

## AGREEMENT OF ASSIGNMENT AND ADMINISTRATION OF RIGHTS

between

**Author** (Name and address) .....

**Legal Successor\*** (Name and address) .....

**Music publishers** (Name and address) .....

\* Please also indicate the name of the deceased author.

Below referred to as "Beneficiary"

and the

**State authorized *Gesellschaft der Autoren, Komponisten und Musikverleger (AKM)***, a registered cooperative with limited liability, 1030 Vienna, Baumannstrasse 10, Austria,

Below referred to as "AKM".

### 1. Agreement of Assignment and Administration of Rights

1.1. The Beneficiary entrusts AKM with the administration in trust of the rights of performance, broadcasting and provision of all existing and future musical works described under item 2, and/or of the literary works related to these works which it is entitled to at the time of conclusion of this agreement and those which accrue, devolve, or re-accrue to it or which it otherwise acquires.

This agreement comprises the exploitation as described under item 2 individually and in relation with other works. AKM is not entitled to grant authorizations in relation with other works which have not been granted by the Beneficiary; this specifically relates to the right to produce; the Beneficiary will itself safeguard its interests speaking against such relations. Furthermore, AKM is not entitled to safeguard the moral rights of the Beneficiary.

1.2. The Beneficiary remains entitled to permit others to make non-commercial use of its works. The Beneficiary acknowledges and declares to respect the rules about non-commercial licences (called "NK-Lizenz" hereinafter).

### 2. Assignment of Rights

2.1. Assignment of Rights/Transfer of Rights:

2.1.1. Assignment of Rights: The Beneficiary assigns to AKM the exclusive exploitation of rights and copyrights for public performance, radio broadcasting and provision of all works which it as the author has created at the time of conclusion of this agreement, of existing and/or future works, or, respectively, of copyrights for those works which it as a music publisher has acquired at the time of conclusion or throughout the entire duration of this agreement, including rights of a similar type (abroad). Beneficiaries who hold rights to posthumous works (§76b *UrhG* [Copyright Law]) are on a par with authors. The assignment of rights takes place without temporal or geographical limitation and

thus extends to all countries worldwide and for the duration of the term of copyright including potential term of copyright extensions as well as including renewed terms of copyright.

- 2.1.2. Transfer of Rights: The Beneficiary wholly assigns to AKM the participation and/or remuneration claims as well as claims of a similar type (abroad) in relation to public performance, radio broadcasting and provision of all works which it as the author has created at the time of conclusion of this agreement, of existing and/or future works, or, respectively, of copyrights for those works which it as a music publisher has acquired at the time of conclusion or throughout the entire duration of this agreement, including rights of a similar type (abroad). Beneficiaries who hold rights to posthumous works (§76b *UrhG* [Copyright Law]) are on a par with authors. The transfer of rights takes place without temporal or geographical limitation and thus extends to all countries worldwide and for the duration of the term of copyright including potential term of copyright extensions as well as including renewed terms of copyright.
- 2.1.3. The assignment or, respectively, transfer of rights takes place without limitation unless the parties to this agreement have agreed in writing to anything different (under item 15, Special Provisions), e.g. with regard to content or territorial limitations.
- 2.2. The assignment or, respectively, transfer of rights mentioned under item 2.1 shall apply to musical works and literary works related therewith and shall particularly comprise the following rights and legal claims for participation and/or remuneration:
- a) Concert performance of musical works and the recitation of literary works related to musical works, including the performance and recitation of such works in relation with cinematographic works and/or moving images. Stage performance, full or in major parts ("*Großes Recht*" [major rights]), of dramatic musical works shall be excluded.
  - b) Radio broadcasting or similar ways of transmission (including broadcasting by means of cables or via satellite), not including radio broadcastings, full or in major parts, ("*Großes Recht*" [major rights]), of stage works, if the subject of the broadcasting is a stage performance or a reproduction of the work in such manner for broadcasting purposes as well as radio broadcastings of radio plays; furthermore the re-broadcasting of radio broadcasts, including satellite broadcasts, by means of cables including the re-broadcasting of dramatic musical works (§59a *UrhG* [Copyright Law]).
  - c) Public communication by means of audio and/or audio-visual media (data media), including public communication of dramatic musical works as well as the public communication for educational purposes in connection with film works in the sense of §56c *UrhG* (Copyright Law), as well as the use of audio and/or audio-visual media (data media) in institutions open to the public (libraries, collections of audio and/or audio-visual media and the like) in the sense of §56b *UrhG* (Copyright Law).
  - d) Public communication by means of radio broadcasting in the sense of §17 *UrhG* (Copyright Law), including radio broadcasting of dramatic musical works according to §18 para 3 *UrhG* (Copyright Law).
  - e) The provision according to §18a *UrhG* (Copyright Law), including the provision in schools, educational and teaching institutions (§42g *UrhG* [Copyright Law]).

