

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

CRAIG NORTHEY

Plaintiff

- and -

SONY MUSIC ENTERTAINMENT CANADA INC., EMI GROUP CANADA INC., UNIVERSAL
MUSIC CANADA INC., WARNER MUSIC CANADA CO., and their Parent, Subsidiary and
Affiliated Companies, CANADIAN MUSICAL REPRODUCTION RIGHTS AGENCY LTD.,
SOCIETY FOR REPRODUCTION RIGHTS OF AUTHORS, COMPOSERS AND PUBLISHERS
(SODRAC) INC. and SODRAC 2003 INC.

Defendants

PROCEEDING UNDER THE *CLASS PROCEEDINGS ACT*, 1992,
S.O. 1992, c.6

KEY TERMS OF SETTLEMENT BETWEEN
THE PLAINTIFF, CMRRA, SODRAC, EMI, SONY, UNIVERSAL AND WARNER

1. Determination and Payment of Pending Royalties

1.01 Interpretation. For the purposes of these Key Terms of Settlement,

- (a) in addition to any terms specifically defined below, capitalized terms have the meanings ascribed to them in Schedule "A"; and
- (b) any period of time described as being "between" two specific dates includes both the first and the last date of that period. (For example, reference to "Products Released in Canada between July 1, 2007 and December 31, 2009" includes both Products Released on July 1, 2007 and Products Released on December 31, 2009.)

1.02 Class Members. For the purposes of this Term Sheet and each Settlement Agreement, the class will consist of any Rightsholder who holds, or who has held at any time, Rights in a Musical Work embodied in an Audio Product or a Video Product first Released by any of the Labels at any time, up to and including December 31, 2012, for which Rights the applicable Label was required to obtain a reproduction licence (including, in relation to Video Products, any necessary synchronization licence) but for which either no such licence has been obtained for the reproduction of the Musical Work or for which the required Royalties have not been paid for the reproduction of the Musical Work paid despite the issuance of such a licence.

1.03 Settlement Administrator. CMRRA-SODRAC Inc. or another entity owned and controlled jointly by CMRRA and SODRAC ("CSI") will act as settlement administrator, reporting to the Trustee (as defined in paragraph 1.05) and responsible for the administration of the

Settlement Trust (as defined in paragraph 1.05) in accordance with the principles, terms and conditions set out in this Term Sheet, all under the supervision of the court.

1.04 **First Report.** Within the time period set out for this purpose in each Label's Settlement Agreement, each Label will determine its total Pending Royalties as at its Reporting Date and provide to the plaintiff and CSI a report (the "**First Report**"), in a commercially reasonable electronic format mutually agreed to between the Labels and CSI, each acting reasonably, setting out:

- (a) its total Pending Royalties as at its Reporting Date, broken out into Pending Audio Royalties and Pending Video Royalties;
- (b) separately, its total Pending Audio Royalties and Pending Video Royalties as at its Reporting Date for Products Released (i) at any time up to and including June 30, 2007 ("**Group I Product**"), and (ii) between July 1, 2007 and December 31, 2009, inclusive ("**Group II Product**");
- (c) a comprehensive list of all Sound Recordings in relation to which Pending Royalties are recorded as at its Reporting Date, including, in relation to each such Sound Recording:
 - (i) all information that is reasonably available to the Label to assist in identifying the Musical Work embodied in the Sound Recording, the Rightsholder(s) associated with that Musical Work, and the Product(s) in which the Sound Recording has been Released in Canada, and
 - (ii) the amount of Pending Royalties recorded as at that date in relation to each Product in which the Sound Recording has been Released in Canada;
- (d) a comprehensive list of Rightsholders to whom the Label paid Royalties between January 1, 2000 and its Reporting Date in relation to Audio Products and Video Products, including Royalties that have been paid to CMRRA and/or SODRAC as representative(s) of the Rightsholder in question;
- (e) the most up-to-date contact information available to the Label in relation to each Rightsholder to whom the Label paid Royalties directly (i.e., not through CMRRA or SODRAC) between January 1, 2000 and its Reporting Date in relation to Products covered by this Term Sheet;
- (f) the total Audio Royalties and Video Royalties paid to each Rightsholder (the "**Individual Rightsholder Payments**") in each year from January 1, 2000 through December 31, 2009 (except in the case of Universal, which, because of systems limitations described below, can provide such information in relation only to the period beginning January 1, 2003 and ending December 31, 2009), calculated on either a quarterly or an annual basis, in relation to sales of Products through December 31, 2009, including any amounts paid to CMRRA and/or SODRAC as representative of a Rightsholder;
- (g) the total Audio Royalties and Video Royalties paid to all Rightsholders (the "**Aggregate Rightsholder Payments**") in each year from January 1, 2000 through December 31, 2009 (except in the case of Universal, which, because of systems limitations described below, can provide such information in relation only to the period beginning January 1, 2003 and ending December 31, 2009), calculated on either a quarterly or an annual basis, in relation to sales of Products through December 31, 2009, including any amounts paid to CMRRA and/or SODRAC as representative of a Rightsholder;

- (h) any and all particulars available to the Label, after using all reasonable commercial efforts, in relation to any Existing Dispute relating to Royalties that are to be paid as part of that Label's Settlement Amount, including at minimum the identities of the parties to the Existing Dispute (if reasonably available to the Label) and the amount of Royalties at issue.

For greater certainty, the information required by subparagraphs 1.04(a), (b) and (c) shall be provided only in relation to Products (or, where a Product is only partially cleared, Musical Works embodied in that Product) for which Pending Royalties remain payable as at the Reporting Date and only to the extent of the amount actually paid by the applicable Label into the Settlement Trust pursuant to paragraph 1.05. Specifically, whenever an adjustment is made pursuant to subparagraph 1.05(b)(ii), the amounts paid to the applicable Rightsholders will be deducted from the amounts that would otherwise be reported pursuant to subparagraphs 1.04(a) and (b), and the list provided pursuant to subparagraph 1.04(c) will be adjusted to report only the amount of Pending Royalties (if any) that remains payable in relation to that Product or Musical Work – or, if all Pending Royalties have been paid to the applicable Rightsholders, to exclude that Product or Musical Work entirely.

The plaintiff, CMRRA and SODRAC acknowledge and accept that (i) as a result of changes made by EMI to its accounting systems effective on or about January 1, 2005, information provided by EMI in relation to the period ending December 31, 2004 may be somewhat less complete than information provided in relation to the period commencing January 1, 2005; and (ii) as a result of changes made by Sony to its accounting systems as part of its merger with BMG Music Canada Inc., information provided by Sony in relation to the period ending December 31, 2006 may be somewhat less complete than information provided in relation to the period commencing January 1, 2007; and (iii) as a result of changes made by Universal when it merged with Polygram in 1999, information relating to the pre-1999 time period may be somewhat less complete than information relating to the post-1999 time period and as a result of changes made by Universal to implement electronic licensing in 2004, the information provided by Universal in relation to the period prior to when it commenced electronic licensing may be less complete than information provided for the period following the implementation of electronic licensing, including but not limited to the fact that Universal does not have music publisher information relating to payments made to Rightsholders prior to January 1, 2003 for Musical Works represented by CMRRA and SODRAC.

1.05 Initial Payment into Settlement Trust.

- (a) On the same day as its First Report is provided, each Label will pay its Settlement Amount, adjusted in accordance with subparagraph 1.05(b), into one or more interest-bearing trust accounts established specifically for those funds (the **"Settlement Trust"**). The trustee of the Settlement Trust (the **"Trustee"**) will be approved by the court on the consent of the plaintiff, CMRRA, SODRAC and the Labels and appointed pursuant to a trust agreement to be negotiated in good faith by the parties to this Term Sheet, and will supervise the administration of the Settlement Trust in consultation with representatives of the plaintiff, CMRRA and SODRAC (and in consultation with the Labels in relation only to issues related to the potential repayment of monies to them out of the Settlement Trust pursuant to paragraphs 1.08(b) or 1.11). Any interest accrued on monies deposited into the Settlement Trust will be applied pro-rata to monies eventually distributed pursuant to the Settlement Agreement, including, where applicable, to the Label where funds are returned to the Label.

- (b) The amount to be paid into the Settlement Trust by each Label will be adjusted to reflect only
 - (i) In the case of Sony, Universal and Warner, increases to the Settlement Amount equal to the aggregate of (x) any and all additional Royalties payable in relation to additional sales of Group I and Group II Product during the applicable Label's Adjustment Period, calculated at the rate established in that Label's royalty accounting system in relation to each Product in question at the time of its Release, and (y) any and all additional Royalties payable in relation to Reserves taken for Group I and Group II Product and liquidated during that Label's Adjustment Period; and
 - (ii) In the case of each of the Labels, reductions to the Settlement Amount equal to the aggregate of (x) any and all amounts actually paid to Rightsholders or their authorized representatives during the applicable Label's Adjustment Period in satisfaction of Pending Royalties recorded by that Label for sales of Group I and Group II Product on or before its Settlement Cut-Off Date, and (y) Royalties payable in relation to units of Group I and Group II Product that are returned to the applicable Label during its Adjustment Period, but only to the extent that amounts potentially payable to Rightsholders for the returned Products are reflected in that Label's Settlement Amount.

Any adjustments made pursuant to this subparagraph 1.05(b) must be supported by either (x) documentation available to and provided by the Label, acting reasonably, summarizing the particulars of the Royalties payable by the Label pursuant to subparagraph 1.05(b)(i), the amounts actually paid by the Label pursuant to subparagraph 1.05(b)(ii), and any reductions made pursuant to subparagraph 1.05(b)(ii) on account of returns, with a letter from the Label's chief financial officer representing, warranting and certifying the accuracy of the information so summarized and full documentation to support payments of \$1,000 or greater pursuant to any Direct Licence, or (y) documentation satisfactory to each of CMRRA, SODRAC and the plaintiff, each acting reasonably, setting out the particulars of both the Royalties payable by the Label pursuant to subparagraph 1.05(b)(i), the amounts actually paid by the Label pursuant to subparagraph 1.05(b)(ii), and any reductions made pursuant to subparagraph 1.05(b)(ii) on account of returns. In the case of Sony, the information provided pursuant to clause (x) above will be limited for technical reasons to particulars of the Royalties payable pursuant to subparagraph 1.05(b)(i) and the amounts actually paid pursuant to subparagraph 1.05(b)(ii) and full documentation to support payments of \$1,000 or greater pursuant to any Direct Licence issued on or after July 1, 2010. In the event that any dispute as to any such adjustment cannot be resolved by the parties, using their best efforts, within 10 business days after the delivery of written notice by the disputing party to the others, the dispute will be submitted for summary binding resolution.

- (c) In the event of any inconsistency between this paragraph 1.05 and any Label's Settlement Agreement, the provisions of this paragraph 1.05 will govern to the extent of that inconsistency.

1.06 **Due Diligence.** Where a Label's Settlement Agreement provides for a Due Diligence Meeting, the Label will cause the Due Diligence Meeting to take place within the time specified in its Settlement Agreement and provide all information required by the Settlement Agreement in relation thereto. The plaintiff, CMRRA and SODRAC acknowledge that the Due Diligence Meeting for each of Sony and Warner has already taken place, that all

information required by the Settlement Agreement in relation to each of those Labels' Due Diligence Meetings has been provided, and that, in all respects, each of Sony and Warner has fully complied with its Due Diligence obligations. The plaintiff, CMRRA and SODRAC further acknowledge that the Due Diligence Meeting for EMI has taken place only in relation to EMI's Audio Royalties, that all information required by the EMI Settlement Agreement in relation to those Audio Royalties, has been provided, and that EMI has fully complied with its Due Diligence obligations in that respect; further, although no Due Diligence Meeting has yet taken place in relation to EMI's Video Royalties, EMI will not be in breach of its Settlement Agreement provided that it proceeds in good faith to cause that Due Diligence Meeting to take place within a reasonable time after confirming its Video Settlement Amount as required by its Settlement Agreement.

