the items to be covered in the payment. Any payment made by the Indemnifier to the Indemnitee shall contain a listing of items covered under the payment.

Enforcement

23. If any right or remedy claimed by the indemnitee under this Agreement is denied or is not paid by the Indemnifier, or on its behalf, within sixty (60) days after a written Notice of Indemnity has been submitted by the Indemnitee to the Indemnifier, the Indemnitee may then bring suit against the Indemnifier to recover any unpaid amounts and if successful in whole or in part, the Indemnitee will be entitled to be paid and all cost related to the resolving the claim.
24. Where a determination as described under Authorization of Indemnification concludes that the Indemnitee behaviour is not entitled to indemnification this will not create a presumption that the Indemnitee is not entitled to indemnification under the Agreement.

Insurance

25. The Indemnifier must take out and maintain insurance coverage with an insurer reasonable to the Indemnitee on terms reasonable and sufficient to indemnify the participation of the Indemnitee in the Transaction.
26. If the Indemnifier fails to maintain adequate liability insurance, the Indemnitee may take out insurance and charge all cost to the Indemnifier.

Duration

27. The rights and obligations of the Indemnitee and the Indemnifier under this Agreement will continue.
 - a. so long as the Indemnitee is or will be subject to any possible claim or threatened, pending or completed action, suit or proceeding, whether civil, criminal, arbitral, administrative or investigation that results from the participation of the Indemnitee in the Transaction or
 - b. until termination by an agreement in writing signed by both the Indemnifier and the Indemnitee.

Unlimited Indemnification

28. Under the Agreement indemnification will be unlimited as to amount

Full Release

29. Only payment and satisfaction in full of all amount and charges payable under the Agreement and the due performance and observance of all terms, covenant and condition of the Agreement will release the Indemnifier and the Indemnitee of their obligations under the Agreement.

Further Actions

30. No action or proceeding brought or instituted under this Agreement and no recovery from that action or proceeding will be a bar or defense to any further action or proceeding which may be brought under this Agreement by reason of any further failure in the performance and observance of the terms, covenants and conditions of this Agreement.

Subrogation

31. In the event that any indemnity payment is made under this Agreement, the Indemnifier will be subrogated to the extent of this payment to all of the rights of recovery of the Indemnitee. The Indemnitee will take all action required and provide all information necessary to secure these rights to enable the Indemnifier to take any action to enforce these rights in the recovery of the indemnity payment.

Amendments

32. This Agreement may only be amended, terminated or cancelled by an instrument in writing, signed by both the Indemnifier and the Indemnitee.

Assignment of Indemnifier Right and Obligations

33. The rights and obligations of the Indemnifier as existing under this Agreement may not be assigned, either in whole or in part, without the prior written consent of the Indemnifier.

Assignment of Indemnitee Rights and Obligations

34. The rights and obligations of the Indemnitee as existing under this Agreement may not be assigned, either in whole or in part, without the prior written consent of the Indemnifier.

Joint and Several Liability

35. If two or more persons act as Indemnifier in this Agreement or if the Indemnifier is a partnership consisting of two or more partners, then the liability under this Agreement will be joint several for each co-Indemnifier.

Confidentiality

36. Both the Indemnifier and the Indemnitee and their respective employees and agents will at all times maintain confidential all information pertaining to this Agreement except where required to disclose under regulatory or other competent authority or as otherwise required by law.

Notice

37. Any notices or deliveries required in the performance of this Agreement will be deemed completed when hand-delivered, delivered by agent, or seven (7) days after being in the past, postage prepaid, to the parties to this Agreement at the addresses contained in this Agreement or as the Parties may later designate in writing.

Governing Law

38. The Agreement will be governed by and construed in accordance with the laws of the State of Maine.

Jurisdiction

39. The courts of the State of Maine are to have jurisdiction to decide and settle any dispute of claim arising out of or in connection with this Agreement.

General Provisions

40. This Agreement contains all the terms and conditions agreed to by the Indemnifier and the Indemnitee. Statements or representations which may have been made by either Party in the negotiation stages of the Agreement may in some way be inconsistent with this final written Agreement. All such statements are declared to be of no value to either Party. Only the written terms of this Agreement will bind the Parties.
41. Any failure of either Party to enforce any of the terms, covenants and conditions in this Agreement does not infer or preclude a further waiver of that or any other right or benefit under this Agreement. A waiver by one Party of any right or benefit provided in this Agreement does not infer or preclude a further waiver of that right or benefit, nor does it infer or preclude a waiver of any other right or benefit provided in this Agreement.
42. This Agreement will pass to the benefit of and be binding upon the Parties' respective heirs, executors, administrators, successors, and permitted assigns.

43. The clauses, paragraphs, and subparagraphs contained in the Agreement are intended to be read and construed independently of each other. If any part of this Agreement is held to be invalid, this invalidity will not affect the operation of any other part of this Agreement.
44. All of the right, remedies and benefit provide in this Agreement will be cumulative and will not be exclusive of any other such rights, remedies and benefits allowed by law or equity that the parties may have now or may acquire in the future.
45. Time is of the essence in this Agreement.
46. This Agreement may be excuted in any number of counterparts, each of which will be deemed to be an original and all of which together will be deemed to be one and the same instrument.
47. Headings are inserted for the convenience of the Parties only and are not to considered when interpreting this Agreement. Words in the singular mean and include the plural and vice versa. Words in the masculine gender include the feminine gender and vice versa. Words in the neuter gender include the masculine and the feminine gender and vice versa.

IN WITNESS WHEREOF the Indemnifier have duly affixed their signatures under hand and seal on this _____

David Rattler (Indemnitee)

Witness:

Rattler Publishing (Indemnitee)

Witness:

Melanated Community Radio (Indemnitee)

Witness

Gemini Website and Design (Indemnitee)

Witness

Indemnifier

Witness