

AGREEMENT

THIS LYRICISTS AGREEMENT (the "AGREEMENT") is made at _____(CITY) this _____ day of _____, in the year _____

BY AND BETWEEN

_____,
a company incorporated under the provisions of the Companies Act, 1956, having its
registered _____ office _____ at _____

_____ (hereinafter referred to as the "Producer" which expression shall, unless inconsistent with the context or meaning thereof be deemed to mean and include its subsidiaries, nominees, successors and assigns) of the ONE PART;

AND

_____,
an individual, residing at _____

with registered PAN: _____,
(hereinafter referred to as "Lyricist", which expression shall unless repugnant to the context or meaning thereof be deemed to mean and include his/her heirs, executors, administrators and permitted assigns) of the SECOND PART;

The Producer and the Lyricist shall hereinafter be referred to individually as 'Party' and collectively as the 'Parties'.

WHEREAS

A. The Producer is engaged, inter alia, in the business of production of cinematograph films and/or television programs and is in the process of producing a cinematograph film tentatively titled _____, starring _____ and directed by _____ ("Film").

- B. The Lyricist is well known and well established in the Indian film and music industry and writes under the name “_____”.
- C. The Lyricist has agreed to assign to the Producer the Lyricist’s literary work set out hereunder for the consideration and on the terms and conditions set out hereinafter.

NOW, THEREFORE, IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO AS UNDER:

1. DEFINITIONS & INTERPRETATIONS

1.1 DEFINITIONS

In this Agreement, except where the context otherwise requires, the following words and expressions shall have the following meanings:

- 1.1.1 “Agreement” shall mean this Agreement, including any and all schedules, annexures and exhibits attached to it or incorporated in it by reference, and shall include any amendments, modifications, and/or addendums made to this Agreement by the Parties, which is evidenced in writing.
- 1.1.2 “Consideration” shall have the meaning as assigned to it in Clause 3 herein below.
- 1.1.3 “Film” means the film to be produced by the Producer mentioned in Recital A.
- 1.1.4 “Force Majeure” shall mean acts of God including fire, earthquake, flood, tsunami, epidemic, strike, lock out, labour controversy, riots, civil disturbance, war, civil commotion, or any other natural calamities or acts which cannot be predicted by men of ordinary prudence and which are beyond the control of any Party.
- 1.1.5 “Letter of Engagement” shall mean and refer to the letter dated _____ executed between the Parties with respect to the Film.
- 1.1.6 “Modes, Media and Formats” of exploitation of the Works shall mean all the modes, media and formats as mentioned under Annexure II.
- 1.1.7 “Music Composer(s)” shall mean the person(s) who composes the music/Musical Works to be incorporated along with the Works in the Film.

- 1.1.8 “Performer(s)” shall mean the lead/main singer who performs/sings the Works, with or without the accompaniment of Musical Works, to be incorporated in the Master/Sound Recordings that will be part of the Film.
- 1.1.9 “Right to Royalty” shall mean the right of the Lyricist to receive any and every money(ies) from the utilization of the exclusive rights in the Works as enshrined in Section 14(a) of the Copyright Act, 1957 as amended from time to time including as amended by the Copyright (Amendment) Act, 2012 in any and all Modes, Media and Formats and by the New Exploitation Methods and shall become payable to the Lyricist from the revenue generated solely from such exploitation and/or utilisation of such Works by the end-user except for the revenue generated from the communication/exhibition to the public of such Works along with the Film in cinema halls. Such royalties shall be shared on an equal basis between the Lyricist and the Producer/assignee of copyright in the Works. Such royalty shall be separate and distinct from royalties arising out of the utilisation of the exclusive rights in the Film and Master/Sound Recordings as enshrined in Section 14(d) and (e) of the Copyright Act, 1957 as amended from time to time including as amended by the Copyright (Amendment) Act, 2012.
- 1.1.10 “Term” shall have the meaning assigned to it in Clause 9.1 herein below.
- 1.1.11 “Territory” shall mean the entire universe, unless expressly specified otherwise.
- 1.1.12 “Work/s” shall mean the Literary Works, (the titles of which are specified in Annexure I) written by the Lyricist and agreed to be assigned to the Producer hereunder and as incorporated in the Master/Sound Recordings to be comprised as part of the Film. For clarity, the Master/Sound Recordings incorporating the Works shall be treated as distinct and separate from the Works. The term “Works” shall be limited only to those Literary Works as finally approved by the Producer and delivered to the Producer, to be vocally performed by the Performer, either with or without the accompaniment of Musical Works, for incorporation in the Master/Sound Recordings that will be synchronised with the Visual Recording of the Film.

1.1 INTERPRETATIONS

- 1.2.1 For the purpose of this Agreement “Adaptation”, “Cinematograph Film”, “Copyright Society”, “Dramatic Work”, “Literary Work”, “Musical Work”, “Plate”,

“Performance”, “Sound Recording”, and “Visual Recording”, shall have the meaning assigned to them by the provisions of Copyright Act, 1957 for the time being in force and as amended from time to time including as amended by the Copyright (Amendment) Act, 2012.

- 1.2.2 Any reference in this Agreement to any statute or statutory provision, order or regulation shall be construed as including a reference to that statute or statutory provision, order or regulation as from time to time may be amended, modified, extended or re-enacted (whether before or after the date of this Agreement) and to all statutory instruments, orders, regulations and directives modifying or extending the same.
- 1.2.3 References to Recitals, Articles, Clauses, Annexures or Schedules unless the context otherwise requires, shall mean references to recitals, articles, clauses, annexures or schedules contained in this Agreement.
- 1.2.4 Unless the context otherwise requires, words denoting the singular shall include the plural and vice-versa and words denoting any one gender shall include all genders and words denoting persons shall include bodies, corporates, companies, unincorporated associations and partnerships.
- 1.2.5 The terms "include" and “including” shall mean “include without limitation”. The headings/subheadings/ titles/ subtitles to articles, clauses, sub-clauses and paragraphs are for information only, and shall not form part of the operative provisions of this Agreement or the annexures, and shall be ignored in construing the same.

2. ENGAGEMENT AND LYRICIST’S OBLIGATIONS

Clause 2.1 has options as below. Kindly use one of the two options as decided in the Letter Of Engagement.

- 2.1 (a) The Parties agree that the engagement of the Lyricist under this Agreement is on an exclusive basis for the Film, i.e., one Lyricist for the entire Film. Accordingly, the Lyricist will be the sole Lyricist for all the _____ () Works comprised in the Film and shall create all the Works therefor. No other lyricist shall be engaged to write any lyrics for inclusion in the Film nor shall any other lyricist’s lyrics be included in the Film, including for or as part of any promotional songs created for the purpose of promoting the Film, after the execution of the Agreement/Letter of Engagement whichever is earlier, without the prior written permission of the Lyricist.
- (b) If the Producer wishes to engage another lyricist after the execution of the Agreement/Letter of Engagement, the Producer

shall procure the duly stamped written permission of the Lyricist, after complying with the provisions as agreed to in this Agreement, and the Producer shall provide a copy of such a written permission to such other lyricist(s). The said written permission shall be stamped by the Film Writers' Association ("FWA").