- 1.07 **Attestation or Royalty Verification.** Where a Label's Settlement Agreement provides for an Attestation or a Royalty Verification, that Label will provide, within the time specified in its Settlement Agreement, the Attestation or Royalty Verification so required. The plaintiff, CMRRA and SODRAC acknowledge that this paragraph 1.07 does not apply to either Sony or Warner.
- 1.08 **Additional Information and Payment.** In the event that a Due Diligence Meeting, Attestation and/or Royalty Verification is required, then, if applicable, within 10 business days after the latest of the Due Diligence Meeting, the delivery of its Attestation or Royalty Verification or the payment of its Settlement Amount into the Settlement Trust,
- (a) the applicable Label will pay into the Settlement Trust an amount equal to any difference between (i) the total Pending Audio Royalties and Pending Video Royalties, respectively, discovered as a result of the Due Diligence Meeting or disclosed in the Attestation or Royalty Verification, as applicable, and (ii) the Agreed Audio Royalties and the Agreed Video Royalties, respectively – multiplied, in the case of EMI, by a percentage equal to the percentage that its Settlement Amount bears to the Audio Royalties as defined in its Settlement Agreement (the “**EMI Adjustment Percentage**”) – plus interest on any amount so paid, calculated from the date on which the Label paid its Settlement Amount into the Settlement Trust at the average prime lending rate of the Bank of Nova Scotia during that period plus 2%;
 - (b) CSI will direct the Trustee to reimburse that Label for any difference between the Agreed Audio Royalties and the Agreed Video Royalties, respectively, and the total Pending Audio Royalties and Pending Video Royalties, respectively, discovered as a result of the Due Diligence Meeting or disclosed in the Attestation or Royalty Verification, as applicable – multiplied, in the case of EMI, by the EMI Adjustment Percentage – plus interest accrued on any such amounts from the date of the Label's payment of its Settlement Amount into the Settlement Trust; and
 - (c) if the Due Diligence Meeting reveals that changes are required to, or the Attestation or Royalty Verification purports to revise, any information previously provided by that Label pursuant to paragraph 1.04, the Label will provide a revised report to CSI containing the accurate information.

Further, if any challenge by the plaintiff or CSI to an Attestation or Royalty Verification causes the parties to agree or the court to determine that: (i) additional Pending Royalties are to be paid by the applicable Label, that Label will pay those additional Pending Royalties (multiplied, in the case of EMI, by the EMI Adjustment Percentage), plus interest on any amount so paid, calculated from the date on which the Label paid its Settlement Amount into the Settlement Trust at the average prime lending rate of the Bank of Nova Scotia during that period plus 2%, into the Settlement Trust within 15 business days of that

agreement or determination, and its Settlement Amount will thereafter be deemed to include the principal amount (but not the interest) so paid; or (ii) the total Pending Audio Royalties and Pending Video Royalties, respectively, for a given Label are less than that Label's Agreed Audio Royalties and Agreed Video Royalties, respectively, CSI will direct the Trustee to pay the difference (multiplied, in the case of EMI, by the EMI Adjustment Percentage) to the Label, plus interest accrued on any such amounts from the date of the Label's payment of its Settlement Amount into the Settlement Trust, within 15 business days of that agreement or determination, and that Label's Settlement Amount will thereafter be deemed to exclude the principal amount (but not the interest) so paid. The plaintiff, CMRRA and SODRAC acknowledge that this paragraph 1.08 does not apply to either Sony or Warner.

- 1.09 **Cooperation by Labels.** Each Label will provide every commercially reasonable form of cooperation and assistance to CSI and the plaintiff in order to assist them to analyze and understand the information provided pursuant to paragraph 1.04 and subparagraph 1.05(b), and any revised information provided pursuant to paragraph 1.08(b), provided that CSI or the plaintiff, as the case may be, provide written notice to that Label, setting out the nature (and, if possible, the specific questions) in relation to which CSI requires such cooperation and assistance.
- 1.10 **Preliminary Calculation of Group I Market Share.** CSI will use the information provided pursuant to paragraphs 1.04 and 2.01(a) to calculate, in relation to each Label, the total Canadian market share for each Rightsholder to whom that Label has paid Royalties between January 1, 2000 and December 31, 2007 (or, in the case of Universal, between January 1, 2003 and December 31, 2009), by dividing the Individual Rightsholder Payments received by each Rightsholder from that Label between January 1, 2000 and December 31, 2007 (or, in the case of Universal, between January 1, 2003 and December 31, 2009) by the Aggregate Rightsholder Payments made by that Label during that period.
- 1.11 **Opt-Outs.**
- (a) The parties agree to seek, as part of the process approving their respective Settlement Agreements, a court order requiring any class member who wishes to opt out of the settlement to provide, as a prerequisite to opting out, detailed information about the Musical Works in which that class member claims to own rights in Canada, including, in relation to each such Musical Work, (i) its title, (ii) the percentage of the copyright that the class member purports to own, (iii) any applicable publishing agreement (or a statutory declaration that the class member's interest in the Musical Work is not subject to any publishing agreement), (iv) the recording artist(s) who recorded the Musical Work in question, if known, (v) the title, Universal Product Code (UPC) and International Code Product Number (ICPN) of each Product on which the Musical Work appears, if known, and (vi) any evidence available to establish the class member's ownership of rights in the Musical Work in Canada (such as, for example, a SOCAN registration or royalty statement). If these opt-out requirements are not approved by the court, the parties agree to renegotiate the provisions of this paragraph 1.11, in good faith, in order to develop workable standards to determine how to assess the claims of any class member who wishes to opt out of the settlement and the amounts to be reimbursed to each Label in relation to each such class member.
 - (b) At the conclusion of the opt-out period to be agreed by the parties and defined in the final judgment of the Ontario Superior Court (the "**Opt-Out Period**"), CSI will compile a list of class members who have purported to exercise their right to opt out of the settlement and report that list to the plaintiff, along with the information

provided by each such class member in relation to the Musical Works in which it claims to own rights in Canada. The plaintiff will have up to 45 days to review the list and the information provided, to confirm whether the claims of each such class member in relation to its ownership of rights in Musical Works are valid, and to take appropriate action in relation to such class members. At the conclusion of that period, the plaintiff will either confirm the list or provide a revised list to CSI, along with an explanation of the basis for any revisions, and each class member who has validly exercised its right to opt out of the settlement will thereafter be considered an "Opt-Out" for the purposes of the Settlement Agreements and this Term Sheet.

- (c) After receiving the final list of Opt-Outs from the plaintiff, CSI will have up to 30 days to use the information provided pursuant to paragraphs 1.04 and 2.01(a), and its calculations under paragraph 1.10, to prepare a schedule of Opt-Outs and their respective Canadian market shares, if any, in relation to each Label. CSI will deliver to each Label a copy of that schedule, when complete, along with a summary of the calculations used to arrive at the market share for each Opt-Out (supported by documentation satisfactory to the applicable Label, acting reasonably), and will direct the Trustee to repay to each Label an amount from the Settlement Trust, determined as follows, in relation to each Opt-Out:
- (i) Where the Opt-Out has demonstrated to the satisfaction of each of the applicable Label, CMRRA, SODRAC and the plaintiff, each acting reasonably (provided that, if the applicable Label is satisfied but some or all of the other applicable parties are not, the parties will submit the matter for summary binding resolution), a bona fide entitlement to Pending Royalties accrued in relation to specific Products on that Label's pending list, the Label will be entitled to repayment in an amount determined by multiplying (x) the total Pending Royalties recorded by the Label in relation to each such Product on the pending list provided by the Label pursuant to subparagraph 2.01(b)(ii), by (y) the percentage that the Label's Settlement Amount bears to the total Pending Royalties recorded on the same pending list, as each of the foregoing amounts have been adjusted under this Term Sheet (if applicable), which percentage in the case of EMI, for clarity, will be equal to the EMI Adjustment Percentage (a "**Line Item Opt-Out Refund**"); plus
 - (ii) An amount determined by multiplying (i) the Label's Settlement Amount by (ii) the Canadian market share of the Opt-Out in relation to that Label, then deducting from the product of that calculation any Line Item Opt-Out Refund payable to the Label in relation to the Opt-Out; plus
 - (iii) Interest on the sum of (i) and (ii), calculated from the date of the Label's Settlement Amount into the Settlement Trust.

If any of the plaintiff, CSI or the applicable Label, acting reasonably, are of the view that the amount so determined is not an accurate reflection of the Pending Royalties potentially owed by that Label to the particular Opt-Out, the party disputing the amount so determined will notify the other parties (which, for clarity, will not include the other Labels) within 10 business days of its receiving notice of that amount and such parties will attempt in good faith to arrive at a more accurate figure. If such parties are unable to do so within 10 business days after delivery of notice, the matter will be submitted for summary binding resolution. Failing the receipt of such notice from a Label, CSI will direct the Trustee to pay to that Label any amounts payable pursuant to this paragraph within 10 business days after the delivery of the

list of Opt-Outs to the Label. Opt-Outs will be excluded from consideration and treatment as class members under the Settlement Agreement.

- 1.12 **Recalculation of Group I Market Share.** After completion of the process set out in subparagraph 1.11, CSI will recalculate, in relation to each Label, the total Canadian market share for each Rightsholder to whom that Label has paid Royalties between January 1, 2000 and December 31, 2007 (or, in the case of Universal, between January 1, 2003 and December 31, 2009), other than Opt-Outs, by dividing (i) the Individual Rightsholder Payment received by each Rightsholder (other than Opt-Outs) from that Label between January 1, 2000 and December 31, 2007 (or, in the case of Universal, between January 1, 2003 and December 31, 2009) by (ii) the Aggregate Rightsholder Payments made by that Label during that period (each Rightsholder's "**Group I Market Share**").
- 1.13 **Second Report.** Within 60 days after delivering its First Report, each Label will provide to the plaintiff and CSI a report (the "**Second Report**") setting out, only in relation to Group II Product,
- (a) the information required by paragraph 1.04, prepared on the same basis as the First Report; and
 - (b) with respect to each Medium-Value Group II Item and each High-Value Group II Item (each as defined below), the information required under subparagraph 4(d) of the current Mechanical Licensing Agreement between CMRRA and CRIA. This information will be provided in an electronic format mutually acceptable to CSI and the Labels, each acting reasonably.

For greater certainty, the information provided in the Second Report will be current as at December 31, 2010, reflecting all sales of Group II Product through that date, and in relation to the information required by subparagraphs 1.04(d) through (h), inclusive, the Labels will be required to report only information not already included in the First Report. Further, CSI and any Label may agree to combine that Label's First Report and Second Report and/or to change the date on which its Second Report is to be submitted.

- 1.14 **Calculation of Group II Market Share.** CSI will use the information provided pursuant to paragraph 1.13 to calculate, in relation to each Label, the total Canadian market share for each Rightsholder to whom that Label has paid royalties between January 1, 2005 and December 31, 2010 by dividing the Individual Rightsholder Payments received by each Rightsholder from that Label between January 1, 2005 and December 31, 2010 by the Aggregate Rightsholder Payments made by that Label during that period (that Rightsholder's "**Group II Market Share**").
- 1.15 **Third Report.** On or before March 31, 2014, each Label will provide a report to the plaintiff and CSI (the "**Third Report**") setting out, in relation to Audio Products and Video Products Released between January 1, 2010 and December 31, 2012, inclusive ("**Group III Product**"),
- (a) the information required by paragraph 1.04, prepared on the same basis as the First Report; and
 - (b) with respect to each Medium-Value Group III Item and each High-Value Group III Item (each as defined below), the identifying information required under subparagraph 4(d) of the current MLA. This information will be provided in an electronic format mutually acceptable to CSI and the Labels, each acting reasonably.

For greater certainty, (i) the information provided in the Third Report will be current to sales through December 31, 2013, reflecting all sales of Group III Product through that date, (ii) in relation to the information required by subparagraphs 1.04(d) through (h), inclusive, the Labels will be required to report only information not already included in the First Report or the Second Report, and (iii) Pending Royalties in relation to Group III Product will be calculated at the then-current MLA rate multiplied by a percentage, to be negotiated by the parties in good faith by no later than September 30, 2013, reflecting a reasonable discount for the possible application of controlled composition clauses and other applicable reductions. In the event that the parties are unable to agree on the said percentage by September 30, 2013, the matter will be submitted to summary binding resolution. Further, the plaintiff, CMRRA, SODRAC and Sony agree to negotiate in good faith with a view to determining appropriate treatment of Products on Sony's so-called "Unmatched Pending List" for the purposes of this paragraph 1.15.

- 1.16 **Group III Payment.** Within 10 days of the date its Third Report is provided, each Label will pay the amount of its Pending Audio Royalties and Pending Video Royalties for Group III Product, as disclosed in that report, into the Settlement Trust.
- 1.17 **Calculation of Group III Market Share.** CSI will use the information provided pursuant to paragraph 1.15 to calculate, in relation to each Label, the total Canadian market share for each Rightsholder to whom that Label has paid royalties between January 1, 2008 and December 31, 2013 by dividing the Individual Rightsholder Payments received by each Rightsholder from that Label between January 1, 2008 and December 31, 2013 by the Aggregate Rightsholder Payments made by that Label during that period (that Rightsholder's "**Group III Market Share**").

