

Exclusive Artist Recording Agreement with Independent Record Label

CONTRACT

(name of record label or production company)

(address of record label or production company)

Dated as of:

(name of artist)

(address of artist)

Dear *(name of artist)*:

This letter shall confirm the material terms of the exclusive production agreement ("Agreement") between *(name of artist)* (hereinafter "ARTIST" or "you"), and *(name of label or production company)* (hereinafter "COMPANY" or "us") as follows:

1. ENGAGEMENT: COMPANY engages ARTIST as its exclusive recording artist and ARTIST agrees, during the Term (as defined below) of this Agreement, to perform exclusively for COMPANY throughout the world ("Territory") for the purpose of making Master Recordings (as defined below) intended for the manufacture and sale of records.

2. TERM:

(a) The "Term" of this Agreement shall commence on the date of this Agreement as set forth above and shall continue, subject to the termination provisions contained in Clauses 15 and 16 below, for an "Initial Period" (defined below). The initial period shall end (*e.g., nine (9) months*) following the date of release of the last recording containing the "Minimum Recording Commitment" (defined below) for the initial Period. The Term shall be automatically extended at the end of the Initial Period for further "Option Period(s)" described below ending on the date that is (*e.g., nine (9) months*) following the date of release of the last record containing the Minimum Recording Commitment for that option period, unless COMPANY gives ARTIST notice before the end of the then-current period of the Term stating that it does not wish to extend the Term. ARTIST hereby grants to COMPANY the irrevocable right to extend the Term for (*e.g., two (2)*) such Option Period(s), each of which shall run consecutively and separately, and each of which shall begin at the expiration of the prior contract period, unless, upon notice to ARTIST, COMPANY chooses to commence any Option Period prior to the expiration of the previous contract period.

(b) Notwithstanding the foregoing, in the event COMPANY enters into a MAJOR LABEL AGREEMENT (as defined in Clause 8 below), the term of this Agreement shall be co-terminous with the term of such MAJOR LABEL AGREEMENT (and all renewals and extensions thereof). [OPTIONAL]

(c) If COMPANY does not enter into a MAJOR LABEL AGREEMENT [on terms acceptable to ARTIST] within (e.g., *twelve (12) months*) after the date of full execution of this Agreement (the "Shopping Period"), then the Term of this Agreement shall [automatically terminate][terminate (e.g., *thirty (30) days*) after ARTIST's notification to COMPANY of ARTIST's desire to terminate pursuant to this clause] [provided such notice is given within a (e.g., *thirty (30) day*) period of the expiration of such Shopping Period]. In the event that COMPANY presents ARTIST during the Shopping Period with a binding, mutually acceptable, written deal memo containing the essential points of a MAJOR LABEL AGREEMENT, COMPANY shall have a reasonable period not to exceed (e.g., *six (6) months*) to conclude such agreement [or to enter into an alternative MAJOR LABEL AGREEMENT which is acceptable to ARTIST.] [COMMENT](#)

3. DELIVERY OBLIGATION:

(a) During the Initial Period and each Option Period, if any, of the Term, ARTIST shall record and Deliver Master Recordings to COMPANY, technically and commercially satisfactory, in COMPANY's reasonable judgment, for the manufacture and sale of records. ARTIST shall record at least (e.g., *three (3)*) Master Recordings, or, at COMPANY'S option, (e.g., *one (1)*) full LP-record (or its equivalent) of not less than e.g., *forty-five (45) minutes* in length in the Initial Period, and in each of the Option Periods, if any, plus any additional masters or alternative versions of masters that COMPANY may reasonably require for inclusion on Singles and the like (collectively or individually referred to herein as "Album"). The foregoing recording(s) are sometimes referred to herein as the "Minimum Recording Commitment" with respect to the term period applicable thereto. The Minimum Recording Commitment for each period shall be Delivered (as defined hereinbelow) to COMPANY within (e.g., *three (3) months*) following the commencement of the applicable contract period, unless COMPANY, at its sole and absolute discretion, extends the period for Delivery as required or desired by COMPANY.

(b) Following commencement of each period of the Term, ARTIST and COMPANY shall mutually agree on the following [subject to COMPANY's final decision in case of an impasse]:

(i) the Musical Compositions to be recorded;

(ii) the dates and places of recording, mixing and mastering, it being agreed that COMPANY's recording facility shall be deemed mutually approved;

(iii) artwork, liner notes and Website displays.

