

AUTHOR AGREEMENT (FILM SONG LYRICIST)

THIS LYRICIST AGREEMENT AND DEED OF ASSIGNMENT is made this day of, **2016 (Effective Date)**
BETWEEN

Mr. residing at, having Income Tax PAN..... hereinafter referred to as the **“Author”** (which expression shall include his legal heirs) of the first part

AND

M/s. a company having its office at (hereinafter called the **“Producer”** (which expression shall include its legal successors and assigns) of the second part.

WHEREAS the Author is a writer and lyricist and the Producer is engaged in the business *inter-alia* of producing cinematograph films and is producing a full length Cinematograph Film in Telugu Language, tentatively titled “.....” provisionally starring and others, intended to be Directed by hereinafter referred to as the said **Film**;

WHEREAS The Producer wishes to engage the Author to write lyrics of minimum _____ (_____) Songs or more as listed in **Annexure A** as per Producer discretion for the said Film hereinafter referred to as the **“Works”**. **AND WHEREAS** the Author has agreed to the proposal of the Producer and has agreed to write lyrics for the songs that are created for the said Film while all intellectual property right in such lyrics shall vest solely and absolutely in Producer, subject to the terms and conditions of this Agreement especially what is stated in Clause 2.5 below.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS

- 1.1 Any term or expression not specifically defined hereunder including “Copyright”, “Owner”, “Author”, “Literary Work” “Musical Work”, “Sound Recording”, “Cinematograph Film”, “Assignment”, “License” shall have the same meaning as ascribed to it under the Copyright Act, 1957 (as amended upto date). Any term or expression not specifically defined under the Copyright Act shall have the meaning as ascribed to it under the usage and practice in the Indian film trade and music industry.
- 1.2. **“Master Royalty”** shall have the meaning commonly understood in the trade, meaning royalty attributable to the Master copy of a sound recording of a song, arising from the producer’s investment in rights, equipment and services, to create the Sound Recording or Film in which the Producer is the Owner of copyright.
- 1.3. **“Publishing Royalties”** as the term is understood in the music industry, refers to royalties which are attributable to Literary works and Musical works incorporated in Sound Recordings of a Song. Publishing Royalties are split in the ratio of 50:50 between the publisher/Owner of publishing rights on one hand and author/composer of literary and musical works equally on the other. Publishing Royalties are separate and distinct from royalties payable for master rights in sound recordings and cinematograph films.
- 1.4. **“Works”** means the all Literary Works created and to be supplied by Author to Producer in pursuance of this Agreement, tentative titles and other details of which are appended hereto as **Annexure A**.

2. ASSIGNMENT OF RIGHTS

- 2.1. In consideration of the covenants and promises herein, the Producer hereby engages the Author to create the Works as per the Producer’s requirements and supply the same to the Producer, **provided however the rights of the Author as stated under Clause 2.5 herein below shall remain unaffected**. Accordingly all Copyright in the said Works to be exploited as an integral part of the Film shall vest exclusively with the Producer as its first owner. In addition to and without prejudice to the aforesaid, the Author hereby also irrevocably and unconditionally assigns the entire copyright in the Works, for use outside the Film, exclusively in favour of Producer for the entire legal term of the Works, permitted under the Copyright Act (**“Term”**) extending to the entire World (**“Territory”**) for being exploited in any manner

whatsoever for all modes and medium of exploitation whether now known or hereinafter created.

- 2.2. Accordingly, Producer shall have all rights of an ‘Owner’ under Sections 14(a), (d), (e) of the Copyright Act including the exclusive right to do or authorize the following acts (i) to reproduce the Work in any material form including the storing of it in any medium by electronic means; (ii) to issue copies of the Work to the public; (iii) to perform the Work in public or communicate it to the public; to broadcast the Work, (iv) to make any cinematograph film or sound recording in respect of the Work; (v) to make any translation of the Work; (vi) to make any adaptation or version(s) of the Work; (vii) and to do in relation to a translation or an adaptation of the work or version (s) of the Work or any of the acts specified in relation to the work as stated above.

In jurisdictions where the expression “assignment” is not recognized by the applicable national law of that country, Producer shall be deemed to be the exclusive rights holder of all rights assigned herein in such country.