2. **Distribution of Pending Royalties**

2.01 **Claims Website.**

- (a) Within 45 days after providing its First Report, each Label will provide to CSI, with respect to each Medium-Value Group I Item and each High-Value Group I Item (each as defined below) listed in its First Report, and all in an electronic format reasonably acceptable to CSI, the following identifying information:
- (i) in the case of EMI: song title, label, ICPN, album title, artist name (some artist data may be incomplete), Release date, ISRC, track timing, writer, liability, the cumulative number of units for which Royalties are payable and the rate at which such Royalties have been accrued (some ISRC data may be incomplete);
 - (ii) in the case of Sony: song title, catalogue prefix, catalogue core, total pending royalties, product title, artist name, song time, ISRC, Release date, configuration, report type, disk number, track band number, split percentage, publisher name and songwriter;
 - (iii) in the case of Universal: catalogue number, song title, royalty units, royalty dollars, artist name, song writer (when available), Release date, album title, Universal's internal song number, ISRC (when available), song time, UPC, and the percentage of each work for which Royalties are pending; and
 - (iv) in the case of Warner: song title, calculated transaction royalty rate, extended value, composer, artist name, product title, track time, ISRC, Release date, UPC, side number, track number, publisher name, unit information and publisher split,

in each case to the best of the applicable Label's knowledge and ability, and will provide the same information on an ongoing basis in relation to any item subsequently identified as a Medium-Value Group I Item or a High-Value Group I Item as a result of the process undertaken by CSI in accordance with subparagraph 2.02(a) below. Universal will also use all reasonable commercial efforts to provide, in addition to the information set out in subparagraph 2.01(a)(iii), the rate at which Royalties have been accrued in relation to each Medium-Value Group I Item and High-Value Group I Item. Further, if the Label has paid Royalties directly to a Rightsholder in relation to the Sound Recording, upon request by CSI on a case-by-case basis, the Label will advise CSI as to the percentage shares of the Musical Work(s) embodied in the Sound Recording that have been licensed, the name and contact information of the licensor(s), and the amount of Royalties paid directly to such licensor(s) in relation to each Product in which the Sound Recording has been Released in Canada, provided in each case that the information in question is reasonably available to the Label and that, in the case of Sony, the date on which Sony first paid Royalties to a particular licensor may be provided in lieu of the amount of Royalties paid directly to that licensor. In the event that the applicable parties are unable to reach agreement as to whether the information provided in any particular case is consistent with this subparagraph 2.01(a), the matter will be submitted to summary binding resolution.

- (b) As soon as reasonably practicable after receiving from every Label the information required under subparagraph 2.01(a), CSI will initiate an internal process intended to
 - (i) reconcile the data provided by the Labels pursuant to paragraph 1.04 and subparagraph 2.01(a);
 - (ii) to the extent reasonably practicable, review that data against the current backlog of licences that have already been issued by CMRRA and SODRAC and, where any Product is successfully matched with an existing licence, direct the Trustee to facilitate distribution to the appropriate Rightsholder(s) of an amount equal to the total Pending Royalties recorded by the applicable Label in relation to that Product and remove that Product from the applicable pending list; and
 - (iii) conduct additional research to identify the owner(s) of copyright in each High-Value Group I Item (as defined below), provided that the resources expended on researching each item shall not exceed 15% of the royalty value of that item as recorded on the applicable pending list.
- (c) Within no more than 120 days after receiving from every Label the information required under subparagraph 2.01(a), CSI will
 - (i) give notice to class members, in the manner prescribed or approved by the court, of the individual claims processes to be established pursuant to the applicable provisions of this section 2; and
 - (ii) publish a publicly-accessible website (the **"Claims Website"**) containing the identifying information provided by the Label with respect to each Medium-Value Group I Item and each High-Value Group I Item, any additional information generated or obtained by CSI in relation to each such item, an online facility for filing claims and disputes as to ownership, and any other features or information prescribed by the court, but not the Pending Royalties recorded in relation to that item.

2.02 **Distribution of Settlement Trust.** The Settlement Trust will be distributed to class members other than the Opt-Outs (the “**Settling Rightsholders**”) in accordance with the following processes:

- (a) **Line Item Value.** For purposes of this paragraph 2.02, where it appears to CSI that the same Musical Work or Sound Recording is reflected in multiple line items (for example, where a Product has been re-released or where royalties payable at different rates are itemized separately), CSI will, wherever reasonably practicable, aggregate the royalties payable in relation to each separate line item and treat the multiple line items as a single line item when determining whether it is to be treated as a High-Value, Medium-Value or Low-Value Item.
- (b) **Low-Value Group I Items.** The following process will apply to line items representing Group I Product and valued at \$1,000.00 or less (“**Low-Value Group I Items**”):
 - (i) Within 100 days after the conclusion of the Opt-Out Period, provided that all required Royalty Verifications have been completed to the reasonable satisfaction of the plaintiff, CMRRA and SODRAC and that there is no outstanding dispute in relation to the amount potentially owed by a Label to a particular Opt-Out, CSI will direct the Trustee to divide among all class members, according to their respective Group I Market Shares, an amount determined by multiplying the entire amount then contained in the Settlement Trust by a fraction, the numerator of which is the aggregate of the Pending Royalties referable to Low-Value Group I Items on the pending lists reported by the four Labels to CMRRA and SODRAC as at their respective Reporting Dates (the “**Reporting Date Pending Lists**”) and the denominator of which is the aggregate of all Pending Royalties on the Reporting Date Pending Lists, except that an amount (the “**Rightsholder Holdback**”) determined jointly by the plaintiff, CMRRA and SODRAC following their review of the First Reports (and, in particular, the total recorded value of the Low Value Group I Items on the 1Q10 Pending Lists) will be held back from that distribution to compensate Rightsholders for claims submitted in relation to Low Value Group I Items in accordance with subparagraph 2.02(b)(ii).
 - (ii) For a period commencing upon the delivery of each Label's First Report and concluding on the 181st day thereafter (the “**Low-Value Group I Research Period**”), the plaintiff's counsel, CMRRA and/or SODRAC may research, distribute, and/or attempt to verify claims from Rightsholders in relation to Low-Value Group I Items. In the event that the plaintiff's counsel, CMRRA or SODRAC are able to verify any such claim, they will submit to CSI the particulars of the claim (including the name of the claimant, the title of the Musical Work, particulars of the Product(s) on which the Musical Work was Released, references to such Product(s) on one or more pending list(s), evidence substantiating the claim, and the amount to be paid to the claimant), and CSI will direct the Trustee to facilitate payment of the recommended amount to the claimant out of the Rightsholder Holdback, each such payment to be made on the second Payment Date after the conclusion of the Low-Value Group I Research Period. For greater certainty, only a Rightsholder who holds Rights in a particular Musical Work as at the date on which that Rightsholder submits a claim will be entitled to receive any Royalties in relation to the reproduction of that Musical Work. Any amount remaining in the Rightsholder Holdback after that Payment Date will be distributed to Rightsholders, according to their respective Group I Market

Shares, such payments to be made together with the amounts that are to be distributed in relation to Medium-Value Group I Items pursuant to subparagraph 2.02(c)(v)(B). For greater certainty, CMRRA, SODRAC and CSI will not be responsible in any way for the solicitation or verification of claims related to Low-Value Group I Items by the plaintiff's counsel or the distribution of amounts in relation to those claims.

- (iii) Where an individual Settling Rightsholder is eligible to receive less than \$100.00 pursuant to subparagraph 2.02(b)(i), the amount otherwise payable to that Settling Rightsholder will instead be redistributed on a pro-rata basis to Settling Rightsholders eligible to receive amounts greater than \$100.00 for Low-Value Group I Items.
 - (iv) Where a cheque issued to a particular Settling Rightsholder has not been cashed within 180 days of its being sent, the cheque will be cancelled and the amount otherwise payable to that Settling Rightsholder will be redistributed on a pro-rata basis to other Settling Rightsholders who have received payment for Low-Value Group I Items, such payments to be made together with the amounts that are to be distributed in relation to Medium-Value Group I Items pursuant to subparagraph 2.02(c)(v)(B).
 - (v) Amounts that are to be redistributed pursuant to subparagraphs 2.02(b)(iii) will be distributed no later than the next Payment Date following the Payment Date on which those amounts would have been paid, pursuant to subparagraph 2.02(b)(i), to the Settling Rightsholders otherwise entitled to receive them.
 - (vi) Notwithstanding anything else in this subparagraph 2.02(b), if CSI, the Trustee and the plaintiff deem it expedient and in the best interests of class members to do so, they may delay the distribution of any amount pursuant to subparagraph 2.02(b)(i) or 2.02(b)(ii) until a reasonable time after CSI has calculated the Group II Market Shares, such that the distribution of amounts referable to Low-Value Group I Items and to Low-Value Group II Items may take place in a single distribution.
- (c) **Medium-Value and High-Value Group I Items.** The following process will apply to line items representing Group I Product and valued at greater than \$1,000.00 and less than \$2,500.00 ("**Medium-Value Group I Items**"), and to line items representing Group I Product and valued at \$2,500.00 or greater ("**High-Value Group I Items**"):
- (i) Within no more than 120 days after receiving from every Label the information required under subparagraph 2.01(a), CSI will post on the Claims Website, in relation to each Medium-Value Group I Item and each High-Value Group I Item (including those items categorized as such following the process undertaken by CSI in accordance with subparagraph 2.02(a)), the information set out in subparagraph 2.01(c)(ii).
 - (ii) Once an ownership claim to a Musical Work embodied in a Medium-Value Group I Item or a High-Value Group I Item has been established to the satisfaction of CSI, in accordance with standards agreed upon by CSI and the plaintiff and approved by the court, and subject to subparagraph 2.02(c)(iv), CSI will
 - (A) remove the item from the Claims Website;

- (B) direct the Trustee to facilitate payment to the claimant in an amount equal to the total Pending Royalties recorded in relation to that item, in accordance with subparagraph 2.02(c)(v)(A) or subparagraph 2.02(c)(vi)(A), as applicable; and
- (C) if the claimant is a member of CMRRA or SODRAC, facilitate the issuance of a mechanical licence to the Label by either CMRRA or SODRAC, as applicable, in the usual way in which licences are issued to that Label by CMRRA or SODRAC, as applicable, for the future reproduction of the particular Musical Work as embodied in the particular Product to which the item relates – or, where a mechanical licence has previously been issued in relation to that Musical Work as embodied in that Product, notify the Label of the existence of that previous licence – and deal with any future Royalties in relation to such reproduction in accordance with its usual procedures,

and, subject to subparagraph 2.02(c)(iii), the Label will update its internal records to ensure the timely payment of Royalties in relation to the Product to the Rightsholder(s) entitled to receive them from that point forward (including, where applicable, by paying such Royalties to CMRRA or SODRAC in accordance with the applicable MLA). Without limitation, CSI may require, but need not require, any claimant to provide documentary evidence of, and/or a statutory declaration in relation to, the claimant's purported claim to any Musical Work. For greater certainty, only a Rightsholder who holds Rights in a particular Musical Work as at the date on which that Rightsholder submits a claim will be entitled to receive any Royalties in relation to the reproduction of that Musical Work.

