



**New Zealand Film**  
HERITAGE TRUST  
**Te Puna Ataata**

ASSIGNMENT OF FILM RIGHTS AGREEMENT

for

[FILM TITLE]

[(Year of release)]

between

[\_\_\_\_\_  
([jointly and severally] **Rights Holder, You or Your**)

and

The New Zealand Film Heritage Trust – Te Puna Ataata  
(**Trust, We, Us or Our**)

The New Zealand Film Heritage Trust – Te Puna Ataata is a charitable trust that filmmakers can appoint to become the manager or owner of their films to ensure the continued preservation and availability of those films into the future. As well as ensuring that films under the Trust’s guardianship continue to be accessible to audiences, the Trust focuses on increasing opportunities for New Zealanders to have access to New Zealand films, so that their appreciation of New Zealand films is heightened and the cultural heritage of the nation is preserved.

DETAILS SECTION

<b>Film</b>	<b>[Film Title (Year of Release)]</b>	
<b>Effective Date of this Agreement</b>		
<b>Rights Holder's notice details</b> <i>If these details change, please let us know.</i>	Address	
	Email address	
	Phone number	
<b>Film Rights</b>	All of Your rights, title or interest in relation to the Film, including the Film Materials and Your Film Income.	
<b>[Reserved Rights]</b> <i>(insert details of any rights that are to be retained by the Rights Holder)</i>		
<b>Third Party Rights</b> <i>Details of any other party having rights, including approval rights, that you are aware of in relation to the Film, e.g. other rights holders, financiers, management committees.</i>		
<b>Your Film Income</b>	Film Income means all money derived from exploitation of the Film which is received into the collection account for the Film ("Collection Account") from time to time, and Your Film Income means the share of Film Income to which You are entitled under the recoupment schedule for the Film.	
<b>Your Reserved Film Income</b> See clause 6	90 per cent of Your Film Income, which You will continue to receive.	
<b>Film Materials</b> See clause 4	Any and all materials relating to the Film, including still and moving image, visual, audio, promotional, and marketing materials, and in particular, the following:	
	<b>Description of Film Materials</b>	<b>Location where Film Materials are held</b>

**Commented [JC1]:** The Assignment Agreement template provides for 10 per cent of Your Film Income to be assigned to the Trust. This is entirely voluntary, and you are welcome to specify alternative arrangements.



## TERMS OF ASSIGNMENT

### *Trust's Purpose and Objects*

The Trust receives ownership of, or is appointed as manager of, selected New Zealand films, in each case with a view to advancing education and ensuring the continued preservation and availability of New Zealand films into the future.

This will enable the Trust to increase the opportunities for New Zealanders to have access to New Zealand films so that their awareness, understanding and appreciation of New Zealand films is heightened and the cultural heritage of the nation is enriched and preserved and to create educational opportunities for New Zealanders to access and learn from New Zealand's film heritage. Supporting this, the Trust will work with other interested organisations to preserve and archive New Zealand films to create a resource for present and future generations.

### 1) Assignment of Film Rights

- a) In consideration for Us agreeing to assume responsibility for making all decisions in respect of the Film Rights, with effect from the Effective Date, You unconditionally and irrevocably assign to Us, and We accept the assignment of, the Film Rights.
- b) You acknowledge that the Film Rights assigned to Us under (a) above include all of Your rights, title and interest in the Film Materials, and under any depositor, archive or other agreements relating to the Film Materials.
- c) We acknowledge that Your assignment of the Film Rights to Us is subject to any **Reserved Rights or** Third Party Rights and Your Reserved Film Income (if any) (see clause 6).
- d) For consideration of \$1, receipt of which is acknowledged by You, the parties agree that additional assignments will occur as set out in clause 7.

### 2) Further action

- a) You agree to do all things reasonably requested by Us to give effect to the assignment of the Film Rights to Us, but without requiring You to incur any cost.