The assignment of rights shall not apply to dramatic musical works, if these are made publicly accessible in full or in major parts ("*Großes Recht*" [major rights]). The public provision of notations and/or text images in whatever technical form (graphic rights) is not affected by the assignment of rights.

- f) Further exploitation rights and claims arising from future technical developments or legal amendments, in correspondence with the rights covered under lit a through e.
- g) In all cases mentioned above, the assignment of rights shall not include any right of reproduction and distribution.

### **3. Time of Acquisition of Rights**

With regard to works, which have already been created or published at the time of the conclusion of this agreement or to which the Beneficiary is entitled to rights at the time of the conclusion of this agreement, the acquisition of rights and the transferral of claims to AKM pursuant to item 2 shall become effective therewith.

With regard to works which will be created or published at a later date or the rights of which will accrue to the Beneficiary only after the conclusion of this agreement, the acquisition of rights shall take effect at the time the respective work will be created or the rights thereof will be acquired. The compliance with the duty for registration and presentation as stipulated under item 8, shall have no effect on the acquisition of rights to AKM.

### **4. Administration of Rights**

AKM is entitled to administer the rights and claims assigned to it in correspondence with law and statutes and in its own name and in the interest of the Beneficiary. In particular, it is entitled to grant permission for the exploitation of the works to organizers of public performances, radio broadcastings and provisions, to assert participation and/or remuneration claims, to conclude collective and single agreements, to receive due royalties of any kind and acknowledge receipt thereof in a legally binding manner, to enforce in its own name before a court or in other proceedings the rights and claims assigned to it, to conclude with other collecting societies representation and reciprocal agreements, and to take further measures which it considers useful and appropriate in order to protect the rights assigned to it. AKM is entitled to transfer in full or in part onto third parties the rights and claims assigned and transferred to it.

### **5. Due Diligence**

AKM shall administer in trust the exploitation rights of the works assigned and of the claims transferred to it with the diligence of a prudent businessman; in particular, it shall take care of the proper collection of royalties, of the appropriate distribution among the beneficiaries in accordance with the respective provisions, and of the timely payment of the amounts due to the individual beneficiaries.

### **6. Claims of the Beneficiary**

By conclusion of this agreement, the Beneficiary is entitled to claim participation in the distribution scheme of the collected royalties for performances, broadcastings or provision of its works, as well as in the remuneration (royalties) claimed by AKM in accordance with the provisions for the settlement of accounts and the Statute in the respective current version, i.e. after deduction of the expenses and of the amounts serving as endowment for the social and cultural facilities. As far as terms and time of payment as well as assignment (pledging) of claims are concerned, the statutory provisions in the respective current version shall apply.

In addition, the Beneficiary is entitled to make use of the facilities for social and cultural purposes owned by AKM in compliance with the respectively valid guidelines and of the legal protection services provided by the Legal Protection Office pursuant to the respectively valid statutes.

## **7. Principle of Profitability**

With regard to the assertion of claims, AKM shall be liable only to the extent that the costs incurred for such assertion will not be out of proportion and unjustifiable on economic grounds. In the same manner, the principle of profitability shall apply for the settling of accounts as stipulated for royalties collected for performances and broadcastings as well as for remunerations for provision as well as for the distribution of revenues from the assertion of participation and/or remuneration claims. If the settling of accounts as stipulated for royalties comes with disproportionately high costs and/or if it is not appropriate, AKM will be entitled to apply a simplified flat-rate settlement of accounts. Appropriate implementation rules shall be stipulated in the respective settlement provisions.

## **8. Registration of Works**

Throughout the duration of this agreement, the Beneficiary commits itself to register with AKM all works created or published by it or all posthumous works in accordance with the guidelines established by or agreed with AKM (with indication of title and genre of works, name of composers, text writers, possible co-authors, publishers and possible pseudonyms) and, if required, to prove in the form desired by AKM the correctness of such statements with regard to the authorship or the publishing contract. This includes the presentation of a manuscript, a printer's copy, audio media or a contract of publication, if AKM requests it.

For works which have not been duly registered, no claim for royalties exists towards AKM.

## **9. Duty to Furnish Information**

- 9.1. The Beneficiary commits itself to immediately inform AKM about any change of name, address, nationality or bank account (for publishers also any change of authority to sign, business licence, and nomination of managing directors). Should changes of address not be communicated and the new address cannot be verified by request to the registration authority competent for the address last indicated, all notifications and payments may be effected to the address and bank account last indicated with exonerating effect.