- (iii) Notwithstanding anything to the contrary in subparagraph 2.02(c)(ii), if a mechanical licence is issued to a Label pursuant to subparagraph 2.02(c)(ii)(C) in relation to a Product, the cumulative sales of which since that Label's Reporting Date have not reached 250 units (the "**Sales Threshold**"), the Label will not be required to update its internal records in relation to that Product, and may elect to continue paying royalties in relation to that Product into the Settlement Trust, subject to the following:

- (A) if cumulative sales of the Product reach the Sales Threshold at any time after the Label's Reporting Date, with no fewer than 50 units of the Product having been sold in the then-most-recent calendar year, the Label will notify CSI of the attainment of the Sales Threshold, update its internal records in relation to that Product within 60 days after the end of the calendar quarter in which the Sales Threshold is attained, and thereafter pay Royalties in relation to that Product to CMRRA or SODRAC in accordance with the terms of the applicable MLA;
- (B) if either CMRRA or SODRAC notifies the Label that it has previously issued a mechanical licence to the Label in relation to the same Musical Work as embodied in that Product (either by indicating on the face of the new mechanical licence that a mechanical licence has previously been issued in relation to that Product or by rendering to the Label from time to time an electronic report containing all outstanding mechanical licences issued to that Label by CMRRA and/or SODRAC as of the date of such report, whichever may be

agreed between CSI and each Label), but the Label has not processed or executed that previously-issued licence, the Label may require CMRRA or SODRAC, as applicable, to reissue or reprint the previously-issued licence, and the Label will process and execute the licence within no more than 45 days after a new mechanical licence is issued pursuant to subparagraph 2.02(c)(ii)(C) or notice of the previously-issued mechanical licence (or, if applicable, the reissued or reprinted licence) is received, whichever is earlier, and will thereafter pay Royalties in relation to that Product to CMRRA or SODRAC, as applicable; and

(C) In the case of Sony, Universal and Warner, notwithstanding subparagraph 2.02(c)(iii)(B), the following processing times shall apply to new mechanical licences issued pursuant to subparagraph 2.02(c)(ii)(C) and to notices of previously-issued mechanical licences issued pursuant to subparagraph 2.02(c)(iii)(B):

- (1) If a new mechanical licence or notice of a previously-issued mechanical licence is received by the applicable Label during its quarterly royalty processing period – which, for greater certainty, shall last no longer than 42 days following the first day of each calendar quarter – such that the mechanical licence cannot be processed within 45 days as otherwise required pursuant to subparagraph 2.02(c)(iii)(B), the applicable Label will process and execute the mechanical licence by no later than: (a) in the case of a mechanical licence issued electronically, 14 days after the end of the quarter-end royalty processing period; and (b) in the case of any other mechanical licence, 45 days after the end of the quarter-end processing period, provided that in no event shall any mechanical licence be processed and executed later than the last day of the calendar quarter in which the new mechanical licence is issued or notice of the previously-issued mechanical licence is received, whichever is later; and
- (2) In all other cases, the applicable Label will process and execute the mechanical licence by no later than: (a) in the case of a mechanical licence issued electronically, two business days after the new mechanical licence is issued or notice of the previously-issued mechanical licence is received, whichever is later; and (b) in the case of any other mechanical licence, 45 days after the new mechanical licence is issued or notice of the previously-issued mechanical licence is received, whichever is later, provided that, if a mechanical licence is issued or notice of a previously-issued mechanical licence is given and the label rejects the licence, the Label, CMRRA and SODRAC shall work together to resolve such issues expeditiously.

For greater certainty, the Rightsholder(s) on behalf of whom the mechanical licence is issued pursuant to subparagraph 2.02(c)(ii)(C) will have no entitlement to any amounts previously paid out of the Settlement Trust in relation to that Product, whether such amounts were paid according to market share or otherwise.

- (iv) If conflicting ownership claims (a “**Claims Dispute**”) are made in relation to a Medium-Value Group I Item or a High-Value Group I Item and cannot be resolved by the parties, or if a Medium Group I Item or a High-Value Group I Item is subject to an Existing Dispute (as identified by a Label to CSI pursuant to subparagraph 1.04(h)), CSI will provide notice of the conflicting claims to each party and segregate the Pending Royalties payable in relation to the disputed item until the conflicting claims have been resolved by agreement or binding adjudication. However,
 - (A) if CSI determines that all of the parties to a Claims Dispute or an Existing Dispute are represented by either CMRRA or SODRAC, CSI may direct the Trustee to facilitate payment of the Pending Royalties recorded in relation to the disputed item to either CMRRA or SODRAC, as applicable, to be dealt with in accordance with their usual dispute resolution and/or royalty distribution procedures; and
 - (B) if CSI determines that all parties to a Claims Dispute or an Existing Dispute are represented by the same music publisher, CSI may direct the Trustee to facilitate payment of the Pending Royalties directly to that publisher and direct that the dispute be dealt with in accordance with the publisher’s usual dispute resolution and/or royalty distribution procedures.
- (v) On or about the 181st day after posting the Medium-Value Group I Items on the Claims Website, CSI will remove those items from the Claims Website and, within a further 30 days,
 - (A) in relation to each Medium-Value Group I Item to which an ownership claim has been established to the satisfaction of CSI, in accordance with standards agreed upon by CSI and the plaintiff and approved by the court, direct the Trustee to facilitate payment to the claimant in an amount equal to the total Pending Royalties recorded in relation to that item; and
 - (B) direct the Trustee to facilitate the distribution of (1) any amounts accrued in relation to Medium-Value Group I Items that have not been claimed and are not subject to known disputes, (2) any portion of the Rightsholder Holdback that was not distributed within 180 days of the Settlement Date, and (3) any amounts that are to be redistributed among Settling Rightsholders pursuant to paragraphs 2.02(b)(iii) and (iv), to Settling Rightsholders according to their respective Group I Market Shares.
- (vi) On or about the 366th day after posting the High-Value Group I Items on the Claims Website, CSI will remove those items from the Claims Website and, within a further 30 days,
 - (A) in relation to each High-Value Group I Item to which an ownership claim has been established to the satisfaction of CSI, in accordance with standards agreed upon by CSI and the plaintiff and approved by the court, direct the Trustee to facilitate payment to the claimant in an amount equal to the total Pending Royalties accrued in relation to that item; and

- (B) direct the Trustee to facilitate the distribution of any amounts accrued in relation to High-Value Group I Items that have not been claimed, and are not subject to known disputes, to Settling Rightsholders according to their respective Group I Market Shares.

2.03 **Group II Product.** The process outlined in paragraphs 2.01 and 2.02 in relation to Group I Product will apply mutatis mutandis to line items representing Group II Product, with the following modifications:

- (a) In addition to the process outlined in paragraph 2.01, each of CMRRA, SODRAC and the Labels will continue in their efforts to license Group II Product in accordance with their usual practices (including but not limited to substantial compliance with the procedures set out in the applicable MLAs) and the Canadian Licensing Practices (as defined below and as and when agreed and implemented) and in the case of the Labels, where any Rights to a particular Group II Product are not represented by CMRRA or SODRAC, to obtain a licence for those Rights directly from the Rightsholder(s) (a "**Direct Licence**"), provided that the obligations in this subparagraph 2.03(a) will remain in effect only through December 31, 2010.
- (b) Each Label will provide the identifying information required pursuant to subparagraph 2.01(a) by no later than 75 days after the delivery of its Second Report. In addition to the information required pursuant to subparagraph 2.01(a), Sony will provide, in relation to each Medium-Value and High-Value Group II Item (including, for greater certainty, in relation to any item that is subsequently identified as a Medium-Value or High-Value Group II Item), the cumulative number of units for which Royalties are payable and the rate at which such Royalties have been accrued.
- (c) The process set out in subparagraph 2.02(b)(i) will commence in relation to Low-Value Group II Items within 90 days after CSI has received the Second Report from each Label (and not, for greater certainty, 100 days after the conclusion of the Opt-Out Period);
- (d) CMRRA, SODRAC and the plaintiff's counsel will jointly determine whether and how the process set out in subparagraph 2.02(b)(ii) will apply to Low-Value Group II Items, including whether the amount to be distributed will be subject to a Rightsholder Holdback, and, if so, the amount of the Rightsholder Holdback;
- (e) Where a Label is successful, in accordance with subparagraph 2.03(a), in obtaining a Direct Licence for the Rights to a particular Musical Work as embodied in a Group II Product,
 - (i) the Label will provide CSI with complete information about that Product and the Rightsholder from whom the Direct Licence has been obtained, including the name and contact information of the Rightsholder and its or their percentage share of copyright in the Musical Work, and a detailed royalty statement setting out any and all sales of the Product between the Reporting Date and the date of the Label's most recent payment into the Settlement Trust and the Royalties payable in relation to those sales under the applicable MLA (redacted to exclude any information unrelated to the particular Product);
 - (ii) the provisions of subparagraphs 2.02(c)(ii), (iii) and (iv) will apply to that Product regardless of whether it is considered a Low-Value, Medium-Value or High-Value Item;

- (iii) the Label will direct CSI and the Trustee to pay any Pending Royalties referable to the Musical Work as embodied in that Product, and any additional Royalties paid into the Settlement Trust in relation to that Musical Work as embodied in that Product pursuant to section 3, to the Rightsholder or its authorized representative, but only to the extent that such Royalties have not already been distributed in accordance with this Term Sheet;
- (iv) the Label will thereafter pay royalties directly to the Rightsholder(s) or otherwise in accordance with the terms of the Direct Licence; and
- (v) the release given to the Label pursuant to paragraph 5.01 will not apply to Claims made by such Rightsholder(s) for breach of the terms of the Direct Licence.

As an alternative to the information required pursuant to subparagraph 2.03(e)(i), any Label may elect to provide to CSI, on at least a quarterly basis, a report itemizing any and all Direct Licences issued since its Reporting Date, the form and content of which report will be negotiated in good faith by CSI and each Label within no more than 30 days after the Settlement Date but will include, at minimum, information sufficient to identify both the Product and the Musical Work, the name and contact information of the Rightsholder from whom the Direct Licence has been obtained, and the Rightsholder's percentage share of copyright in the Musical Work.

- (f) References to Group I shall be deemed to be references to Group II, and references to the First Report shall be deemed to be references to the Second Report.
- (g) The value of each line item, for the purpose of categorizing it as Low-Value, Medium-Value or High-Value, will be determined as of December 31, 2010 (but, for greater certainty, will not be determined by CSI until a reasonable time after receiving the Second Report from the applicable Label).

2.04 **Group III Product.** The process outlined in paragraphs 2.01 and 2.02 in relation to Group I Product will apply mutatis mutandis to line items representing Group III Product, with the following modifications:

- (a) In addition to the process outlined in paragraph 2.01, each of CMRRA, SODRAC and the Labels will continue in their efforts to license Group III Product in accordance with their usual practices (including but not limited to substantial compliance with the procedures set out in the applicable MLAs) and the Canadian Licensing Practices (as defined below), as and when agreed and implemented, and in the case of the Labels, where any Rights to a particular Group III Product are not represented by CMRRA or SODRAC, to obtain a Direct Licence for those Rights provided that the obligations in this subparagraph 2.03(a) will remain in effect only through December 31, 2013.
- (b) In addition to the identifying information required pursuant to subparagraph 2.02(a)(i), Sony will provide, in relation to each Medium-Value and High-Value Group III Item (including, for greater certainty, in relation to any item that is subsequently identified as a Medium-Value or High-Value Group III Item), the cumulative number of units for which Royalties are payable and the rate at which such Royalties have been accrued.
- (c) The process set out in subparagraph 2.02(b)(i) will commence in relation to Low-Value Group III Items within 90 days after CSI has received the Third Report from

each Label (and not, for greater certainty, 100 days after the conclusion of the Opt-Out Period);

- (d) CMRRA, SODRAC and the plaintiff's counsel will jointly determine whether and how the process set out in subparagraph 2.02(b)(ii) will apply to Low-Value Group III Items, including whether the amount to be distributed will be subject to a Rightsholder Holdback, and, if so, the amount of the Rightsholder Holdback;
- (e) The provisions of subparagraph 2.03(e) will apply mutatis mutandis, with references to Group II deemed to be references to Group III.
- (f) References to Group I shall be deemed to be references to Group III, and references to the First Report shall be deemed to be references to the Third Report.
- (g) The value of each line item, for the purpose of categorizing it as Low-Value, Medium-Value or High-Value, will be determined as of December 31, 2013 (but, for greater certainty, will not be determined by CSI until a reasonable time after receiving the Third Report from the applicable Label).

2.05 **Timing of Distributions.** Payments required to be made pursuant to paragraphs 2.02, 2.03 and 2.04 and section 3 will be made quarterly, on the Payment Dates, as applicable and practicable. In the event that CSI becomes aware of a required payment within 45 days or less before any Payment Date, it may elect to direct the Trustee to facilitate that payment on the Payment Date next following the soonest Payment Date.

2.06 **CSI Commission.** As compensation for administering the settlement and distributing Pending Royalties to class members, CSI shall be entitled to deduct a commission of 10% from any and all amounts distributed pursuant to paragraphs 2.02 and section 3, and any references to payment of "the total Pending Royalties" recorded in relation to any Product shall be deemed and understood to be subject to the commission payable to CSI. Within no more than 10 days after the first payment by a Label into the Settlement Trust, CSI will be paid the initial sum of \$1,500,000 out of the Settlement Trust, as an advance against the commission payable to it pursuant to this paragraph 2.06, to fund the start-up costs related to the distribution of the Settlement Trust. For clarity, CSI shall not be entitled to any commission on amounts returned to any Label, pursuant to subparagraph 1.08(b) or paragraph 1.11, or on any amounts paid directly by a Label to a Rightsholder pursuant to a Direct Licence.

