

# **Music Publishing Agreement**

THIS MUSIC PUBLISHING AGREEMENT is made on \_\_\_\_\_, between ELIAS Software AB, a company based in Stockholm, Sweden (hereinafter referred to as "Publisher"), and \_\_\_\_\_, a composer based in \_\_\_\_\_ (hereinafter referred to as "Owner").

WHEREAS, the Owner owns and controls certain musical compositions which are referred to as Musical Work throughout this document;

WHEREAS, the Publisher is engaged in the business of music publishing and distribution and has certain facilities and services available to it for the administration and exploitation of musical works; and

WHEREAS the Owner desires to grant the Publisher right to publish and distribute the Musical Work and further desires to appoint Publisher to act as non-exclusive administrator of the Musical Work and the Publisher is willing to accept such responsibility, control, and appointment.

NOW THEREFORE, in consideration of the conditions and covenants contained in this Agreement, the parties agree as follows:

## **1. Description of Musical Work.**

The Owner owns and controls the Musical Work which is comprised of a musical composition (ELIAS Theme) entered into the ELIAS Composer Contest 2016.

## **2. Grant of Rights.**

The Owner hereby, assigns, transfers and delivers to the Publisher the non-exclusive right to administer, distribute, advertise, and otherwise deal in and for the Musical Work, all of which the Publisher agrees to do according to best business practices generally prevailing in the music publishing industry. The above grant includes by way of example but not limitation:

(a) The non-exclusive right to publish, advertise, vend, and sell in all forms, the Musical Work, and to collect all fees and royalties becoming due for them;

(b) The non-exclusive right to prosecute, defend, and settle any third party action or claim relating to the Musical Work and the respective rights of the Owner and the Publisher therein. No such action shall, however, be settled without the prior consent of the Owner, such consent not to be unreasonably withheld; provided, however, that such consent shall not be required if the Owner is then in breach of a material representation, warranty, or obligation of the Owner set forth in this Agreement; and

(c) The non-exclusive right to enter into agreements with related or unrelated third parties for the so-called "sub publication" of the Musical work throughout the world and to collect all fees and royalties becoming due thereunder.

### **3. Representations and Warranties of the Parties.**

The Owner represents and warrants to the Publisher that:

- (a) It has the full right, power, and authority to enter into this Agreement and to grant to Publisher all rights purported to be granted to Publisher;
- (b) The Owner has full rights over the Musical Work and is protectable by the copyright laws of their country, and the administration, control, use, and exploitation thereof by the Publisher will not subject the Publisher to liability of any kind to any third party;
- (c) there are and will be no liens or encumbrances upon the Musical Work and the Owner has not heretofore and will not hereafter solicit or accept any advance from any third party which would in any manner diminish the monies available to Publisher for the administration, or exploitation of the Musical Work.

The Publisher represents and warrants to the Owner:

- (a) the Publisher is, and will be during the term, active in the country of Sweden and, through licensees or collection agents or societies elsewhere in the world, in the business of music publishing; and
- (b) the Publisher has the full right, power, and authority to enter into this Agreement and to grant to Owner all of the rights purported to be granted to Owner.

### **4. Compensation**

**Advance Amount.** The Publisher shall pay an amount of \$\_\_\_\_\_ (USD) which shall be independent of royalties.

**Payment of Royalty.** The Publisher agrees to pay the Owner, during the original term and any renewals of the copyright throughout the world, royalties with respect to the Musical Work, as follows:

80% of all distribution profits made; the remaining 20% to be retained by the Publisher.

The Publisher shall render to Owner a written statement of account as to the royalties becoming due to Owner under this Agreement within ninety (90) days after the expiration of each calendar year that Publisher's rights in the Musical Work shall persist. Each such statement shall be accompanied by payment of the amount (if any) shown to be due. Each such statement shall be an account stated, final and binding and not subject to any objection for any reason whatsoever by the Owner, unless the Publisher shall have received written notice of objection specifying the items objected to and the factual and contractual basis of objection from the Owner within a reasonable period from the date of any such statement, then that portion of the statement not objected to shall be an account stated as aforesaid.

