

Composer's agreement for film music

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Standard documents | Law stated as at 30-Jan-2020 | United Kingdom

An agreement under which a production company commissions a composer to create and record music for a film or television programme soundtrack.

This agreement is dated [DATE]

PARTIES

About this agreement

Under this agreement, a production company commissions music for a film or TV soundtrack. It is designed for higher-budget productions requiring a substantial amount of music. As a courtesy to the commissionee, who will often be a well-known figure with an established reputation, it is customary to call such an agreement a "composer's agreement" rather than a commissioning agreement. For an agreement suitable for lower-value deals, see *Standard document, Short-form film music commissioning agreement*.

As the person who writes and performs (or conducts and arranges for the performance of) the music, the composer will automatically be the first owner of the copyright in it. This agreement therefore contains an assignment of rights in the musical and literary works embodied in the commissioned music, and in the master recording of that music that is to be used in the soundtrack.

(1) [FULL COMPANY NAME] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (**Company**)

(2) [FULL COMPANY NAME] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (**Composer**)

BACKGROUND

(A) The Company wishes to engage the Composer to compose and arrange the Music and to perform, record and produce the Music for inclusion in the soundtrack of the Film and the Composer has agreed to provide the Composer's services on the terms of this agreement.

(B) The Company and the Composer have agreed to share as set out in this agreement the income derived from exploitation of the Music from uses other than the Music's inclusion in the Film.

SPECIFIC TERMS

1. INTERPRETATION

1.1 These Specific Terms and the standard terms of engagement attached as [Schedule 1](#) (Standard Terms), together with any other documents incorporated by reference, constitute the agreement between the parties (**this agreement**). If there is any inconsistency between the Specific Terms and the Standard Terms, the Specific Terms shall prevail.

1.2 The defined terms used in these Specific Terms shall have the meanings given to them in the Standard Terms.

2. SERVICES

2.1 The Company engages the Composer, and the Composer shall provide the Services to the Company, on the terms set out in this agreement to compose the Music in accordance with the directions of the Company and its nominees and to produce the Recordings.

2.2 The Composer shall perform the Services in a first-class manner and to the best of the Composer's ability with time being of the essence.

2.3 The Composer shall provide the Services on [an exclusive **OR** a first-call] basis starting on [DATE] and ending on delivery to the Company of the Delivery Materials.

2.4 The Composer shall attend meetings and production sessions relevant to the Music and the Recordings as reasonably requested by the Company.

2.5 The Composer shall perform the Music to enable the Recordings to be produced, although the Composer may with the prior written approval of the Company and at the Composer's sole cost engage so-called session artists and other musicians and performers to perform on the Recordings subject to the Composer providing to the Company all necessary consents, waivers and artist details as provided in the schedule of the Delivery Materials and as are required by the Company.

2.6 The Composer shall only engage Musicians' Union members as session artists and musicians unless approved otherwise in writing by the Company in advance. The Composer shall procure that each musician, performer and/or session artist hired by the Composer signs a contract in a form acceptable to the Company assigning and (in respect of non-assignable rights) waiving in favour of the Company all their rights in their contribution.

3. RECORDING PROCEDURE AND DELIVERY DATES

Recording procedure and delivery dates

In practice, the musical score is usually created on the basis of a "rough cut" of the film, so that the composer will not begin work for many months after signing the agreement. This can sometimes give rise to practical difficulties as the writer may remain unsure about when they will need to be available to fulfil the agreement.

3.1 The Budget [shall be produced by the Composer within [NUMBER] weeks of signature of this agreement and the Composer shall obtain the Company's approval to the Budget before incurring any liabilities in respect of the creation or recording of the Music **OR** is attached as [Schedule 4](#)]. The [Composer and the] Company shall have [mutual] approval over the choice of recording studios and any third party musicians, performers, producers or engineers.

3.2 The Composer shall deliver the First Demos to the Company by [DATE].

3.3 After delivery of the First Demos, the Company shall notify the Composer of any changes it requires the Composer to make to them. The Composer shall make such changes to the Music and deliver the Revised Demos [by such date(s) as the Company shall notify to the Composer **OR** by those dates specified in [Schedule 5](#)].

3.4 At any time during the Composer's engagement the Company may notify the Composer that the Company no longer wishes to receive any further Demos and the Composer shall then if so requested by the Company record and produce the Recordings and deliver the Delivery Materials unless notified by the Company that the Company does not wish to make use of the Music and (if they exist) the Demos.

3.5 The Composer shall deliver the Delivery Materials by [DATE **OR** the date(s) set out in [Schedule 5](#)].

4. RIGHT OF CUT-OFF

4.1 If the Composer fails to deliver any Demo or Demos to the Company by the specified delivery date then the Company may terminate the engagement of the Composer by notice in writing to the Composer served at any time after the specified delivery

date and before actual delivery of the Demo or Demos [and the Composer shall within 14 days of such notice repay all sums received by the Composer pursuant to [Clause 5.1](#)].