3. Future Sales

3.01 **Low-Value Group I Items.** Where Pending Royalties in relation to a Low-Value Group I Item have been distributed pursuant to paragraph 2.02, each Label will pay any Royalties payable in relation to sales of the Product after that Label's Reporting Date ("**Future Sales**") into the Settlement Trust on a quarterly basis, on the same date as Royalties are payable by that Label to CMRRA and SODRAC pursuant to the applicable MLA, and beginning in the second calendar quarter following that Label's Reporting Date (such that the first payment pursuant to this paragraph 3.01 is referable to Future Sales during the first calendar quarter after that Label's Reporting Date). Subject to subparagraph 3.03, CSI will direct the Trustee to facilitate distribution of those Royalties pro-rata, as set out in subparagraph 2.02(b) (Low-Value Group I Items) .

3.02 **Medium-Value Group I Items and High-Value Group I Items.** Any Royalties payable in relation to Future Sales of Products corresponding to Medium-Value or High-Value Group I Items will be treated as follows:

- (a) Where a Settling Rightsholder has been identified as an owner of the Musical Work and the cumulative sales of the item since the applicable Label's Reporting Date have reached the Sales Threshold, the Label will pay all future Royalties directly to the Settling Rightsholder or to its authorized representative, or as otherwise instructed by or on behalf of the Settling Rightsholder from time to time; and
- (b) Subject to subparagraph 3.03, where Pending Royalties in relation to the item have been distributed in accordance with subparagraph 2.02(c)(v)(B) or 2.02(c)(vi)(B), the Label will pay future Royalties into the Settlement Trust on a quarterly basis, and CSI will direct the Trustee to facilitate distribution of those Royalties pro-rata, as set out in subparagraph 2.02(c)(v)(B) or 2.02(c)(vi)(B), as applicable.

For greater certainty, once the cumulative sales of any Product since the applicable Label's Reporting Date have reached the Sales Threshold, such that the Label is required to update its internal records in accordance with subparagraph 2.02(c)(iii), the Label will pay any and all Royalties payable in relation to sales of that Product since the end of the last quarter for which sales were reported to CSI and paid into the Settlement Trust, and for any Future Sales of that Product thereafter, directly to the Settling Rightsholder or to its authorized representative, or as otherwise instructed by or on behalf of the Settling Rightsholder from time to time.

3.03 Attainment of Sales Threshold. Notwithstanding anything in paragraphs 3.01 or 3.02, where Royalties payable in relation to Future Sales of any Product have been paid in accordance with paragraph 3.01 or 3.02(b) and the cumulative sales of that Product since the applicable Label's Reporting Date subsequently attain the Sales Threshold,

- (a) if either CMRRA or SODRAC has previously issued a mechanical licence to the Label in relation to any Musical Work as embodied in that Product, but the Label has not processed or executed that previous mechanical licence,
 - (i) CMRRA or SODRAC, as applicable, will notify the Label of the previously-issued mechanical licence, either by indicating on the face of the new mechanical licence that a mechanical licence has previously been issued in relation to that Product or by rendering to the Label from time to time an electronic report containing all outstanding mechanical licences issued to that Label by CMRRA and/or SODRAC as of the date of such report, whichever may be agreed between CSI and each Label;
 - (ii) if the Label is unable to locate the previously-issued mechanical licence, the Label will notify CMRRA or SODRAC, as applicable, and CMRRA or SODRAC will reissue or reprint the licence in question;
 - (iii) in the case of EMI, the Label will process and execute the mechanical licence within no more than 45 days after a new mechanical licence is issued pursuant to subparagraph 2.02(c)(ii)(C) or notice of the previously-issued mechanical licence is received, whichever is later; and
 - (vii) in the case of Sony, Universal and Warner:
 - (A) if a new mechanical licence or notice of a previously-issued mechanical licence is received by the applicable Label during its quarterly royalty processing period – which, for greater certainty, shall last no longer than 42 days following the first day of each calendar quarter – such that the mechanical licence cannot be processed and executed within 45 days as otherwise required

pursuant to subparagraph 2.02(c)(iii)(B), the Label will process and execute the mechanical licence by no later than: (a) in the case of a mechanical licence issued electronically, 14 days after the end of the quarter-end royalty processing period; and (b) in the case of any other mechanical licence, 45 days after the end of the quarter-end processing period, provided that in no event shall any mechanical licence be processed and executed later than the last day of the calendar quarter in which the new mechanical licence is issued or notice of the previously-issued mechanical licence is received, whichever is later; and

- (B) in all other cases, the applicable Label will process and execute the mechanical licence by no later than: (a) in the case of a mechanical licence issued electronically, two business days after the new mechanical licence is issued or notice of the previously-issued mechanical licence is received, whichever is later; and (b) in the case of any other mechanical licence, 45 days after the new mechanical licence is issued or notice of the previously-issued mechanical licence is received, whichever is later, provided that if a mechanical licence is issued or notice of a previously-issued mechanical licence is given and the Label rejects the licence, the Label, CMRRA and SODRAC shall work together to resolve such issues expeditiously; and

- (b) if neither CMRRA nor SODRAC has previously issued a mechanical licence to the Label in relation to any Musical Work as embodied in that Product, the Label will apply to CMRRA and SODRAC for a new mechanical licence in relation to that Musical Work as embodied in that Product and, if either CMRRA or SODRAC is able to issue a mechanical licence in relation to the Musical Work in question, the Label will process and execute the new mechanical licence within no more than 45 days after it is issued.

In either case, upon processing the applicable mechanical licence, the Label will update its internal records to ensure the timely payment of Royalties for sales of that Product since the end of the last quarter for which sales were reported to CSI and paid into the Settlement Trust, and for any Future Sales of that product thereafter, to the Rightsholder(s) entitled to receive them from that point forward.

- 3.04 **Group II and III Items.** Paragraphs 3.01 and 3.02 will apply, mutatis mutandis, to royalties payable in relation to sales of Group II Product after December 31, 2010 and sales of Group III Product after December 31, 2013 (which will also be considered "Future Sales" for the applicable Products for the purposes of this Term Sheet).
- 3.05 **Reserves and Returns.** Paragraphs 3.01 and 3.02 will apply, mutatis mutandis, to Pending Royalties payable by each Label following the liquidation of a Reserve taken against potential returns of any Product. Conversely, in the event that units of any Product are returned to any Label following its payment of Royalties in relation to the Musical Works embodied in those units into the Settlement Trust (including, for greater certainty, that Label's Settlement Amount), and provided that such payment of Royalties has not been made subject to any Reserve in respect of the returns in question (or has been made subject to a Reserve that has already been liquidated and the arising Royalties paid into the Settlement Trust), that Label will be entitled to deduct from its next payment of Royalties for Future Sales of the same Product pursuant to this section 3, on a song-by-song basis, an amount equal to the amounts paid into the Trust in relation to each Musical Work as

embodied in the returned units, provided that, in the event of any such deduction, that Label will also provide to CSI and the Trustee documentation satisfactory to each of them, setting out the particulars of the returns and confirming that no Reserve has been maintained (or that any Reserve taken has been liquidated and the resulting Royalties paid into the Settlement Trust) in relation to the applicable returns.

- 3.06 **Payment of Royalties for Future Sales.** Royalties paid by the Labels under this section 3 are to be accumulated in the Settlement Trust and paid out to Rightsholder(s) only when the accumulated Royalties exceed \$100,000 or at such earlier time as CSI and the Trustee may determine.

4. Termination of the Settlement Trust

- 4.01 **Termination of the Settlement Trust.** Where the aggregate royalties paid into the Settlement Trust do not exceed \$10,000 for two consecutive Payment Dates, and the total amount in the Settlement Trust is \$25,000 or less, the Settlement Trust shall be wound up and the balance of the Settlement Trust, and any future royalties paid by the Labels under this section 4, shall be paid into a charitable fund established for the general benefit of music industry professionals, including but not limited to songwriters and musicians.

5. Release

- 5.01 **Release.** As a condition of settlement, and subject to the provisions of this section 5, the court order approving this settlement (the "**Court Order**") will provide that

- (a) each of CMRRA, SODRAC, CSI, each Label, their respective subsidiary, parent and affiliate companies, and each of their respective directors, officers, employees, agents, successors and assigns are fully and finally released from any and all claims, demands or actions by class members (other than Opt-Outs) (each, a "**Claim**") in relation to the uses in respect of which the Label has accrued and reported Pending Royalties as set out in this Term Sheet, up to and including that Label's Settlement Cut-Off Date, and in relation to the Pending Royalties in question;
- (b) provided that each of them complies substantially with its obligations under subparagraph 1.05(b), each Label, their respective subsidiary, parent and affiliate companies, and each of their respective directors, officers, employees, agents, successors and assigns will be fully and finally released from any and all Claims in relation to the uses in respect of which the Label has accrued and reported Pending Royalties as set out in this Term Sheet, at any time between its Settlement Cut-Off Date and its Reporting Date, and in relation to the Pending Royalties in question, and each of CMRRA, SODRAC, CSI, their respective subsidiary, parent and affiliate companies, and each of their respective directors, officers, employees, agents, successors and assigns will in any event be fully and finally released from any and all such Claims; and
- (c) provided that each of them is substantial compliance at all times with the material provisions of this Term Sheet and each applicable Settlement Agreement,
 - (i) each of CMRRA, SODRAC, CSI, each Label, their respective subsidiary, parent and affiliate companies, and each of their respective directors, officers, employees, agents, successors and assigns will be fully and finally released from any and all Claims in relation to the uses in respect of which the Label has paid Pending Royalties after that Label's Reporting Date,

including any Future Sales of the Products arising out of such uses, and in relation to the Pending Royalties in question; and

- (ii) each of CMRRA, SODRAC, CSI, their respective subsidiary, parent and affiliate companies, and each of their respective directors, officers, employees, agents, successors and assigns will be fully and finally released in the Court Order from and against any and all Claims in relation to the distribution of Royalties pursuant to the Settlement Agreement.

5.02 **No Further Claims or Proceedings.** Each of the plaintiff, CMRRA and SODRAC further undertakes not to make any claim or take proceedings, in relation to the matters hereby released, against any other person or entity which might claim contribution or indemnity from any Label or, in the case of the plaintiff, against CMRRA, SODRAC or CSI.

5.03 **Qualifications.** For greater certainty,

- (a) the release in paragraph 5.01 will not apply in relation to any Musical Work as embodied in a particular Product for which Pending Royalties have not been reported under the Settlement Agreement or, as required, pursuant to this Term Sheet (including in relation to Future Sales of such Product);
- (b) the failure of any party to comply substantially with any material provision of this Term Sheet and/or any applicable Settlement Agreement will not affect the validity of this release as against those parties who remain in substantial compliance (or, in the case of an entity who is a party to more than one Settlement Agreement, the validity of this release as between that entity and the parties to any Settlement Agreement with which that entity remains in substantial compliance);
- (c) in the event that any party alleges that any other party is not in substantial compliance with the material provisions of this Term Sheet (including but not limited to any allegation that such other party is not in substantial compliance with the licensing procedures set out in any applicable MLA and/or the Canadian Licensing Practices) and/or any applicable Settlement Agreement, the party alleging the breach will give written notice to the party against whom the breach is alleged, which will then have 10 business days to cure the breach (or if the alleged breach cannot reasonably be cured within 10 business days, to take all commercially reasonable steps toward curing the alleged breach as soon as possible thereafter), failing which the issue of whether the breach has been cured shall be referred to summary binding resolution and, if the arbitrator determines that the breach has not been cured, the arbitrator will direct the breaching party to take specific actions to cure it;
- (d) the failure of any party to comply substantially with the licensing procedures set out in any applicable MLA or the Canadian Licensing Practices will not affect the validity of this release as against the breaching party, and the sole obligation of the breaching party and the sole remedy of the moving party will be to cure the breach in question, either to the satisfaction of the non-breaching parties or as directed by the arbitrator; and
- (e) the failure of any Label to comply substantially with its material obligations in relation to any particular Musical Work in accordance with subparagraphs 5.01(b) and (c) will not affect the validity of this release in relation to any other Musical Work (including, for greater certainty, any fractional share of the same Musical Work in relation to which the Label has complied substantially with its material obligations).