OR

- 2.1 The Producer has declared in the Letter of Engagement that he/she/it wishes to engage more than one lyricist(s) for the Film, and the Lyricist has agreed to assign the Works for the Film along with multiple lyricists. Accordingly, the Lyricist expressly states that he/she has no objection to the engagement of such lyricists or to the inclusion of the Literary Works created by such lyricists in the Film.
- 2.2 The Lyricist shall create and deliver the Works to the Producer in accordance with the terms and conditions set out in this Agreement.
- 2.3 The Lyricist shall collaborate with the Producer and/or the Music Composer(s) of the Film to understand the relevant details such as scenes, moods and situations, based on which the Works are to be created. On being informed of the relevant details, the Lyricist shall write original lyrics/Literary Works, as detailed in Annexure I herein and deliver the same to the Producer, in accordance with the time lines to be mutually decided between the Parties. The Producer shall provide the Lyricist with a written approval or rejection (including via electronic mail) of the original lyrics/Literary Works so written hereunder by the Lyricist. When approved by the Producer, such original lyrics/Literary Works shall become the Works and shall be incorporated into the Master/Sound Recordings, either with or without the accompaniment of music/Musical Works, to be synchronised with the Visual Recordings of the Film.
- 2.4 Parties agree that if the Lyricist is required by the Producer to create any works in addition to the Works (in addition to the titles listed in Annexure I) then the Producer shall pay the Lyricist additional consideration for the same as may be mutually agreed between the Parties and the same shall be included as part of Annexure I thereafter.
- 2.5 If the Producer requires the Lyricist to write new lyrics/Literary Works or modify/edit any existing lyrics/Literary Work for a remix / new version of an existing song the lyrics for which were written by another lyricist, the Producer shall obtain and provide to the Lyricist, a no-objection certificate issued for the same (i) by the lyricist of such existing lyrics/Literary Works and (ii) by the owner of copyright in such existing lyrics/Literary Works. The no-objection certificate from the lyricist of such existing lyrics/Literary Works shall be valid only if it is duly

stamped by the FWA. The Lyricist shall add new words/lyrics or modify/edit the existing lyrics/Literary Works, to create a remix / new version, only on receipt of such no-objection certificates. Further, the Producer shall indemnify and hold harmless the Lyricist from and against any and all third party claims or actions against the Lyricist, with respect to the creation of the Literary Works included in such remix / new version of the existing song by the Lyricist.

- 2.6 It is clarified and agreed that the Musical Work in which the Works are to be included shall be provided by the Producer to the Lyricist. The Producer and the Lyricist shall mutually agree on the Music Composer and the Producer shall then directly engage and contract with the Music Composer. The Lyricist shall not be responsible for obtaining or providing any document and/or assignment of any/or all Rights with respect to the Musical Work of the Music Composer either by himself or from the Music Composer in favour of the Producer.
- 2.7 The Lyricist shall be obliged to make himself available for promotion and publicity of the Film in the manner stated herein, as may be mutually agreed between the Parties.
- 2.8 The Lyricist agrees to:
- (i) advise the Producer generally on all matters relating to the Works;
 - (ii) attend briefing sessions organized by the Producer to understand the various situation(s)/scene(s) in which the Works and the Musical Works are required for the Film including the timing, length, placement, situations and the type of songs to be used in the Film;
 - (iii) make such changes to the Works either in full or in part as mutually decided by the Parties from time to time up to the delivery of the Works to the Producer; and
 - (iv) in the event the Central Board of Films Certification ('CBFC') asks for any modifications in the version of the Work in the Film as submitted, then the Lyricist shall modify the Work as per the requirement of the CBFC.
- 2.9 It is clarified and agreed that the Producer shall directly arrange for, contract with and engage each Main/Lead Singer/Performer. The Producer and the Lyricist shall mutually agree on the Performer whose Performance will be included along with the Works and the Musical Works as part of the Master/Sound Recordings. The Lyricist shall not be responsible for obtaining or providing any document and/or assignment of any/or all rights with respect to the Performance of the Main/Lead Singer/Performer either by himself or from the Performer in favour of the Producer.

- 2.10 The Lyricist shall co-ordinate with the Producer and the Music Composer(s) to ensure that the lyric(s) of the songs of the Film are of excellent quality and to supervise the dubbing of the Works with the Musical Works.
- 2.11 The Lyricist shall make full and fair disclosure to the Producer of his availability for the performance of his obligations and delivery of the Works under this Agreement.
- 2.12 The Music Composer (s) of the Musical Work and the “Lead Singers/Performers” shall be mutually agreed to between the Producer and the Lyricist and shall then be engaged and contracted by the Producer directly.
- 2.13 The Lyricist hereby agrees that the Consideration payable is due and adequate for the assignment of the Works as well as performance of all his/her obligations under this Agreement.
- 2.14 The Lyricist shall not release the Works in any form or format to anyone without the prior written approval of the Producer.
- 2.15 The Lyricist agrees to make himself/herself available, on dates mutually agreed to between the Lyricist and the Producer for the publicity and promotion of the Film, for photo shoots, video- shoots, and promotional appearances for the Film, for music launches, press conferences, teasers, media interviews and premieres of the Film, internet advertising and promotion on social media, and radio advertising as well as appearances in relation to the music of the Film.
- 2.16 Any publicity, advertisement, press releases, interviews or other information with respect to the music, Works and the Film shall be under the sole control of the Producer and the Lyricist shall not have the right to issue any press release, interviews or other information with respect to the music, Works and the Film. However, the Lyricist is free to mention or refer to his/her involvement and association with the Film in any publicity, advertisement, press releases, interviews or other information with respect to the music, the Works and the Film.
- 2.17 If the Producer requires the Lyricist to travel outside the Lyricist’s city of residence in the performance of the Lyricist’s obligations hereunder, then the Producer shall bear, pay and be responsible for making all the arrangements, including travel, lodging and boarding arrangements, at the Producer’s own cost and expense.
- 2.3 The Lyricist acknowledges and confirms that time is of the essence in the delivery of the Works and performance of his/her obligations under this

Agreement and shall perform his/her obligations in a timely and professional manner and in accordance with the delivery dates which shall be based on mutually agreeable dates and time.

- 2.4 The Lyricist expressly acknowledges and agrees that this Agreement shall not in any way constitute or be deemed to constitute an obligation or an undertaking by the Producer to use, release, distribute, broadcast, authorise the release or broadcast, organize/produce the said Film and/or include the Works, or any part thereof in the said Film or to exploit the same in any way.

3. CONSIDERATION

- 3.1 Subject to the full, timely and complete performance of the Lyricist's obligations, warranties and undertakings set forth in this Agreement and the provisions of clause 3.2 below, the Lyricist shall be paid consideration (the "Consideration") of Rs. _____/- (Rupees

_____ which shall be payable as follows:

- i. A sum of Rs. _____ shall be paid on _____;
- ii. A sum of Rs. _____ shall be paid on _____;
- iii. A sum of Rs. _____ payable on the date of delivery of the Works.

It is also hereby expressly agreed between the parties that the full and final payment of each lyrical work (Lyrics) shall be made by the producer to the lyricist on or before the first voice recording session of the said works.

- 3.2 The amount of Consideration paid to the Lyricist shall be subject to deduction of applicable tax at source under the Income Tax Act, 1961.

However, service tax applicable if any, shall be paid by the Producer.

It is clarified that if any additional/new taxes, duties or levies are imposed/levied by the Government which arise by virtue of this Agreement and which the Producer is liable to bear, the Producer shall be responsible for bearing all such taxes, duties or levies and shall not pass on the burden of any such taxation to the Lyricist.