Right of cut-off

"Demos" here refers to either the first demos or the revised demos. Hence, if the composer were to deliver the first demos but then fail to deliver the revised demos, the production company would get none

of the benefit of the composer's work on the first demos, and would be entitled to a repayment of the initial fee that was paid to the composer on signature.

4.2 The Company may terminate the engagement of the Composer by notice in writing to the Composer served at any time after delivery of the Demos but prior to the direction to produce the Recordings. For the avoidance of doubt the Composer may retain only those sums accrued under this agreement before the date of termination under this [Clause 4.2](#) subject to the Company's right of set-off and right to repayment under the terms of this agreement.

4.3 If the Composer does not deliver the Delivery Materials to the Company by the specified delivery date then the Company may terminate the engagement of the Composer by notice in writing to the Composer served at any time after such delivery date [and the Composer shall within 14 days of such notice repay all sums received by the Composer pursuant to [Clause 5.1](#) after deducting all Recording Costs actually incurred by the Composer in respect of the Demos, subject to the Company's rights of set-off and repayment under the terms of this agreement]. The Company shall not be obliged to accept the Delivery Materials if delivered after the required delivery date unless the Company has agreed otherwise in writing.

5. COMPOSER'S FEES

Composer's Fees

The payments under [Clause 5.1\(b\)](#) and [Clause 5.1\(c\)](#) will fall due at the same time if the Revised Demos are delivered with, or before, the other delivery materials.

5.1 In respect of the Services, the Company shall pay to the Composer [in addition to the Publishing Royalties described in [Clause 7](#) and the Net Record Royalties]:

- (a) £[AMOUNT] on signature of this agreement (receipt of which the Composer acknowledges);
- (b) £[AMOUNT] on delivery to the Company of the Revised Demos or (if earlier) on delivery to the Company of the Delivery Materials and the Company's acceptance of them; and
- (c) £[AMOUNT] on delivery to the Company of the Delivery Materials and the Company's acceptance of them.

5.2 [The Composer shall pay all the Recording Costs out of the Fees **OR** The Company shall on delivery to and acceptance by the Company of the Delivery Materials pay the Recording Costs to the Composer to the extent that the Recording Costs were incurred in accordance with the Budget.]

5.3 The payments under [Clause 5](#) shall be made by the dates specified or (if later) within 14 days after receipt of the relevant invoice.

6. NET RECORD ROYALTIES

Net Record Royalties

Any advances as mentioned in [Clause 6.2](#) would usually come from a record label interested in exploiting the rights in the soundtrack music.

6.1 The Company shall pay the Composer [50] % of the Net Record Royalties arising from the exploitation (if any) by the Company of a Soundtrack Album, it being acknowledged that the sums payable under this [Clause 6.1](#) by the Company to the Composer in respect of a Soundtrack Album include any sums payable by the Composer to any third parties in respect of the same. Where royalties are partially attributable to recordings embodied on a Soundtrack Album which are not Recordings, then the royalties shall be reduced and calculated on a pro-rata basis according to the total number of Recordings embodied on the Soundtrack Album.

6.2 [Notwithstanding [Clause 6.1](#) it is agreed that any advances received by the Company from third parties in respect of any Soundtrack Album shall be excluded from Net Record Royalties to the extent that they are used by the Company to fund or part-fund the music budget for the Film.]

7. PUBLISHING ROYALTIES

7.1 The Composer shall be entitled to receive the following royalties (**Publishing Royalties**) in respect of all exploitation by the Company of the Music:

- (a) [PERCENTAGE]% of Net Publishing Receipts arising from the grant of any mechanical licence to embody the Music on a sound carrier;
- (b) [PERCENTAGE]% of Net Publishing Receipts arising from the grant of a synchronisation licence to reproduce the Music in conjunction with audio-visual images;
- (c) [PERCENTAGE]% of Net Publishing Receipts in respect of any other form of exploitation of the Music not referred to in this clause.

7.2 [Notwithstanding [Clause 7.1](#) it is agreed that any publishing advances received by the Company from any third party shall be excluded from Net Publishing Receipts if they are being used by the Company to fund or part-fund the music budget for the Film.]

7.3 The Composer shall be entitled if they so elect and if they provide written notice to the Company prior to the release of the Film to collect their share of Publishing Royalties directly from the appropriate collection society. If the Composer elects to do this, or if the Company elects in writing not to collect the Composer's Publishing Royalties, then the Company's sole obligations in this regard shall be to notify the appropriate collection societies of the proportion of the Net Publishing Receipts which is payable to the Composer and to pay over to the Composer any part of the Composer's share of Net Publishing Receipts received by the Company in error.

8. CREDITS

8.1 Subject to one or more of the Recordings being incorporated into the soundtrack of the Film the Company shall accord the Composer a credit on the Film and subject to the customary financier and distributor restrictions and exclusions (and in particular those imposed on the Company, its licensees and assignees) on major paid advertising of the Film created by the

Company in the form "Music by [NAME]". The size, style and prominence of such credit shall be determined by the Company in its reasonable discretion.