### 3) Film Rights

- a) You represent and warrant that:
  - i) You own the Film Rights;
  - ii) You have specified all Third Party Rights in the Details Section;
  - iii) You hold all necessary rights, consents and waivers to enter into this Agreement; and
  - iv) the Film is not defamatory and does not infringe the intellectual property rights or privacy rights of any person.
- b) If, after the Effective Date of this Agreement, You become aware that one or more of the statements in clause 3(a) are or may be incorrect (or of any claim by another person that one or more of the statements are or may be incorrect) or You become aware of any additional Third Party Rights, You agree to promptly notify Us of the details of such awareness or claim.
- c) You agree to Indemnify Us against any claim, demand or expense (including legal fees) and actions arising directly out of, connected with, or as a result of any of the statements in clause 3(a) being incorrect.

### 4) Film Materials

- a) When reasonably requested by Us, You agree to deliver to Us, or to authorise or secure access for Us to, any Film Materials that We do not already have access to.
- b) If, after the Effective Date of this Agreement, You identify any Film Materials that are not set out in the Details Section, You agree to promptly notify Us of their description and location. To avoid doubt, all such materials are "Film Materials" for the purposes of this Agreement.

5) Limitation of liability

- a) To the extent permitted by law, neither We nor Our trustees, officers or employees will be liable for any loss or damage which You may suffer as a result of the means of exercise or performance by Us of any of Our rights or obligations under this Agreement. For the avoidance of doubt, this limitation of liability shall not apply in respect of any loss or damage which You may suffer as a result of the Trust acting beyond or other than in accordance with the provisions of this Agreement.
- b) This Agreement will be signed for the Trust by one or more of Our trustees. Each trustee signs this Agreement only in his or her capacity as a trustee of the Trust (and not in any other capacity). Any liability arising under or in connection with this Agreement is limited to, and can be enforced against a trustee only to the extent that can be covered out of the assets of the Trust out of which the trustee is actually indemnified for the liability.

6) Film Income

- a) You will continue to receive Your Reserved Film Income (if any) and You agree that We are entitled to receive the remainder of Your Film Income (if any) and that We may instruct any person acting as collection agent for the Film Income to pay Us our share of Your Film Income directly.
- b) If either party receives Film Income that is not that party's share of Film Income, that party will promptly pay the Film Income to the Collection Account.
- c) You acknowledge that there is no assurance that any Film Income will be generated as a result of Your assignment of the Film Rights to the Trust.

7) [Assignment of additional rights [where Rights Holder is a company]

- a) As referred to in clause 1(d), You agree that on the earlier of:
  - i) You being removed from the Companies Register (pursuant to section 318 of the Companies Act 1993 or any equivalent or replacement of this provision); or
  - ii) the death of [either of] [*insert name(s) of individual(s)*], [each] a [director and] [shareholder of the Rights Holder at the Effective Date,]  
all Your rights and title in and to the Film that have not yet been assigned to, and vested in, Us, including Your Film Income, will automatically, irrevocably and unconditionally be assigned to, and vest in, Us subject only to any current Third Party Rights.]

8) [Assignment of additional rights [where Rights Holder is a company + no key creatives]

- a) As referred to in clause 1(d), You agree that if You are removed from the Companies Register (pursuant to section 318 of the Companies Act 1993 or any equivalent or replacement of this provision), all Your rights and title in and to the Film that have not yet been assigned to, and vested in, Us, including Your Film Income, will automatically, irrevocably and unconditionally be assigned to, and vest in, Us subject only to any current Third Party Rights.]

9) [Assignment of additional rights [where Rights Holder is an individual]

- a) As referred to in clause 1(d), You agree that in the event of Your death, all Your rights and title in and to the Film that have not yet been assigned to, and vested in, Us, including Your Film Income, will automatically, irrevocably and unconditionally be assigned to, and vest in, Us subject only to any current Third Party Rights.