- 2.3. The Parties further agree that this assignment shall remain valid for all rights and no right shall lapse back to Author during the Term for any reason whatsoever including but not limited to failure to exercise any particular right or to exploit any particular work notwithstanding the provisions of Section 19(4) of the Copyright Act or any other law.

- 2.4. The Parties agree that the exclusive rights assigned to Producer under this Agreement shall extend to and include, but are not limited to, the all modes and mediums of reproduction, performance, distribution and communication to the public of the Works, which are in existence or which the parties anticipate may come into existence in future including:

Physical; mechanical; magnetic; analog; optical; electric; electronic; wireless; intranet or local wire-less; wireless telephony within the meaning of the Indian Telegraph Act; wireless broadcasting; terrestrial; satellite;; cable; wired broadcast; landline telephony; mobile telephony and data services of any kind not limited to 2G, 3G, 4G, BWA, LTE internet telephony; cyber; internet; streaming; webcasting; simulcasting; downloading; uploading; P to P; internet telephony; radio; television; biotechnological; nano-technological; nuclear; molecular. (Collectively referred to as “Modes and Mediums”)

- 2.5. **Author’s Special Rights:** (i) Parties specifically agree that the Author may publicly perform or give orations of the Work at live stage shows, telecasted events and interviews without requiring any permission from the Producer, provided, however, that the organizer of any such stage show, event or broadcaster has taken an appropriate license as required under law in this regard. It is clarified that it shall not be the responsibility of the Author to take such a license or verify whether the organizer has taken such appropriate license under law or not. (ii) The Author shall also have the unhindered right to make any books/bi-ographies/articles of his own lyrics containing the Works as per its discretion and without interference by the Producer. (iii) Parties further agree that in case the Producer is approached by any third party/film producer to translate the Works, or synchronize the same in a new mainstream cinematograph film, in future, the Producer shall ensure that at least 50% share of Author's share of Publishing Royalty is accounted for in the name of the original Author (if there is a new author involved in the new work being created by

translating the original work) though no specific permission shall be required from the Author for the same. Subject to the confidentiality requirements under such agreement with a third party/film producer, the Producer shall have the responsibility to provide a copy of such agreement to the Author and the Author shall keep such copy as strictly confidential.

(iv) Nothing contained in this Agreement shall take away the right of the Author to be regarded or credited as the original Author of the said Work.

(v) The Producer and his Film rights assignees shall ensure that the author is duly credited against the corresponding lyrical work he has authored in the main credits of the Film. Producer shall also ensure that the music rights assignees of the Film provide due credit to the Author whenever any song containing the Works are utilized by them.

3. WARRANTIES AND INDEMNITY:

3.1. The Author hereby represents and warrants in favour of the Producer that the Author is the sole and unencumbered creator and owner of the said Works; that the Works assigned hereunder are original and nothing therein infringes the copyright or any other right of any third party. The said Works do not contain any defamatory, obscene or scandalous matter or any matter capable of hurting the religious or other feeling of any person of creating conflict between different social groups, or other unlawful material and are not unlawful in any way. The Author further warrants that there are no claims, conflicts, impediments, liens, actions or proceedings etc. pending and there are no threatened proceedings effecting the copyright in the said Works in any manner.

3.2. The Author shall indemnify and shall keep the Producer and any of its affiliates, successors, legal heirs, licensees, assigns, agents, representatives, and affiliates indemnified, from and against any and all claims, demands, and proceedings arising out of any breach (including alleged breach) or non-performance of any of the terms and warranties mentioned in this Agreement. It is clarified that in case the Producer or its assignee/licensee(s) modifies or amends the Works in any manner without the knowledge of the Author, the Author shall not assume any liability in respect of any such modification or amendment. The Author shall submit the final version of his lyrical Work or Works, duly signed by him and the Producer shall acknowledge the same for the records.

3.3. The Producer agrees to indemnify the Author for all losses or damages actually incurred by the Author on account of any claims, demands and proceedings arising out of any misuse of the said Works by the Producer by reason of any illegal alteration or translation of the said Works by the Producer that may result in violation of any third party rights. It is clarified that the Author's right and remedies available under law shall remain open at all times.