6. Future Mechanical Licensing

6.01 **Audio Products Released On or After January 1, 2013.** To avoid the accumulation of pending lists in the future, and to promote the timely payment of royalties to all Rightsholders, the parties agree to use all reasonable commercial efforts to develop and implement the following four-step licensing process in relation to Audio Products, to commence by no later than January 1, 2013 in relation to Products Released in Canada on or after that date:

(a) Step 1: Submission of Licence Requests

- (i) Each Label will upload complete and accurate information (to be determined mutually by CMRRA, SODRAC and the Labels, each acting reasonably, and set out in detail in the Revised MLAs (as defined below)) on each new Audio Product to an electronic mechanical licensing database (the “**Licensing Database**”) built by CSI in accordance with specifications agreed upon by CMRRA, SODRAC, the Labels and the plaintiff. Information will be delivered in the DDEX format (as it may exist and/or be modified by agreement of the parties from time to time) and will include at least
 - (A) the information that is currently required to be provided in respect of a new licence application pursuant to the current Mechanical Licensing Agreement between CMRRA and CRIA, which will be provided at least 30 days before the Release of any new Audio Product (or, where that information is not available 30 days before Release, as soon as the information becomes available and, in any event, within a commercially reasonable time, it being understood and agreed that, where some but not all of that information is available before Release, the Label will deliver any and all information that is so available before Release and will supplement it on an ongoing basis with information that becomes available after Release); and
 - (B) a digital copy of each track released, provided in accordance with each Label’s digital security protocol, to which digital audio fingerprinting technology may be applied to facilitate song identification, which will be provided within 14 days following the Release of any new Audio Product unless the Label does not have the right to post a particular track in digital format.

The parties further agree that the details of the information to be provided pursuant to this subparagraph 6.01(a)(i), and the timing of its provision, will be discussed and considered by the working group formed pursuant to paragraph 6.06.

- (ii) On request by CSI, the Label will supplement the data provided with two sample physical copies of the Audio Product (one for CMRRA and one for SODRAC), provided that the physical copy need not be supplied sooner than 14 days after its Release.
- (iii) In addition, the Labels, CMRRA and SODRAC will implement, as soon as reasonably practicable, those of the “Default Rules” and “Best Practices” set out in the Memorandum of Understanding dated as of November 10, 2009 between the Recording Industry of America, Inc. (RIAA), on the one hand, and the National Music Publishers’ Association, Inc. (NMPA) and The Harry

Fox Agency, Inc. (HFA), on the other hand (the "U.S. MOU") as are reasonably applicable to mechanical licensing in Canada, with such modifications as the parties agree are necessary in the circumstances, as well as any further processes and procedures as the parties agree would assist in reducing unlicensed reproduction and the accumulation of pending lists (the "**Canadian Licensing Practices**"). In the event that the Labels, CMRRA and SODRAC (or any of them) are unable to agree on any aspect of the Canadian Licensing Practices after reasonable negotiation among them in good faith, any outstanding dispute will be submitted to summary binding resolution.

- (iv) The Canadian Licensing Practices will be set out in amendments to the existing mechanical licensing agreements to be entered into by each Label with each of CMRRA and SODRAC (the "**Revised MLAs**"), which will differ from the mechanical licensing agreement currently in effect between CMRRA and each respective Label (the "**Existing MLAs**") only to the extent necessary to implement this section 6 and to address any matters arising as a necessary consequence of doing so. By way of example but not limitation, the parties agree that there will be no changes to any provision of the existing mechanical licensing agreements between them that relates to royalty rates, or to the term of those agreements, and that (i) in the case of CMRRA, controlled composition clauses will continue to be dealt with in accordance with section 7 of the Existing MLAs, without modification, and (b) in the case of SODRAC, nothing in this paragraph (iv) or otherwise is to derogate (1) from its position that controlled composition clauses do not apply to works in its repertoire, or (2) from the Label's position that controlled composition clauses do apply to works in SODRAC's repertoire.

(b) **Step 2: Song Matching and Initial Return**

- (i) Data from the Licensing Database will be transmitted to CMRRA and SODRAC, who will, within 180 days after receiving the data,
 - (A) issue mechanical licences electronically, in the DDEX format, for those Musical Works that are identified as being within their respective repertoires;
 - (B) conduct a reasonable amount of internal research for the purpose of identifying Musical Works that are not matched immediately, and issue mechanical licences electronically for additional Musical Works that are identified as being within their respective repertoires; and
 - (C) confirm to each Label, on an ongoing basis, any Musical Works that are identified as not being within their respective repertoires.
- (ii) During the same 180-day period, the Label will continue their efforts to obtain Direct Licences from any Rightsholder in relation to songs or shares that have been positively identified as not being within the repertoire of CMRRA or SODRAC for the necessary use(s) ("**Non-CSI Repertoire**").
- (iii) Each of CMRRA, SODRAC and the Label will update the Licensing Database on a regular basis to reflect which Musical Works have been licensed and which remain to be licensed.

(c) **Step 3: Public Licensing Period**

At the conclusion of the procedure set out in subparagraph 6.01(a), the following procedures will apply:

- (i) Other than in the case of a dispute, the owner of any Musical Work not yet identified will be deemed “unlocated” and, on the next date for the payment of Royalties to CMRRA and SODRAC pursuant to the applicable MLA, each applicable Label will pay an amount equal to the cumulative Royalties due and owing in relation to that Musical Work, at the then-current MLA rate (which, if the MLA rate differs as between CMRRA and SODRAC, will be deemed to be the weighted average of the two rates, determined on the basis of estimates provided by CMRRA and SODRAC, acting reasonably, as to their respective shares of the Canadian market for mechanical licensing) – subject to the terms of any controlled composition clause, if and to the extent applicable and as limited by the terms of the applicable MLA – less any applicable Reserves and/or returns, into an interest-bearing trust account established for the benefit of unlocated Rightsholders (the “**Licensing Trust**”). So long as the Rightsholder remains unlocated, each applicable Label will continue to pay Royalties in relation to that Musical Work into the Licensing Trust on a quarterly basis, at the then-current MLA rate (as defined above), at the same time as Royalties are due to be paid to CMRRA and SODRAC pursuant to the MLA, and any interest generated on those Royalties will accrue to the benefit of the Rightsholder. For greater certainty, the Label will not pay Royalties into the Licensing Trust in relation to Non-CSI Repertoire, or where a Direct Licence has been sought by the Label and declined by the applicable Rightsholder other than by reason of the Rightsholder’s being represented by CMRRA or SODRAC.
- (ii) Information regarding Musical Works that remain unidentified, including, where the necessary rights are available to the Label, a digital excerpt of the Sound Recording itself, will be published on a publicly-available licensing website (the “**Licensing Website**”) built and maintained by CSI in accordance with specifications agreed upon by CMRRA, SODRAC, the Labels and the plaintiff. The Licensing Website will include a facility for the online submission of ownership claims, subject to proper documentation of ownership (including prior claims by other Rightsholders). As each Rightsholder in a Musical Work is identified and its claims verified, either through the Licensing Website or as a result of further research by CSI (which will continue during this period) or further information obtained by a Label, CSI or the Label, as applicable, will
 - (A) update the Licensing Database as each Rightsholder is identified (whether or not each Musical Work claimed by that Rightsholder is within the repertoire of CMRRA or SODRAC);
 - (B) in the case of CSI, facilitate the electronic issuance by CMRRA or SODRAC, as the case may be, of a mechanical licence for each Musical Work that is identified as being in the applicable collective’s repertoire, or which is added to either repertoire during this period, and update the Licensing Database as each such licence is issued;
 - (C) in the case of a Label, update the Licensing Database to reflect any and all Direct Licences obtained;

- (D) no later than the second Payment Date following the completion of steps (A) through (C) (or, in the case of any payment required to be made directly by a Label pursuant to a Direct Licence, within no more than 90 days following the completion of steps (A) through (C)),
 - (1) pay to the Rightsholder any Royalties due and owing to that Rightsholder (provided that CSI shall not be required to pay any amount greater than the Royalties then held in the Licensing Trust on behalf of the Rightsholder in relation to the Musical Work) for the reproduction in Audio Products of the Musical Works identified as belonging to that Rightsholder; and
 - (2) if the Label has paid Royalties into the Licensing Trust at a higher rate than is ultimately determined to be required pursuant to the applicable MLA or Direct Licence, refund to the Label any excess Royalties so paid;
- (E) update the Licensing Database, within 30 days after the date on which royalties are first paid to any Rightsholder pursuant to this subparagraph 6.01(c)(i), to reflect the amount of Royalties paid to each such Rightsholder in relation to each Musical Work that the Rightsholder claims; and
- (F) remove the Musical Work from the Licensing Website as soon as reasonably practicable after all Rightsholders in the Musical Work have been identified and their claims verified.

Thereafter, the Label will pay any Royalties owed in relation to future sales of Products embodying each such Musical Work either to CMRRA, SODRAC, the Rightsholder or its authorized representative, as the Rightsholder may direct.

(d) **Step 4: Unlocatable Rightsholders**

- (i) If any Musical Work remains unlicensed 90 days after it has been posted on the Licensing Website in accordance with subparagraph 6.01(c)(i) (other than works whose ownership is in dispute, as above), the Rightsholder(s) in that work will be deemed "unlocatable" for the purposes of this system. CSI will then apply, on behalf of the Label, for a licence from the Copyright Board of Canada under section 77 of the *Copyright Act*. Royalties paid pursuant to any licence issued by the Board will be paid into the Licensing Trust (or a separate interest-bearing trust established by CSI expressly for this purpose) or otherwise as directed by the Board, and any interest accrued on those royalties will likewise be dealt with as directed by the Board. CSI will notify the Label of the issuance of the licence, update the Licensing Database accordingly, and maintain a separate public website on which the details of such licences would be made public in a further effort to locate the Rightsholder(s).
- (ii) In the event that a licence issued pursuant subparagraph to 6.01(d)(i) has retroactive effect and requires the payment of Royalties into the Licensing Trust (or other trust established by CSI pursuant to subparagraph 6.01(d)(i)) at a lower rate than the rate at which the applicable Label has previously paid Royalties into the Licensing Trust pursuant to subparagraph 6.01(c)(ii), then, unless directed otherwise by the Copyright Board, CSI will refund to

the Label any excess Royalties so paid on the second Payment Date following the issuance of the licence.

- (iii) If a Rightsholder is located after a licence is issued pursuant to subparagraph 6.01(d)(i), CSI will update the Licensing Database accordingly, deal with any accrued Royalties in accordance with the *Copyright Act*, and either issue a mechanical licence to the Label (if the Rightsholder is or chooses to become represented by CMRRA or SODRAC) or provide the information necessary for the Label to seek a Direct Licence from the Rightsholder, in which case the Label will continue to update the Licensing Database as required by subparagraph 6.01(c) in relation to other songs or shares licensed directly by the Label.

6.02 **Changes in Status.** In the event that CSI determines that a particular Musical Work is no longer in the repertoire of CMRRA or SODRAC, CSI will update the Licensing Database and electronically notify each Label to which the applicable collective has previously issued a mechanical licence in relation to that Musical Work and, if possible and to the best of its knowledge, indicate to whom future Royalties are to be paid.

6.03 **Disputes.** Where a particular Musical Work cannot be licensed as a result of an ownership dispute, the various claimants will be invited to submit their dispute to one of an approved roster of mediators or arbitrators for resolution. The resolution will be applicable only to the mechanical royalties in dispute in Canada and specifically non-precedential to other royalty disputes in Canada or other territories. Unless and until the dispute is resolved, the accruing royalties will continue to be paid into the Licensing Trust, and the Musical Work will be noted in the Licensing Database as subject to a dispute. CMRRA and SODRAC will work together to develop policies and procedures for the handling of disputes of this nature.

6.04 **Indemnity.**

- (a) CSI, CMRRA and SODRAC will jointly and severally indemnify, save and hold each of the Labels, their parent, subsidiaries, affiliates, successors and assigns, and any of their respective officers, directors, employees, representatives and agents, or each of them, harmless from and against any and all damages, liabilities, costs, losses and expenses (including reasonable legal costs and attorneys' fees) arising out of or in connection with any claim, demand or action related to the unauthorized use of any Musical Work, other than Non-CSI Repertoire, in a Sound Recording newly Released in Canada on or after January 1, 2013 and distributed in physical format, excluding any claim, demand or action for breach of the terms of a Direct Licence by a Label or for the unauthorized use of the Musical Work in question before or after the term of the Direct Licence (collectively, "**Losses**"), provided that the Label claiming indemnity has complied substantially with its material obligations under the applicable MLA and this section 6 in relation to any Sound Recording in relation to which this indemnity is claimed, and provided further that the Label has reported the particulars of both the claim, demand or action and the Losses to CSI in a timely fashion, having regard to the information reasonably available to the Label using its best commercial efforts. In such case, CSI, CMRRA and SODRAC will be liable jointly and severally to reimburse the applicable Label, on demand, for any payment reasonably made at any time with respect to the Losses to which this indemnity applies. Notwithstanding the foregoing,
 - (i) in the case of any claim, demand or action arising out of or in connection with circumstances in which the claimant has expressly declined to grant a Direct Licence to the Label, other than by reason of the claimant's being represented by CMRRA or SODRAC, the obligation of CSI, CMRRA and

SODRAC to indemnify the Label will be limited to claims, demands or actions arising up to seven (7) days after the claimant declined to grant the Direct Licence; and

- (ii) in the event that any claim, demand or action for breach of the terms of a Direct Licence by a Label, or for the unauthorized use of the Musical Work in question before or after the term of the Direct Licence, is finally resolved in favour of the claimant, CSI will refund to the Label any and all amounts paid by the Label into the Licensing Trust in relation to that claimant's interest in the Musical Work(s) embodied in the Sound Recording(s) and not already paid by CSI to the claimant, plus any interest accrued on those amounts since their payment by the Label into the Licensing Trust.