- 3.3 Any Stamp Duty applicable to this Agreement shall be borne by the Producer.
- 3.4 The Producer acknowledges that the Lyricist shall be entitled to his/her Right to Royalty in relation to the utilisation of the Works written by the Lyricist pursuant to this Agreement. The Parties hereby agree that the royalties shall be collected by the copyright societies of which the Parties are members and the Producer shall in no manner be liable/ responsible to collect and pay the Lyricist any royalties pursuant to this Clause. The Lyricist acknowledges and confirms the right of the Producer or its assigns to collect the Producer's equal share of royalty from the Copyright Society pursuant to utilisation of the Works.

The Producer confirms and further clarifies that this Agreement shall not affect Lyricist's Right to Royalty and consideration from the utilization of the Works in all and every manner. The Royalties shall be collected through the duly registered Copyright Society(ies), and shall be payable at the rates determined and fixed by the Copyright Society(ies) or Copyright Board or such other bodies/institutions as may be applicable, for the utilization of the Works including the utilization of the Works in relation to past/present and Future Mediums/Modes pursuant to the Act.

- 3.5 The Parties further clarify, agree and confirm that, the Producer shall exploit/utilise the Works and issue licenses for the Works in accordance with the provisions of the Copyright Act, 1957 as amended from time to time including the amendments made by the Copyright (Amendment) Act, 2012.

If the Producer and/or any other party authorised by the Producer, exploits/utilises the Works and issues licenses for the Works individually by himself/itself or through his/its agents/licensees etc. in and out of India, the Lyricist shall be entitled to Lyricist's Royalties and Mechanical Royalties as detailed and in accordance with and as more specifically mentioned in Annexure IV & V of this Agreement.

- 3.6 The Lyricist agrees that except as provided in this Agreement, the Producer shall not be obliged to pay any additional costs in relation to the creation of the Works over and above the Consideration.

Provided, however, that the following costs shall not be included in the Consideration:

- (a) in the case of the Music Composer(s) (which the Producer shall directly engage for composing Musical Works in connection with the Works) the costs of the services of such Music Composer(s); and
- (b) in the case of the lead/main Singer (which the Producer shall directly engage for singing/performing the Works) the costs for the services of such Singer(s).

- 3.7 The Lyricist hereby acknowledges and confirms the adequacy of the Consideration as full and final consideration towards the performance of all obligations required under this Agreement, for assignment of copyright in the Works and for utilization of his/her name, photograph, likeness or signature in accordance with this Agreement. For the sake of clarity, it is expressly stated that this clause does not, in any manner, relate to, or affect, the Lyricist's Right to Royalty.

4. OWNERSHIP OF RIGHTS

- 4.1 The Producer acknowledges that the Lyricist is the Author and the First Owner of the Works incorporated in the Masters/Sound Recordings with or without the Musical Works. The Lyricist acknowledges that the Producer is the assignee of the Works and to that extent the Producer is entitled to exploit the Works, in accordance with this Agreement and the provisions of the Copyright Act as amended from time to time including the amendments made by the Copyright (Amendment) Act, 2012.

The Parties acknowledge that the Lyricist is a member of IPRS & PRS, UK (and /or of other such authorized royalty collection societies) and has authorised these societies to collect his/her royalties from the exploitation of the Works created under this Agreement.

- 4.2 In lieu of the Consideration, to be paid in a timely manner, and subject to compliance with the other provisions of this Agreement, the Lyricist hereby irrevocably assigns to the Producer all rights, title and interest including copyrights in the Works written, under and pursuant to this Agreement, for the term of copyright therein and for the Territory, for incorporation in the Master/Sound Recordings, either with or without the accompaniment of music/Musical Works, to be synchronised with the Visual Recordings of the Film. The Lyricist agrees and acknowledges that with the exception of royalties payable in accordance with the provisions of the Copyright Act, 1957, as amended from time to time including as amended by the Copyright (Amendment) Act, 2012, the payments made by the Producer under this Agreement are the full and final payments for his obligations and grant of rights hereunder.
- 4.3 The assignment of copyright as per Clause 4.2 above is subject to Clause 3 of this Agreement. Accordingly, if the Consideration as provided in Clause 3 above is not paid to the Lyricist, all copyright in the Works shall revert to the Lyricist with immediate effect. The Parties hereby clarify that the assignment as per Clause 4.2 above is of copyright only and not of the Right to Royalty. The Lyricist shall receive royalties and consideration on an equal basis from the utilization of his Works in all Modes, Media and Formats mentioned in Annexure II.

4.4 The Lyricist agrees to make all the necessary declarations confirming the aforesaid. Such assignment shall operate for all the Modes, Media and Formats of exploitation as specified in Annexure II to this Agreement, in respect of the Works and the Lyricist hereby expressly acknowledges the sufficiency of the Consideration towards the assignment of the rights for exploitation of the Works on all Modes, Media and Formats now known or in commercial usage as listed in Annexure II.

4.5 It is agreed by the Parties that Section 19 (4) of the Copyright Act, 1957, as amended from time to time including as amended by the Copyright (Amendment) Act, 2012, would not apply between the Lyricist and the Producer for a period of 30 (thirty) months from date of delivery of the Works.

It is further agreed between the Lyricist and the Producer that upon the expiry of the period of 30 (thirty) months from date of delivery of the Works to the Producer, the Lyricist shall, upon failure of the Producer to exercise the rights, partly or in full assigned to the Producer, serve a written notice ('Notice') upon the Producer providing a 15 (fifteen) day period to the Producer seeking a written confirmation from the Producer to the Lyricist agreeing to exercise the assignment of the Works to the Producer within a period of 6 (six) months from the date of Notice received by the Producer. It is further agreed between the Producer and Lyricist that failing such exercise of the assignment to the Producer within a period of the said 6 (six) months, all the assigned rights shall automatically revert to the Lyricist. It is clarified that the Lyricist shall not be required to make any payment to the Producer for such reversion of the assigned rights.

4.6 The Lyricist hereby acknowledges and undertakes that the assignment of copyright in the Works as granted herein is not and will not be contrary to the terms and conditions of the rights already assigned to a copyright society in which the Lyricist is a member. The Lyricist shall, within 3 (three) months from the date of the Letter of Engagement or the Agreement whichever is earlier, take appropriate steps to submit letters/documents to the applicable copyright society for the intimation of the assignment of the Works to the Producer (**'Rights Intimation Letter'**) as per the format prescribed in 'Annexure III'. The Lyricist shall provide the Producer with the office copy of the original letter written to the relevant copyright society along with evidence of dispatch to the copyright society. Subsequently, the Lyricist shall provide a copy of the receipt / acknowledgement from the copyright society of the Rights Intimation Letter to the Producer.

4.7 It is clarified that the right to collect the Lyricist's equal share of royalties, from the utilization of the said Works, and distribute such royalties to the Lyricist shall still vest with IPRS and PRS UK or any other copyright society (whether in India or outside) registered for this

purpose of which the Lyricist is a member and the letter annexed as "Annexure III" shall not be construed in any other manner.