(c) ARTIST hereby approves of, and engages, such producer as is selected by COMPANY, which may include (*insert name of pre-selected producer(s)*) and/or any other producer chosen by COMPANY, at COMPANY's sole and absolute discretion for the production of all masters recorded hereunder. ARTIST shall in no event agree to hire another producer without prior written approval of COMPANY, which may be granted or withheld at COMPANY's sole and absolute discretion.

(d) In the event that ARTIST or MAJOR LABEL/DISTRIBUTOR (as defined in Clause 8 below) shall hire a producer not selected by COMPANY for production of any masters pursuant to a MAJOR LABEL AGREEMENT, then COMPANY shall be entitled to an override royalty at the rate of (e.g., *two percent (2%)*) of the suggested retail list price (or foreign equivalent) with respect to the exploitation through normal retail channels of (e.g., *one hundred percent (100%)*) of net sales worldwide of the (e.g., *first and second*) Album released and

distributed by MAJOR LABEL/DISTRIBUTOR or any other licensee or sub-licensee.

(e) The Minimum Recording Commitment for each period of the Term will not be deemed "Delivered" to COMPANY until ARTIST has delivered and COMPANY has accepted:

(i) satisfactory Master Recordings in the form of a two-track stereo tape, fully edited, mixed, leadered, equalized and otherwise in the proper form for the production of parts necessary for the manufacture of records ("Masters" or "Master Recordings");

(ii) all label copy information (*e.g.*, the timing, title and publisher(s) of each composition and any other information that is to appear on labels and/or liners of records containing those Masters);

(iii) all mechanical licenses for each Musical Composition embodied in the Masters;

(iv) any artwork that COMPANY and ARTIST have agreed shall be prepared by ARTIST;

(v) all "sideman" agreements, producer agreements and any other required third party clearances;

(vi) all "sampling" clearance documents; and

(vii) all other documents reasonably required by COMPANY for it to enjoy the full benefit of rights granted hereunder throughout the "Territory" (as defined in Clause 4(b) below) in perpetuity.

4. OWNERSHIP RIGHTS:

(a) COMPANY shall be, and hereby is, the owner from inception of each Master Recording, outtake, multitrack tape and other product of recording sessions featuring ARTIST's performances hereunder conducted during the Term. For purposes of this Clause 4, ARTIST shall be deemed to be COMPANY's "employee-for-hire" and each Master Recording created hereunder shall be deemed to be a "work for hire" created by ARTIST for COMPANY. However, to the extent that ARTIST may be found to be the owner or author of any Master Recording, ARTIST hereby irrevocably assigns to COMPANY all of ARTIST's rights in such Master Recording, including the worldwide sound recording copyright. ARTIST hereby grants to COMPANY an irrevocable power of attorney to execute for ARTIST, in ARTIST's name, all documents necessary to make the assignment.

(b) Without limiting COMPANY's rights above, COMPANY shall have the exclusive right, throughout the universe (Territory) and in perpetuity, to:

(i) manufacture, distribute, promote, advertise, sell, lease, license or otherwise exploit commercially, promotionally or otherwise records containing the Masters in all media now known or hitherto devised;

(ii) use ARTIST's name, approved photograph, likeness and/or biography in connection with promotion, advertising and trade, including the exploitation of records, as news or information and in general goodwill advertising;

(iii) license any or all of COMPANY's rights under this Agreement to third parties, as COMPANY deems advisable in its reasonable judgment after consulting with ARTIST.

ARTIST acknowledges that COMPANY is not required to do any of the undertakings contemplated herein unless COMPANY in its sole discretion decides to do so.

5. RECORDING PROCEDURE:

(a) COMPANY shall pay for all costs of recording the Minimum Recording Commitment at recording facilities designated by COMPANY in each period of the Term up to the amount of a recording budget to be determined at COMPANY's sole and absolute discretion ("Recording Costs"). All Recording Costs shall be deemed advances [fully deductible "off the top"] [or] [fully recoupable from ARTIST's share of Net Profits] prior to distribution of royalties (or any other form of compensation) to either ARTIST or COMPANY pursuant to Clause 7 below. Recording Costs may include reasonable travel, rehearsal and equipment rental expenses; advances to producers; studio and engineering charges; tape costs; mastering, remastering and remixing; all union scale payments that may be required to be made to ARTIST or other performers on any Master recorded under this Agreement; all costs of instrumental, vocal or other performers; all amounts required to be paid pursuant to any law or any agreement with applicable unions in connection with any Master Recordings made under this Agreement; and any other costs or expenses customarily considered to be recording costs by the recording industry.