For greater certainty, a Sound Recording will be considered "newly Released" for the purposes of this subparagraph 6.01(a) to the extent that it is included on an Audio Product newly Released in Canada on or after January 1, 2013, regardless of whether that Sound Recording has been previously Released on a different Audio Product, but the indemnity will apply only to the newly-Released Audio Product and not to any other Audio Product (whether or not Released prior to January 1, 2013) on which the Sound Recording was included.

- (b) Pending the determination of any claim, demand or action to which this indemnity applies, the applicable Label may, at its election, withhold payment of any monies otherwise payable to CSI, CMRRA or SODRAC in relation to the specific Sound Recording(s) to which the claim, demand or action relates, provided that (i) the Copyright Board has not issued a licence in relation to the Sound Recording(s) pursuant to paragraph 6.01(d), which licence has not been terminated by the Rightsholder or the Copyright Board; and (ii) the amount withheld does not exceed the potential liability of CSI, CMRRA, SODRAC or the Label in relation to the Sound Recording(s) pursuant to the claim, demand or action and this paragraph 6.04.
- (c) In the event that CSI, CMRRA and/or SODRAC alleges that any Label has not complied substantially with its material obligations under the applicable MLA and/or this section 6 in relation to one or more particular Sound Recording(s), the party alleging the breach will give written notice to the Label, which will then have 10 business days to cure the breach (or, if the alleged breach cannot reasonably be cured within 10 business days, to take all commercially reasonable steps toward curing the alleged breach as soon as possible thereafter). If the breach is not cured within that period of 10 business days (or, if the alleged breach cannot reasonably be cured within 10 business days, the Label has not taken all commercially reasonable steps toward curing the alleged breach as soon as possible thereafter), any party to the dispute may submit for summary binding resolution the question of whether the Label is in substantial compliance with the obligations at issue, failing which the indemnity in subparagraph 6.04(a) will be deemed no longer to apply to that Label in relation to the Sound Recording(s) at issue, and in the event that any claim, demand or action in relation to those Sound Recording(s) is finally resolved in favour of the claimant, CSI will refund to the Label any and all amounts paid by the Label into the Licensing Trust in relation to that claimant's interest in the Musical Work(s) embodied in the Sound Recording(s) and not already paid by CSI to the claimant, plus any interest accrued on those amounts since their payment by the Label into the Licensing Trust. For greater certainty,
 - (i) the failure of any Label to comply substantially with its material obligations in relation to any particular Musical Work will not affect the validity of this

indemnity in relation to any other Musical Work (including, for greater certainty, any fractional share of the same Musical Work in relation to which the Label has complied substantially with its material obligations);

- (ii) the failure of any Label to comply substantially with its material obligations under the applicable MLA and this section 6 in relation to any Sound Recording in which this indemnity is claimed will not affect the availability of this indemnity to those Labels who remain in compliance; and
 - (iii) the obligation to provide any and all required information in relation to the particular Sound Recording, subject to para. 6.01(a)(i), and the failure of the Labels to continue their efforts to obtain Direct Licences where applicable, will be deemed in all cases to be "material."
- (d) In the event of any claim, demand or action in respect of which a Label intends to claim indemnity pursuant to this paragraph 6.01, that Label will report the particulars of both the claim, demand or action and the Losses to CSI in a timely fashion, having regard to the information reasonably available to the Label using its best commercial efforts, and will use reasonable commercial efforts to consult CSI in relation to, and to permit CSI to participate in, the resolution of the claim, demand or action.

6.05 **Implementation.** Each of the Labels, CMRRA and SODRAC agrees to take immediate steps, working collaboratively and, to the extent appropriate, with the other Labels, to develop the necessary systems and capacity to implement the licensing standards set out in this section 6 and ultimately embodied in the Revised MLAs. The parties will further collaborate to develop and agree upon a schedule for the completion of agreed milestones for the development and implementation of the systems and capacity necessary to implement these standards. Each of the parties expressly acknowledges and agrees that it will be responsible for 100% of all costs associated with its own implementation of these standards and further agrees that, subject to reasonable compliance by all other parties with their respective obligations under this section 6, its implementation will be complete by no later than December 31, 2012.

6.06 **Working Group.** The Labels, CMRRA and SODRAC agree to take immediate steps to form an industry-wide working group, including representatives of each of them and any other members whose participation appears to all of them to be useful and desirable, to meet at least quarterly to develop the Canadian Licensing Practices and to address other matters related to the improvement of music licensing practices in Canada. The first meeting of the working group will take place on or before February 1, 2011, on a date and at a place mutually agreed by each of the Labels, CMRRA and SODRAC, and will include up to two representatives designated by each of the Labels, CMRRA and SODRAC. At the first meeting, in addition to any other matters that the participants may agree to address, the participants, acting in good faith, will negotiate and determine the specific composition, mandate and manner of operation of the working group going forward.

7. Other Matters

7.01 **Payment of Costs to Plaintiff's Counsel.** On the date its Settlement Amount is paid into the Settlement Trust pursuant to paragraph 1.05(a), each Label will pay directly to the plaintiff's counsel the amount of costs agreed by each Label pursuant to its Settlement Agreement. The parties further acknowledge and consent to payment of the plaintiff's class action counsel of additional amounts out of the Settlement Trust, on account of fees, disbursements and taxes, in an amount to be determined by application to the court pursuant to the *Class Proceedings Act*.

- 7.02 **Payment of Notice Expenses.** Notice costs to a maximum of \$150,000 will be paid out of the Settlement Trust, subject to approval of the court in relation to the plan of notice.
- 7.03 **CSI Commission.** On or before December 31, 2015, CSI will submit a report to the court with respect to its administration of the Settlement Trust, including a summary of all costs incurred in relation to the costs of administration of the Settlement Trust and the costs of the design, acquisition, construction, implementation and maintenance of the necessary systems and resources to give effect to the new licensing process contemplated by section 6, other than the costs of the implementation of that process by each Label. If the costs incurred by CSI comprise less than 90% of the total commission paid to CSI, CSI will distribute the difference in the same manner as remaining funds are distributed pursuant to para. 2.02(b) of this Term Sheet.
- 7.04 **Summary Binding Resolution.** Where this Term Sheet indicates that any dispute is to be submitted to "summary binding resolution," that matter is to be resolved by The Hon. Mr. Justice Colin L. Campbell of the Ontario Superior Court of Justice or, in the event that Mr. Justice Campbell is unavailable to resolve the dispute within 10 business days after it is submitted for resolution, by such other neutral third-party arbitrator as the parties to the dispute may agree or as Mr. Justice Campbell may designate after receiving recommendations from those parties.
- 7.05 **EMI Video Royalties.** Notwithstanding anything to the contrary contained in this Term Sheet, in the event that EMI is not required to pay the Video Settlement Amount into the Settlement Trust in accordance with its Settlement Agreement, the provisions of this Term Sheet applicable to Video Products, Video Royalties, Agreed Video Royalties and Pending Video Royalties will not apply in relation to EMI. However, if EMI is required to pay the Video Settlement Amount into the Settlement Trust, the provisions of this Term Sheet applicable to Video Products, Video Royalties, Agreed Video Royalties and Pending Video Royalties will apply mutatis mutandis, and with such adjustments as may be reasonably required in relation to reporting, payment and distribution dates, to EMI's Video Products, Video Royalties, Agreed Video Royalties and Pending Video Royalties.
- 7.06 **Paramountcy.**
- (a) This Term Sheet supersedes and replaces the previous version of the Term Sheet executed by the Estate of Chesney Henry "Chet" Baker Junior and Chet Baker Enterprises, LLC (collectively, the "**Former Plaintiffs**"), CMRRA, SODRAC, EMI, Sony and Warner as of October 25, 2010, and the subsequent version of the Term Sheet executed by the Former Plaintiffs, CMRRA, SODRAC, EMI, Sony, Universal and Warner as of January 31, 2011, both of which are confirmed by the parties to be of no further force and effect.
 - (b) This Term Sheet is to be read together, and interpreted harmoniously, with each Label's Settlement Agreement. To the extent of any apparent inconsistency between this Term Sheet and any Settlement Agreement that cannot reasonably be given a harmonious interpretation, the applicable Settlement Agreement will govern in relation only to the rights and obligations of the parties to it; however, any such inconsistency will not affect the applicability of this Term Sheet to the rights and obligations of the other parties. Notwithstanding the foregoing, in the event of any inconsistency between para. 1.05 of this Term Sheet and any provision of any Settlement Agreement, para. 1.05 of this Term Sheet will govern.

7.07 Communications.

- (a) The parties will agree with each other on all communications concerning settlement to be made by any of them, with the goal of stakeholders receiving accurate and complete information about the features of settlement.
- (b) The parties will consult and agree on either joint press releases or separate press releases to be issued, first, following execution of each Settlement Agreement and, subsequently, following approval of the settlement by the Court.
- (c) The parties will collaborate on and agree to a Frequently Asked Questions document (the "**FAQ**"). All public statements respecting the settlement will be consistent with the FAQ.
- (d) Nothing in this Term Sheet will limit the communications between plaintiff's counsel or any Label and individual class members or persons who opt out, or between CMRRA, SODRAC and their respective members.
- (e) Notwithstanding anything to the contrary in any Settlement Agreement, any irreconcilable dispute respecting the content of any communications will be submitted for summary binding resolution in accordance with paragraph 7.04.

7.08 Additional Parties. In the event that any other party to the Proceeding (the "**Other Party**") offers or is offered a settlement agreement with the plaintiff, none of CMRRA, SODRAC and the plaintiff will agree to vary materially the terms of this Term Sheet as applicable to the Other Party (the "**Variations**") or otherwise enter into an agreement with the Other Party which agreement addresses subject matter similar to that contained in this Term Sheet (the "**Other Agreement**") if the Variations or the Other Agreement, as applicable, would either be:

- (a) less favourable to class members than the terms of this Term Sheet as agreed by the Labels; or
- (b) more favourable to the Other Party than the terms of this Term Sheet are to the Labels.

CMRRA, SODRAC and the Plaintiff will provide each of the Labels with a copy of any draft Variations or the Other Agreement, as applicable, at least five (5) business days prior to intended execution. In case of disagreement as to whether the draft Variations or Other Agreement, as applicable, conform to the requirements of this paragraph 7.08, the matter will be submitted to summary binding resolution.

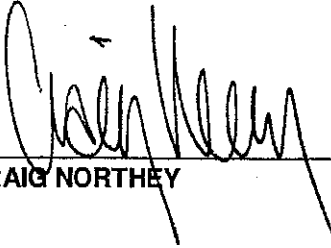
Accepted and agreed by the parties as of May , 2011.

In the presence of:

Witness

Name: _____

Address: _____



CRAIG NORTHEY

EMI GROUP CANADA INC.

By: _____

Name:

Title:

**SONY MUSIC ENTERTAINMENT
CANADA INC.**

By: _____

Name:

Title:

UNIVERSAL MUSIC CANADA INC.

By: _____

Name:

Title:

WARNER MUSIC CANADA CO.

By: _____

Name:

Title:

Accepted and agreed by the parties as of May 26, 2011.

In the presence of:

Witness

Name: _____

Address: _____

CRAIG NORTHEY

EMI GROUP CANADA INC.

By: _____

Name: *Dwayne Cameron*

Title: *President*

**SONY MUSIC ENTERTAINMENT
CANADA INC.**

By: _____

Name: _____

Title: _____

UNIVERSAL MUSIC CANADA INC.

By: _____

Name: _____

Title: _____

WARNER MUSIC CANADA CO.

By: _____

Name: _____

Title: _____

Accepted and agreed by the parties as of May 9, 2011.

In the presence of:

Witness

Name: _____

Address: _____

CRAIG NORTHEY

EMI GROUP CANADA INC.