### **5. Books and Records.**

The Owner may cause such of Publisher's books of account to be inspected

and abstracted at the Owner's expense by a certified public accountant as shall be necessary to verify the accuracy of any accounting statement rendered to the Owner which has not become an account stated as provided, however, that:

- (a) No more than one such inspection shall be permitted in any calendar year;
- (b) The Owner may not appoint an accountant to conduct any such inspection who is then directly or indirectly (in the latter instance through the firm by which he is then employed) engaged in another inspection of the Publisher's books of account or who proposes to conduct such inspection on a contingent fee basis;
- (c) No more than one (1) such inspection may be made of the Publisher's books of account as to any six (6) month calendar period;
- (d) No inspection shall be permitted to any accountant who refuses to confirm to the Publisher in writing not to disclose the results of his audit report, except to the Owner and as may be required in the prosecution of any legal proceedings commenced thereon; and
- (e) The Owner shall have no right of audit or inspection other than as permitted and restricted.

**6. Term.** This Agreement shall be effective as of the date first set forth above provided both Parties have signed. This Agreement shall be automatically renewed for successive 5 periods upon the same terms, conditions, and covenants herein contained, unless either party gives written notice of termination to the other party prior to the date of expiration of their intent not to renew. Notwithstanding the foregoing, this Agreement shall be earlier terminated by mutual agreement of the parties or either party may terminate the Agreement by providing within thirty (30) days, written notice to the other party.

**7. Indemnification.** Each party shall indemnify and hold the other harmless from any loss, damage, or expense arising from a breach by the indemnifying party of any of its representations or warranties contained in this Agreement. Prompt written notice of any claim to which the foregoing indemnity relates shall be given by the indemnified party to the indemnifying party and the indemnifying party shall have the right to participate in the defense thereof with counsel of its choosing at its expense.

**8. Relationship of Parties.** Nothing contained in this Agreement shall be construed or interpreted as constituting a partnership, joint venture, agency, or employer/employee relationship between the parties. No third person is intended to be a third party beneficiary hereof.

**9. Amendment and Waivers.** Any term or provision of this Agreement may be amended, and the observance of any term of this Agreement may be waived only by a writing signed by the party to be bound thereby.

**10. Non-waiver.** The failure of any party to enforce at any time any of the provisions of this Agreement shall not be construed to be a waiver of the right of such party thereafter to enforce any such provision.

**11. Severability.** If for any reason a court of competent jurisdiction finds any provision or portion of this Agreement to be unenforceable, that provision of the Agreement will be enforced to the

maximum extent permissible so as to affect the intent of the parties, and the remainder of this Agreement will continue in full force and effect.

**12. Notices.** Any Notices which either party desires or is required to give to the other shall be in writing, sent postage prepaid, certified or registered mail, return receipt requested, and shall be addressed to the addresses of the parties in the beginning of the Agreement. The date of mailing shall be the date of the giving of notice.

**13. Entire Agreement.** This Agreement constitutes the entire understanding between the parties. It shall not be modified except in writing signed by both parties.

**14. Assignment.** A party may not assign any of its rights or obligations under this Agreement without the prior written consent of the other party. This Agreement shall be binding upon and to the benefit of each party and its respective successors and permitted assigns.

**15. Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original as regards to any party whose signature appears thereon and all of which together shall constitute one and the same instrument. This Agreement shall become binding when one or more counterparts of it, individually or taken together, bear the signature of each of the parties. Each party shall execute and deliver to the other and to third persons such other and further instruments and correspondence as shall be reasonably required to effectuate the intents and purposes hereof.

## **16. Headings**

Headings and titles in this Agreement are for reference purposes only and do not constitute part of this Agreement and are of no legal force or effect.

## **17. Governing Law**

This Agreement shall be governed by the laws of the country of Sweden.

## **18. Signatories**

BY SIGNING THIS AGREEMENT, I ACKNOWLEDGE THAT I HAVE READ AND UNDERSTOOD AND AGREE TO BE BOUND BY THE TERMS AND CONDITIONS CONTAINED HEREIN .

**ELIAS SOFTWARE AB**

**COMPOSER/OWNER**

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**Printed Name**

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**Printed Name**

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**Date**

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**Date**