8.2 This clause shall be subject to the provisions of *Paragraph 15* of the Standard Terms.

9. [COMPOSER'S AGENT

[All payments to be made to the Composer under this agreement shall be made to the Composer's representative [NAME OF AGENCY] at [the address at the head of this agreement **OR** ADDRESS] (marked for the attention of [NAME OF INDIVIDUAL CONTACT]) whose receipt of these payments shall be deemed to be receipt and acceptance of these payments by the Composer.]

10. [RE-ASSIGNMENT

Re-assignment (optional clause)

This clause is not offered to composers as a matter of course, but may be negotiated by the composer if they have sufficient bargaining power to do so.

The Composer shall have the right to require the Company to re-assign the copyright in the Music to the Composer if the Company releases the Film without the Music or if the Company has not commenced principal photography of the Film within two years from the date of delivery to the Company of the Delivery Materials on the following conditions:

- (a) the Composer gives written notice to the Company after the two-year period;
- (b) the Composer repays to the Company the sums set out in *Clause 5.1* and *Clause 5.2*; and
- (c) the re-assignment shall relieve the Company from any further obligations to the Composer to pay publishing royalties or any other revenues under this agreement other than those which accrued before the date of re-assignment.]

11. UNION AND GUILD AGREEMENTS

It is agreed that this agreement and the provision of the Composer's services are not subject to any collective bargaining agreements, guild agreements or union regulations.

12. [SPECIAL PROVISIONS

[If the Music and Recordings are included on the soundtrack of the Film, the Company shall give to the Composer for the Composer's personal use only two DVD copies of the Film as soon as they are commercially available.]

This agreement has been entered into on the date stated at the beginning of it.

SCHEDULE 1

STANDARD TERMS OF ENGAGEMENT

1. INTERPRETATION

The following definitions and rules of interpretation apply in this agreement.

1.1 Definitions:

Act: the Copyright, Designs and Patents Act 1988 as amended, extended or re-enacted from time to time.

this agreement: the agreement between the parties, comprising the Specific Terms and the Standard Terms together with any documents incorporated by reference.

Budget: a written budget which includes a breakdown of all costs relating to the preparation and delivery to the Company of the Music, the Recordings and the Delivery Materials; and a list of the Fees and all Recording Costs approved by the Company in writing [of which a first draft is attached as [Schedule 4](#)].

Business Day: a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Business Hours: the period from [9.00 am to 5.00 pm] on any Business Day.

Delivery Materials: first-class master copies of the Recordings embodying the Music approved by the Company and of an artistic, technical and commercial standard suitable for the commercial release as the soundtrack of the Film together with all copies of the Recordings and all the other items set out in [Schedule 3](#).

Demo: the Revised Demos and the First Demos.

Fees: the sums set out in [Clause 5.1](#) of the Specific Terms.

Film: the film provisionally entitled "[WORKING TITLE OF FILM]" (including its soundtrack and other derivative materials) which the Company intends, but does not undertake, to produce.

[Financiers: those third parties who are, and/or will be, providing the production finance for the Film.]

First Demos: listening copies of the first recorded version of the Music as requested by the Company.

Music: the musical works and (if any) literary works to be composed, arranged, performed, recorded and produced by the Composer pursuant to this agreement and which it is intended shall be synchronised (in whole or in part) with such parts of the Film as are directed by the Company after reasonable consultation with the Composer.

[Music Production Schedule: the agreed time schedule for the preparation, completion and delivery to the Company of the Music, the Recordings and the Delivery Materials set out in [Schedule 3](#).]

Net Publishing Receipts: the net fees and royalties, other than the so-called performers' and publisher's share of public performance income, actually received by or (where credited against an advance received by the Company) credited to the Company in the UK which are directly and identifiably attributable to the exploitation of the Music less any actual deductions, payments, commissions and expenses properly incurred by the Company or any third party in respect of such income.

Net Record Royalties: royalties actually received by or (where credited against an advance received by the Company) credited to the Company in the UK in respect of the sale of copies of any Soundtrack Album to the extent that such royalties are wholly, directly and identifiably attributable to the exploitation of the Recordings.

Recordings: any sound recordings of the Music made by the Composer or any parties hired by the Composer pursuant to this agreement.

Recording Costs: the bona fide third party costs actually incurred by the Composer in producing the Demos, the Recordings and the Delivery Materials.

Revised Demos: such other listening copies of the Music (other than the First Demos) as shall be requested by the Company.

Rights: all copyright and other rights and interests in the Music, the Recordings and the products of the Services, worldwide in all media and for the full term of such rights including any extensions, renewals and revivals.

Services: all the services to be provided by the Composer under this agreement with respect to the preparation, recording, completion and delivery of the Music, the Recordings and the Delivery Materials.

Soundtrack Album: any album released as a soundtrack of the Film.

1.2 Unless the context otherwise requires, the words and expressions used in this agreement shall have the same meanings as are given to them in the Act.