(b) In the event that COMPANY's recording facility is used in connection with any Album hereunder, for purposes of determining recoupment of Recording Costs, COMPANY's recording facility shall be billed out at (*e.g., fifty dollars (\$50)*) per hour, inclusive of engineering services provided by COMPANY's in-house engineering staff. Subject to COMPANY's consent, if ARTIST desires to utilize outside engineer(s) and/or producer(s), the amounts which COMPANY will allocate for such services shall be subject to COMPANY's prior approval, and shall be deemed fully recoupable by COMPANY from ARTIST's royalties.

(c) In the event the Recording Costs paid or incurred by COMPANY exceed the recording budget, COMPANY shall have the right to deduct an amount equal to such overages from any and all monies payable to ARTIST hereunder if any, or under any other agreement(s) between ARTIST and COMPANY or its licensee(s) or affiliate(s) [including but not limited to mechanical royalties.]

6. ADVANCES: COMPANY agrees to pay to ARTIST as an advance recoupable from all royalties hereunder the sum of (*e.g., ten thousand dollars (\$10,000)*) in respect of each Album hereunder. Said advance will be payable on acceptance of the applicable Album by COMPANY.

7. ROYALTIES:

(a) COMPANY will pay ARTIST a royalty equal to (*e.g., fifty percent (50%)*) of the net amount actually received by COMPANY through the sale of the records released by COMPANY embodying solely ARTIST's performances hereunder. For purposes of the foregoing sentence, the term "Net Amount Actually Received" shall mean the actual United States dollar amount received in the United States by COMPANY less all documented Recording, manufacturing, printing, distribution, promotion, advertising, tour support and any other agreed costs (collectively "Costs"), which COMPANY shall be entitled to recoup in their entirety ["off the top" from first dollars received] [or] [from ARTIST's share of the Net Amount Actually Received]. ARTIST shall be entitled to receive ARTIST's royalty prospectively from the first unit sold after COMPANY has recouped all such Costs. ARTIST hereby agrees that ARTIST's royalty as described in this Clause is in lieu of all other royalties or other income of any kind with respect to exploitation of the Masters hereunder

in any media now known or hereafter devised for the full economic benefit thereof, and ARTIST hereby explicitly waives all rights to any other record royalties with respect to sales of records hereunder.

(b) COMPANY agrees to consult with ARTIST with respect to promotion, tour support, advertising and other costs to be recouped by COMPANY; however, all final decisions in such matters shall be made by COMPANY. ARTIST acknowledges that COMPANY shall not be required to consult with ARTIST with respect to manufacturing, printing or distribution costs.

(c) COMPANY shall be entitled to maintain a single account with respect to Costs incurred and/or paid with respect to all records recorded under this Agreement.

8. MAJOR LABEL/DISTRIBUTOR:

(a) ARTIST understands and acknowledges that COMPANY may enter into an agreement with a so-called "Major Distributor" and/or "Major Label" ("MAJOR LABEL/DISTRIBUTOR"). For purposes of this Agreement, a "Major Label" is a company which is regularly distributed by a "Major Distributor," which includes BMG, CEMA, SONY, UMG, WEA, or such other distributor as the parties may agree in writing to include within the definition. Such an agreement with a MAJOR LABEL/DISTRIBUTOR (the "MAJOR AGREEMENT") may contain terms pursuant to which MAJOR LABEL/DISTRIBUTOR may elect to release and/or distribute records, including Albums featuring ARTISTS, jointly with COMPANY, or on an alternative basis agreeable to COMPANY. Regardless of any other provisions of such MAJOR LABEL AGREEMENT, MAJOR LABEL/DISTRIBUTOR may license or distribute records featuring ARTIST's performances in its discretion. If MAJOR LABEL/DISTRIBUTOR elects to release and/or distribute any Album featuring ARTIST, then the provisions of Clause 7 above (the royalty section) shall govern the distribution of royalties received by COMPANY from MAJOR LABEL/DISTRIBUTOR in the country in which MAJOR LABEL/DISTRIBUTOR distributes ARTIST's records; however, COMPANY's and ARTIST's royalty shall be computed and paid in accordance with the royalty computation provisions of the MAJOR LABEL AGREEMENT (*i.e.*, the actual royalty payable to ARTIST will be (*e.g.*, *fifty percent (50%)*) of COMPANY's royalty, computed in the same way that COMPANY's royalty is computed by MAJOR LABEL/DISTRIBUTOR, with reductions for free goods, foreign sales, club sales, etc., and subject to recoupment of both MAJOR LABEL/DISTRIBUTOR's and COMPANY's Costs]. COMPANY shall provide ARTIST, upon request, with a copy of any such effective royalty computation provisions in COMPANY's possession.

