



550 MADISON AVENUE, NEW YORK, NEW YORK 10022-3211, UNITED STATES

Spotify USA Inc
76 9th Avenue,
Suite 1110, 11th Floor
New York
NY 10011
United States

DIGITAL AUDIO/VIDEO DISTRIBUTION AGREEMENT

This letter agreement together with the term sheet (the "Term Sheet") and any schedules attached hereto, which are incorporated herein by reference, will constitute the entire agreement between **SONY MUSIC ENTERTAINMENT** (a Delaware general partnership) ("Label") and **SPOTIFY USA INC** (a Delaware corporation) ("Company") regarding, *inter alia*, the exploitation of audio recordings and short-form music videos embodying the performances of various musical recording artists via Company's online and mobile digital distribution service, as owned, controlled and operated by Company (the "Agreement"). Any terms used in this Agreement but not defined herein will have the meanings ascribed to them in the Term Sheet. Unless expressly provided to the contrary herein, to the extent that any provision of this Agreement conflicts with any provision of the Term Sheet, the provisions set forth in the Term Sheet shall govern and control.

Notwithstanding anything in the Term Sheet, the Territory of the grant of rights (as defined in Paragraph 3 of the Term Sheet) shall only be effective for the United States of America and Canada, in the case of the latter subject to execution of an agreement in the form attached to this Agreement as Exhibit H by the Label's applicable principal that owns or controls the rights in Label Materials (as defined in the Term Sheet) in Canada (each, a "Label Affiliate Agreement"). Label shall procure that such affiliate or licensee in each country of the Territory enters into a Label Affiliate Agreement; provided, however, that such affiliate will enter into a Label Affiliate Agreement only at its sole discretion and upon its own volition and further provided that, notwithstanding anything to the contrary herein, Label's provision of Label Materials to Company pursuant to Section 6 of the Term Sheet shall be deemed to convey the necessary rights in respect of Canada. Each signatory to a Label Affiliate Agreement shall be referred to herein as a "Signatory".

1. Confidentiality; Press Releases:

(a) Each party (each a "Disclosing Party") agrees that it will, and it will instruct in writing its respective attorneys, accountants and other professional advisors (collectively, "Advisors") to, hold in confidence and not communicate, transmit, publish, disseminate or otherwise disclose any of the terms and conditions of this Agreement or any information regarding the other party's business learned in the course of dealing or performance hereunder (collectively, "Confidential Information"); provided, however, that nothing in this subsection 1(a) will prohibit disclosure of such Confidential Information: (i) by each party to its respective financial officers, management, bankers or others as may be reasonably necessary in the operation of its respective business; (ii) by each party to its respective Advisors to the extent that such disclosure is in the opinion of such Advisors required to enable such Advisors fully to represent the party concerned; (iii) in connection with any legal or governmental proceeding; or (iv) to any judicial, governmental or regulatory body. Notwithstanding anything to the contrary herein, Confidential Information shall not include information that: (i) at or prior to the time of disclosure by the Disclosing Party was known to or independently developed by the party receiving such information (a "Receiving Party"), except to the extent unlawfully appropriated by the Receiving Party or a third party; (ii) at or after the time of disclosure by the Disclosing Party becomes generally available to the public through no wrongful or negligent act or omission on the Receiving Party's part; (iii) the Receiving Party receives from a third party free to make such disclosure without breach of any legal obligation; and/or (iv) is required to be disclosed pursuant to any statute, regulation, order, subpoena or document discovery request.

(b) No press releases or other public statements are permitted without prior mutual written approval.

2. Reporting and Payment:

(a) Company will use reasonable endeavours to collect and deliver to Label on or before 5.00 PM (EST) each Monday machine-readable reports containing information in respect of all transaction activity for Label Materials exploited by Company hereunder during the seven (7) day period commencing on the Monday of the preceding calendar week through to the preceding Sunday of that calendar week in accordance with the reporting specifications attached hereto as Exhibit B (each, a "Weekly Report"). Company will collect and deliver to Label Weekly Reports at a frequency no less than once per week. Notwithstanding the foregoing, if Company provides additional categories of data to any other content providers, such as aggregated usage and exploitation comparisons among record label groups, then Company shall provide such additional data to Label on terms and conditions that are reasonably equivalent in all material respects to the terms and conditions governing Company's provision of such additional data to such other content providers.

(b) (1) Company will compute all amounts payable to Label pursuant to the Term Sheet and any other payments accrued hereunder on a country-by-country basis as of the end of each calendar month hereunder (such proceeds and other monies, the "Label Fees").

(2) In connection with each such calendar month, Company will send the Label within 15 (fifteen) business days thereafter (i) an accounting statement covering the calculation and determination of the Label Fees and other sums so accrued and payable in respect of the calendar month concerned in the country concerned (each, a "Financial Statement", which shall include as a minimum the fields listed in part (ii) of Exhibit B); and (ii) a machine-readable report containing the data and information described in (and otherwise in accordance with) the reporting specifications attached hereto as Exhibit B (each, a "Monthly Report").

(3) Upon receipt of each Monthly Report and Financial Statement, Label will prepare and send to Company a full invoice in respect of the balance of Label Fees due and, unless otherwise agreed by the Parties and subject always to the unrecouped portion of any relevant advance payment (as detailed in the Term Sheet), Company shall pay into the bank account designated by Label for such purpose from time-to-time, without offset or deductions of any kind, the Label Fees that have accrued and are payable to the Label on a calendar monthly basis within forty-five (45) days following the date of the relevant invoice.

(c) Each Weekly Report, Financial Statement and Monthly Report shall only be deemed received by Label once uploaded by Company in an appropriate form to the correct directory on Label's FTP server using access credentials issued by Label; provided that Label shall be solely responsible for procuring that access to such server is available to Company at all relevant times.

(d) All amounts payable to Label pursuant to this Agreement are exclusive of any applicable Taxes (as defined below). Company warrants and represents that Company will collect, bear, pay and indemnify Label against any and all taxes, duties and customs of any kind, however designated, levied or based in any way, including but not limited to withholding taxes, anywhere in the Territory with respect to the sale or resale or other exploitation of any products or services by Company, including, for the avoidance of doubt and without limitation, all sales, use, excise, purchase, value-added or similar taxes (other than income or franchise taxes payable by Label on net income earned by Label under this Agreement), including any applicable interest and penalties (individually and collectively, "Taxes"). If applicable, Label will accept appropriate documentation, such as duly completed and valid resale/exemption certificates, satisfactory to Label in the exercise of its sole, reasonable discretion, timely provided by Company to evidence Company's liability for or exemption from such Taxes. If any claim is made against Label for Taxes, Company will promptly remit to Label the full amount of any such Taxes so claimed, without offset or deductions of any kind. In the event that Company reasonably requests Label to contest the imposition of such Taxes, Label shall do so at Company's expense provided that Company has posted the required security or payment for the payment thereof with the taxing authority with appropriate jurisdiction over the applicable claim for Taxes or Label. Label shall control any such contest and, upon Company's written request in each instance, Label will reasonably consult with Company, provided that Company is reasonably available for such consultation. Company's obligation to indemnify Label for Taxes shall survive the termination or expiration of this Agreement.

(e) Notwithstanding sub-section (a) above, Company agrees that, no later than July 1, 2011, it shall use reasonable endeavours to start to make available at a designated location marketing reports on a daily basis in a format to be mutually agreed in writing, in each case no later than midday on the day immediately

following the period covered by such report (each, a "Daily Report"). Provided Company uploads Daily Reports for each day of any particular week, Company shall not thereafter be required to upload a Weekly Report for the same week.

3. Books and Records:

(a) Company will maintain accurate and complete records and books of account in accordance with GAAP applied on a consistent basis, which will include, at a minimum, all documentation needed by Label to compute and verify the amounts required to be credited to Label's account and paid to Label hereunder, and to verify all of the information required to be delivered to or otherwise made available to Label in connection with the performance of this Agreement. Not more than once per calendar year during the Term and the three (3) year period thereafter, upon reasonable advance written notice, Label, or an independent reputable auditing firm appointed by Label, will have the right to examine those books and records at any time during Company's normal business hours at the place where such books and records are normally maintained, and to make copies of them and extract information from them. For a period of three (3) years following the last day of the Term, Company shall retain all transaction data, customer information and other data or information reasonably necessary for Label to determine and verify all amounts due or payable hereunder and for accounting purposes. If the audit reveals that in the period being audited Company has underpaid Label by an amount greater than ten percent (10%) of the payments due then Company shall bear the reasonable expenses and costs of such audit. Label shall not have the right to audit a given accounting statement more than once.