1.3 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

1.4 Clause[, Schedule and paragraph] headings shall not affect the interpretation of this agreement.

1.5 A reference to **writing** or **written** excludes fax [and email **OR** but not email].

1.6 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

1.7 [References in this agreement to the Company's nominees shall include the Financiers.]

2. CONDITIONS PRECEDENT

The engagement of the Composer to provide the Services under this agreement is conditional on:

(a) receipt by the Company of a fully executed original of this agreement [and of the Short-Form Assignment in the form set out in [Schedule 2](#)];

(b) [the Composer providing the Company with, or the Company securing, all documents required by any governmental agency or other third party to permit the Composer to render the services required under this agreement including any work permits, visas, licences and consents; and]

(c) the Composer being able to qualify for all insurances in relation to the Film that the Company requires at customary rates and subject only to customary exclusions and deductible amounts.

3. SERVICES

3.1 The Company may postpone provision of any element of the Services by written notice to the Composer. The timing of performance of the Composer's obligations after any postponement shall be subject to the Composer's prior professional commitments, but in such circumstances the Composer shall use all reasonable endeavours to provide the Services in accordance with such reasonable new deadlines as the Company shall notify to the Composer.

3.2 Subject to [Paragraph 3.1](#) of the Specific Terms, the Composer shall provide the Services on [an exclusive **OR** a first-call] basis during the period of [production and] post-production of the Film and the Composer shall make such further amendments, adaptations and revisions to the Music and the Recordings as the Company or its nominees request without any further entitlement to remuneration.

3.3 If requested to do so by the Company, the Composer shall deliver to the Company such parts of the Music and the Recordings as shall have been created at the time of the request and shall inform the Company of the Composer's progress in creating the Music and Recordings.

4. CREATIVE PROCESS

4.1 The Music and the Recordings shall be subject to the approval of the Company and the Company shall have the right to make changes to the Music and the Recordings including the titles. The Company shall have final say on all matters relating to the Music and the Recordings and the development, financing, production and exploitation of the Film.

4.2 [If the Company introduces into the Music or the Recordings material not written or produced by the Composer, the Company shall indemnify the Composer against loss directly suffered by the Composer as a result of the additional material included in such Music or Recordings. However, this indemnity shall be limited to reasonable costs and losses incurred by the Composer pursuant to legal proceedings brought against the Composer resulting in an order or judgment of a court or tribunal of competent jurisdiction or a settlement reached with the Company's prior written consent.]

5. FEES AND ROYALTIES

Interest on late royalties

There is no provision in this agreement for the payment of interest on late royalties, since it is drafted in favour of the Company. Generally this issue would be dealt with in the context of the audit provisions in the agreement. If the Composer exercises their right of audit and establishes that there has been an underpayment of royalties, then the record company will often agree to pay interest on the underpayment.

5.1 Subject to the Composer performing the Composer's material obligations in this agreement, the Company shall pay to the Composer the sums set out in [Clause 5.1](#) of the Specific Terms on receipt by the Company of proper invoices for those sums.

5.2 Payment of the sums described in [Clause 5.1](#) of the Specific Terms shall be deemed to be a complete assignment of the Rights, entitling the Company to fully and freely exploit the products of the Services, the Music and the Recordings to the fullest extent permitted by law without the need for any payments other than those due to the Composer under [Clause 6](#) and [Clause 7](#) of the Specific Terms. The Composer agrees that the Company may reproduce the Music in the Film (and all trailers and advertisements relating to the Film and all extracts from the Film) and in all other audio-visual productions (including audio-visual recordings on any and all media now known or to be created in the future) without payment of any so-called mechanical licence payment.

5.3 Nothing in this agreement shall prevent the Composer from receiving income directly from any collection society or agency under collective and other agreements negotiated by recognised collection societies or agencies under the laws of any jurisdiction or any award of the Copyright Tribunal in the UK or any analogous body in the EU. However, neither the Company nor its licensees or assignees shall be obliged to make these payments to the Composer.

5.4 All payments under this agreement are exclusive of value added tax. To the extent that value added tax is or becomes payable in respect of sums that fall due under this agreement, any invoice rendered by the Composer to the Company shall include a value added tax element.

5.5 The Composer authorises the Company to deduct and withhold from all compensation payable to the Composer in this agreement all deductions required by any present or future law of the country where the Composer performs the Services or the country of residence of any party to this agreement. If the Company does not make any withholding or deduction, the Composer shall pay all taxes, including withholding tax if applicable, and other charges payable on account of the compensation.

5.6 [Save as provided under [Paragraph 5.7](#) of the Specific Terms] the Company shall account to the Composer in reasonable detail for the Composer's share of Net Record Royalties [and Net Publishing Receipts] within three months of receipt by the Company of the same. The Company shall keep books and accounts of its share of Net Record Royalties and Net Publishing Receipts and the Composer may, at the Composer's own expense, appoint a qualified accountant to inspect these books and accounts on reasonable prior notice and in any event no more than once a year and not more than once in respect of the books and accounts relating to any particular set of accounts. All accountings shall be deemed final on the expiry of one year from the date rendered.

