

FORMAT OF AGREEMENT with MUSIC COMPANY

(Stamp Paper)

Date:

THIS ARTICLE OF AGREEMENT is made at Mumbai this _____ day of _____, Year _____
BETWEEN _____ Films (herein after called as PRODUCER which
expression where the context admits include its successors in title & assigns)

AND

_____ Music Pvt. Ltd. (herein after called as COMPANY which expression
where the context admits include its successors in title & assigns)

- a) The **Producer** is actively engaged inter alia in producing Cinematograph films.
- b) The **Company** is actively engaged inter alia, in the manufacturing, marketing and sale of records and pre-recorded cassettes.
- c) The **Producer** is desirous to assign and transfer to the **Company** the rights hereinafter mentioned.

NOW IT IS HEREBY AGREED by and between the parties as follows:-

1. INTERPRETATION

In this agreement, unless the context otherwise admits, the following expressions, shall have the meaning assigned to them:

- a) '**Cinematograph film**', 'Work', 'Musical Work', 'Literary Work', 'Dramatic Work', 'Artistic Work' shall have the meaning assigned to them by the provisions of Copyright Act, 1957;
- b) '**Record**' includes any disc, pre-recorded tape, perforated roll and all other devices (now or hereinafter known) in which sounds images are embodied for reproduction therefrom by means whatsoever, including electrical, mechanical or magnetic means or by any devices commonly known as audio-visual device, with the exception of Cinematographic films of any gauge as used in movie theatre.
- c) '**Recording**' means the aggregate of the sounds and/or visual images embodied in and capable of being reproduced on, or by means of, a record;
- d) '**Performance**' includes any mode of presentation by the use of records and shall include such presentation by means of Radio Diffusion, TV, Satellite, Cable, Doordarshan and all future technologies hereinafter known;
- e) '**Radio Diffusion**' includes communication to the public by means of wireless or cable diffusion whether in the form of sound, visual or both.
- f) '**Reproduction**' shall include, in relation to the recording, storing of such recording in any devices by means of which it can be perceived.
- g) '**Original recording**' shall include stereotype, tape, film, soundtrack, original plate, block, mould, matrix, transfer, negative or any other device used or intended to be used for making records;

All other expressions shall have the meaning assigned to them under the Copyright Act, 1957, or the statutory modification thereof for the time being in force and the meaning assigned to them thereunder.

2. The **Producer** hereby assigns and/or agrees to assign and transfer to the **Company** absolutely, free from all encumbrances without any limitations for the **Entire World (Excluding India)** the copyright for making records and music cassettes and in respect of literary, dramatic or musical work of:-
 - i) The cinematograph film(s) tentatively titled or identified as:

BANNER : _____
 NAME OF FILM(S) : _____
 PRODUCED BY : _____
 DIRECTED BY : _____
 MUSIC BY : _____
 LYRICS BY : _____
 SINGERS : _____
 STARRING : _____

and the copyright, adaption right, performing right and all other rights title and interest in and to the literary, dramatic and musical works embodied in the film/s including all rights of publication in any form in any media whatsoever including the right to public performance and mechanical or other reproduction of the said work in perpetuity.

ii) the copyright in any recordings of any music or musical, literary, dramatic and/or artistic works which may have been recorded, or prepared, made by, or for the **PRODUCER** for the purpose of and/or with the intent of incorporating the same in the above Cinematograph film(s) irrespective of whether or not the same is are so incorporated in the final version(s) of the Cinematograph film(s).

iii) the **Producer** have conveyed that the film is due for theatrical release on/or before _____. The film would have total number of _____ songs.

iv) the **Producer** shall as soon as possible (**minimum 4 (four)** months before release of the cinematographic film for exhibition supply the **Company** original sound tracks/recorded tapes of the such musical and/or other works for the above cinematographic film.