- 4.8 Subject to the provisions of the Copyright Act, 1957, as amended from time to time including as amended by the Copyright (Amendment) Act, 2012, the Producer shall have the complete freedom and absolute power and authority to use, exploit, in parts or as a whole, and to re-assign the Works for commercial, non-commercial and other purposes, in all the Modes, Media and Formats mentioned in Annexure II. The Lyricist shall not have any right or claim of whatsoever nature for use and exploitation of the Works in this manner against the Producer during the Term and for the Territory except the Lyricist's Right to Royalty and Consideration or as specified in Clause 3.5 above.
- 4.9 Without limitation to the foregoing, both Parties are aware and hereby acknowledge that new rights with respect to the Master/Sound Recording, and/or the Works may come into being and/or be recognized in the future, under the law and/or in equity (hereafter the "New Exploitation Rights"). Both Parties are also aware and do hereby acknowledge that new (and/or changed) (1) technology, (2) uses, (3) media, (4) formats, (5) modes of transmission and (6) methods of distribution, dissemination, exhibition or performance, are being and will inevitably continue to be developed and invented in the future, which would offer new opportunities for exploiting the Works (hereafter the "New Exploitation Methods").
- 4.10 The Lyricist hereby licenses the copyright to the New Exploitation Rights and/or in respect of the New Exploitation Methods to the Producer on an exclusive, irrevocable, perpetual and universe-wide basis. The Lyricist hereby undertakes not to assign or in any other manner transfer the New Exploitation Rights and/or the rights in respect of the New Exploitation Methods to any third party. It is however clarified that the Lyricist shall always, in all circumstances, be entitled to his Moral rights and the Right to Royalty and consideration from the utilization of the Works through the New Exploitation Rights and/or New Exploitation Methods as per Annexure IV & V.
- 4.11 Unless agreed to otherwise in this Agreement, the Lyricist hereby agrees to the execution of documents by him as may be required by the Producer in order to secure, protect, perfect or enforce any of the rights granted hereunder to the Producer pursuant to this Agreement.
- 4.12 The Producer or its assigns may take such action as it deems necessary, against any person or entity to protect the rights and interests acquired by the Producer hereunder. The Lyricist shall, at the Producer's or its assigns' cost and request, cooperate fully with the Producer in any controversy which may arise, or litigation which may be brought concerning the Producer's rights and interests acquired hereunder, and the Lyricist shall have the right to participate therein with lawyers of the

Lyricist's choice, at the Lyricist's sole cost and expense. The Producer or its assigns shall have the right, in its absolute discretion :

- (a) to employ attorneys;
- (b) to institute or defend any action or proceeding;
- (c) to take any other proper steps to protect the right, title and interest of the Producer in and to the Works and every portion thereof;
- (d) to settle, compromise or in any other manner dispose of any other matter, claim, action or proceeding at the Producers cost; and
- (e) to satisfy any judgment that maybe rendered, in such manner as the Producer in its sole discretion may determine.

Any legal action brought by the Producer or its assigns against any alleged infringer of the Works shall be initiated and prosecuted by the Producer.

- 4.13 The Lyricist hereby grants to the Producer the right to use the name of the Lyricist in credits, advertising, publicity and any other exploitation or promotional material in respect of the said Film.
- 4.14 The Parties agree that this Agreement and the ownership of copyrights and all other rights shall be governed by and be in accordance with the Copyright Act, 1957 as in force and as amended from time to time including as amended by the Copyright (Amendment) Act, 2012.
- 4.15 Except as may be specifically provided herein, the Lyricist shall not have any right, lien or claim over the Works. It is however clarified that if the Consideration as per Clause 3 above is not paid in accordance with the timelines specified therein and/or if the Producer is in breach of any of his/her/its obligation under this Agreement, then all the rights granted herein shall revert to the Lyricist.

5. REPRESENTATIONS AND WARRANTIES

5.1 Representations and Warranties by the Producer

The Producer hereby represents and warrants that:

- 5.1.1 The execution and performance of this Agreement is within the power of the Producer and has been duly authorized by the Producer; and
- 5.1.2 The execution and performance of this Agreement does not conflict with other agreements of the Producer; and
- 5.1.3 The Producer is not under any disability, restriction, or prohibition, whether legal, contractual or otherwise, which shall prevent the Producer from performing or adhering to any of its obligations under this Agreement, and the Producer has not entered into and shall not enter into any agreement that may violate this Agreement; and

MINIMUM BASIC CONTRACT - LYRICIST

- 5.1.4 No litigation, arbitration, or administrative proceedings are threatened, or to the knowledge of the Producer, pending, which calls into question the validity or performance of its obligations under this Agreement; and
- 5.1.5 All authorizations, approvals, consents, licenses, exemptions, filings, and other matters, official or otherwise, required or advisable in connection with the entry into, performance, validity, and enforceability of this Agreement and the transactions contemplated hereby have or shall be obtained or effected in a timely manner; and
- 5.1.6 the Producer shall ensure full compliance with applicable laws and regulations.

5.2 Representations and Warranties by Lyricist

The Lyricist hereby represents and warrants to the Producer that:

- 5.2.1 The Lyricist represents that all the Works shall be original. The Lyricist agrees to indemnify the Producer and hold the Producer harmless from and against any third-party claims or actions relating to infringement of copyright in the Works.
- 5.2.2 The Lyricist has the full right, power and authority to enter into this Agreement and to grant all copyrights granted herein, that he/she is not under, nor will be under, any disability, restriction or prohibition with respect to his/her rights to fully perform in accordance with the terms and conditions of this Agreement, and that there shall be no liens, claims or other interests which may interfere with, impair or be in derogation of the rights granted herein;
- 5.2.3 The Lyricist is a self-employed person for tax purposes and he will be solely responsible for all income taxes and all assessments, taxes, contributions or sums payable with respect to or as a result of the provision of his/her obligations hereunder. The Lyricist will file all tax returns and reports with respect to any of the foregoing. The Lyricist agrees that he is not entitled to participate in or to receive any benefit from any of the Producer's welfare or benefit fund;
- 5.2.4 All Works that will be written by the Lyricist shall be original and shall not be plagiarized or in any manner defamatory or obscene, shall not hurt the religious sentiments of any community, shall not infringe or violate any right including but not limited to copyright, moral right or privacy right or right to publicity or any other rights whatsoever, of any person, whether living or dead;

- 5.2.5 The Lyricist shall not commit any act that may prejudice, dilute or impair the exercise of the rights of the Producer in respect of the Works;
- 5.2.6 Unless specified in this Agreement, the execution and performance of this Agreement does not conflict with any of the agreements executed by the Lyricist with any third party and is within his/her power and authority;
- 5.2.7 The Lyricist has not entered into and shall not enter into any agreement or arrangement which will inhibit or restrict the exercise by the Producer of its rights pursuant to this Agreement;
- 5.2.8 The Lyricist is a member of the Indian Performing Rights Society (IPRS), and Performing Rights Society (PRS), UK and any other copyright society in the world and is, and shall at all times, be entitled to his/her Right to Royalty;
- 5.2.9 The Lyricist shall not, at any time prior to the reversion of rights in any Works, use and/or exploit the whole or any part of such Works delivered to the Producer for incorporation in the Film under this Agreement;
- 5.2.10 The Lyricist agrees and acknowledges that the Producer shall not be liable to the Lyricist under any circumstances in respect of any claim for loss of opportunity, if any, on account of the restrictions contained herein;
- 5.2.11 The Lyricist shall at no point of time, for any third party, write works which are identical to the Works being developed by the Lyricist for the Producer for the Film;
- 5.2.12 The Lyricist shall not, in any interviews, use derogatory language / remarks, directly or indirectly in respect of the Film, against the Producer of the Film, the director, officers, associates, artists and technicians in the Film; and
- 5.2.13 The Lyricist shall ensure full compliance with applicable laws and regulations.