(b) This Agreement is subject to assignment to MAJOR LABEL/DISTRIBUTOR in accordance with the MAJOR LABEL AGREEMENT and MAJOR LABEL/ DISTRIBUTOR shall have the right to exercise, implement or enforce any rights granted to COMPANY in this Agreement on COMPANY's behalf. In the event of a default by COMPANY in performing any of COMPANY's obligations under this Agreement, ARTIST shall send duplicate notices of the default to MAJOR LABEL/DISTRIBUTOR at such address(es) as MAJOR LABEL/DISTRIBUTOR may specify, simultaneously with the giving of the notice to COMPANY and MAJOR LABEL/DISTRIBUTOR shall have the right to cure each default on COMPANY's behalf.

(c) All Master Recordings made under this Agreement may be distributed through COMPANY by MAJOR LABEL/DISTRIBUTOR or its affiliated entities, at COMPANY's discretion.

9. ACCOUNTING:

(a) COMPANY will compute ARTIST's royalties as of each *June 30th* and *December 31st* for

the prior *six (6) months* for each *six-month* period in which there are sales or returns of records or any other transactions on which royalties are payable to ARTIST. On the next *September 30th* or *March 31st* COMPANY will send ARTIST a statement covering those royalties and will pay ARTIST any royalties which are due after deducting unrecouped Advances or other sums which are recoupable hereunder. COMPANY will maintain royalty reserves against anticipated returns or credits pursuant to Subclause 9(e) below.

(b) COMPANY will pay ARTIST royalties only on those sales of records or licenses for which COMPANY actually receives payment. If COMPANY is unable to receive any payments in the United States in U.S. dollars, COMPANY will, at ARTIST's written request, deposit ARTIST's share thereof in a foreign depository of ARTIST's choosing at ARTIST's expense, and such deposit shall be deemed in full satisfaction of COMPANY's obligation to ARTIST with respect to such royalties.

(c) COMPANY will keep books and records which report sales of records and any other transactions on which royalties are payable to ARTIST. ARTIST may engage a certified public accountant to inspect those books and records during normal business hours at the place where such records are normally kept to check the accuracy of COMPANY's statements, but ARTIST may do so only once for any particular statement and only within (e.g., *one (1) year*) after the date when COMPANY is required to send ARTIST that statement. ARTIST must give COMPANY at least (e.g., *fifteen (15) days*) notice of ARTIST's wish to inspect the books and records. ARTIST may object to any statement by giving COMPANY specific written notice within (e.g., *two (2) years*) after the date when COMPANY is required to send ARTIST that statement, but if ARTIST does not do so within that year the statement will be final and ARTIST will no longer have any right to object. ARTIST will not have any right to sue COMPANY in connection with any statement or royalty accounting unless ARTIST commences suit within that (e.g., *two (2) year*) period. COMPANY, and not ARTIST, shall have the right to audit MAJOR LABEL/DISTRIBUTOR, and COMPANY may choose whether to do so at its sole discretion.

(d) ARTIST acknowledges that if MAJOR LABEL/DISTRIBUTOR elects to release and/or distribute records jointly with COMPANY, COMPANY may direct MAJOR LABEL/DISTRIBUTOR to pay ARTIST royalties directly, in which case the accounting provisions of the MAJOR LABEL AGREEMENT will supersede the accounting provisions of this Agreement. COMPANY will provide ARTIST, upon written request, with a copy of those provisions at any time after MAJOR LABEL/DISTRIBUTOR's election to release and/or distribute. If, however, MAJOR LABEL/DISTRIBUTOR makes the election but continues to pay all royalties to COMPANY, the time by which COMPANY must account to ARTIST above will be extended until the date (e.g., *thirty (30) days*) following receipt of MAJOR LABEL/DISTRIBUTOR's statement to COMPANY.