5.7 [The Company may at its sole discretion be able to procure that the Composer is accounted to directly by the Company's exclusive licensees for the Composer's share of Net Record Royalties and Net Publishing Receipts. To the extent that the Composer receives an undertaking to account directly in this way, and to the extent that Composer receives direct accounting, the Company shall be relieved of its obligation to account to the Composer.]

6. VAT

6.1 All payments hereunder are expressed exclusive of value added tax which shall be payable in addition thereto on receipt of a valid value added tax invoice.

7. [EXPENSES]

7.1 If the Composer is requested by the Company to travel more than 50 miles from the Composer's permanent residence, the Company shall pay the Composer's reasonable travel expenses and, if the Composer is required to stay overnight, reasonable pre-approved hotel and living expenses (excluding drinks and telephone calls) in accordance with a budget for these expenses which has been pre-approved in writing by the Company.]

8. ASSIGNMENT OF RIGHTS

8.1 In consideration of the payment by the Company to the Composer of the sums set out in [Clause 5.1](#) of the Specific Terms, the Composer, with full title guarantee, irrevocably assigns to the Company, by way of an exclusive assignment of present and future copyright, the entire copyright and all other rights, title and interest of whatsoever nature, whether vested or contingent including the right to exploit in all media and by all means now known or hereafter invented and all rights of the Composer in and to the Music, the Recordings, the Demos and the Film and all allied and ancillary rights in the Film and to all of the products of the Services under this agreement and to hold the same unto the Company absolutely, throughout the world in all languages for the full period of copyright and all renewals, revivals, reversions and extensions and thereafter in perpetuity to the extent permitted by law whether the right to these renewals, revivals, reversions or extensions now exist or are hereafter created by the laws in force in any part of the world. This assignment shall be without reservation or condition and so that no right of any kind, nature or description is reserved by the Composer.

8.2 The Composer irrevocably and unconditionally waives in perpetuity all moral rights that the Composer may have in and to the products of the Composer's services under this agreement and in the Music, the Recordings, the Demos and the Film, whether arising under sections 77 to 85 (inclusive) of the Act or otherwise, and the benefits of any provision of law known as "droit moral" or any similar law in any country of the world and undertakes not to institute, support, maintain or permit any action or lawsuit in any part of the world on the grounds that the products of the Composer's services, the Music, the Recordings, the Demos, the Film and all allied and ancillary rights in the Film or any version or adaptation of them or any derivative right or product in any way constitutes an infringement of any moral rights or "droit moral" of the Composer or is in any way a defamation or mutilation of the products of the Composer's services or contains unauthorised alterations, adaptations or translations or on the grounds that the products of the Composer's services have been subjected to derogatory treatment.

8.3 The Company shall be the sole owner of the copyright in the Music, the Recordings, the Demos and the Film, with the right to make use of the products of the Services, the Music, the Recordings, the Demos and the Film and all allied and ancillary rights in the Film as it shall decide. For the purpose of the copyright law of the United States of America and any jurisdiction which does not recognise an assignment of future copyright, if there is resort or subjection to such jurisdiction in relation to this agreement, the products of the Services are and will be deemed to be written as a "work made for hire" and the Company shall be deemed the author.

8.4 The Rights granted to the Company shall be deemed to include all rights of communication to the public by satellite, cable retransmission rights and all rental and lending rights, whether now known or hereafter existing, in any country of the world in and to the products of the Composer's services in respect of this agreement, the Music, the Demos, the Recordings and the Film and any part or version or adaptation of the same. Further, the consideration payable under [Clause 5.1](#) of the Specific Terms includes a payment in respect of the rental right which represents adequate and equitable compensation for the assignment of the rental right.

9. NO RESCISSION

9.1 The assignment of Rights effected by [Paragraph 8](#) of these Standard Terms shall be irrevocable and shall not be subject to reversion, rescission, termination or injunction or any other equitable relief in the case of any breach or repudiation of this agreement by the Company. The remedies of the Composer in the circumstances of any breach or repudiation of this agreement by the Company or any third party shall be limited to the Composer's right to recover damages in an action at law. The Composer shall not be entitled by reason of any breach or repudiation to interfere with, inhibit, enjoin or restrain the development, production or exploitation of the Film or any of the allied and ancillary rights connected with the Film.

10. CONSENTS

10.1 The Composer gives to the Company all consents required to enable the Company to make the fullest use of the Composer's services and grants to the Company the right at all times hereafter to use and authorise others to use the Composer's name, [approved] photograph, autograph and [approved] biography and other [approved] reproductions of the Composer's physical likeness [(which approvals shall not be unreasonably withheld or delayed and if the approval is not received by the Company within three days of the Company's request, the approval shall be deemed to have been given by the Composer)] in connection with the advertising, publicity, exhibition and worldwide commercial exploitation of the Film and all allied and ancillary rights in the Film (including all soundtrack record rights) in all media and by all means now known or hereafter invented.