By: _____

Name:

Title:

**SONY MUSIC ENTERTAINMENT
CANADA INC.**

By:  _____

Name:

Title:

UNIVERSAL MUSIC CANADA INC.

By: _____

Name:

Title:

WARNER MUSIC CANADA CO.

By: _____

Name:

Title:

Accepted and agreed by the parties as of May 26, 2011.

In the presence of:

Witness

Name: _____

Address: _____

CRAIG NORTHEY

EMI GROUP CANADA INC.

By: _____

Name:

Title:

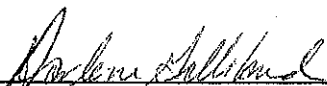
**SONY MUSIC ENTERTAINMENT
CANADA INC.**

By: _____

Name:

Title:

UNIVERSAL MUSIC CANADA INC.

By: 

Name: DARLENE GILLILAND

Title: VP, BUS DEV + CORPORATE AFFAIRS

Accepted and agreed by the parties as of May ●, 2011.

In the presence of:

Witness
Name: _____
Address: _____

CRAIG NORTHEY

EMI GROUP CANADA INC.

By: _____
Name: _____
Title: _____

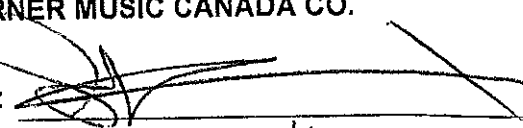
**SONY MUSIC ENTERTAINMENT
CANADA INC.**

By: _____
Name: _____
Title: _____

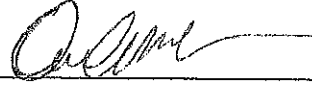
UNIVERSAL MUSIC CANADA INC.

By: _____
Name: _____
Title: _____

WARNER MUSIC CANADA CO.

By:  _____
Name: Steven Kane
Title: President.

**CANADIAN MUSICAL REPRODUCTION
RIGHTS AGENCY LTD.**

By: 
Name: DAVID A. BASSELIN
Title: PRESIDENT AND CEO

**SOCIETY FOR REPRODUCTION RIGHTS
OF AUTHORS, COMPOSERS AND
PUBLISHERS (SODRAC) INC.**

By: _____
Name:
Title:

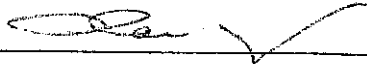
SODRAC 2003 INC.

By: _____
Name:
Title:

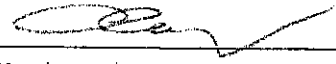
**CANADIAN MUSICAL REPRODUCTION
RIGHTS AGENCY LTD.**

By: _____
Name: _____
Title: _____

**SOCIETY FOR REPRODUCTION RIGHTS
OF AUTHORS, COMPOSERS AND
PUBLISHERS (SODRAC) INC.**

By:  _____
Name: ALAIN LAUZON
Title: General Manager

SODRAC 2003 INC.

By:  _____
Name: ALAIN LAUZON
Title: General Manager

SCHEDULE "A"

DEFINITIONS

For the purposes of the Term Sheet, in addition to any terms specifically defined in the text of the agreement, the following definitions apply:

- **"Adjustment Period,"** in relation to each Label, means the period beginning on the first day after its Settlement Cut-Off Date and ending on the last day before its First Report is provided to the plaintiff and CSI pursuant to paragraph 1.04;
- **"Aggregate Rightsholder Payments"** has the meaning given to it in subparagraph 1.04(g)
- **"Agreed Audio Royalties"** and **"Agreed Video Royalties"** mean, in relation to each Label, the Audio Royalties and Video Royalties, respectively, that the applicable Label has agreed to pay pursuant to its Settlement Agreement;
- **"Attestation,"** in relation to each Label, has the meaning given to it, if applicable, in that Label's Settlement Agreement;
- **"Audio Products"** means audio-only products, released or distributed in physical formats (e.g., CDs, LPs, cassettes, etc.), that contain Musical Works embodied in Sound Recordings; for EMI, Sony and Universal, Audio Products may also include so-called "CD/DVD Combos";
- **"Audio Royalties"** means amounts payable for the reproduction of Musical Works in Audio Products;
- **"Canadian Licensing Practices"** has the meaning given to it in subparagraph 6.01(a)(iii);
- **"Claim"** has the meaning given to it in paragraph 5.01;
- **"Claims Dispute"** has the meaning given to it in subparagraph 2.02(c)(iv);
- **"Claims Website"** has the meaning given to it in subparagraph 2.01(c)(ii);
- **"Court Order"** has the meaning given to it in subparagraph 5.01(a);
- **"CSI"** has the meaning given to it in paragraph 1.03;
- **"Direct Licence"** has the meaning given to it in subparagraph 2.03(a);
- **"Due Diligence Meeting,"** in relation to any Label, means the meeting required by its Settlement Agreement in order to assist the plaintiff, CMRRA and SODRAC in understanding the calculation and recording of its Audio Royalties and Video Royalties and other related matters as specified in that particular Settlement Agreement;
- **"EMI"** means EMI Group Canada Inc.;
- **"EMI Adjustment Percentage"** has the meaning given to it in subparagraph 1.08(a);
- **"Existing Dispute"** means a known dispute among Rightsholders in relation to the ownership of a Musical Work, which has caused any Label to withhold payment of Royalties in relation to a Product embodying that Musical Work pending resolution of the dispute;
- **"Existing MLAs"** has the meaning given to it in subparagraph 6.01(a)(iv);
- **"FAQ"** has the meaning given to it in subparagraph 7.07(c);

- **“First Report”** has the meaning given to it in paragraph 1.04;
- **“Future Sales”** has the meaning given to it in paragraph 3.01;
- **“Group I Market Share”** has the meaning given to it in paragraph 1.12;
- **“Group I Product”** has the meaning given to it in subparagraph 1.04(b);
- **“Group II Market Share”** has the meaning given to it in paragraph 1.14;
- **“Group II Product”** has the meaning given to it in subparagraph 1.04(b);
- **“Group III Market Share”** has the meaning given to it in paragraph 1.17;
- **“Group III Product”** has the meaning given to it in paragraph 1.15;
- **“High-Value Group I Items”** has the meaning given to it in subparagraph 2.02(c);
- **“Individual Rightsholder Payments”** has the meaning given to it in subparagraph 1.04(f);
- **“Label”** means any one of the settling record labels, namely EMI, Sony, Universal and Warner, and **“Labels”** means all four of them collectively;
- **“Licensing Database”** has the meaning given to it in subparagraph 6.01(a)(i);
- **“Licensing Trust”** has the meaning given to it in subparagraph 6.01(c)(i);
- **“Licensing Website”** has the meaning given to it in subparagraph 6.01(c)(ii);
- **“Line Item Opt-Out Refund”** has the meaning given to it in subparagraph 1.11(c)(i);
- **“Losses”** has the meaning given to it in subparagraph (a);
- **“Low-Value Group I Items”** has the meaning given to it in subparagraph 2.02(b);
- **“Low-Value Group I Research Period”** has the meaning given to it in subparagraph 2.02(b)(ii);
- **“Medium-Value Group I Items”** has the meaning given to it in subparagraph 2.02(c);
- **“MLA”** means, as the context requires or as specified, the Mechanical Licensing Agreement between a particular Label and either CMRRA or SODRAC, as applicable, including in each case the relevant provisions of the Mechanical Licensing Agreement between the Canadian Recording Industry Association (CRIA) and either CMRRA or SODRAC, as applicable;
- **“Musical Work”** has the meaning given to it in the *Copyright Act*, R.S.C. 1985, c. C-42, and a reference to any Musical Work includes any fractional share of the copyright in that work;
- **“Non-CSI Repertoire”** has the meaning given to it in subparagraph 6.01(b)(ii);
- **“Opt-Out”** has the meaning given to it in subparagraph 1.11(b);
- **“Opt-Out Period”** has the meaning given to it in subparagraph 1.11(b);
- **“Other Agreement”** has the meaning given to it in paragraph 7.08;
- **“Other Party”** has the meaning given to it in paragraph 7.08;
- **“Payment Dates”** mean, in any year, March 15, June 15, September 15 and December 15, being the dates on which payments to Rightsholders are to be made by the Trustee or CSI, as

the case may be, and any reference to a particular "Payment Date" refers to such of those dates as the context requires;

- **"Pending Royalties"** means, in relation to each Label, the total amounts recorded by that label in its royalty system, representing royalties potentially due and unpaid for Musical Works embodied in Audio Products or Video Products released or distributed at any time in Canada, for which no reproduction licence has been obtained, or for which the required royalties have not been paid, irrespective of whether those amounts have previously been reported to CMRRA and/or SODRAC or included on a so-called "pending list" (including, for example, Products that have appeared on a so-called "suspense list," "unmatched list" or "address unknown list"), including any amounts withheld by that Label as a result of Existing Disputes, and **"Pending Audio Royalties"** and **"Pending Video Royalties"** mean Pending Royalties recorded specifically in relation to Audio Products and Video Products, respectively;
- **"Proceeding"** means the lawsuit commenced by the plaintiff, court file no. CV 0800360651 00CP;
- **"Product"** means Audio Products and Video Products, collectively;
- **"Release"** means, in relation to an Audio Product or a Video Product, the act of releasing or distributing that Product, for commercial sale in Canada;
- **"Reporting Date"** means, in relation to EMI, March 31, 2010, and in relation to each of Sony, Universal and Warner, the last day of the calendar quarter immediately preceding its respective Settlement Date;
- **"Reporting Date Pending Lists"** has the meaning given to it in subparagraph 2.02(b)(i);
- **"Reserves"** means the reserve taken by any Label, in accordance with the applicable provisions of the applicable MLA (or, in relation to Musical Works not within the repertoire of CMRRA or SODRAC, in accordance with that Label's usual accounting practices), against the return of Products sold or otherwise distributed by that Label;
- **"Revised MLAs"** has the meaning given to it in subparagraph 6.01(a)(iv);
- **"Rightsholder"** means a holder of reproduction rights in and to a Musical Work, including but not limited to songwriters and music publishers, and **"Rights"** means the reproduction rights held by the Rightsholder in that Musical Work;
- **"Rightsholder Holdback"** has the meaning given to it in subparagraph 2.01(b)(i);
- **"Royalties"** means, as the context requires, either or both of Audio Royalties and Video Royalties;
- **"Royalty Verification,"** in relation to any Label, has the meaning given to it, if applicable, in that Label's Settlement Agreement;
- **"Sales Threshold"** has the meaning given to it in paragraph 2.02(c)(iii);
- **"Second Report"** has the meaning given to it in paragraph 1.13;
- **"Settlement Agreement"** means, in relation to each Label, the settlement term sheet executed by that Label with the plaintiff, CMRRA and SODRAC;
- **"Settlement Amount"** means, in relation to each Label, the settlement amount specified in that Label's Settlement Agreement;

- **“Settlement Cut-Off Date”** means, in relation to Warner, December 31, 2009, and in relation to EMI, Sony and Universal, March 31, 2010;
- **“Settlement Date”** means, in relation to each Label, the date on which the court approves the final Settlement Agreement between the plaintiff, CMRRA, SODRAC and that Label;
- **“Settlement Trust”** has the meaning given to it in subparagraph 1.05(a);
- **“Settling Rightsholders”** has the meaning given to it in paragraph 2.02;
- **“SODRAC”** means and includes both Society of Reproduction Rights of Authors, Composers and Publishers (SODRAC) Inc. and SODRAC 2003 Inc., a corporation that took over the assets and activities of SODRAC as of April 1, 2004 and to which SODRAC has since then gradually assigned rights that were previously assigned by copyright owners to SODRAC;
- **“Sony”** means Sony Music Canada Inc. (formerly Sony BMG Music (Canada) Inc.);
- **“Sound Recording”** means a recording embodying a Musical Work and, in the case of an Audio Product, refers to an individual track of recorded music, whether it embodies one or more than one Musical Work;
- **“Term Sheet”** means these Key Terms of Settlement;
- **“Third Report”** has the meaning given to it in paragraph 1.15;
- **“U.S. MOU”** has the meaning given to it in subparagraph 6.01(a)(iii);
- **“Universal”** means Universal Music Canada Inc.;
- **“Variations”** has the meaning given to it in paragraph 7.08;
- **“Video Products”** means audiovisual products, released or distributed in DVD or other physical formats, that feature primarily audiovisual representations of Musical Works embodied in Sound Recordings (including but not limited to music videos and live concert performances);
- **“Video Royalties”** means amounts payable for the reproduction and synchronization of Musical Works in Video Products; and
- **“Warner”** means Warner Music Canada Co.