The Beneficiary takes note of the fact that it will be fully liable for any damages resulting from any violation of this duty to furnish information.

- 9.2. AKM shall inform the Beneficiary in due form about any changes with respect to its statutes, to the guidelines for social donations and cultural facilities, to the statutes of the Legal Protection Office, the regulations about the "NK-Lizenz" (non-commercial licence) and to the provisions for settlement of accounts which pursuant to the statutes shall be adopted by the management board of AKM; this information is currently communicated by relevant notices on the AKM Website. The Beneficiaries shall have access to the balance sheet and the profit and loss account which are to be established on an annual basis.
- 9.3. The changes for the conditions for agreements of the assignment of rights defined by the relevant AKM committees will also become effective for the Beneficiary unless it terminates the agreement of the assignment of rights within four weeks after being informed about the changes in writing. Any extensions of the range of the rights and claims safeguarded by AKM on the basis of this agreement become effective unless the Beneficiary contradicts them within four weeks in the form provided for terminations in item 11; limitations in the range of the rights and claims safeguarded by AKM on the basis of this agreement become effective in any case.

## 10. Legal Successors

In case of the author's death, the Agreement on the Assignment and Administration of Rights shall be devolved onto the legal successors (heirs, legatees etc.) of the Beneficiary. AKM shall not be obliged to effect any payments until intestate succession has been proved by presentation of appropriate official documents (certificate of inheritance, approved agreement on partition among coheirs or on obligatory share, official certificate) and – in case of several coheirs – nomination of a joint representative of all legal successors has been made.

## 11. Duration and Termination of Agreement

This agreement shall commence from the time of signature by both parties and is being concluded for an indefinite period. It may be terminated in whole or in part (with regard to content and/or territory) by either party at the end of each calendar year subject to six month's notice; AKM shall have the particular right to terminate the agreement if no public performance or broadcasting or provision can be proven over a period of three subsequent years. The termination has to be made in written form including a signature by one's own hand or as is valid for corporate purposes (a PDF document is not sufficient). Complete termination shall be excluded for both parties during valid and full membership (as a society member of AKM).

The licences for exploitation which AKM granted prior to the termination of the agreement of the assignment of rights remain unaffected by a termination of this agreement of the assignment of rights. Even after termination of the agreement of the assignment of rights, the Beneficiary retains its claims according to item 6 sentence 1 and 2 to remunerations which AKM levied for uses of the Beneficiary's works prior to termination of the agreement or for granting permissions for use of its works prior to termination of the agreement either directly or via a foreign society with which AKM has entered into a mutual relationship.

## 12. Agreement Fee

The Beneficiary commits itself to paying within a period of 14 days after the delivery of a signed copy of this agreement the agreement fee stipulated by the General Assembly of the AKM.

## 13. Additional Terms of Agreement

The Beneficiary submits to the AKM statute, the guidelines for social donations, the guidelines for cultural facilities, the provisions for settlement of accounts to be decided by the AKM Board of Directors in accordance with the statutes, the "*NK-Lizenz*" (non-commercial licence) and the statutes of the AKM Legal Protection Office in their respective valid versions (cf. item 9.2 of this agreement).

The Beneficiary submits to the Legal Protection Office which – as an arbitral tribunal – shall decide any disputes arising from this agreement in the sense of §51 AKM Statute (in the respective valid version).

The Beneficiary confirms to have received one copy each of the above mentioned provisions and has taken notice of their content. The Beneficiary furthermore confirms to have been informed about administration fees and other deductions by AKM as defined by the *Verwertungsgesellschaftengesetz* (Act on the Management of Copyright and Related Rights by Collecting Societies).

**14. Data Processing**

The Beneficiary agrees that any data transmitted by him to AKM may be electronically stored, processed and passed on to subcontracted collecting societies, subcontracted agencies for the exploitation of rights, or subcontracted service providers in order for AKM to perform its duties under this agreement.

The Beneficiary agrees that data concerning its works (e.g. information on authorship, publishing contracts etc.) are passed on to third parties as provided for in the data protection information sheet.

**15. Special Provisions**

15.1. The Beneficiary limits the assignment or, respectively, transfer of rights according to item 2.2 lit a) through e) of this agreement with regard to content or territory as follows<sup>1</sup> :

<sup>1</sup> NB: Conclusion and termination of this agreement of the assignment of rights can be limited to the transfer of rights for certain types of use according to lit a) through e) and/or certain territories.

15.2. Special Provisions:

**16. Other Agreements**

Should a similar agreement have existed to date between the parties to this agreement, the present agreement shall replace any previous provisions.

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(date, signature)  
AKM

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(date, signature)  
Beneficiary