(e) COMPANY shall have the right to retain, as a reserve against charges, credits, or returns, a reasonable portion of payable royalties. Any particular reserve established by COMPANY hereunder shall not exceed an amount equal to (e.g., *twenty to thirty percent (20%-30%)*) of the royalties earned hereunder for such particular semi-annual period and shall be liquidated with respect to records sold by us hereunder as of the end of (e.g., *two (2)*) semi-annual accounting periods after the period in which such reserve was initially established. Notwithstanding the foregoing, in the event that COMPANY enters into a MAJOR LABEL AGREEMENT, ARTIST agrees to increase the time for liquidation of reserves to conform to the applicable provision of the MAJOR AGREEMENT; provided, however, COMPANY agrees to use best efforts to cause such MAJOR AGREEMENT to provide for liquidation of reserves no later than as of the end of the accounting period ending (e.g., *eighteen (18) months*) after the period in which such reserve was initially established.

[OPTIONAL]10. CO-PUBLISHING:

(a) As additional consideration to induce COMPANY to enter into this Agreement, ARTIST and his publishing designee (hereinafter collectively referred to as "the Publishing Designee") hereby irrevocably assign, convey and set over to COMPANY an undivided (*e.g., fifty percent (50%)*) interest in the worldwide copyright (and all renewals and extensions thereof) and all other rights in and to each composition written, in whole or in part or owed and/or controlled, directly or indirectly by ARTIST ("Artist Composition"). For purposes of this Clause, "COMPANY" shall be deemed to refer to COMPANY and/or its publishing designee.

(b) (i) COMPANY shall be the exclusive administrator of all rights in and to each such Artist Composition throughout the World for the term of copyright (and all renewals and extensions thereof), and COMPANY shall be entitled to exercise any and all rights with respect to the control and administration of the Artist Composition(s), including without limitation, the sole right to grant licenses, collect all income and to use the name, likeness and biographical material of each composer, lyricist and songwriter hereunder in connection with each applicable Artist Composition for the full term of copyright (including all renewals and extensions thereof) in and to each Artist Composition; and

(ii) Without limiting the generality of the foregoing, BMI or ASCAP ("the Society") shall be authorized and directed to pay the publisher's share of performance fees collected by the Society with respect to public performances of Artist Compositions in the United States and Canada directly to COMPANY.

(c) ARTIST represents and warrants that each Artist Composition is original and does not infringe upon or violate the rights of any other person and that ARTIST has the full and unencumbered right, power and authority to grant to COMPANY all of the rights herein granted to COMPANY. COMPANY shall have the benefit of all warranties and representations given by the writers of the Artist Compositions.

(d) From all royalties earned and received by COMPANY in the United States from the exploitation of the Artist Compositions(s) throughout the World (the "Gross Receipts"), COMPANY shall:

(i) Deduct and retain all out-of-pocket costs incurred by COMPANY in connection with the exploitation, administration and protection of the Artist Compositions;

(ii) Deduct and pay royalties payable to the writers of the Artist Compositions (which ARTIST warrants and represents shall not exceed (*e.g., fifty percent (50%)*) of the Gross Receipts); and

(iii) pay to ARTIST an amount equal to (*e.g., fifty percent (50%)*) of the balance remaining after deducting the aggregate sums set forth in Subclauses (i) and (ii) above, and the remaining (*e.g., fifty percent (50%)*) thereof shall be retained by COMPANY for COMPANY's sole use and benefit.

(e) Accountings for such royalties shall be rendered separately from all other royalties payable hereunder at the same time that accountings with respect to record royalties are rendered pursuant to Clause 9 above.

(f) Any assignment made of the ownership or copyright in, or right to license the use of, any

Artist Compositions referred to in this Clause shall be made subject to the provisions hereof. The provisions of Clause 10 are accepted by ARTIST on ARTIST's own behalf and on behalf of any other owner of any Artist Compositions or any rights therein (provided that nothing herein shall require ARTIST to cause an unaffiliated third party co-writer to convey to COMPANY any portion of an Artist Composition composed by such unaffiliated third party co-writer).

(g) ARTIST shall execute and deliver to COMPANY any documents (including without limitation, assignments of copyright, letters of direction to the applicable Society and COMPANY's standard Exclusive Songwriter and Composer Agreement/Co-Publishing Agreement (subject to negotiation of the non-substantive provisions thereof) which COMPANY may require to vest in COMPANY and/or COMPANY's designee(s), the copyright and other rights herein granted to COMPANY in respect of each Artist Composition. If ARTIST shall fail to promptly execute such document, ARTIST hereby irrevocably grants to COMPANY a power of attorney to execute such document in ARTIST's name.