3.4. The Author confirms that the rights granted in the Works are free from any encumbrances or claims whatsoever and are not in conflict with any rights, interests granted to any applicable copyright society of which the Author is a member and that this Agreement is not in violation of Section 19(8) of the Copyright Act. The Author undertakes to provide to the Company such NOCs, or other documents as may be required by the Company to perfect its title in the said Works.

4. CONSIDERATION:

4.1. In consideration of the Works to be created and rights assigned under this Agreement, the Producer shall pay the Author a total sum of Rs _____ (Rupees _____ Only) including applicable service tax (**Consideration**”).

4.2. Author confirms that no further amounts, royalties shall be payable by the Producer to the Author or any other person under this Agreement in respect of exploitation of the Works.

4.3. The Producer or its permitted assignees shall be exclusively entitled (i) to issue or grant licenses in the said Works and (ii) collect and utilize the full share of Master Royalties on one hand and the Owner's/Publisher's share of Publishing Royalties on the other hand, from the exploitation of the Works, if and where applicable, in any manner whatsoever. The Author shall be entitled to receive only the author's/lyricist's share of Publishing Royalties (calculat-

ed pro-rata with other Authors whose works are incorporated in the Film), if and where legally applicable, either directly from end users or from any applicable copyright society. The Author agrees to provide all authorizations/ NOC's to the Producer or its assignees in furtherance of the above understanding.

- 4.4. Nothing contained in this Agreement shall affect the right of the Author to be or continue to be a member of any copyright society whether in India or outside India. It is clarified that while by virtue of this Assignment the right to issue or grant licenses in respect of the Work shall vest exclusively with the Producer, the right to collect the Author's share of Publishing Royalty shall continue to vest with the copyright society of which the Author may be a member. Nothing contained herein shall be deemed to be a waiver of the right of the Producer or the Author to receive their share of Publishing Royalties, to be shared on an equal basis as specified by the Indian Copyright Act 1957 and its amendments. It is further clarified that the Producer shall also not be liable to share any royalties received from overseas territories with the Author and the Author shall be entitled to collect only their share of royalties through an appropriate copyright society, from the applicable Overseas Performing Rights Societies such as PRS (UK), ASCAP (USA), BMI (USA), SOCAM (Canada), SAMRO (South Africa) etc.
- 4.5. Parties agree that this Agreement in accordance with the terms of Section 18 of the Copyright Act. The Author further acknowledges that there are numerous other authors of copyrighted works which shall be included in the Film, including but not limited to author of other literary or musical works, dramatic works, artistic works and also statutory owners of performer's rights, if applicable. The Author acknowledges that no royalty shall be payable in respect of revenues generated from the theatrical exhibition of the Film in a Cinema Hall.
- 4.6. Without prejudice to the Producer's rights and remedies in law, the Producer agrees to provide all reasonable assistance to the Author in determining the likely share of Publishing Royalties due to the Author.

5. **PROPER LAW, JURISDICTION, CONFIDENTIALITY ETC.** - This agreement confirms to the provisions of the Copy Right Act 1957 (as amended up to date). This Agreement shall be construed according to the laws of India and courts at Hyderabad shall have exclusive jurisdiction in relation to disputes arising out of or related to this Agreement. If any term of this Agreement is held by a competent court of law to be in violation of any applicable law the same shall be deemed to be deleted from this Agreement and the rest of the Agreement shall continue to operate as valid and binding. Save and except as expressly provided this Agreement no exercise, or failure to exercise, or delay in exercising any right, power or remedy vested in any party under or pursuant to this Agreement shall constitute a waiver by that party of that or any other right, power, or remedy. This Agreement 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. All notices under this Agreement shall be sent in writing at the aforementioned addresses of the Parties only. Parties shall keep the terms of this Agreement as strictly confidential and shall not disclose the same to any third person, entity or association without written consent of the other party.

IN WITNESS WHEREOF the parties hereto have set their hand and seal on the day, month and year first above mentioned.

For _____

(Producer)

Mr. _____

Proprietor / Partner / Authorised Signatory

(Author)

Witness 1. _____

2. _____

ANNEXURE A

- 1.
- 2.
- 3.
- 4.
- 5.