10.2 The Composer's name, photograph, likeness, voice and biography shall not, without the Composer's prior written consent, be used to endorse any commercial product other than the Film and any products exploited in connection with the Film and any allied and ancillary rights in the Film.

10.3 As and when requested by the Company, the Composer shall provide to the Company a reasonable selection of pre-approved photographs and a pre-approved biography of the Composer.

11. WARRANTIES AND INDEMNITY

11.1 The Composer warrants, represents and undertakes to the Company that:

- (a) the Composer is entitled to enter into this agreement and is not party to any exclusive recording or publishing agreement prohibiting the same or imposing any restrictions on the provision of the Services;
- (b) the Composer is and will remain throughout the provision of the Services a "qualifying" person for the purposes of the Act and a [British] citizen and ordinarily resident in the [UK];
- (c) the Composer is entitled to provide the Services in accordance with the terms of this agreement;
- (d) the Composer has not in any way encumbered or disposed of nor shall the Composer encumber or dispose of any of the Rights;
- (e) the Music and the Recordings will be original to the Composer, other than any elements of them which consist of works within the public domain or material supplied by or on behalf of the Company to the Composer;
- (f) the Music and the Recordings shall not infringe the rights of any other person and may be validly copyrighted or otherwise protected in all countries which provide for copyright or similar protection and shall not contain any description of or reference to, any person, thing or incident which, if published in any manner or form, would confer upon any person or entity a right of action or claim for damages against the Company;
- (g) no obscene, blasphemous, racially inflammatory, or to the best of the Composer's knowledge and belief having made due and diligent enquiry, defamatory material is included in the Music and the Recordings;
- (h) the Composer shall not do anything that would affect the assignment of the Rights or cause the warranties, representations or undertakings of the Composer to be or become untrue or incapable of being fulfilled;
- (i) the Composer shall not incur any liability on behalf of the Company nor pledge the Company's credit; and
- (j) the Composer shall not re-record the Music for parties other than the Company for a period of seven years from the date of this agreement or (if sooner) five years from the date of first release of the Film.

Agreement not to re-record the Composition

The value of the recording depends on the commissioner having the sole right to grant licences to third parties for its use. The composer could otherwise create several copies of the work, but this clause creates a restrictive period during which the composer may not do so.

11.2 The Composer shall indemnify the Company, and shall keep the Company indemnified, from and against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other [reasonable] professional costs and expenses) suffered or incurred by the Company] arising out of or in connection with any breach, non performance or non-observance of any of the covenants, warranties, representations, undertakings and agreements of the Composer contained or implied in this agreement.

12. PERFORMING RIGHTS SOCIETY

12.1 If the Composer is a member of the PRS, the performing right in the Music shall accordingly in all parts of the world be subject to the rights of the PRS and its affiliated societies outside the UK.

12.2 This agreement shall be regarded as a certificate for the purposes of the PRS Rules authorising the PRS to treat the Company as exploiting the Composition (other than by publishing) for the benefit of the persons interested in the Composition.

12.3 The “writer’s share” shall be 50% of all fees distributed by the PRS and its affiliated societies in respect of the performing right in the Composition.

12.4 If at any time the Composer is not a member of the PRS and the performing right in the Composition is not vested in the PRS, the Composer shall promptly notify the Company and the performing right in all parts of the world shall be administered wholly by the Company and the Company shall be entitled to collect and retain 100% of the performing and broadcasting fees.

12.5 The Composer shall procure that the PRS shall grant to the Company the right and licence on customary terms throughout the world (directly or through its affiliated societies) to exhibit and perform publicly and to authorise others to perform the Music in synchronisation or timed relation with the soundtrack of the Film and trailers and extracts thereof and in connection with the promotion and publicity of the Film to audiences in theatres and other public places where films are customarily exhibited and where admission fees are charged. No fees shall be charged to the Company for this use. The Composer shall also procure that the Company receives the required US performing rights licence for the exhibition of the Film in the US at no cost to the Company.

13. FURTHER ASSURANCE

Further assurance

The agreement must be signed as a deed to make this power of attorney effective.

13.1 The Composer shall do all things and execute at the request of the Company all documents as the Company may require to vest in or further assure to the Company the Rights, including the Short-Form Assignment in the form set out in [Schedule 2](#), which the Company shall have the right to forward to the US Copyright Office for recordal. Subject to the Company having given notice and the Composer having failed within 14 days of such notice to do the requested acts and execute the requested deeds and documents, the Company shall be entitled to execute all documents and instruments in the name and on behalf of the Composer as the Composer's duly authorised attorney with the right, but not the obligation, to do all acts necessary to give full force and effect to the terms of this agreement, which appointment shall be deemed to be a power coupled with an interest and shall be irrevocable.

14. NO OBLIGATION TO EXPLOIT

14.1 The Company shall not be obliged to develop or produce the Film or to use any part of the products of the Composer's services in the Film and the failure of the Company to do so or to exploit the Film or any allied and ancillary rights in the Film or abandonment of the Film shall not give rise to any claim by the Composer including a claim for alleged loss of professional standing or opportunity to enhance the Composer's professional standing or reputation.