- 3) The right(s) hereby assigned and/or agreed to be assigned and transferred to the **Company** in the cinematographic film(s) and/or original recording(s) as stated under 2(i) and (ii) above shall stand assigned and transferred in favor of the **Company** protanto upon the completion or the whole or part of the Cinematographic film(s) original(s) recording(s) and shall include the right to publish and the reproduction rights thereof.
- 4) Forthwith upon completion of whole or part of the cinematographic film(s) original recordings, the **Producer** shall at his expenses, deliver to, and supply, the **company** with such cinematographic film(s) original recording(s), in whole or part in order to enable the **company** to make records therefrom.
- 5) The Copyright assigned and or to be assigned and transferred to the Company hereunder shall vest in the company the exclusive rights which may be vested in the owner of copyright by virtue of and subject to the provisions of the Copyright Act, 1957, or the statutory modification thereof for the time being in force, as also those recognized by the relevant International Conventions and shall include, but not be limited to the exclusive right to do or authorize the doing of any of the following acts:
 - i) to make any other records embodying the same recording.
 - ii) to reproduce any or all recordings(s) covered by this Agreement on record together with any other work(s).
 - iii) to cause or permit performance of the recording(s) embodied in the records in public and/or publish the musical, literary dramatic and/or artistic work(s) embodied in the film(s).
 - iv) to communicate the recording(s) embodied in the record by radio diffusion.
 - v) to manufacture, market, sell, lease, license, distribute, advertise, promote or otherwise exploit in any manner in any fields of use, records produced hereunder and allow others to do so at such prices and upon such terms and conditions and under such trade mark(s) or label(s) as the company shall desire:
 - vi) to control the physical property of the original recording(s):

vii) to insert musical jingles, advertising, either on the company's own products or any other products, of the record(s) which may have either exclusively the Producer's recording(s) or any part recording(s)/record(s).

viii) the right to make videograms, cassettes, discs, tapes (consisting of song/s and clippings of sequence/s, scene/s etc.) of the said work and to distribute/exhibit broadcast/insert them in any manner whatsoever including Doordarshan, Satellite TV, Cable TV networks, Video Cassettes of films etc. for the promotion of sale of the records and shall provide all the necessary software to make videograms, cassettes, discs, tapes for the same. Reference to the doing of any act referred to above, or to refraining therefrom, shall include a reference to the doing of, or refraining from, the act in relation to either the whole or part of the recording(s)/record(s).

6) The **Producer** hereby warrants and covenants with the **Company** as follows:

a) **that** the copy right assigned and transferred or agreed to be transferred or intended to be so, hereunder shall at all times prior to its being vested in the **Company** hereunder be the sole and exclusive right of the **Producer**, free from all encumbrances:

b) **to** have obtained approval and/or consent of the author(s) and performer(s) or any other person/s participating in any work(s) which is/are incorporated in the cinematograph film(s) and or the original recording(s) recognised the respective copyright and the exclusive right(s) assigned and transferred to the **Company** hereunder. The **Producer** further indemnifies, and holds indemnified the **Company** against all claims and damages arising out of the exercise of right(s) assigned and transferred to the **Company** in this regard:

c) **to** deliver to the **Company** photograph(s) or to her likeness(es), of the artist(s), performer(s) and the author(s) whose work(s) may have been incorporated in the cinematograph film(s) and/or original recording(s), together with their respective biographical material with the right to the **Company**, accompanies, if so desired by the **Company**, by letters or consent of such artist(s), Performer(s) and author(s) to use for photograph(s) or other likeness(es) or biographical material for advertising and publicity and for all records sleeves and or any other matter connected with the making, distribution, marketing and sale of records;

d) **to** provide to the **Company**, at request, the **Producer's** logo trade marks, stylised lettering/designs etc., relating to the cinematograph film(s) original recording(s) for incorporating them on the labels, covers, sleeves, catalogues, etc., of and for advertising, the records and to grant to the **Company** the right to do so.

e) **not** to do, either during the period of this agreement or at any time thereafter, any act or thing which may in any manner affect or prejudice the right of the **Company** hereunder.

f) **to** supply, simultaneously with, or prior to the delivery of each cinematograph film/original recording, to the **Company** in writing the correct title(s), score(s) etc. of the work(s) recorded therein, and the names of the author(s) and composer(s) thereof together with any additional information such as the names of recording artist(s), year and place of such original recording etc.

g) **that** all rights and obligations under the Deed of Assignment shall be construed to apply to all songs, dialogues and sequence to be included in the said work irrespective of the fact that the said songs, dialogues, and or sequences find a place in the final or any other version of the said work. The **Company** shall not be bound to insert in and shall be at liberty to remove from and/or restore to its catalogue at any time in its absolute discretion the records of the said work. The **Company** shall be entitled to sell records of the said work at such price or prices as the **Company** shall think fit and shall also be entitled from time to time and at any time hereafter to alter, change the prices of such record or to cause or permit them to be altered.