[OPTIONAL] 11. MERCHANDISING RIGHTS: ARTIST hereby grants to COMPANY all merchandising rights and the sole and exclusive right to use ARTIST's name (both legal and professional), approved likeness, approved picture and approved portrait in any manner whatsoever, and in perpetuity, in connection with the exercise of the merchandising rights herein granted. COMPANY shall have the right to grant to others (including companies affiliated with COMPANY), upon such terms as COMPANY shall see fit, the right to exercise or cause to be exercised such merchandising rights. COMPANY shall pay to ARTIST, pursuant to a separate accounting in accordance with the provisions of Clause 9 above, and in addition to any and all monies provided for in this Agreement, (*e.g., fifty percent (50%)*) of all "Net Monies" received by COMPANY in connection with the exercise of said merchandising rights. The term "Net Monies" as used in this Clause shall mean all monies received less deductions for reasonable out-of-pocket costs incurred by COMPANY in connection with the exploitation, administration and protection of merchandising rights hereunder.

12. MECHANICAL ROYALTIES:

(a) ARTIST hereby grants to COMPANY, its distributors, and its licensees, an irrevocable license under copyright to reproduce each Controlled Composition on records and to distribute them throughout the Territory. The term "Controlled Composition" as used in this Agreement means any Musical Composition that, in whole or in part, is written, owned or controlled by ARTIST, any producer of Masters recorded by ARTIST or any person or other entity in which ARTIST or the producer has an interest.

(b) Any assignment made of the ownership of copyrights in, or the rights to license or administer the use of any Controlled Compositions, shall be subject to the terms and provisions hereof.

(c) If MAJOR LABEL/DISTRIBUTOR distributes records containing ARTIST's performances, COMPANY shall decide, at its sole discretion whether the mechanical royalty provisions of Clause 12 shall apply to the MAJOR LABEL AGREEMENT, or whether the mechanical royalty provisions of the MAJOR LABEL AGREEMENT shall apply to ARTIST under this Agreement. ARTIST hereby consents to either formulation contained in the previous sentence. COMPANY will provide ARTIST, upon request, with a copy of those relevant mechanical royalty provisions contained in the MAJOR LABEL AGREEMENT at any time after MAJOR LABEL/DISTRIBUTOR elects to release and/or distribute records jointly with COMPANY.

(d) If any Album made under this Agreement contains compositions that are not Controlled Compositions, ARTIST will obtain licenses covering those compositions on terms no less favorable than those contained in the standard mechanical license issued by the Harry Fox Agency, Inc. ARTIST will also cause to be issued to COMPANY licenses to reproduce each non-Controlled Composition on records distributed in the rest of the universe on terms as favorable as those generally prevailing in the country concerned. Subject to Clause 12, ARTIST also grants to COMPANY an irrevocable license to reproduce any video featuring ARTIST's performances, to distribute and sell copies of those videos, to publicly perform and to otherwise exploit them, without additional payment by COMPANY. ARTIST hereby agrees to grant COMPANY a mechanical license to reproduce each Controlled Composition for a royalty equal to (*e.g., seventy-five percent (75%)*) of the minimum applicable statutory rate (without regard to the so-called "long song formula") in effect in the United States or other applicable country on the date of the first commercial release of the record. With respect to non-Controlled Compositions ARTIST shall use its best efforts to assist COMPANY in obtaining similar terms from the copyright owner. Notwithstanding anything contained herein, the maximum combined rate for all Musical Compositions on each EP shall not exceed (*e.g., five (5) times*) (*e.g., seventy-five percent (75%)*) of such minimum applicable statutory rate and the maximum combined rate for all Musical Compositions on each Album shall not exceed (*e.g., ten (10)*) (*e.g., seventy-five percent (75%)*) of such minimum applicable statutory rate ("Mechanical Royalty Cap"). To the extent that COMPANY is required to pay mechanical royalties in excess of such Mechanical Royalty Cap, COMPANY may deduct such excess from any and all monies otherwise payable to ARTIST hereunder.