15. CREDITS

15.1 The Company shall use all reasonable endeavours to procure that the distributors and all broadcasters of the Film shall accord to the Composer a credit in accordance with the provisions of [Clause 8](#) of the Specific Terms on all copies of the Film issued or exhibited by the distributors and/or broadcasters of the Film. The Company shall not be liable for neglect or default of any such distributors or broadcasters and no failure to accord the Composer's credit in accordance with the terms of this agreement shall constitute a material breach of this agreement by the Company. The Company shall use all reasonable endeavours (without any obligation to incur any costs) to cure prospectively any failure to accord the Composer's credit in accordance with [Clause 8](#) of the Specific Terms within a reasonable time following receipt of written notice of such failure from the Composer.

15.2 If the Composer commits a breach of [Paragraph 21.2](#) then, without prejudice to the Company's rights under [Paragraph 20](#), the Company may withdraw the obligation to accord the Composer's credit under this agreement.

16. LIABILITY EXCLUSIONS

16.1 The Company shall not be liable to the Composer for:

- (a) any loss or damage to the Composer's property sustained at or whilst in transit to or from places at which the Composer shall render the Services; nor
- (b) to the extent permitted by law, any personal injury, ailment or death arising out of or in the course of the Composer's engagement, unless any injury, ailment or death is caused by the Company's negligence.

17. DISPUTE RESOLUTION

18. Neither party shall bring any proceedings against the other in respect of this agreement unless the party intending to bring proceedings first makes a bona fide offer to participate immediately in a mediation conducted by a mutually agreed third party or a certified mediator and the other party declines the mediation. The costs of the mediator shall be borne by the party intending to bring proceedings but shall be subject to the mediation in any event. This clause shall not apply where the Company requires immediate injunctive relief to protect its interests hereunder.

19. LEGAL PROCEEDINGS

19.1 The Composer authorises the Company to institute and defend proceedings and to do all acts as the Company may reasonably deem necessary to protect the Rights and to recover damages for any infringement of the Rights. The Company may use the Composer's name and the Composer shall co-operate with the Company for or in connection with any of these purposes.

20. TERMINATION

20.1 If the Composer fails, is unable, or refuses to observe and perform any of the Composer's obligations in this agreement and if the Composer fails to remedy a breach (to the extent that it is remediable) within seven days after receipt from the Company of a notice specifying the nature of such breach, then the Company may terminate this agreement without prejudice to any claim it has for damages for such breach. Regardless of any termination, the Rights shall remain vested in the Company.

20.2 The Company shall be entitled to injunctive or other equitable relief to prevent a breach of this agreement by the Composer. The Composer acknowledges that any breach could cause irreparable damage to the commercial prospects of the Film.

21. CONFIDENTIALITY

Confidentiality

For more information on this clause, see:

The drafting notes in *Standard clause, Confidentiality*.

Practice note, Boilerplate: do I really need this clause and why?: Confidentiality

21.1 The Composer shall not directly or indirectly without the Company's prior written consent make any statement, announcement or give any information (other than to the Composer's professional advisers) relating to the screenplay, the Film, this agreement, the internal affairs of the Company or the commercial relationship of the Company with any financing partner [including any financier of the Film], to any journalist, critic or correspondent of any newspaper or publication or to any person, firm or company by whom or in any circumstances in which the repetition or publication of any statement, announcement or information might reasonably be anticipated.

21.2 The Composer shall not at any time do anything detrimental to or say anything detrimental about the Film, the Company or any person involved in or associated with the Film.

22. WAIVER

Waiver

For information on this clause, see:

The drafting notes in *Standard clause, Waiver*.

Practice note, Boilerplate: do I really need this clause and why?: Waiver

22.1 A waiver of any right or remedy is only effective if given in writing [and shall not be deemed a waiver of any subsequent right or remedy].

22.2 A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

23. ENTIRE AGREEMENT

Entire Agreement

For more information on this clause, see:

The drafting notes in *Standard clause, Entire agreement*.

Practice note, Boilerplate: do I really need this clause and why?: Entire agreement.

23.1 This agreement constitutes the entire agreement between the parties.

23.2 Each party acknowledges that in entering into this agreement it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation [or negligent misstatement] based on any statement in this agreement.

24. SEVERANCE

24.1 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.

25. COUNTERPARTS

25.1 This agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

26. THIRD PARTY RIGHTS

26.1 [Unless it expressly states otherwise, this **OR** This] agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

26.2 The rights of the parties to rescind or vary this agreement are not subject to the consent of any other person.

27. NO PARTNERSHIP OR AGENCY

27.1 Subject to *Paragraph 19*, nothing in this agreement is intended, or shall be deemed, to establish any partnership or joint venture between the parties, constitute either party the agent of the other party, nor authorise either party to make or enter into any commitments for or on behalf of the other party.