6. CONFIDENTIALITY

- 6.1 Each Party hereby undertakes not to disclose, reveal or make public any information whatsoever concerning the production of the Film and the Lyricist's role and obligations hereunder, including any financial information relating to the Film, the business of the Producer, the Works and the consideration payable to the Lyricist under this Agreement (collectively, the "Confidential Information"), except with the prior written consent of the other Party. Each Party shall keep strictly secret and confidential, the Confidential Information, including the script, storyline, engagement of key personnel, star cast, budget, and other

financial details, artistic content, characterization and treatment of the Film, save and except for promotion of the Film as approved by the Producer.

6.2 However, the above mentioned clauses relating to Confidential Information shall not apply in the following cases:

- i) If the Confidential Information is in the public domain on the date of receipt of such information by the Lyricist;
- ii) If the Confidential Information was known or available to the Lyricist on the date of its receipt from the Producer otherwise than by way of its receipt from the Producer;
- iii) If the Confidential Information is required to be furnished by law or by any court order or order of any other regulatory authority.

7. INDEMNIFICATION

Each Party shall indemnify and hold indemnified and harmless, the other Party, his/her/its successors, officers, shareholders, partners, employees, licensees, assigns, agents, representatives and affiliates harmless from and against any and all claims including third party claims, demands, debt, account, causes of action, obligations, liability, loss, damage, cost and expenses (including reasonable attorney's fees), incurred or sustained by reason of or arising out of any actual breach or failure of any of the warranties, representations, obligations or agreements herein made by the defaulting party. Provided howsoever that the Lyricist's liability hereunder shall be limited to the consideration paid to him /her hereunder as mentioned in Clause 3 of this agreement.

8. FORCE MAJEURE

Neither Party shall be considered liable for the non-performance of any of their obligations set forth in this Agreement when the non-performance thereof has been caused due to an event or a combination of events of Force Majeure.

9. TERM AND TERMINATION

9.1 This Agreement shall come into force upon the execution of the same and shall continue to be in force until full, final and complete performance of all obligations, undertakings and warranties of the Parties unless terminated earlier in accordance with the provisions of this Agreement ("Term").

9.2 EVENTS OF TERMINATION

9.2.1 The Producer shall be entitled to terminate this Agreement without cause after giving a 30 (thirty) days' prior written notice of such termination to the Lyricist.

9.2.2 The Producer shall also be entitled to terminate the Agreement upon the occurrence of any of the following events in the following manner :

(i) If, by reason of a Force Majeure Event or the death, illness or incapacity of the director, director of photography or a principal member of the cast, or other cause beyond the control of the Producer, the Producer is materially prevented from or materially hampered in the production of the Film, or if, by reasons of any of the aforesaid contingencies or a threat thereof as determined by the Producer in its good faith business judgment, the preparation, commencement, production or completion of the Film is materially hampered, materially interrupted or materially interfered with ("Company Disability") and such Company Disability continues for a period in excess of 4 (four) consecutive weeks, the Producer shall give a prior written notice of 30 (thirty) days to the Lyricist;

(ii) In the event of the Lyricist's Incapacity (defined below) and if such Lyricist's Incapacity continues for a consecutive period in excess of 90 (ninety) days, the Producer shall give a prior written notice of 30 (thirty) days to the Lyricist;

For the purposes of this Agreement, "Lyricist's Incapacity" means that by reason of any mental or physical disability, the Lyricist shall be incapacitated from performing or complying with any of the material terms or material conditions hereof;

(iii) In the event of the Lyricist's Default (defined below) and if such Lyricist's Default is not cured by the Lyricist within (30) thirty days of having received a written notice from the Producer regarding such Lyricist's Default.

For the purposes of this Agreement, "Lyricist's Default" means if the Lyricist fails or refuses to deliver the Deliverables as per the timelines agreed between the Parties from time to time, for reasons other than the Lyricist's Incapacity; or

(iv) In the event of the Lyricist committing any act or omission which may prejudice the Film and/or reputation of the Producer in any manner whatsoever including bringing the Film into public disrepute or offending any community or public morals.

9.2.3 The Lyricist shall be entitled to terminate this Agreement without cause after giving a 30 (thirty) days' prior written notice to the Producer.

9.2.4 The Lyricist shall also be entitled to terminate the Agreement :

- (i) in the event of the default of the Producer to make timely payment of the Consideration in accordance with Clause 3 of this Agreement, and if the Producer fails to remedy the same within 10 (ten) days of the receipt of a written notice of such default from the Lyricist; or
- (ii) with immediate effect, where the Lyricist is engaged by the Producer on an exclusive basis for the full Film and the Producer is in breach of this exclusivity obligation, either by engaging another Lyricist without the prior written consent of the Lyricist and/or by incorporating lyrics of another Lyricist in the Film, without the prior written permission of the Lyricist.

9.3 CONSEQUENCES OF TERMINATION

Upon the termination of this Agreement, the following consequences shall follow:

- (i) In case of termination due to the reasons as stated in clauses 9.2.1 (termination without cause by the Producer), 9.2.2 (i) (Company's Disability), 9.2.2 (ii) (Lyricist's Incapacity), 9.2.3 (termination without cause by the Lyricist) or any reason, not listed in this clause, which is not attributable to a default on the part of the Lyricist, the Lyricist shall be entitled to receive a pro-rata payment of Consideration until the date of termination. Subject to such payment of Consideration to the Lyricist, the Producer shall own the copyright, and all rights, title and interest with respect to the Works which have been delivered to the Producer till the date of such termination.

Provided that, where the Lyricist is engaged by the Producer on an exclusive basis as stated in clause 2.1(a) above, and the Producer terminates the Agreement without cause, i.e., under clause 9.2.1 of this Agreement, the Producer shall be required to pay the Lyricist the entire Consideration for (i) the Works, whether or not written and delivered to the Producer; and (ii) the performance of obligations, whether actually rendered or not.

It is clarified that if the payment of the Consideration is not made on or before the expiry of the relevant notice period, then the rights granted to the Producer herein shall revert to the Lyricist immediately on the date of termination, and the Producer shall not

have or claim any right, title or interest in the Works so created and shall not have the right to use any Master/Sound Recordings comprising the Works;

- (ii) In the event the Agreement is terminated due to the reasons stated in clauses 9.2.2 (iii) (Lyricist's Default) or 9.2.2 (v) (failure to deliver within timelines), the Lyricist shall not be entitled to any further Consideration beyond the date of termination. In such a case, all copyright, interest and rights whatsoever of the Works which have been delivered to the Producer, till the date of termination, shall vest with the Producer;
- (iii) In the event of termination due to the reasons stated in clause 9.2.2 (iv) (prejudicial act or omission), the Producer may, at its discretion, after giving a prior written intimation to the Lyricist, choose whether or not to incorporate the Works in the Film and if the Producer decides to incorporate the Works then he shall be liable to pay the entire Consideration due to the Writer hereunder;
- (iv) In the event of termination due to the reasons stated in clause 9.2.4(i), all the rights granted to the Producer under this Agreement shall revert to the Lyricist with immediate effect, on the date of termination, and the Producer shall not have or claim any right, title or interest in the Works and shall not have the right to use any Master/Sound Recordings comprising the Works;
- (v) In the event of termination due to the reason stated in Clause 9.2.4 (ii), within 10 (ten) days from such termination, the Producer shall pay the Lyricist the complete Consideration as provided for in Clause 3 above notwithstanding the stage of completion of the obligations. All rights with respect to the Deliverables (i.e. Works and the Master/Sound Recordings) granted to the Producer under this Agreement shall revert to the Lyricist with immediate effect, on the date of termination, and the Producer shall not have or claim to have any right, title or interest in the Deliverables so created and/or delivered to the Producer under this Agreement;
- (vi) the Producer and the Lyricist shall be released from all further obligations under this Agreement; and
- (vii) Notwithstanding the termination of this Agreement, the provisions of this Agreement, the nature of which should reasonably require the survival thereof shall survive the termination of this Agreement including without limitation Credits (Clause 10), Arbitration, Jurisdiction and Governing Law (Clause 11).