13. WARRANTIES AND REPRESENTATIONS: ARTIST, jointly and severally, warrants and represents that: ARTIST has the right to enter into and perform this Agreement and is eighteen (18) years of age or older; COMPANY will not be required to make any payments in connection with the rights granted to it or exploited by it pursuant to this Agreement except as specifically set forth herein; except as set forth elsewhere in this Agreement, ARTIST will not record or perform any services for the purpose of making, promoting or marketing records for any entity or person except COMPANY; and no materials, including Master Recordings, Controlled Compositions, names used by ARTIST or other musical and Artistic elements furnished by ARTIST and used in connection with records made and distributed by COMPANY, will violate any law or infringe any person or entity's rights, including but not limited to copyright, trademark, privacy and defamation laws.

14. INDEMNIFICATION: ARTIST, jointly and severally, will at all times indemnify COMPANY against any claims, damages, costs and expenses (including reasonable attorneys' fees) arising out of any breach or alleged breach by ARTIST of any warranty, representation or agreement in this Agreement. COMPANY will not withhold monies otherwise payable to ARTIST in an amount exceeding ARTIST's potential liability to COMPANY under Clause 14, as determined in COMPANY's reasonable business judgment. ARTIST shall promptly inform COMPANY of any such claims.

15. VIDEO COMMITMENT & RELEASE: COMPANY and ARTIST agree that if both of them wish to produce a video featuring ARTIST's performance(s), they shall mutually establish a budget ("Approved Video Budget") for the production and they shall agree on the director, producer and other creative elements. COMPANY shall pay for all costs of producing the video up to the amount of the Approved Video Budget ("Video Production Costs"). If Video Production Costs exceed the amount of the Approved Video Budget, COMPANY may recoup such costs from (*e.g., one hundred percent (100%)*) of ARTIST's royalties or ARTIST shall be responsible for paying for such excess amounts from outside funding sources, at COMPANY's discretion, as agreed prior to commencement of the video. All Video Production Costs incurred by COMPANY within the Approved Video Budget shall be recoupable from

(e.g., *fifty percent (50%)*) of all record royalties payable to ARTIST under this Agreement and (e.g., *one hundred percent (100%)*) of all video royalties payable to artist under this Agreement. COMPANY shall own the copyright in and control all rights to the video. ARTIST will not during the Term perform in any other audio-visual video or film featuring ARTIST's performances without obtaining COMPANY's prior written consent.

[OPTIONAL] 16. MINIMUM RECORDING OBLIGATION:

(a) If COMPANY does not allow ARTIST to commence recording the Minimum Recording Commitment within (e.g., *six (6) months*) following the commencement of any period of the Term, or if COMPANY fails to release (e.g., *fifteen thousand (15,000)*) records in the CD format containing the Minimum Recording Commitment for any period of the Term within (e.g., *six (6) months*) of delivery of that Minimum Recording Commitment, ARTIST may give COMPANY notice that ARTIST wishes to terminate this Agreement at any time within (e.g., *thirty (30) days*) following whichever date applies. If COMPANY does not allow ARTIST to commence recording, or does not release records containing the Minimum Recording Commitment, as applicable, within the next (e.g., *sixty (60) days*), this Agreement will automatically terminate.

(b) [Notwithstanding the foregoing, in the event that a MAJOR LABEL AGREEMENT provides terms inconsistent or contrary to those contained in the previous Clause 16(a), the terms of the MAJOR LABEL AGREEMENT shall govern.]

17. EXPIRATION OR TERMINATION:

(a) Upon the expiration or termination of this Agreement neither COMPANY nor ARTIST shall have any further obligations to the other, except that COMPANY shall continue to account to ARTIST for royalties due, if any, and all of ARTIST's warranties and representations shall survive and ARTIST's indemnity of COMPANY shall continue.

(b) ARTIST shall not re-record any composition recorded for COMPANY under this Agreement for a period of (e.g., *three (3) years*) following the release of the last recording embodying that composition by COMPANY, or (e.g., *two (2) years*) following the expiration of this Agreement, whichever is later.

18. INJUNCTIVE RELIEF:

(a) ARTIST acknowledges that ARTIST's services are unique and that COMPANY would not be adequately compensated by money damages for the loss of those services, and COMPANY will be entitled to seek injunctive relief to enforce this Agreement

[OPTIONAL] (b) COMPANY shall instruct any MAJOR LABEL/DISTRIBUTOR with which it enters into a MAJOR LABEL AGREEMENT to provide guaranteed compensation ("Guaranteed Compensation") equal to amount(s) required under [California Civil Code § 3423](#). Nothing contained herein shall obligate COMPANY to pay directly to ARTIST and/or any "Applicable Member" (as that term is understood in the music industry) any such Guaranteed Compensation, but COMPANY may, at its sole discretion, choose to make such payments. This Clause shall be deemed to fully satisfy the requirements of [California Civil Code § 3423](#) and shall enable Company to seek injunctive relief with respect to one (1) or more members of ARTIST; provided that COMPANY and/or MAJOR LABEL/DISTRIBUTOR pays such Guaranteed Compensation.