28. ASSIGNMENT

28.1 The Company shall be entitled to assign its rights and obligations under this agreement in whole or in part to any third party and to assign, license and deal with its right to receive the Services. In the event of any assignment, licence or dealing, the Composer shall continue to fulfil the Composer's obligations under this agreement.

29. REMEDIES

Remedies

This clause constitutes a waiver of moral rights as well as rights to an injunction. For more information about moral rights, see *Standard document, Waiver of moral rights*. It also purports to limit the Composer's right to seek equitable remedies in the event of an alleged breach of the agreement by the Company. In practice it is for the court to decide whether equitable relief should be granted, but the clause will help the Company's case as the court will take it into account as a factor in the decision.

29.1 The Composer shall not have the right to injunct or in any way restrain the exhibition, promotion or exploitation of the products of the Services for any cause, including without limitation any alleged infringement of moral rights arising under the Act. Any claim by the Composer in respect of the products of the Services shall be limited to a claim for damages.

30. SET-OFF

Set-off

For a note on the law applicable to set-off provisions, see the integrated drafting notes to *Standard clause, Set-off* and *Practice note, Set-off clauses*.

30.1 The Company may at any time, without notice to the Composer, set off any liability of the Composer to the Company against any liability of the Company to the Composer, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this agreement. If the liabilities to be set off are expressed in different currencies, the Company may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Company of its rights under this clause shall not limit or affect any other rights or remedies available to it under this agreement or otherwise.

31. NOTICES

Notices

For more information on this clause, see:

The drafting notes in *Standard clause, Notices*.

Practice note, Notice clauses.

Practice note, Boilerplate: do I really need this clause and why?: Notices

31.1 Any notice given to a party under or in connection with this agreement shall be in writing and shall be:

(a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case)[; or]

(b) sent by email to the following addresses (or an address substituted in writing by the party to be served):

(i) Party 1: [ADDRESS].

(ii) [Party 2: [ADDRESS].]

31.2 Any notice shall be deemed to have been received:

(a) if delivered by hand, at the time the notice is left at the proper address;

(b) if sent by [pre-paid first-class post or other] next working day delivery service, at [9.00 am] on the [second] Business Day after posting[;or]

(c) if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.

31.3 [This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.]

32. GOVERNING LAW

32.1 This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

33. JURISDICTION

33.1 [Each party irrevocably agrees that the courts of England and Wales shall have [exclusive **OR** non-exclusive] jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

SCHEDULE 2

SHORT-FORM ASSIGNMENT

1. In consideration of the sum of £1 paid by [NAME] (**Assignee**) to [NAME] (**Assignor**), receipt of which is acknowledged by the Assignor's signature below, the Assignor hereby assigns to the Assignee the following rights:

1.1 The entire unencumbered copyright and all other right, title and interest including without limitation all the motion picture, television and videogram rights and all allied and ancillary rights (as such expressions are commonly understood in the motion picture and television industries) and as more particularly described in the agreement attached and made between the Assignor and the Assignee dated [DATE] (**Main Agreement**) in and to the Music, the Recordings, the Demos, the Film and the products of the Services (all as defined in the Main Agreement).

1.2 This Assignment is executed in accordance with and subject to the provisions of the Main Agreement.

SCHEDULE 3

DELIVERY MATERIALS

1. An original and a first-generation copy of the uncut original multi-track music masters in the form in which they were recorded, or, at the Company's election, a first-generation copy of selected takes of each musical sequence of the Film, regardless of whether such selected takes are in the Film.

2. Synchronised magnetic tracks of music as set up for dubbing.

3. DAT copy (with vocal tracks) and/or analogue (or such other format as may be agreed between the parties) (with vocal tracks) of entire music score including any songs written and produced for the Film, and trailers thereof.

4. Copies of music dubbing set-up sheets (that is, all cue sheets and music logs).

5. All agreements and other documents relating to music rights which demonstrate the writer's capacity to grant the Rights to the Company to entitle it to exploit the Music and the Recordings embodied in the Film delivered hereunder by any and all means in any and all media throughout the world and to evidence payment in full with respect to all such documents, including (if applicable) all recording artist/master recording producer agreements, record company artist waivers, copies of any applicable session reports, day player vocalist agreements, master use licences, synchronisation and performing licences.
6. Original manuscript of the musical score (if one exists).
7. Two copies of the cue sheet of the music recorded and included in the Film (by reel position, sequence titles and/or by titles of composition including the timing, use, composer and publisher of each piece of music).

Cue sheet

A cue sheet is a list of all the individual pieces of music used within the film (each of which is known as a "cue").

SCHEDULE 4

[BUDGET

]

SCHEDULE 5

MUSIC PRODUCTION SCHEDULE

Signed by [NAME OF DIRECTOR]
for and on behalf of [NAME OF
COMPANY]

.....
Director

Signed by [NAME OF COMPOSER]

.....

Executed and delivered as a Deed by

[NAME OF COMPOSER]

[DATE]

END OF DOCUMENT