7 a) In full consideration of the assignment and transfer of rights by the **Producers** to the **Company** under the Agreement the **Company** shall pay to the **Producers** an amount of ₹ _____ being the full and final payment.

The said amount of ₹ _____ shall be paid as under:-

i) ₹ _____ on signing of this Agreement.

ii) ₹ _____ will be paid at the time of delivery of the Master Tape containing all songs and entire dialogues and sound track of the said film i.e. on/or before _____.

iii) Balance amount of ₹ _____ on the release of cinematographic film in theatres.

b) The **Producer** warrants and represents that he will satisfy all claims, if any of third parties in connection with the recording(s) of which the record is made hereunder, and agrees to indemnify and keep indemnified, the **Company** in respect of all demands, claims, action proceedings in that behalf.

c) In the event, the delivery of the Master tape original recording track containing all songs, entire dialogues and other musical works, is not handed by the **Producer** to the **Company** on or before _____ with a grace period of 60 days as stated in Para 7, the Producer must refund the entire amount on demand along with 24% interest p.a. It is hereby agreed that the time is the essence of this Agreement.

8. The schedule of recording of the songs will be discussed and agreed mutually based on the schedule of the film shooting. Any change in the schedule of the film release will result in deferment of the payments of minimum guarantee amount irrespective of the recording of the songs.

9. The music would be released after mutual discussion which would be two months before the release of the film. Under no circumstances, the film would be released earlier than two months or later than three months from the date of the music release. If the film is delayed beyond three months of the music release, the advertising expenses would be borne by the Producer out of the final payment due at the time of release _____ **per month** upon the release of the film.

10. The **Producer** hereby confirms to the **Company** that in the event the **Company** does not exercise or is not able to exercise any of the rights assigned and transferred to it under this Agreement over a period of one year for any reason whatsoever, the assignment and/or transfer shall not lapse and neither shall the **Producer** take any action either legal or otherwise against the **Company** claiming that any of the right and title or interest in respect of the said agreement and or transfer in favor of the **Company** have lapsed and subsequently vest in an entity other than the **Company** nor shall any damages/compensation be due to the **Producer** from the **Company** at any point of time with respect of the same.

11. The **Producer** hereby confirms that the **Company** will have the first option of refusal of rights for the manufacture and sale of Video Compact Disc (**VCD**) Digital Video Disc (**DVD**) before the **Producer** negotiates with anyone else. The **Producer** will ensure that the **Company** which acquires these rights will not release **VCDs/DVDs** with only songs of the film, or with songs of the film in any other combination with other songs films which they may have acquired. In the event of having sold the video rights of the film to overseas video distributor and Indian Video Distributor that such Distributors shall have no right to release the audio track of the film separately without visuals of the film in any format like on **VCD/DVD** etc. or any other format which may adversely affect the rights of audio cassettes/Compact Discs copyright owners.

12. The **Producer** will be liable to return back the entire money paid by the **Company** in the event of any change in the credits/stars/singers or shelving of this project, irrespectively of the recording of the song/s.

13. If the fulfillment of this Agreement or any part thereof shall become impossible by reason of force majeure, or any other reason outside the control of the parties, then either party shall be entitled (by giving notice in writing to the other party hereof and without incurring liability for damages for any other compensation) to suspend the operation of the Agreement or any part thereof until such time as such fulfillment shall again become possible.

14. This agreement shall be construed according to the law of India and all matters, claims and disputes arising in respect hereof shall be subject to the exclusive jurisdiction of the relevant courts of Mumbai.

15. The invalidity of any one provision of this Agreement shall not invalidate the agreement in its entirety and any amendment, modification or alteration thereof shall be valid and binding only if reduced into writing and executed by both the parties.

16. Any notice arising from the terms of this Agreement will be deemed to have been duly served by either party on the other if it is sent by Registered Post to the addresses entered herein above or to any other addresses which might have been notified and duly acknowledged by the parties.

IN WITNESS WHEREOF the parties hereto have hereunder set their hands the day and year first herein above written.

SIGNED BY

For _____ Films: -

For _____ Music Co. Pvt. Ltd.

(Producer)

(Proprietor/Partner/Director)

WITNESS _____

WITNESS _____

SIGNATURE

SIGNATURE

FULL NAME _____

FULL NAME _____

FULL ADDRESS _____

FULL ADDRESS _____