[OPTIONAL] 19. LEAVING MEMBER OF GROUP [IF ARTIST IS COMPRISED OF MORE THAN

ONE (1) INDIVIDUAL]:

(a) ARTIST will notify COMPANY if any member of ARTIST leaves the group. COMPANY will then have (*e.g., sixty (60)*) days to notify ARTIST that COMPANY wishes to enter into a separate agreement with the "Leaving Member." The Leaving Member agrees that if COMPANY elects to enter into an agreement with him or her, then that agreement shall contain exactly the same terms and conditions as this Agreement except that: (i) the Initial Period shall start on the date that COMPANY elects to enter into the agreement with the "Leaving Member" and that the Term shall be extendable by COMPANY until the end of this Agreement (at COMPANY's option); and (ii) the advances and the royalties payable to the Leaving Member shall be equal to two-thirds (2/3) of those payable to ARTIST under this Agreement. COMPANY shall be entitled to maintain a single account with respect to recordings subject to this Agreement and any agreements with Leaving Members.

(b) If any member of ARTIST leaves the group, COMPANY shall have approval of any "New Member" who may be hired to replace such Leaving Member. No New Member will be added unless the new member becomes a party to this Agreement by executing all documents COMPANY deems necessary. Alternatively, if any member of ARTIST leaves the group, COMPANY may terminate this Agreement with no further obligations to ARTIST other than to continue to account to ARTIST for sales of ARTIST's records; ARTIST's warranties and representations will survive any termination, as will COMPANY's Leaving Member option above. Upon such termination, COMPANY may elect to treat all members as Leaving Members.

20. NOTICES: All notices to COMPANY or to ARTIST shall be sent to their respective addresses on page 1 and may be given only by personal delivery or overnight courier with a signed receipt or certified or registered mail, return receipt requested. Notices will be considered to have been given when they are personally delivered, deposited with the courier or mailed, according to the method used. Copies of all notices to COMPANY shall be sent to (*name and address of counsel for the Company*). Copies of all notices to ARTIST shall be sent to (*name and address of counsel for the Artist*)

21. MISCELLANEOUS:

(a) If ARTIST believes that COMPANY is in breach of any of its obligations, ARTIST shall send COMPANY a specific notice and COMPANY shall have a reasonable period of not less than (*e.g., thirty (30) days*) in which to cure the breach, if any. ARTIST shall not have the right to terminate this Agreement or recover any damages from COMPANY unless COMPANY fails to so cure a material breach of which it was given notice.

(b) This is the entire agreement between COMPANY and ARTIST and it supersedes all prior agreements or understandings, written or oral. Any amendment or modification must be in writing and must be signed by both COMPANY and ARTIST. Any waiver of rights by COMPANY in any one instance shall not be a waiver of its rights in the future and any immediate failure to enforce its rights shall not be deemed a waiver by COMPANY. Clause headings are used only for convenience and have no meaning or effect.

(c) This Agreement shall be governed by the laws of the State of (*state*) applicable to contracts entered into and performed in (*state*) COMPANY and ARTIST agree that any action related to this Agreement may only be brought in the state or federal courts located in (*jurisdiction*).

(d) ARTIST agrees to sign any additional documents, including tax forms required for

payments to be made to ARTIST, which COMPANY may reasonably require. This Agreement does not constitute a joint venture or partnership, but the parties hereto are independent contractors.

(e) Whenever ARTIST's approval is required pursuant to any provision of this Agreement, such approval shall be deemed given to COMPANY if, after *ten (10) days* written notice to ARTIST by COMPANY that such approval or consent is required, ARTIST fails to respond in writing.

(f) ARTIST has been advised to obtain independent legal counsel prior to executing this Agreement and has either done so or has knowingly opted to forego obtaining such independent legal advice.

If you agree with the terms and conditions above please indicate your acceptance by signing below.

Sincerely,
(*LABEL/ PRODUCTION CO.*)

BY: _____

ITS: _____

ACKNOWLEDGED, AGREED AND ACCEPTED:

(*NAMES*)

SS#:

SS#:

(*NAMES*)

SS#:

SS#: