

# JAMAICA MUSIC SOCIETY (JAMMS)

(A non-profit company incorporated under the Laws of Jamaica)

## Agreement for the Collective Management of the Rights of Producers

THIS AGREEMENT is made the ..... day of .....200

### BY AND BETWEEN

**JAMAICA MUSIC SOCIETY (JAMMS)** a non-profit company incorporated under the Laws of Jamaica and carrying on collective management activities pursuant to the Copyright Act and having its Registered Office at 7 Stanton Terrace, Kingston 6 in the parish of St. Andrew, Jamaica (hereinafter referred to as “JAMMS”) of the one part

- and -

.....  
of .....

.....  
(hereinafter referred to as “you”, or “your”) of the other part.

### 1. DEFINITIONS

**“Affiliated Society”**

means any of the societies, associations or corporations in other countries having objects similar to those of JAMMS, with which JAMMS is for the time being affiliated;

**“Copyright Act”** means the Copyright Act No. 4 of 1993 of the Laws of Jamaica as from time to time amended;

**“Net collections and receipts”**

means all revenue collected or received by JAMMS worldwide arising from the use of your repertoire (including income produced from the investment of such revenue prior to payment to you) minus all reasonable costs and expenses JAMMS incurs to carry out its management activities outlined under this agreement and any tax JAMMS is required by law to hold or deduct.

**“Repertoire”**

means your rights as from time to time provided for under the Copyright Act in relation to any recorded works at the time of signing

this agreement and which you may acquire thereafter during the term of this agreement and successive terms and such producers' rights and neighbouring and/or related rights as from time to time provided for in foreign countries through international conventions concerned with producers' rights and neighbouring and/or related rights and in particular the Rome Convention and the WIPO Performances and Phonograms Treaty under the respective applicable national laws of those countries.

**“Territory”** means Jamaica.

**“Work”** means a musical work, a literary work which is combined with music or sung, a musical performance and any recording by means of which such works or performances may be reproduced or made audible.

## **2. JAMMS ARTICLES, RULES & BOARD DECISIONS**

You hereby acknowledge having received and read a copy of JAMMS Articles of Incorporation and agree to comply with and be bound by them and any By Laws made pursuant thereto and any other applicable rules, regulations and agreements to which JAMMS is or may become a party and by decisions of the Board of JAMMS that may subsequently modify them or affect the manner in which they may be applied.

## **3. GRANT OF RIGHTS**

You hereby grant JAMMS the exclusive right to manage your Repertoire in accordance with the terms herein and as specified under “JAMMS Management Rights” below throughout the Territory for the term of this agreement. You understand and agree that by virtue of your granting JAMMS an exclusive licence JAMMS alone can exercise the Management Rights. Specifically, JAMMS may authorize or forbid the use of the repertoire within the Territory and collect royalties, fees, equitable remuneration, damages and other income that may be due therefrom. Further JAMMS may delegate authority to do any of the acts as aforesaid to any representative or agent in Jamaica for the purpose of exercising the Management Rights in the Territory.

## **4. WARRANTY & INDEMNITY**

You hereby represent and warrant that you have the full right, power and authority to enter into and fully perform this agreement, and that you have not entered into any prior agreement or undertaking that would prevent you from granting JAMMS the rights under this agreement or that would otherwise reduce or compromise the agreement's effect. You understand and agree that you are solely responsible for the accuracy and completeness of the repertoire information you register with JAMMS and you warrant that any right in relation to any live or recorded performance of a work that you register with JAMMS does not infringe upon the copyright, related right or other right of any person. You agree to hold JAMMS harmless and indemnify JAMMS for any damages or costs JAMMS may be required to pay due to a breach of your warranty in respect of any

claim made by a third party arising from the valid exercise of the rights granted to JAMMS by this agreement. You understand and agree that JAMMS shall not have any obligation to you in the event of any act or omission on JAMMS part, if JAMMS acted reasonably and in good faith, or where such act or omission is caused by matters outside the reasonable control of JAMMS.

## **5. JAMMS MANAGEMENT RIGHTS**

JAMMS will use its best efforts to manage your repertoire in your and JAMMS best interests, and shall:

1. license your repertoire in the Territory;
2. collect royalties or other fees due from licensees in the Territory and receive royalties from Affiliated Societies;
3. pay you from net collections and receipts, your share of royalties or other fees in the amounts determined by applying JAMMS statutes, bylaws, distribution rules and JAMMS Board's decisions. Distribution rules will comply with international standards and general regulations concerning transparency and good administration practices;
4. institute and prosecute legal proceedings at JAMMS cost where, in JAMMS sole discretion, it is necessary to do so to protect the rights and interests you have licensed to JAMMS;
5. compound, negotiate, compromise, refer to arbitration or submit to judgment in any such proceedings, and generally to represent you in all matters concerning the said rights;
6. collect fees, subscriptions or monies by way of damages or compensation for the unauthorized use of your repertoire;
7. represent your interests and those of JAMMS members before the Copyright Tribunal;
8. inform you, using e-mail and other effective means, from time to time about the general activities of JAMMS and judicial claims and other actions filed by JAMMS on your behalf;
9. render proper statements of your account, at least once a year or, at any time, upon your written request.

It is understood and agreed by you that JAMMS shall be under no obligation to you whatsoever for any work or right in relation to any sound recording or performance that has not been properly declared with JAMMS.

## **6. YOUR OBLIGATIONS**

You will collaborate with JAMMS so as to ensure that JAMMS is able to exercise its Management Rights under this agreement as rapidly and efficiently as possible. You will therefore:

1. immediately send written notification to JAMMS of any change of address, telephone number and similar contact information;
2. immediately notify and send JAMMS details on the appropriate form of any additions or changes to the repertoire or your interest therein;
3. refrain from making any agreement that would conflict with JAMMS mandate and rights granted under this agreement or which would have the effect of altering the shares payable under JAMMS distribution rules;
4. provide JAMMS with copies of any agreements, legal or other documents or evidence JAMMS may require from time to time to manage your repertoire and rights or validate your title or interest in the repertoire, with the exception of those considered restricted and/or confidential at your sole discretion. For the purpose of this section, a list of your sound recordings and copies of the relevant "label copy information" (as outlined in the Schedule to your Application for Membership and updated from time to time), provided that same is verified, may be accepted as evidence of your title or interest in the repertoire. According to international conventions, no registration certificates will be required by JAMMS for the demonstration of ownership or interest in the repertoire;
5. execute any further documents JAMMS may require to claim or defend the Management Rights you have granted JAMMS under this agreement;
6. generally refrain from any action that may be detrimental to JAMMS activities.

## **7. CONFLICTING CLAIMS**

In the event JAMMS is notified of a competing claim or conflict between you and another member or third party with respect to your title to or interest in any rights or works in the repertoire or to any royalties they may have been earned, JAMMS will advise you of the details of the conflict or claim and may, in JAMMS sole discretion, withhold payment of royalties, on an escrow account, due on the works or rights in dispute until the conflict is resolved.

## **8. AGREEMENT TERM**

This Agreement will continue in force until either JAMMS, by written notice to you of at least fourteen (14) days or you, by written notice to JAMMS of at least ninety (90) days, to terminate the agreement, such termination to take effect:

- (i) at the end of the fourteen (14) days, if terminated by JAMMS.
- (ii) from 31 December in any Calendar Year such notice to be effective provided it is given by 30 September in that Calendar Year, if terminated by you.

## **9. APPLICABLE LAW**

This agreement is subject to and shall be governed by the laws of Jamaica in every particular including formation and interpretation and shall be deemed to have been made in Jamaica.

## **10. AMENDMENTS TO AGREEMENT**

No amendment to the principal part of this agreement will take effect unless it is in writing and signed by the parties, SAVE THAT where JAMMS notifies you in writing of any amendment, you will be deemed to have accepted same and such amendment will take effect, if you do not respond in writing to JAMMS within the period specified in the notification, indicating that you have objections to the amendment. Pursuant to section 6.4 of this agreement you will send updates to the Schedule if necessary to update your list of sound recordings and label copy information covered by the Schedule.

## **11. DISPUTE RESOLUTION**

If a dispute arises out of this agreement, and if the parties cannot settle this dispute through negotiation, the parties will try in good faith to settle the dispute through mediation administered by the Alternative Dispute Resolution Centre. If the parties fail to resolve the dispute within twenty-one (21) days after starting mediation, then upon notice by either of the parties the dispute shall be referred to a panel of three arbitrators, one appointed by the Board of JAMMS, one appointed by you and the third shall be the Chairman, appointed by the two previously appointed and the arbitration shall be binding and conducted in accordance with the Arbitration Act of Jamaica.

## **12. NOTICES**

All notices, requests, consents and amended Schedules permitted or required under this Agreement must be in writing and sent by mail or facsimile to JAMMS at its office or, in your case, to your last address as recorded on the books of JAMMS.

## **13. ASSIGNMENT OF AGREEMENT**

This agreement is personal to you and may not be assigned or otherwise transferred in whole or in part by you to any other person without JAMMS prior written consent. JAMMS may assign its benefits and obligations under this agreement to a third party and will notify you of the assignment. This agreement will enure to the benefit of JAMMS, its

successors and assignees.

**14. AUTHORITY OF SIGNATORIES**

The persons whose signatures appear below confirm that they have the authority to sign this Agreement and to grant the Management Rights.

**IN WITNESS WHEREOF** the **PARTIES** have duly executed this Agreement the day and year first hereinbefore written.

**SIGNED for and on behalf of  
JAMAICA MUSIC SOCIETY:**

**SIGNED by MEMBER:**

\_\_\_\_\_  
**DIRECTOR**

\_\_\_\_\_  
**DIRECTOR/SECRETARY**

\_\_\_\_\_

\_\_\_\_\_

Witness to the above signatures:

Witness to the above signature(s):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Print name & address of witness here)

\_\_\_\_\_  
(Print name & address of witness here)