10) [Assignment of additional rights [where Rights Holders are multiple individuals with equal shares]

- a) As referred to in clause 1(d), You agree that:

- i) in the event of the death of *[insert name of individual]*, the share of rights and title in and to the Film held severally by *[insert name of individual]* that have not yet been assigned to, and vested in, Us will automatically, irrevocably and unconditionally be assigned to, and vest in, Us;
  - ii) in the event of the death of *[insert name of individual]*, the share of rights and title in and to the Film held severally by *[insert name of individual]* that have not yet been assigned to, and vested in, Us will automatically, irrevocably and unconditionally be assigned to, and vest in, Us; and
  - iii) in the event of the death of *[insert name of individual]*, the share of rights and title in and to the Film held severally by *[insert name of individual]* that have not yet been assigned to, and vested in, Us will automatically, irrevocably and unconditionally be assigned to, and vest in, Us.
- b) To avoid doubt, any assignment under (a) includes *[the Rights Holder's share of]* Your Film Income, and is subject only to any current Third Party Rights.]

**11) [Assignment of additional rights [where Rights Holder is NOT a company and rights assigned in x years]**

- a) As referred to in clause 1(d), You agree that on the earlier of:
- i) the date that is [#] years from the Effective Date; or
  - ii) the event of [Your death][the death of] [either of] *[insert name(s) of individual(s)]*, *[[each] a [trustee of the] Rights Holder at the Effective Date,*
- all Your rights and title in and to the Film that have not yet been assigned to, and vested in, Us, including Your Film Income, will automatically, irrevocably and unconditionally be assigned to, and vest in, Us subject only to any current Third Party Rights.]

**12) Notices**

- a) Any notice, consent or other communication required by this Agreement must be in writing and:
- i) if to be sent to Us, be sent either by email to [info@filmheritagetrust.co.nz](mailto:info@filmheritagetrust.co.nz) or by registered post to PO Box 11565, Wellington, New Zealand; and
  - ii) if to be sent to You, be sent by either email or registered post to the address provided in the Details Section (or such other address as may be notified to Us in accordance with this clause).

**13) General terms**

- a) **Agreement legally binding:** Once signed by You and Us, both parties agree that this Agreement will be a legally binding agreement.
- b) **Disputes:** If either of us have a dispute relating to this Agreement, then both of us agree to attempt to negotiate a resolution to the dispute for a period of at least 30 days. If the dispute is unresolved, then the procedure will be mediation and the chairperson for the time being of the Resolution Institute (or his or her nominee) will be requested to appoint a mediator within 14 days of the request and will determine the mediator's remuneration. The mediator will set the timetable (including the date by which the dispute resolution procedure will expire irrespective of whether or not the dispute has been resolved, which shall not be more than two months from the commencement of the dispute resolution process). If the dispute has not been resolved within the specified timeframe, unless the parties otherwise agree, the dispute resolution procedure will terminate and each of the parties will be entitled to pursue such legal remedies as it thinks fit.
- c) **Further action:** You agree to sign all documents and do all things reasonably requested by Us to give effect to the terms of this Agreement.



**Please complete if applicable**

**Solicitor's certification:**

I \_\_\_\_\_ certify here that before \_\_\_\_\_  
*(insert solicitor's name)* *(insert [Rights Holder's][authorised signatory's] name)*  
signed this Agreement I explained to him/her the effect and implications of this Agreement.

\_\_\_\_\_  
Signature of solicitor and/or barrister  
of the High Court of New Zealand

**Rights Holder's certification:**

I \_\_\_\_\_ certify here that before I signed this Agreement  
*(insert [Rights Holder's][authorised signatory's] name)*

\_\_\_\_\_ explained to me the effect and implications of this Agreement  
*(insert solicitor's name)* and I agree to be bound by the terms of this Agreement.

\_\_\_\_\_  
Signature of [Rights Holder][authorised Signatory]