It is clarified that the consequences of termination as stated in Clause 9.3 shall be without prejudice to the other remedies available in law to the Producer and the Lyricist.

9.4 Refusal of Brief

It is hereby agreed and clarified that nothing herein contained obliges the Lyricist to create Work on the Producer's instructions where such instructions go against the Lyricist's moral and/or religious and/or ethical principles. The Lyricist may exercise this right and so refuse a brief by issuing a notice in writing on the Producer setting out the reasons for his refusal. The Producer shall thereafter be free to appoint another lyricist for creating the said work and the Lyricist's Consideration shall be proportionately deducted for the portion of the Work refused hereunder. The Lyricist(s) so added shall be governed by Clause 10.1 (Credits) hereunder and the Producer undertakes and warrants to appoint the said other lyricist(s) only on the terms set out in Clause 10.1.

10. CREDITS

- 10.1 Subject to the full, complete and timely performance of the Lyricist's obligations in accordance with the terms and conditions of this Agreement, the due credit in the said Film shall be given as follows:
- a) "Lyrics By _____" on a separate card in the main titles of the films with all other characteristics of such credit and in the same size and font as the credit given to the music director;
 - b) "Lyrics by _____" on all Film/song promotional and advertising material where the music director is mentioned;
 - c) "Lyrics by _____" on all song promos
 - d) "Lyrics by _____" individually for each Work in the end-credits of the Film

Provided that in the event that multiple lyricists have been validly engaged on a Film or a Work in the manner prescribed herein, the first name on the credits shall be of the lyricist who has contributed more Work to the Film followed by the lyricist with the next highest quantum of Work and so on. Where multiple lyricists have contributed equal Work to the Film, then their names shall appear in the order that their Work appears in the Film.

- 10.2 The Producer also undertakes to accord credit to the Lyricist on exploitation of the Film or the Master/Sound Recordings in all Modes, Media and Formats including, digital and online forms such as on YouTube Channels, television and cinema halls.
- 10.3 The Producer's failure to accord credit in accordance with the terms of this Clause shall be deemed to be a breach of this Agreement. Within 7 (seven) days after receipt of written notice from the Lyricist specifying this material failure to accord the Lyricist credit in accordance with this

Agreement, the Producer shall use all its efforts to cure such material failure to accord the Lyricist credit hereunder with regard to the positive prints and/or advertising material. The Producer shall inform all third party sub-distributors of the credit obligations contained herein and shall be responsible or liable to the Lyricist for the failure of any such sub-distributors to comply with the same.

11. ARBITRATION, JURISDICTION AND GOVERNING LAW

- 11.1 Any dispute between the parties hereto, arising out of, from or relating to anything contained in this Agreement, including any dispute or difference arising out of its termination, shall be referred to arbitration (of _____) OR (to a sole arbitrator as mutually agreed between the Parties.) The award made by the sole arbitrator shall be final and binding on the parties hereto. Such arbitration shall be governed by the Arbitration and Conciliation Act, 1996, or any statutory modification or re-enactment thereof for the time being in force. The venue of the arbitration shall be Mumbai and the language of the arbitration shall be English. The costs and expenses of the arbitration proceedings shall be borne equally between the parties. However, each party shall bear its own legal expenses.
- 11.2 Notwithstanding the above, before the appointment of the arbitrators and in exceptional circumstances even thereafter, a party to the dispute may apply to a court of competent jurisdiction to pursue equitable relief (including immediate, preliminary and permanent injunctive relief) to which it may be entitled in order to preserve the status quo pending resolution of the dispute at issue through arbitration.
- 11.3 This Agreement shall be governed and construed in accordance with the laws of India and the courts in Mumbai alone shall have the exclusive jurisdiction to hear and decide disputes arising out of this Agreement.
- 11.4 Nothing herein contained shall restrict/limit/fetter the Lyricist's right to approach any trade or industry body/association under its rules for such reliefs as he may be entitled to.

12. MISCELLANEOUS

12.1 Entire Agreement and Amendment:

This Agreement, together with all agreements and documents executed contemporaneously with it or referred to in it, constitutes the entire Agreement between the Parties in relation to its subject matter and supersedes all prior agreements and understandings whether oral or written with respect to such subject matter. No change, modification, or termination of any of the terms, provisions, or conditions of this Agreement shall be effective unless made in writing and signed or initialled by both the Parties.

12.2 Severability :

In the event that any term, condition, or provision of this Agreement is held to be a violation of any applicable law, statute, or regulation, the same shall be deemed to be deleted from this Agreement and shall be of no force and effect and this Agreement shall remain in full force and effect as if such term, condition, or provision had not originally been contained in this Agreement. Notwithstanding the above, in the event of any such deletion, the Parties shall negotiate in good faith in order to agree the terms of a mutually acceptable and satisfactory alternative provision in place of the provision so deleted.

12.3 Parties to Act with Due Diligence and in Good Faith:

The Parties hereto shall dutifully perform all covenants of this Agreement in letter and spirit and shall otherwise act with due diligence and in good faith.

12.4 Relationship of Parties:

This Agreement is entered into between the Parties on a principal to principal basis and they acknowledge and agree that the Lyricist is acting as an independent contractor in the performance of his/her obligations hereunder and nothing in this Agreement shall constitute or be deemed to constitute a partnership or agency or employment between any of the Parties hereto and none of them shall have any authority to bind the other in any way.

12.5 Counterparts:

This Agreement may be signed in any number of counterparts, each of which is an original and all of which, taken together, constitutes one and the same instrument.

12.6 Cumulative Rights

All rights and remedies granted hereunder to the Producer are in the cumulative and not alternative to each other and the Producer may exercise one or more of such rights and remedies in conjunction with the other.

12.7 Assignment/License

The Producer shall be entitled to assign or license any or all of its rights and/or benefits under this Agreement to any other party provided that the Producer shall ensure that such other Party assumes all the obligations of the Producer towards the Lyricist as provided in this Agreement. The Lyricist shall not be entitled to assign or license any or all of his rights

and/or benefits under this Agreement as long as the agreement is in good standing with respect to the Term and Territory as set out herein.

12.8 Notices

12.8.1 All notices given pursuant to this Agreement shall be in writing and shall be delivered to the Parties at their respective addresses, as stated hereinabove in this Agreement.

12.8.2 Any notice given as provided by this clause shall be deemed received by the party to whom it is addressed when:

- (i) in the case of any notice delivered by hand, when so delivered;
- (ii) if sent by pre-paid post, on the third clear day after the date of posting;
- (iii) in the case of any notice sent by facsimile, upon the issue to the sender of a transmission facsimile machine message which shows the relevant number of pages comprised in the notice to have been sent and result of the transmission is "OK" and such facsimile is immediately sent by pre-paid post provided always that in the case of a facsimile notice, the notice shall for the purposes of this Agreement be deemed to have been duly signed with the name of the person or Producer giving the notice on behalf of the party is affixed by mechanical means or device on the said notice;
- (iv) if sent by e-mail, 24 hours after the mail is sent. The e-mail addresses to be used for all communications will be as mentioned hereunder:
 - a) e-mail address for Producer: _____
 - b) e-mail address for lyricist: _____

12.8.3 The Parties may, from time to time, change their respective addresses or representatives for receipt of notices provided for in this Agreement by giving to the other Party not less than 7 (seven) days prior written notice.

IN WITNESS WHEREOF the Parties hereto have hereunto set their respective signatures on the day and year first hereinabove written.

Signed by and on behalf of the within named Producer)
_____,)
the authorized signatory of the within named Producer)

MINIMUM BASIC CONTRACT - LYRICIST

in the presence of Mr. _____)

Signed by the within named Lyricist)

(in the presence of) Mr. _____)

Annexure – I

Titles of Works

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

Annexure – II

“Modes, Media and Formats” of exploitation of the Works shall mean the following and for the territory of the Universe and in perpetuity, viz.:

- i) in 35 mm and all other sizes/ formats of cinematograph exhibition in theatres, all television, video, satellite, internet, digital and cable rights and all other rights (including re-issue rights), for the purpose of exhibiting, broadcasting or exploiting in any manner whatsoever, by the use of any method and/or technology, in whatsoever manner of the Film;
- ii) the right to incorporate Works in the prequels, sequels, remake, etc. of the Film;
- iii) non-theatrical, commercial television including terrestrial television rights, Pay TV rights, Free TV rights, satellite television rights (including MMDS, SMATV, DTH, SSL, XDSL, DBS) cable television rights, pay per view rights (residential and non-residential), video on demand (NVOD, SVOD, TVOD, AVOD, NMOD) and other streaming through internet/broadband/IPTV/Mobile, digital TV, interactive multimedia, clip rights, anywhere in the world, and right in respect of Home video rental & sell through rights (including DVD, Compact Disc, Blu-Ray Disc, Laser Disc, Video Compact Disc, Video Cassette, Videogram Rights, Embodying Rights, VHS and such other rights), commercial video rights, Computer games rights, Internet multimedia rights, airborne, railways, ship, surface transport rights and hotel and commercial establishment rights, all music/audio rights in connection with and/or in relation to the audio visual material and/or musical work of the said Film containing all songs, to be produced or reproduced in the format of music cassettes, CDs, Blu ray Disc, VCDs and DVDs and/or any similar devices;
- iv) Exploitation of the Works, in any and all languages and versions of the world (including dubbed, subtitled and narrated) on Cable, LAN, Broadband, Personal Video Players (PVPs), Personal Video Recorder, Digital Video Recorder, Digital TV. Optical Disc Burner or recorders or equivalent memory stick cartridges, Semi-Conductor chips in both standard and high definition formats, Versatile Digital Discs, Optical Disc, Laser Disc, Video compact disc, Compact Disc, Disc players, Blue Ray. Personal computers, Set-top based games that are played in conjunction with a DVD, HD-DVD, HD, or any other mode of Video together with audio/songs (Audio/Video) and the visuals accompanying them in the film (alone or in conjunction with audio/songs and visuals accompanying the audio and songs of other film(s)), Interactive television, Interactive Media, Telephone, Electric wires, Wireless, Chip, Satellite, DTH, DSL, ADSL, VDSL, SSL, DBS, Free download, Pay downloads in part or full, Animation, games, Reel, VHS, Video Cyberspace, Video Internet, Mobile, Computer hard drives, RAM devices (eg. “Flash” or “Memory Slick” cards), Personal digital assistants (“PDAs”), Personal entertainment devices (“PEDs”), Wireless devices, Pay per View, Pay Telephone, Pay Video on Demand, all interactive games, mobile rights, call back tones, ring back tones, music soundtrack and publishing rights, all rights in relation to exploitation and distribution of the music rights including digital rights and publishing rights, merchandising rights;
- v) All modes, media and formats of exploitation in existence now and in commercial use on the date of execution hereto.

Annexure III

LETTER BY THE LYRICIST TO THE COPYRIGHT SOCIETY

(On the Lyricist's Letter Head)

DATE:

**TO,
THE COPYRIGHT SOCIETY**

ADDRESS

I, _____, am a member of [*insert name of the copyright society*].

This is to place on record, that the copyright in all literary works as listed in Schedule A ("the Works") to this letter, created in my capacity as a Lyricist for the Film titled " _____ " directed by _____ and produced by _____ ("the Producer") is assigned to the Producer for the usage in the Film and/or otherwise for any exploitation in any mode and medium now known or in commercial use as on the date of this letter (and exclusively licensed for future modes & mediums), for the term of copyright and for the entire universe. Please treat this assignment as valid and unrestricted and as a withdrawal of the stated Works from the ambit of the assignment of copyright granted by me to IPRS with effect from _____.

However, the right to royalty of the said Work (as per the Copyright Act, 1957 as in force and as amended from time to time including as amended by the Copyright (Amendment) Act, 2012), copyright of which I have assigned to the Producer, continues to be assigned to you for administration.

Consequently, as allowed by the Copyright Act, 1957 as in force and as amended from time to time including as amended by the Copyright (Amendment) Act, 2012, I am hereby intimating the IPRS of the assignment of copyright in the Works to the Producer as per the details attached. For the avoidance of doubt, I shall continue to collect the author's equal share of royalties due to me from the utilization of the Works, created by me, for the Film; IPRS being authorized to collect the same as per the Copyright Act, 1957 as in force and as amended from time to time including as amended by the Copyright (Amendment) Act, 2012.

Signed:

[Authorised Signatory]

Date:

Place:

Annexure IV

LYRICIST'S ROYALTIES

- a. Ten percent (10%) of the wholesale selling price (after trade discounts), less governmental taxes, duties, excises and tariffs, upon each printed copy of each arrangement and edition of the Works printed, published and sold by the Producer or its assignees/licensees, for which payment has been received, after deduction of returns, except that if the Work is used in whole or in part in conjunction with one or more other works in a folio, album or other publication, the Lyricist shall be entitled to receive that proportion of the said royalty which the Work shall bear to the total number of literary works contained in such folio, album or other publication.
- b. Fifty percent (50%) of any and all "Net Sums" (as defined below) actually received from the exploitation of the synchronisation and reproduction rights (excepting printing rights as in (a) above and public performance and mechanical rights as in (c) below) in the Works other than as synchronised and reproduced with the Film.
- c. Lyricist shall receive public performance and mechanical royalties throughout the world directly from the Lyricist's affiliated copyright society(ies) and shall have no claim whatsoever against the Producer.
- d. Fifty percent (50%) of any and all Net Sums, actually received from the exploitation of the rights in the Works other than those mentioned in (a), (b) and (c) above whether in India or countries outside India by the Producer or his/its assignees, collection agents, licensees, sub-publishers or others, whether or not they are affiliated with, owned in whole or in part by, or controlled by the Producer.
- e. For sake of clarity and financial calculations, it is stated that the Net Sums from any and all exploitation of the rights as stated hereinabove in relation to the Works and the Musical Works accompanying the Works shall be divided in the following manner :

50% of the total Net Sums shall be payable to the Producer and/or its assigns
25% of the total Net Sums shall be payable to the Lyricist
25% of the total Net Sums shall be payable to the Music Composer.

Where there are multiple Lyricists for the same Work, 25% share of the Lyricist shall be further distributed equally amongst all of such multiple Lyricists.

- f. "Net Sums," for the purposes of this Agreement, shall mean all monies actually received by the Producer/assignees/licensees/collection agents/sub-publishers or credited to the Producer's/assignee's/licensee's/collection agent's/sub-publisher's accounts which are directly attributable to the uses enumerated above (except public performance and mechanical royalties) after deduction of all costs, expenses, fees and commissions which are directly attributable to the exploitation of the Works, including but not limited to costs of collection ("Deductions"). Provided however, that the Deductions shall not, in any circumstances, exceed 20% of the gross revenues earned by the Producer/assignees/licensees/collection agents/sub-publishers from such uses of the Works.

Annexure V

MECHANICAL ROYALTIES

1. Royalty:

For each master recording ("Master") under this Agreement which is included and exploited in any Medium (as defined in subparagraph 3(b) below), distributed under the "Distribution Agreement" (as defined in subparagraph 3(d) below), the Lyricist shall be entitled to a "Mechanical Royalty" in connection therewith as follows:

A royalty of 10% of the suggested retail list price (or 20% of the wholesale selling price), whichever method of computation is being predominantly used by the Distributor less packaging charges and applicable taxes (such charges and taxes to be calculated pursuant to the Distribution Agreement).

The Mechanical Royalty, payable to Lyricist pursuant to this paragraph shall be pro-rated as follows:

- the Mechanical Royalty shall be reduced by dividing the same by the total number of selections on the Medium and
- if any other Mechanical Royalty recipient (such as a music composer) is entitled to a royalty on such Master, the Mechanical Royalty shall be reduced further by dividing the same by the total number of such royalty recipients on such Master (including the Lyricist counting as one recipient).

The calculation of Mechanical Royalty payable as per above, shall be construed in the manner provided in Clause (e) of Annexure IV to this Agreement.

2. General:

In the case of Medium distributed by the "Distributor" (as defined in subparagraph 3(c) below) which contain Masters, all aspects of the Mechanical Royalty shall be subject to the same contractual provisions set forth in the Distribution Agreement regarding definition, computation, reduction and payment of royalties (including any royalty escalation provisions) including without limitation:

- (a) reduction for singles sales, sales outside India, for mail order and record club sales, for tape device sales by tape licensees, for budget label sales and for premium sales; and
- (b) computation/reduction of royalties for flat fee/royalty licenses, for compact disc sales and for sales of other new configurations; and

- (c) definition of royalty base price, exclusions and discounts for so-called "free goods" and discount sales; and
- (d) deductions for packaging and applicable taxes; and
- (e) percentage of sales on which paid, and reserves against returns; and
- (f) computation of royalties should the Distributor elect to change the method by which it computes royalties to some other basis (e.g., from a retail to a wholesale basis).

3. Definitions of terms used in this Annexure V:

- (a) "Conversion Costs" mean the costs of converting the applicable master recording from a recording made for the Film to use in any Medium (as defined in (b) below), including, without limitation, re-recording costs, reuse fees, and costs of mixing, re-mixing, editing, re-editing, mastering, equalizing, reference dubs, sweetening, etc;
- (b) "Medium" shall mean and include any device, at any speed, on any material, now or hereinafter known, utilized for the reproduction of Master/Sound Recording or Visual Recording together with the Master/Sound Recording;
- (c) "Distributor" means the person, firm or corporation with whom Producer enters into an agreement for the distribution of Master/Sound Recording or Visual Recording together with the Master/Sound Recording of the Film; and
- (d) "Distribution Agreement" means the agreement between Producer and the Distributor, as the same may be modified, extended, renewed and substituted.

4. Royalty Accountings

In the case of any Medium distributed by the Distributor and containing Masters :

- (i) The Producer agrees to cause the Distributor to account directly to the Lyricist for the Mechanical Royalty hereunder, as applicable, after all advances paid to or credited to the Producer under the Distribution Agreement have been recouped by the Distributor;
- (ii) As regards the advances paid to the Producer under the Distribution Agreement and which have been recouped by the Distributor, the Producer shall account for the same to the Lyricist;

- (iii) Unless and until the Distributor so accounts to the Lyricist, Producer will account to the Lyricist for Mechanical Royalty hereunder in conjunction with such Medium;
- (iv) However, regardless of whether the Distributor agrees to account directly to the Lyricist, the Lyricist shall be deemed to have consented to each royalty accounting to the Lyricist hereunder, and each such accounting shall become final and binding upon the Lyricist, unless the Lyricist renders specific written objection, stating the basis thereof, at least 60 days prior to the date that the Distributor's corresponding accounting to Producer becomes binding on Producer; and if Producer gives the Lyricist written notice that it denies the validity of the objection, unless a suit is instituted thereon at least 60 days prior to the last date the Producer may institute a suit against the Distributor on the corresponding accounting to the Producer. The Producer shall inform the Lyricist of the relevant audit and accounting provisions of the Distribution Agreement;
- (v) The Lyricist shall have the right, at the Lyricist's expense, to audit Producer's books and records which have not then been rendered incontestable, but no more often than once per 12-month period, relating to the sale of the Mediums described in Paragraph 4 (i.e. Mediums sold under the Distribution Agreement and containing any Master(s)), during normal business hours and on reasonable notice;
- (vi) Regardless of whether the Distributor agrees to account directly to the Lyricist or not, the Lyricist has no independent right to audit the Distributor's books and records relating to the Mediums distributed under the Distribution Agreement and covered by Paragraph 4. If the Producer elects to audit the Distributor's books and records relating to the Mediums covered by Paragraph 4 (which the Producer shall have no obligation to do), the Lyricist shall receive his/her pro rata share of any net recovery therefrom (i.e., after deduction of the costs of such audit). In the event any overpayment is made to the Lyricist in accountings for the Mechanical Royalty hereunder, the Lyricist shall reimburse to the Producer, or the party designated by the Producer for such overpayment, but only to the extent such overpayment is not deducted from future accountings to the Lyricist hereunder.

Annexure VI

BASE RATE FOR FOR ASSIGNMENT OF LYRICS

This is the indicative new base rate chart for the assignment of rights for a lyrical work (per song) to be included in a FILM with or without accompanying musical works.

The FWA recommends that all fee negotiations with Producers adhere to this mechanism:

Upto Rs. 5 crore budget film : Rs. 40,000/- per song (minimum)

Rs. 5-10 crore budget film: Rs. 75,000/- per song (minimum)

Beyond Rs. 10 Crore budget: Rs. 1,50,000/- per song (minimum)

In absence of a formal agreement / contract the above mentioned rates will be applicable for all practical purposes and addressing dispute settlements and calculating the lyricists' fees.