(b) Not more than once per calendar year during the Term, upon reasonable advance notice, Label will have the right, at its own expense, to conduct technical audits of the Company for the purpose of observing and verifying the storage, hosting, security, serving, delivery and other use of any materials furnished or selected by Label for use by Company, including, for the avoidance of doubt and without limitation, all hardware and software components and systems utilized by Company, including server logs, and all documentation setting forth Company's policies and procedures with respect to security features and formats, wherever any such hardware and software components and systems and documentation are maintained or stored, as applicable, including, without limitation, any and all data centers and information technology departments performing services or operations in connection with or on behalf of the Company.

4. Representations and Warranties:

(a) Each party represents and warrants that: (i) it has the right, power and authority to enter into this Agreement and to fully perform its obligations hereunder; (ii) it shall comply with its privacy policy and shall not engage in any fraud or any deceptive, misleading or unethical or unfair competitive practices; (iii) it shall not act in any manner which conflicts or interferes with any existing commitment or obligation of such party; (iv) no agreement previously entered into by such party will interfere with such party's performance of its obligations under this Agreement; and (v) it shall perform in compliance with any applicable laws, rules and regulations of any governmental authority.

(b) Company hereby represents and warrants to Label that:

- (i) Company is a corporation duly organized and in good standing under the laws of Delaware;
- (ii) Company will not make any use of any customer or end user information except to the extent permitted by law;
- (iii) Company's operation of the Service in performance of its obligations hereunder (excluding, for avoidance of doubt, the use of Label Materials as authorised in accordance with this Agreement, for which Label assumes responsibility pursuant to Section 4(c)) during the Term will not to the best of the Company's knowledge violate any law or regulation, or infringe upon or violate the rights of any Person, in whole or in part, directly or indirectly, it being understood and agreed that nothing contained in this clause (iii) shall be deemed to limit any of Company's indemnification obligations under Section 6(d)(1) below, which shall apply in full force and effect with respect to any and all acts of infringement of a material nature alleged by any persons or entities arising out of the use or operation of any Label

Materials regardless of the state of Company's conduct, omissions or the state of Company's knowledge of the possibility, likelihood or actual such infringement, or the efforts that Company may have undertaken to eliminate entirely or mitigate such infringement;

- (iv) Company will not at any time through Company's intentional or grossly negligent acts and/or omissions, either directly or indirectly, in whole or in part, cause "viruses," "worms," "spyware", and/or "destructive codes", or any materially intrusive "adware" that is deployed or embedded without the informed consent and affirmative acknowledgment and permission of the "adware" recipient, to be embodied in or along with the software used by Company in connection with the operation of the Service;
 - (v) all streams embodying Label Materials will be served by Company solely from Company Servers and/or, solely to the extent in accordance with the Technical and Security Specifications, served from peer to peer;
 - (vi) Company will not knowingly participate in any unethical or unfair competitive practices, including without limitation, product disparagement, or any other practices that are or might be detrimental to Label's affiliates;
 - (vii) except as expressly provided in the Term Sheet, Company will obtain and maintain in full force and effect (at Company's sole cost and expense) all necessary licenses, permits and other authorizations required by law to operate its business and to offer streams and otherwise use copyrighted audio, audiovisual and other materials as contemplated herein, and all necessary licenses and other rights (including, but not limited to, copyright, patent and trademark rights and other rights and licenses) necessary to provide the services and functions contemplated herein, including all relevant publishing/mechanical licenses, free of claims from any Person;
 - (viii) Company will ensure that the Service will not contain or utilize any content or other materials that constitute Objectionable Activities. "Objectionable Activities" means, with respect to the Service, any one (1) or more of the following activities that is knowingly caused, controlled, encouraged, induced or facilitated by Company or its affiliates: facilitating and/or promoting illegal activity, depicting sexually explicit images, promoting violence, promoting discrimination, incorporating any materials that infringe or assist others in infringing upon any intellectual property rights, engaging in the endorsement of political positions or political candidates, or engaging in the sale or advertisement of tobacco, firearms, pornography, or religious causes as Label deems in its sole discretion to be objectionable;
 - (ix) Company will not make any use of any Label Materials, or authorize any third party to make any use of any Label Materials, except as specifically permitted in this Agreement;
 - (x) Company will not cut, edit, change, add to, delete from or revise any Label Materials without the express prior written consent of Label in each instance, nor will it facilitate such activities by third parties including end users of the Service;
 - (xi) Company will not alter or delete any title, credit or copyright notice, any trademarks or service marks, or the talent, writing, producing, directing or music credits contained in the Label Materials; and
 - (xii) Company will not (A) attempt to pledge, mortgage or otherwise encumber the Label Materials, Company's rights under this Agreement or any other tangible or intangible property of Label provided to Company pursuant to this Agreement or otherwise furnished or provided to Company, or (B) contest, attack or challenge the validity of any of Label's or its licensors' copyrights, patents, trademarks or other intellectual property rights or licenses, or assist others in doing any of the foregoing.
- (c) Label hereby represents and warrants to Company that:
- (i) it owns or controls the Label Audio Recordings and Label Video Recordings and related materials and it has the power and authority to enter into this Agreement;

- (ii) the use by Company of the Label Audio Recordings and Label Video Recordings (including without limitation all artwork and biographical material supplied hereunder) will not infringe any third party rights; and
- (iii) Label shall be solely responsible for obtaining any and all necessary sound recording and audio-visual master licenses and consents, and for making all associated payments due to Label Artists and any and all producers, remixers, directors, unions or other third parties to whom monies fall due, in respect of Company's exploitation of the Label Audio Recordings and Label Video Recordings (subject always to Section 4(b)(vii) above) together with any payments due to owners of copyright in any artwork supplied hereunder.

5. Termination:

(a) (1) Upon the occurrence of any Default Event, in addition to any other rights and remedies which Label has under this Agreement or otherwise, Label may terminate the Term upon notice to Company, following any applicable cure period set out below. No exercise of any right or remedy hereunder will limit Label's right to recover damages by reason of Company's default, Label's right to exercise any other right or remedy under this paragraph, or any of Label's other rights or remedies. Notwithstanding the foregoing or anything elsewhere herein, if the Default Event arises by reason, alone, of a "change of control" pursuant to clause (vii) of Section 5(a)(2) below, Label's sole remedy shall be termination of the Term of the Agreement by notice to Company.

(2) "Default Event" means: (i) Company's failure to timely make payments required hereunder or render reports or accountings as and when due or cooperate or render any information or documents required to be furnished or otherwise made available to Label as and when required hereunder; provided, however, that, with respect to any such breach which is non-repetitive, Company shall have a period of fifteen (15) business days from its receipt of Label's notice of such breach in which to cure said breach before it shall be considered a "Default Event"; (ii) Company's breach of any of Company's representations, warranties, covenants or obligations hereunder, or Company's failure to fulfill any of Company's material obligations hereunder; provided, however, that, with respect to any such breach in respect of which a shorter cure period is not expressly provided herein, and provided that the breach concerned is non-repetitive, Company shall have a period of fifteen (15) business days from the date of Label's notice of such breach in which to cure said breach before it shall be considered a "Default Event"; (iii) Company's bankruptcy or insolvency, or the dissolution or the liquidation of Company's assets, or the filing of a petition in bankruptcy or insolvency for an arrangement or reorganization by, for or against Company, or the appointment of a receiver or a trustee for all or a portion of Company's property, or Company's making an assignment for the benefit of creditors; provided, however, that Company shall have a period of sixty (60) consecutive days from its receipt of any involuntary petition in bankruptcy filed against Company in which to cure said breach before it shall be considered a "Default Event"; (iv) Company's attempt to assign any of Company's rights under this Agreement in contravention of this Agreement without Label's prior written consent, or the succession of any of those rights to any other person or entity by operation of law; (v) If as a result of Company's acts or omissions any person or entity obtains access to the Label Materials in contravention of the terms, limitations and eligibility criteria regarding access thereto prescribed in the Term Sheet; (vi) If for any reason Company ceases doing business in the ordinary course and/or there is a substantial diminution in the ability of Company to effectively carry on its business in general or any aspect thereof, or in particular the business of distributing Label Materials and/or the other products referred to in this Agreement; and/or (vii) In the event of a change of control of Company, where such control passes to an entity: (aa) that is a direct competitor of Label, (bb) with whom Label is involved in a then-current litigation, (cc) that operates or supports a service facilitating infringing activity in relation to Label's or other parties' content and exclusive rights thereto, (dd) is failing, in a material manner, to comply with applicable laws, (ee) with whom conduct of business on the terms set out in this Agreement would raise a regulatory issue, or (ff) which Label has objectively reasonable grounds to believe lacks the resources to meet the financial obligations imposed on Company hereunder.

(b) Upon termination or earlier expiration of the Term: (1) all rights granted to Company herein will immediately terminate, and Company will not thereafter have any right to make any use of any Label Materials or any other materials provided by Label to Company; (2) Company will immediately return, delete or destroy all materials furnished or selected by Label for use by Company, including all Label Materials and any phonorecords or copies derived therefrom in any and all forms, formats and media, as Label will direct in Label's

sole discretion; (3) Company will immediately remove all links to web sites or other properties owned or controlled by Label; and (4) all monies then due or to become due to Label will become immediately due and payable.

(c) The following provisions shall survive the termination or expiration of the Term: 1, 2(d), 3, 4, 6(d)

6. **Miscellaneous:**

(a) Except as otherwise specifically provided herein, all notices under this Agreement will be in writing and will be given by courier or other personal delivery or by registered or certified mail at the appropriate address set forth on page 1 of this Agreement or at a substitute address designated by notice by the party concerned. Each notice to Company will be addressed to the attention of Company's CEO; provided, however that notwithstanding anything elsewhere herein, take-down notices from Label may be given via facsimile, electronic mail or any other effective method of written communication. Each notice to the Label or any of its affiliates will be addressed to the attention of such party's Chief Business and Legal Affairs Officer, with copies of each notice sent simultaneously to Label's Chief EU Business and Legal Affairs Officer and General Counsel. Notices will be deemed given when mailed or, if personally delivered, when so delivered, except that a notice of change of address will be effective only from the date of its receipt.

(b) THIS AGREEMENT HAS BEEN ENTERED INTO IN THE STATE OF NEW YORK, AND THE VALIDITY, INTERPRETATION AND LEGAL EFFECT OF THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS ENTERED INTO AND PERFORMED ENTIRELY WITHIN THE STATE OF NEW YORK (WITHOUT GIVING EFFECT TO ANY CONFLICT OF LAW PRINCIPLES UNDER NEW YORK LAW). THE NEW YORK COURTS (STATE AND FEDERAL) SHALL HAVE SOLE JURISDICTION OVER ANY CONTROVERSIES REGARDING THIS AGREEMENT. ANY ACTION OR OTHER PROCEEDING WHICH INVOLVES SUCH A CONTROVERSY SHALL BE BROUGHT IN THOSE COURTS IN NEW YORK COUNTY AND NOT ELSEWHERE. THE PARTIES WAIVE ANY AND ALL OBJECTIONS TO VENUE IN THOSE COURTS AND HEREBY SUBMIT TO THE JURISDICTION OF THOSE COURTS.

(c) Label may assign Label's rights under this Agreement in whole or in part to any subsidiary, affiliated or controlling corporation, to any person or entity owning or acquiring a substantial portion of the stock or assets of Label, or to any partnership or other venture in which Label participates, and such rights may be similarly assigned by any assignee. Company will not have the right to assign or sub-license this Agreement or any of Company's rights hereunder without Label's prior written consent, EXCEPT that Company shall have the right to assign its rights and delegate its duties under this Agreement, subject to Section 5(a)(2)(vii), to: (i) any affiliate under common control with Company; (ii) any entity that acquires control of Company or otherwise succeeds to substantially all of the assets or stock of Company and that is not an entity falling within any of the categories listed in Section 5(a)(2)(vii) above and is not engaged in Objectionable Activities, and any purported assignment by Company in violation of this subparagraph will be void.

(d) (1) Company will at all times indemnify and hold harmless the Label and its affiliates and each of their respective officers, agents, employees, directors, and advisors (collectively, the "Label Indemnified Parties") from and against any and all claims asserted by a third party against any of the Label Indemnified Parties for damages, liabilities, costs and expenses (including court expenses and reasonable counsel fees) arising out of (x) any breach or alleged breach by Company of any representation, warranty, covenant or agreement made by Company herein, (y) the distribution or operation of the Service, or (z) any allegation that any materials used or exploited by or on behalf of Company in connection with the Service (except for Label Materials or any other materials substantially in the form provided to Company by Label for use in connection with this Agreement and where Company's use thereof is authorised hereunder), in whole or in part, directly or indirectly, infringe upon, misappropriate or otherwise violate the rights of any third party (the "Company Claims"). In the event of any Company Claim: (i) the applicable Label Indemnified Party shall notify Company of the Company Claim concerned immediately following the date that such Label Indemnified Party becomes aware of it (provided that such failure to immediately notify Company shall not affect any Label Indemnified Party's right to indemnification hereunder if such delay did not materially prejudice the defence of such claim); (ii) Company shall defend against the Company Claim concerned (at Company's own expense) through legal counsel selected by Company; and (iii) each party shall reasonably cooperate with the other in the defence of the

Company Claim concerned. Company shall be solely responsible for the amount of any settlement or judgment for such Company Claim and all legal expenses and counsel fees incurred by Company in connection therewith; provided, however, that any settlement acknowledging any wrongdoing on behalf of any of the Label Indemnified Parties or creating any additional obligations or payments or potential liabilities for any of the Label Indemnified Parties shall be subject to the written approval of such Label Indemnified Parties. The applicable Label Indemnified Parties shall have the right at all times to actively participate in the defence thereof, and to employ legal counsel selected by such Label Indemnified Parties at their own expense, it being understood that Company shall have the right at all times, in Company's sole discretion, to maintain control of the conduct of the defence.

(2) Label will at all times indemnify and hold harmless the Company and its affiliates and each of their respective officers, agents, employees, directors, and advisors (collectively, the "Company Indemnified Parties") from and against any and all claims asserted by a third party against any of the Company Indemnified Parties for damages, liabilities, costs and expenses (including court expenses and reasonable counsel fees) arising out of (x) any breach or alleged breach by Label of any representation, warranty, covenant or agreement made by Label herein, or (y) any claims that items of Label Materials (excluding any copyrighted musical compositions embodied therein in respect of which the acquisition, administration and payment for required licenses is Company's responsibility under the Agreement, whether pursuant to Section 4(b)(vii) above or otherwise) exploited by Company in accordance with the terms, conditions and limitations prescribed elsewhere in this Agreement, infringe upon misappropriate or otherwise violate the rights of any third party (the "Label Claims"). In the event of any Label Claim: (i) the applicable Company Indemnified Party shall notify Label of the Label Claim concerned immediately following the date that such Company Indemnified Party becomes aware of it (provided that such failure to immediately notify Label shall not affect any Company Indemnified Party's right to indemnification hereunder if such delay did not materially prejudice the defence of such claim); (ii) Label shall defend against the Label Claim concerned (at Label's own expense) through legal counsel selected by Label; and (iii) each party shall reasonably cooperate with the other in the defence of the Label Claim concerned. Label shall be solely responsible for the amount of any settlement or judgment for such Label Claim and all legal expenses and counsel fees incurred by Label in connection therewith; provided, however, that any settlement acknowledging any wrongdoing on behalf of any of the Company Indemnified Parties or creating any additional obligations or payments or potential liabilities for any of the Company Indemnified Parties shall be subject to the written approval of such Company Indemnified Parties. The applicable Company Indemnified Parties shall have the right at all times to actively participate in the defence thereof, and to employ legal counsel selected by such Company Indemnified Parties at their own expense, it being understood that Label shall have the right at all times, in Label's sole discretion, to maintain control of the conduct of the defence.

(e) Except with respect to the parties' respective indemnification obligations pursuant to Section 8(d), neither party to this Agreement shall be liable to the other under or in connection with this Agreement whether in contract, tort (including negligence), misrepresentation (other than where made fraudulently), breach of statutory duty or otherwise for any indirect, exemplary, multiple and special or consequential loss and/or damages whatsoever incurred by either party (including loss of business profits) whether or not the party was advised in advance of the possibility of any such loss. Nothing in this Agreement shall restrict or limit the liability of either party for fraud or fraudulent misrepresentation or death or personal injury caused by negligence.

(f) No amendment to this Agreement shall be binding upon Label unless it is made by an instrument signed by an authorized officer of Label. A waiver by either party of any provision of this Agreement in any instance will not be deemed a waiver of such provision, or any other provision hereof, as to any future instance or occurrence. All remedies, rights, undertakings, and obligations contained in this Agreement will be cumulative and none of them will be in limitation of any other remedy, right, undertaking, or obligation of either party. If any part of this Agreement, or the application thereof to any party, will be adjudged by a court of competent jurisdiction to be invalid, such judgment will not affect the remainder of this Agreement, which will continue in full force and effect, or the application of this Agreement to the remaining parties.

(g) Signatories to Label Affiliate Agreements sign in order to grant the relevant rights owned by them in their countries of the Territory and are not liable jointly and severally or otherwise for any of Label's or each other's obligations under this Agreement either to Company or Company's affiliates, assignees or licensees. Label shall be responsible for ensuring Label's affiliates provide the Label Materials required pursuant to Paragraph 6 of the Term Sheet (solely to the extent not provided centrally by Label) and otherwise

reasonably co-operate with Company to the extent such co-operation may be required in order to give effect to the spirit of this Agreement.

(h) Save only in respect of the foregoing this Agreement is made solely and specifically between the Company and Label and is not intended to be for the benefit of or enforceable by any other person save in respect of permitted assignees pursuant to the terms of this Agreement.

(i) This Agreement represents the entire agreement between Label and Company with respect to the subject matter hereof and supersedes all prior and/or contemporaneous agreements and understandings, whether written or oral, between Label and Company with respect to the subject matter hereof.

(j) For the avoidance of doubt, subject to the remainder of this subsection (j), unless otherwise agreed in writing by Label, in the event of Label's acquisition of, or merger with, any third party owning or controlling master audio and/or audio-visual recordings, such third party shall not be subject to the terms and conditions of this Agreement, and Company's distribution of such third party's recordings via the Services shall not be deemed authorized hereunder. In the case of Label's acquisition of a third party, Label shall only be entitled to take advantage of this section in the event that the value of such acquisition exceeds one hundred million US dollars (\$100,000,000). Where the value of any such acquisition is not publicly available information, in order to take advantage of this section Label shall be required to warrant and represent to Company that the value exceeds one hundred million US dollars (\$100,000,000).

Very truly yours,

ACCEPTED AND AGREED:

SONY MUSIC ENTERTAINMENT

SPOTIFY USA INC

By:


J. Jeff Walker

By:



Title:

EVP & Head, Bus. & Legal Affairs
Global Digital Business
Sony Music Entertainment

Title:

G.M.

Date:

January 18, 2011

Date:

JAN 18, 2011

Exhibit A

Term Sheet

1. Definitions:

"Active User" means any user who has accessed via the Ad Supported Service at least 1 (one) Royalty Bearing Play of audio content (whether or not such content embodies Label Audio Recordings).

"Ad Supported" means a transmission of audio that: (i) is made available to members of the general public without charge of any kind, directly or indirectly (i.e. not on a subscription basis or any other business model), and (ii) in connection with such programming, the sole source of revenues is derived from Gross Revenues.

"Ad Supported Service" means the service offering End Users within the Ad Supported Territory both on-demand and pre-programmed access to Streams embodying Label Audio Recordings in the Approved Format, solely on an Ad Supported basis via a Static Desktop Application on an Approved Static Desktop Device. Such service shall always be offered in accordance with the Functionality Specifications.

"Ad Supported Userbase" means the aggregate number of Active Users of the Ad Supported Service (or any variant thereof) in any given country in the Territory in the immediately preceding thirty (30) days.

"Advertisements" means any and all audio, audiovisual, graphic, textual and other advertisements, messages, sponsorships or other commercial space, however delivered via any web pages, application or other electronic properties, as the case may be, that is leased, licensed or sold to or on behalf of Persons for purposes of advertising, promotion, marketing, trade or otherwise (e.g., the development, maintenance or enhancement of general goodwill), excluding advertisements, messages, sponsorships or other commercial space related solely to the promotion or marketing of recorded music owned or controlled by providers of recorded music for use in connection with the Service.

"Aggregate Information" means, at a minimum, information concerning the usage habits, patterns and/or demographic classification of an End User as a group but which does not specify the identity of any individual End User. Aggregate Information shall include, by way of example, information regarding an End User's use of recordings on the applicable Service and, where available, an End User's postal code.

"Annualized" means the amount of advance or minimum revenue guaranteed to any party divided by the number of twelve (12) month periods comprised in the period during which such advance or minimum revenue guarantee is recoupable pursuant to the agreement between Company and such party. By way of example, if Company has guaranteed to Label the sum of \$40m, which is recoupable during a period of 42 months, the annualized amount shall be calculated as \$40m divided by (42/12), equaling \$11.43m.

"Approved Device" means an electronic device approved by Label in writing in advance in each instance, for use in connection with Label Materials delivered via the applicable Service. As of the Effective Date, the following devices shall be deemed so approved by Label as "Approved Devices" for purposes hereof:

- (i) Devices such as laptop, ultraportable and desktop personal computers, that (a) are primarily intended for use in a fixed location, (b) connect directly or indirectly to Company Servers and, optionally, to other peers running an Authorised Application, (c) take delivery of Label Materials solely by means of Streaming or download to an Authorised Application, (d) manage access to the applicable Service, and (e) comply with the terms, conditions and limitations prescribed in this Agreement, including the applicable Functionality Specifications attached hereto as Exhibit C and the Technical and Security Specifications attached hereto as Exhibit D (each, an "Approved Static Desktop Device").
- (ii) Mobile devices such as cellphones, mp3 players and hardware devices embedded into automobiles that (a) connect directly or indirectly to Company Servers and, optionally, to

other peers running an Authorised Application, (b) take delivery of Label Materials solely by means of Streaming or download to an Authorised Application, (c) manage access to the applicable Service, and (d) comply with the terms, conditions and limitations prescribed in this Agreement, including the applicable Functionality Specifications attached hereto as Exhibit C and the Technical and Security Specifications attached hereto as Exhibit D (each, an "Approved Mobile Device").

- (iii) networked media streamers (e.g. Sonos), set-top boxes and games consoles that (a) are primarily intended for use in a fixed location, (b) connect directly or indirectly to Company Servers and, optionally, to other peers running an Authorised Application, (c) take delivery of Label Materials solely by means of Streaming or download to an Authorised Application, (d) manage access to the applicable Service, and (e) comply with the terms, conditions and limitations prescribed in this Agreement, including the applicable Functionality Specifications attached hereto as Exhibit C and the Technical and Security Specifications attached hereto as Exhibit D (each, an "Approved Static Home Entertainment Device")

"Approved Format" means the following:

- (i) In respect of Streams of Label Audio Recordings delivered to End Users as part of the Ad Supported Service: OGG Vorbis, AAC, MP3 AND WMA at a maximum bitrate of 160kbps
- (ii) In respect of Streams of Label Audio Recordings delivered to End Users as part of the Subscription Service: OGG Vorbis, AAC, MP3 and WMA at a maximum bitrate of 320kbps
- (iii) In respect of Streams of Label Video Recordings delivered to End Users as part of the Subscription Service: MPEG-4 Part 10 (H.264), MPEG-2, or Ogg Theora, in all cases at resolutions no higher than 720 x 576.
- (v) In respect of Cached Downloads of Label Audio Recordings delivered to End Users as part of the Subscription Service: OGG Vorbis, AAC, MP3 and WMA at a maximum bitrate of 320kbps,

Company shall be entitled to request Label's approval of other formats/bitrates from time to time during the Term.

"Authorised Application" means one of the following versions of the software application created, owned and controlled by Company and carrying the Company Branding which are designed to provide access to the Services for End Users via Approved Devices and are used in the selection of materials (including Label Materials), the reception of such materials (from nodes including Company Servers and other End Users' active, network-connected instances of the application), the rendering of such materials (which process may include decryption, caching and playback of digital data embodying sound and video recordings), and which conforms to the Technical and Security Specifications:

- (i) "Static Desktop Application", being a version of the software application designed for access by desktop and laptop computers (including but not restricted to computers using Microsoft, Apple and Linux operating systems), solely via fixed line Internet or Wi-Fi connections or via mobile data-card interfaces. It is agreed that, solely in respect of End Users with a valid and subsisting Premium Subscription, such versions of the application may support Cached Downloads in addition to Streams;
- (ii) "Static Home Entertainment Application", being a version of the software application designed for access by home entertainment devices such as networked media streamers (e.g. Sonos) and TV set-top boxes connected to third party IPTV, cable or satellite networks, but excluding those devices covered by sub-section (i) above. It is

agreed that, solely in respect of End Users with a valid and subsisting Premium Subscription, such versions of the application may support Cached Downloads in addition to Streams; or

- (iii) "Mobile Application", being a version of the software application designed for access by portable and/or mobile devices such as cellphones, mp3 players and hardware devices embedded into automobiles via an over-the-air cellular network data connection, but also permitting access via Wi-Fi or a Bluetooth-enabled personal area network. It is agreed that such versions of the application may support Cached Downloads in addition to Streams.

"Cached Downloads" means encrypted digital files embodying audio or audio-visual recordings that are downloaded and securely stored on an Approved Device utilizing an appropriate technical solution approved by Label, for the purposes of caching particular recordings for offline playback, provided always that the Approved Device may only render the files for playback in the event that the Approved Device remains authorized as a result of the End User having a valid, subsisting Premium Subscription, subject to any Grace Period provided for in the Functionality Specifications, and provided further that Local Files shall not be within the scope of this definition.

"Company Branding" means the "Spotify" Trademark and any other indicia of branding owned by Company and generally used by Company in conjunction with the applicable Service together with the "Spotify" Trademark. Unless otherwise agreed by Label, such indicia of branding shall not include those owned by parties who, at the date of signature of this Agreement, are third parties (other than affiliates of Company).

"Content File" means each applicable item of Label Materials delivered to Company in accordance with the applicable Content and Delivery Specifications.

"Content Preparation and Delivery Specifications" means the content preparation and delivery specifications for Label Materials mutually agreed by the parties hereto, which at the Effective Date shall be those attached as Exhibit K. Label may change such specifications from time-to-time in its sole discretion.

"Conversion Goal" means the attainment of each of the following: (i) the number of Qualifying Subscribers, expressed as a percentage of the Ad Supported Userbase, at expiry of the immediately preceding calendar month, is equal to or greater than ten percent (10%), and (ii) the number of Organically Derived Subscribers, expressed as a percentage of the Ad Supported Userbase at expiry of the immediately preceding calendar month, is equal to or greater than five percent (5%).

"Distribution Method" means the authorised method for distribution of Label Materials via each of the Services, in accordance with Paragraph 9(c) below.

"Effective Date" means the earlier of (i) the date that any of the Services are first made commercially available in the Territory; and (ii) April 1, 2011. Company shall notify Label in writing of the date on which any of the Services first become commercially available to End Users registered as being in any part of the Territory.

"End User" means, at any particular time, a natural person who has registered for one of the Services - including for the avoidance of doubt any person who has registered for a Free Trial (as defined in Paragraph 10(c) below) and remains in good standing pursuant to the Service's terms of service and privacy policy.

"Functionality Specifications" means the functionality specifications, operational features and mock-ups of the applicable Service, insofar as it includes the Label Materials, attached hereto as Exhibit C.

"Gross Revenues" means, with respect to audio and video streams, all gross revenues directly related to the Services, including but not restricted to (i) all revenues attributable to text and/or graphic display, rich media and "in-stream" advertising revenues (i.e., audio, visual or audiovisual advertisements exhibited before, during or after a stream containing any Label Materials) generated from software client interfaces, widgets or properties through which the Services are made available; (ii) all revenues attributable to CPC-, CPM- and CPA-based advertising, e-commerce and "referral fees"/bounties (including non-refundable advances and guarantees,

however characterized) generated via the Services, whether structured as a one-time payment or as a recurring revenue share, but specifically excluding e-commerce, "referral fees"/bounties and like revenue generated from sales of permanent audio and video downloads; (iii) all sponsorships sold by Company or its agents; (iv) solely with respect to the Subscription Services, all subscription income; and (v) any share of traffic or tariff charges for delivery of the Services that Company may be able to secure from telecommunications partners, and (vi) all revenues derived from the sale of data related to End Users and their use of the Services, in each case less (aa) VAT and or other sales tax (where relevant); (bb) actual out-of-pocket costs paid to unaffiliated third parties for ad sales commissions (subject to a maximum overall deduction of 15% ~~"off the top"~~ of such advertising revenues); (cc) revenues derived from the sale of Credited Inventory pursuant to Paragraph 14(e) (to the extent such revenues would otherwise be included within this definition).

For the avoidance of doubt, revenues derived from sales of devices and equipment (whether or not intended for use in connection with the Services) that are not e-commerce sales made through the Services, revenues derived from Company's performing development activities in connection with such devices and equipment, revenue from brand licensing and other intellectual property licensing and any other source of revenue of Company that is derived from a source outside the operation of the Services per se, shall not be considered "directly related to the Services" for purposes of the definition of "Gross Revenues". For purposes of determining "gross revenue" hereunder, any non-cash consideration shall be accounted for on the basis of the fair market value of the property or services concerned. As between Company and Label, Company shall be solely responsible for the amount of any and all unpaid or uncollected gross monies that would otherwise constitute "gross revenue" hereunder if actually paid (i.e., Company shall be solely responsible for all so-called "bad debt").

"Indirectly Acquired Subscribers" means End Users acquired via Company's acquisition, merger or consolidation of a third party service, or the stock or assets of a third party service, including the userbase, as the case may be, in whole or in part, directly or indirectly.

"Internet" means the publicly accessible worldwide system of computer networks that transmits data by means of packet switching based on a global network infrastructure with the following attributes: (i) it is logically linked together by an address system based on the Internet Protocol (IP); and (ii) it effectuates data transmissions by means of Transmission Control Protocol/Internet Protocol (TCP/IP).

"IODA" means Label's affiliate, the Independent Online Distribution Alliance, Inc

"IODA Fees" means any portion of the Label Fees due under this Agreement which is attributable to the exploitation of IODA Materials via the Services. Such portion shall be calculated in respect of each accounting period (i) in the case of the Ad Supported Service, based on the IODA Share of the amount due to Label under Paragraph 10(a)(1), and (ii) in the case of the Subscription Services, based on the IODA Share of each of the amounts due to Label under Paragraphs 10(a)(2) and 10(a)(3).

"IODA Materials" means any and all Label Audio Recordings and Label Video Recordings, from IODA member labels together with associated metadata, delivered directly to Company via a separate content feed managed by IODA independently of the content feed managed by Label. Any content delivered via such content feed that is not owned or controlled by IODA member labels shall not be considered IODA Materials, providing that all content from labels in respect of which releases have been delivered via such content feed prior to the date of execution of this Agreement shall always be considered IODA Materials.

"IODA Share" means, with respect to any particular calculation, a fraction where the numerator is the number of Royalty Bearing Plays of IODA Materials on the relevant Service or Services in the accounting period concerned, and the denominator is the aggregate number of Royalty Bearing Plays of all Label Materials (including IODA Materials) on the relevant Service or Services in the accounting period concerned.

"IODA Switchover Date" means the date of expiry of the distribution agreement entered into by Spotify Limited and IODA on July 1, 2009.

"Label Artist" means a recording artist whose musical performances are embodied in Label Audio Recordings or Label Video Recordings.

"Label Authorized Artwork" means the cover art, as used by Label in connection with the Label Audio Recordings or Label Video Recordings as originally distributed by Label in the Territory for sale through normal retail channels (as that term is understood in the phonograph record industry), that is delivered to Company for use in connection with the applicable Service.

"Label Authorized Trademarks" means any Trademark owned and/or controlled by Label and made available to Company pursuant to the terms and conditions of this Agreement.

"Label's Usage Percentage" means a fraction, the numerator of which is the aggregate number of Royalty Bearing Plays of Label Materials, and the denominator of which is the aggregate number of Royalty Bearing Plays of all materials distributed by Company under authorization from applicable rights-owners, including Label Materials, via the Service, excluding for the avoidance of doubt, stream deliveries or playbacks of Local Files or permanent downloads purchased from the Service. Company shall use a uniform methodology across all content providers for determining the numerator and denominator of this fraction, including but not restricted to the manner of counting Streams and playbacks. Company agrees in good faith to use reasonable efforts to procure that other content providers agree to include plays of Local Files or permanent download purchased from the Service within equivalent calculation. This fraction shall be calculated separately for the Ad Supported Service and each of the Subscription Services.

"Local Files" means permanent downloads of digital audio or audio-visual material that a user has stored locally for playback on an Approved Device. Local Files may include sound recordings owned and / or controlled by Label.

"Organically Derived Subscribers" means any Qualifying Subscribers who (i) are not Indirectly Acquired Subscribers or Third Party Acquired Subscribers; (ii) have entered into an end user licence agreement directly with Company governing the terms of a non-bundled subscription to a Subscription Service (excluding Online Day Passes) in the Territory carrying exclusively Company Branding; (iii) maintain a billing relationship directly with Company; and (iv) remain in good standing pursuant to Company's terms of service. For the avoidance of doubt, End Users who have purchased access to a Subscription Service (excluding Online Day Passes) via a third party retailer or hardware manufacturer that sells such access on a stand-alone (i.e. non-bundled) "à la carte" basis, (via gift cards, redeemable codes or otherwise) in the normal course of its business, shall be considered organically derived. Additionally, the involvement of a third party payment service provider in facilitating the billing of particular End Users shall not in itself prevent such End Users from being considered organically derived.

"Permitted Services" means a service offering on-demand streaming that (i) is owned or controlled ("controlled" meaning the ownership of 50% or more of the securities in the company operating such service or the ultimate parent entity thereof) by Label, under any brand or co-brand, and/or (ii) offers only limited duration promotional clips (as opposed to recordings in their entirety); and/or (iii) offers Ad Supported on-demand streaming in connection with limited term, non-recurring, niche-based offerings (e.g. offerings limited by genre or including a materially reduced number of tracks as compared to the total digital catalogues of its licensors); or (iv) does not offer playlisting functionality and can reasonably and objectively be viewed as ancillary to the service operator's primary business model of selling permanent downloads.

"Person" means any natural person, legal entity, or other organized group of persons or entities. (All pronouns, whether personal or impersonal, which refer to Persons include natural persons and other Persons).

"Preview Clips" means Streams of thirty (30) second audio-only clips derived from Label Audio Recordings (as defined in paragraph 6(a) below), in such form and formats as are delivered to Company pursuant to the Content Preparation and Delivery Specification, provided always that (i) not more than one (1) Preview Clip derived from any one (1) individual Label Audio Recording shall be made available for Streaming; (ii) each Preview Clip shall be Streamed to End Users only in the form delivered by Label to Company for such purpose, without any editing or alteration; and (iii) each Preview Clip is made available in close proximity to a prominent offer (e.g., a so-called "buy now" button or link) to purchase a digital download and/or that corresponds to the applicable Preview Clip from Company or any legitimate third party distributor authorised by Label.

"Prohibited Entity" means (A) an entity (or the parent, subsidiary or affiliate of any such entity) against which Label, any affiliate or any licensee of Label has a claim arising out of the unauthorized recording, manufacture, distribution, sale, reproduction (or other use) of any Label Materials or other related property or other related tangible or intangible rights, (B) an entity (or the parent, subsidiary or affiliate of any such entity) involved in litigation with Label or any of its affiliates or licensees arising out of the unauthorized recording, manufacture, distribution, sale, reproduction (or other use) of any Label Materials or other related property or other related tangible or intangible rights, (C) an entity (or the parent, subsidiary or affiliate of any such entity) engaged in any unauthorized recording, manufacture, distribution, sale or other activity in violation of Label's or its affiliate's or licensee's rights, or (D) any "major label" competitor of Label in the Territory.

"Publishing Costs" means all monies payable to Persons (or to third parties authorised as agents acting on such Persons' behalf) that own or control rights in or to musical compositions (e.g., music publishers or applicable rights societies with appropriate jurisdiction) in connection with exercising Publishing Rights. For the avoidance of doubt, Company shall be solely responsible for administering and paying all Publishing Costs.

"Publishing Rights" means all rights, consents, licenses and permissions necessary for the following acts undertaken after Company's receipt of the applicable Content File from Label: (i) the reproduction, communication to the public, public performance, digital audio transmission and generally making available in connection with the applicable Service of musical compositions embodied in Label Materials, and (ii) the communication to the public of musical compositions embodied in any Advertisements placed on the Service by Label on its own behalf or on behalf of any third party. For the avoidance of doubt: (a) Label shall not be responsible for any license required for the reproduction, inclusion or synchronization of any musical compositions embodied in any Advertisements placed on the Service; and (b) as between Label and Company, Company shall be solely responsible for acquiring, administering, and maintaining all Publishing Rights provided always that (c) for any Advertisements placed on the Service by Label on its own behalf or on behalf of any third party, Label shall be responsible for licensing any reproduction, inclusion or synchronization of any musical compositions embodied in any Advertisements.

"Qualifying Subscribers" means the aggregate number of End Users of the Online Subscription and Premium Subscription only in the relevant country of the Territory at the relevant measurement point, but not including any Indirectly Acquired Subscribers. For purposes of this definition, the term "End Users" shall not include persons engaged in a Free Trial.

"Royalty Bearing Play" means any Stream or playback of a Cached Download of an item of audio or audio-visual content (excluding Streams or playbacks of Local Files, advertising and permanent audio downloads purchased from the Service) via the relevant Service (or part thereof) with a minimum duration of thirty (30) seconds.

"Services" means the Ad Supported Service and the Subscription Services that are produced, programmed, managed and operated (as applicable in each case) solely by Company, are marketed exclusively under the Company Branding, are available in the Territory and which conform to the Technical and Security Specifications.

"Similar Authorised Services" shall mean all on-demand digital audio streaming or paid-for permanent digital audio download services authorised by Label or Label Affiliates (excluding any services licensed under a statutory licensing scheme) within the relevant part of the Territory.

"Stream" (as a noun) means each instance in which any portion of a recording is delivered by means of digital audio transmission which digital transmission is substantially contemporaneous with the performance of the recording embodied therein and delivered in an approved format that is designed so that such recording cannot be digitally copied, duplicated or stored in a renderable form in any manner or medium in whole or in part, directly or indirectly (other than any temporary copies used solely for so-called "caching" or "buffering"). "Streaming" shall be construed accordingly.

"Subscriber Goal" means one million (1,000,000) or more Qualifying Subscribers at expiry of the immediately preceding calendar month, of which at least five hundred thousand (500,000) shall be Organically Derived Subscribers.

"Subscription Service" means one of the following services, each offering End Users within the Subscription Territory unlimited on-demand and advertising-free access to Streams embodying Label Audio Recordings and Label Video Recordings in the relevant Approved Format and in accordance with the Functionality Specifications:

- (i) "Online Subscription", meaning a subscription providing access via a Static Desktop Application and/or Static Home Entertainment Application, in return for a periodic subscription fee;
- (ii) "Premium Subscription", meaning a subscription providing access, including access to Cached Downloads, via a Static Desktop Application, Static Home Entertainment Application and/or Mobile Application, in return for a periodic subscription fee; and
- (iii) "Online Day Pass", meaning limited time access solely via the Static Desktop Application or Static Home Entertainment Application, commencing upon purchase of such access and ending twenty-four (24) hours afterwards, in return for a one-off (non-periodic) retail fee.

For the avoidance of doubt, the relevant subscription fee payable by End Users may be billed by Company or an Authorised Distributor, and such fee may be charged in respect of access to the service on a stand-alone basis or access as bundled with the products and services of such Authorised Distributor. Subscriptions may also be sold whereby an End User pays for multiple subscription periods (for example, 12 months) up-front.

"Third Party Acquired Subscribers" means any End Users who were acquired by Company as subscribers through the bundling of one or more Subscription Services pursuant to an agreement between Company and an Authorised Distributor approved by Label in accordance with Paragraph 9(b) below.

"Top-Up Fees" means the additional fees payable in respect of the Ad Supported Service in respect of the Territory as further set out in Paragraph 10(b).

"Trademarks" means trademarks and service marks, trade names, brand names, corporate names, logos, trade dress, and other words, designations, symbols, designs, colors, color combinations or product configurations, whether registered or unregistered.

"Wi-Fi" means wireless local area networks providing general Internet access such as the Institute of Electrical and Electronics Engineers' family of so-called "8.02.11x" standards, whether configured for private use (e.g., in a home or office environment) or public use (e.g., at a so-called public "hot spot", whether or not a fee is charged or permission is required for connectivity).

2. Term:

(a) The "Term" shall begin on the Effective Date, and, unless earlier terminated in accordance with the terms herein, shall subsist during the following consecutive periods of time:

"Contract Period 1": meaning the period of twelve (12) months following the Effective Date;

"Contract Period 2": meaning the period of twelve (12) months following Contract Period 1.

Label shall be entitled at its sole discretion, upon written notice to Company (to be served no later than (1) month prior to expiry of Contract Period 2), to extend the term for an additional twelve (12) months (such additional period, "Contract Period 3").

(b) Label's right to opt-out of Ad Supported Service: Promptly following, but in no event later than seven (7) business days after, the date of expiry of the period of twelve (12) months following the date any of the Services are first made commercially available in the Territory (the "Test Date"), Company shall provide Label with statements containing all relevant and accurate information required to ascertain whether Company has met all requirements of both the Conversion Goal and the Subscriber Goal across the Territory as a whole,

calculated as at the Test Date ("Test Data Statement"). Company and Label agree that the following shall apply:

(i) In the event that Company supplies a Test Data Statement which shows that Company has met all of the elements of both of the Conversion Goal and the Subscriber Goal, calculated as at the Test Date, across the Territory as a whole, then Company shall automatically be entitled to continue distributing Label Audio Recordings via the Ad Supported Service in the Territory during the remainder of the Term in accordance with the terms and conditions of this Agreement.

(ii) In the event that Company supplies a Test Data Statement which shows that Company has failed to meet all of the elements of EITHER or BOTH of the Conversion Goal and the Subscriber Goal, calculated as at the Test Date, across the Territory as a whole, then:

- A: Company shall be entitled, by notifying Label in writing no later than seven (7) days following the date of Label's receipt of the Test Data Statement, to elect to continue distributing Label Audio Recordings via the Ad Supported Service in the Territory (such notice being referred to as a "Territory Continuation Notice"). Following such election by Company, the provisions of Paragraph 2(c) shall apply.
- B: In the event that Company fails to issue an effective Territory Continuation Notice within the required period, Label shall be entitled, by notifying Company in writing during the period commencing seven (7) days following the date of receipt of the Test Data Statement and ending a further seven (7) days thereafter, to elect to opt out of the Ad Supported Service in the Territory for the remainder of the Term (such notice being referred to as a "Territory Removal Notice").
- C: Any Territory Removal Notice will be effective seven (7) days after receipt by Company, after which Company shall cease to have the right to make available Label Audio Recordings via the Ad Supported Service in the Territory. Thereafter for the remainder of the Term, in the part or parts of the Territory to which the Territory Removal Notice applies, Company shall be entitled to make available Preview Clips via the Ad Supported Service, solely as a direct replacement for full length Streams of Label Audio Recordings. For the avoidance of doubt, Preview Clips may not be transferred to Approved Mobile Devices for use as Cached Downloads.
- D: Upon the effective date of any Territory Removal Notice, the provisions of Paragraph 4(b) shall apply.

For the avoidance of doubt, if Company fails to supply a Test Data Statement within the time limit prescribed above, Company shall be deemed to have supplied a Test Data Statement which shows that Company has failed to meet all of the elements of both the Conversion Goal and the Subscriber Goal, calculated as at the Test Date.

(c) In the event that Company has issued a Territory Continuation Notice, then subject to the following sentence, Company shall be liable to pay Top-Up Fees in respect of each monthly accounting period in accordance with Paragraph 10(b) below throughout the remainder of the Term. Company shall be entitled to opt out of paying Top-Up Fees at the end of each successive set of three (3) calendar months (each, a "Quarter Period"), commencing with the Quarter Period beginning at the start of the calendar month immediately following the date of the Territory Continuation Notice, provided always that for such opt-out to be effective, Company shall provide at least forty-five (45) days' written notice, to expire on the last day of the final Quarter Period for which Company wishes to pay Top-Up Fees (a "Company Opt-Out Notice"). Following the effective date of any Company Opt-Out Notice, the country or countries which are the subject of such notice shall be deemed removed from the definition of Ad Supported Territory. Thereafter for the remainder of the Term, in the part or parts of the Territory to which such notice applies, Company shall be entitled to make available Preview Clips via the Ad Supported Service, solely as a direct replacement for full length Streams of Label Audio Recordings. For the avoidance of doubt, Preview Clips may not be transferred to Approved Mobile Devices for use as Cached Downloads

3. Territory:

(a) In respect of the Services, the authorized territory shall be the United States of America and Canada (the "Territory"). Notwithstanding the foregoing and at all times subject to Paragraph 6, Company acknowledges that certain Label Materials may only be eligible for exploitation via the Services in one or more parts of the Territory and the territorial eligibility for each such title will be determined by Label on a title-by-title basis (via metadata) for each item of Label Materials. Label shall communicate to Company any territorial limitations attached to Label Materials in a machine-readable form so as to enable Company to enforce such limitations, failing which Company shall have no liability to Label and/or the Label's affiliates with respect to exploitations that occur in the part(s) of the Territory affected by such limitations.

(b) Label acknowledges that Company intends to utilize one of the following two geographic filtering technologies (such applicable technology, the "Geographic Filtering Technology"), as determined by Label at its sole election, to assist Label in determining as far as possible in which country any given End User (or potential End User) is located for the purposes of this Agreement:

(i) With respect to any End User (or potential End User) who is attempting to access a Stream or log into/register for a Service, and in any case prior to such End User's actual Streaming or downloading of Label Materials, Company may utilize state-of-the-art IP geo-location and geo-filtering technology that is designed to determine whether such End User's IP address is within any particular country of the Territory; or

(ii) With respect to any End User (or potential End User) who has a credit card on file with Company, and prior to such end user's actual Streaming or downloading of Label Materials, Company may utilize credit card issuing bank location look-up technology that is designed to determine whether such issuing bank is on a listing of financial institutions located outside a particular country of the Territory.

Subject to the foregoing, Label acknowledges that for the purposes of this Agreement, Company shall be deemed to be acting in compliance with the requirements contained in this Agreement in relation to the location of End Users provided it implements Geographic Filtering Technology with respect to such End Users.

4. Advances; Non-Recoupable Sums

(a) Company shall pay the following amounts to Label as non-refundable but recoupable (subject always to subparagraphs (c) and (f) below) advances against Label Fees payable in respect of different parts of the Term and in respect of all parts of the Services (the "Advances");

- (i) **Contract Period 1:** nine million US dollars (\$9,000,000), becoming due and payable in four equal instalments in accordance with the following schedule:

Start of Contract Period 1	\$2,250,000
3 months after Start of Contract Period 1	\$2,250,000
6 months after Start of Contract Period 1	\$2,250,000
9 months after Start of Contract Period 1	\$2,250,000
(in aggregate, the " <u>Contract Period 1 Advance</u> ")	

- (ii) **Contract Period 2:** sixteen million US dollars (\$16,000,000), becoming due and payable in four equal instalments in accordance with the following schedule:

Start of Contract Period 2	\$4,000,000
3 months after Start of Contract Period 2	\$4,000,000
6 months after Start of Contract Period 2	\$4,000,000
9 months after Start of Contract Period 2	\$4,000,000
(in aggregate, the " <u>Contract Period 2 Advance</u> ")	

- (iii) **Contract Period 3** (provided Label exercises its right to extend the Term under Paragraph 2(a) above): seventeen million five hundred thousand US dollars (\$17,500,000), becoming due and payable in four equal instalments in accordance with the following schedule:

Start of Contract Period 3	\$4,375,000
3 months after Start of Contract Period 3	\$4,375,000
6 months after Start of Contract Period 3	\$4,375,000
9 months after Start of Contract Period 3	\$4,375,000
(in aggregate, the "Contract Period 3 Advance")	

(b) Notwithstanding sub-paragraph (a) above, in the event that Label has issued a Territory Removal Notice covering any part of the Territory pursuant to Paragraph 2(b), the Contract Period 2 Advance will be set at an amount equal to THE GREATER OF (A) five million US dollars (US\$5,000,000), pro-rated by the number of months remaining in Contract Period 2, and (B) the product of (x) aggregate Label Fees derived solely from the Subscription Service in respect of the whole Territory during the three (3) months prior to the Test Date, multiplied by (y) four (4). The adjusted Contract Period 2 Advance shall be paid in equal quarterly instalments on the dates stated in Paragraph 4(a)(ii) above, but solely to the extent that each such date has not yet passed. By way of example only, if Label issues a Territory Removal Notice in the fourth month of Contract Period 2, and the Adjusted Contract Period 2 Advance is \$6,000,000, then \$1,500,000 will be payable by Company to Label at 6 months after the Start of Contract Period 2, and \$1,500,000 will be payable by Company to Label at 9 months after the Start of Contract Period 2. Notwithstanding sub-paragraph (a) above, in the event that Label has issued a Territory Removal Notice covering any part of the Territory pursuant to Paragraph 2(b), the size of the Contract Period 3 Advance will be set at an amount equal to THE GREATER OF (A) five million US dollars (US\$5,000,000), pro-rated by the number of months remaining in Contract Period 3, and (B) the product of (x) aggregate Label Fees derived solely from the Subscription Service in respect of the whole Territory during the final three (3) months of Contract Period 2, multiplied by (y) four (4). The adjusted Contract Period 3 Advance shall be paid in equal quarterly instalments on the dates stated in Paragraph 4(a)(iii) above, but solely to the extent that each such date has not yet passed.

(c) The Contract Period 1 Advance, Contract Period 2 Advance and Contract Period 3 Advance shall be recoupable solely against Label Fees payable in respect of each corresponding contract period. Notwithstanding the previous sentence, in the event that, upon expiry of Contract Period 1, total aggregate Label Fees across the Territory are less than the Contract Period 1 Advance, an amount equal to the lesser of three million US dollars (\$3,000,000) and the value of such shortfall (the "Transferred Advance") shall become recoupable during Contract Year 2 in addition to the Contract Period 2 Advance. For the avoidance of doubt, any Label Fees payable in respect of Contract Year 2 shall be applied to recoup the Transferred Advance first, and subsequently the Contract Year 2 Advance,

(d) For the avoidance of doubt, Label Fees and, if any, Top-Up Fees paid or payable by Company in connection with the Territory shall not apply in reduction of, or be cross-recoupable against, any minimum revenue guarantee or advance payment made or required to be made by Company or any affiliate of Company in respect of countries or geographical regions outside the Territory during any period. Amounts paid or payable by Company or any affiliate of Company in any period in connection with countries or geographical regions outside the Territory shall not apply in reduction of, or be cross-recoupable against the Advances.

(e) If any incremental Label Fees become payable at any time as a result of the cumulative Label Fees within each contract period exceeding the aggregate installments of the Advance paid during such contract period, such incremental Label Fees shall be applied as a credit against the next installment of the relevant Advance (if any).

(f) *Label Fees from Third Party Acquired Subscribers and Indirectly Acquired Subscribers.* Unless otherwise agreed as a condition of Label providing approval to Company in relation to any proposed Authorised Distributor hereunder, Label Fees generated in connection with Third Party Acquired Subscribers shall be recoupable against the Advances but shall be reported and accounted for as separate line items as part of any Financial Statements in connection with any consumed months and in accordance with any schedule agreed by the parties in connection with guaranteed but non-consumed months. Furthermore, unless otherwise agreed by Label, Label Fees generated in connection with Indirectly Acquired Subscribers shall be reported and

accounted for as separate line items as part of any Financial Statements and paid through to Label, without regard to any non-recouped Advances.

(g) Solely in the event of Company's material failure to render or deliver, as applicable, fees payable pursuant to Section 2 of the Agreement, Weekly Reports, Monthly Reports or any other payments or reports required under this Agreement, as and when required pursuant to this Agreement (e.g., late accountings, accountings rendered in a format other than as required hereunder), Label reserves the right to impose a non-recoupable content preparation and delivery fee (the "Content Preparation Fee") in the amount of €750 (seven hundred and fifty Euros) in respect of each calendar month in which Company has failed in accordance with this clause, which will be payable, if ever, within fifteen (15) business days after its receipt of a notice from Label that accurately confirms that any such fees payable pursuant to Section 2, Weekly Reports, Monthly Reports or any other payments or reports required under this Agreement were not rendered as and when required; provided, however, that Company will have two (2) opportunities to cure the failure concerned each, respectively, within five (5) business days following notice from Label which describes, with reasonable particularity, the failure concerned, before the failure concerned may be deemed a Default Event that gives rise to payment of the Content Preparation Fee hereunder.

5. Annual true-up of Advances:

(a) At the end of Contract Period 1, Contract Period 2 and Contract Period 3, Company shall calculate the Equivalent Guarantee and the One Point Value for Label and each of the Other Parties (as defined in Paragraph 13(a) below) in respect of that contract period. In the event that the One Point Value for any of the Other Parties exceeds the One Point Value for Label in that contract period, Company shall calculate an Adjusted Contract Period Advance for that contract period and, within seven (7) days of the end of that contract period, shall notify Label in writing of such Adjusted Contract Period Advance. Label shall thereafter be entitled to invoice Company for the difference between the Adjusted Contract Period Advance and the Contract Period 1 Advance, Contract Period 2 Advance or Contract Period 3 Advance (as applicable) less the amount (if any) by which Company over-recouped the Contract Period 1 Advance, Contract Period 2 Advance or Contract Period 3 Advance (as applicable). Company shall settle such invoice within thirty (30) days of the date thereof.

For example: An Other Party has a 30% Label Market Share and a \$20m revenue guarantee in the period of 16 months from the Effective Date. The Equivalent Guarantee for such Other Party is therefore $(20/16) \times 12 = \$15m$. The One Point Value for such Other Party is therefore $\$15m / 30 = \$0.50m$.

Label has a 25% Label Market Share and a \$9m advance in Contract Period 1. Company has over-recouped the Contract Period 1 Advance by \$1m. The Equivalent Guarantee for Label is therefore $(9/12) \times 12 = \$9m$. The One Point Value for Label is therefore $\$9 / 25 = \$0.36m$.

As a result the Adjusted Contract Period Advance for Contract Period 1 is $\$0.50m \times 25 = \$12.5m$. Therefore, Label shall be entitled to invoice Company for $\$12.5m - \$9m - \$1m = \$2.5m$.

(b) As used herein:

"Equivalent Guarantee" means the total of each and any minimum revenue guarantee or advance which is recoupable (in whole or part) by the relevant party during the applicable contract period, each such guarantee or advance having been converted to an average amount per calendar month and then pro-rated according to the portion of the applicable contract period during which it was recoupable;

"One Point Value" means, for the relevant party, the amount of its Equivalent Guarantee for each one percent (1%) of its Label Service Share in respect of the applicable contract period.

"Label Service Share" means a fraction, the numerator of which is the number of Royalty Bearing Plays of Label Audio Recordings across all Services in all parts of the Territory during the applicable contract period, and the denominator of which is the number of Royalty Bearing Plays of all audio recordings authorised by the Other Parties plus the number of Royalty Bearing Plays of Label Audio Recordings across all Services in all parts of the Territory during the applicable contract period.

"Adjusted Contract Period Advance" means the Equivalent Guarantee for Label in the relevant contract period multiplied by the largest One Point Value for any of the Other Parties.

6. Content:

(a) Label Audio Recordings: Label's audio tracks, as delivered by Label to Company pursuant to Paragraph 12 below, including catalogue and new releases, which Label has rights for exploitation via the Authorized Platform (as defined below) and via the applicable approved Distribution Method (set out in Paragraph 9(c) below) in the applicable parts of the Territory (collectively, the "Label Audio Recordings").

(b) "Short-form" Label Videos: Label's "short-form" music videos, as delivered by Label to Company pursuant to Paragraph 12 below, of the nature customarily exhibited on television broadcast channels (e.g., MTV, VH1), including catalogue and new releases, which Label has rights for exhibition and/or exploitation via the Authorized Platform and via the approved Distribution Method (set out in Paragraph 9(c) below) in the applicable parts of the Territory (collectively, the "Label Video Recordings").

(c) The Label Video Recordings and Label Audio Recordings, together with associated metadata and any Preview Clips, are sometimes individually and collectively referred to herein as the "Label Materials". For the avoidance of doubt, Local Files may include sound recordings owned or controlled by Label, but shall not be considered Label Materials for the purposes of this Agreement.

(d) Subject always to Paragraphs 7(e) to (m) below, the Label Materials will comprise the complete catalogue of sound recordings and short-form videos in which Label and all of Label's affiliates and licensees in the Territory possess sufficient rights to authorize the activities contemplated in this Agreement in each part of the Territory, and such provision will be in the same quantities and at the same times as Label makes such content available to any Similar Authorised Services. Notwithstanding the foregoing, Label will have the absolute unfettered right, in its sole discretion (i) to withhold any item of content for any of the reasons set forth in sub-paragraph 7(e) below; or (ii) to delay Company's use of selected Label Materials for the purposes of conducting limited exclusive usage of such content by third parties, and Label's exercise of the right described in this sentence with respect to particular Label Materials shall not be a material breach of this Agreement.

(e) Notwithstanding Paragraph 6(d) above, Label shall have the right to withhold from the any of the Services (i) any content in respect of which it lacks the right to authorise distribution via the relevant Service; and (ii) any content in respect of which distribution via the relevant Services would create *bona fide* artist relationship issues. Furthermore, Label shall have the right solely in exceptional, infrequent circumstances (but otherwise at its sole discretion) to withhold solely from the Subscription Service any Label Materials in respect of which it believes distribution via the Subscription Service will cause it to be commercially disadvantaged, provided always that the relevant Label Materials shall be made available to Company for distribution as permanent downloads, and also provided that Label shall exercise this right, if ever, in good faith and not so as to frustrate or undermine the general content commitment being made to Company pursuant to Paragraph 6(d).

7. Rights:

(a) Label grants Company the non-exclusive, non-transferable, non-delegable (except as specifically set forth herein) power and authority to exploit the Label Materials, in the applicable countries of the Territory during the Term in connection with the Services, and subject to the terms, conditions and limitations prescribed elsewhere in this Agreement as follows (the "Grant of Rights"):

(1) To create and store a reasonable, limited number of copies (each, an "Ephemeral Copy") of each Content File on Company Servers in accordance with the Technical and Security Specifications;

(2) To integrate the Label Materials into the Services and to use and exploit such Label Materials (including communicating Label Materials (excluding the musical compositions embodied therein) to the public via Company Servers and on a peer-to-peer basis, and displaying items of Label Authorized Artwork to End Users) solely to the extent necessary to operate the Services in accordance with the Technical and Security Specifications, attached hereto as Exhibit D, and the applicable Functionality Specifications, attached hereto as Exhibit C.

(b) Company is not authorized under this Agreement to promote, market, distribute, fulfill, host, transmit or otherwise exploit any Label Materials, or to otherwise use any such Label Materials in any manner or form not expressly authorized herein. Except as otherwise provided herein, Label hereby reserves all rights in and to the Label Materials and all other materials owned or controlled by Label. All rights not expressly granted to Company hereunder are reserved by Label.

(c) Label Materials included on the applicable Service shall be derived solely from the Content Files or other digital files delivered by Label or such other person or entity as Label designates in its sole discretion, and Company shall not authorize any person or entity to add, delete or otherwise alter such Label Materials in any way, subject to transcoding in the event authorized by Label in writing in advance. For the avoidance of doubt, no copyright notices or metadata (e.g., artist name and title) shall be removed.

(d) Unless otherwise legitimately authorized, Company shall not, without Label's prior written consent in each instance, make any use of (directly or indirectly), or authorize any other person or entity deriving rights from Company (directly or indirectly) to make use of, any Label Materials or the names, likenesses or biographical materials of any Label Artists and/or any other person or entity contributing to the recording or creation of any Label Materials, in advertisements, promotions, press releases or marketing materials used in connection with the applicable Services or otherwise in a manner that would lead a reasonable person to believe that the Label or the Label Artist or other person or entity concerned had endorsed the product or service concerned. For the avoidance of doubt, and notwithstanding anything to the contrary herein, where Label has delivered to Company the name and likeness of a person or entity in Label Authorized Artwork, the use by the Company of the name and approved likeness of that person or entity in connection with the promotion, offer, and fulfillment of the Services shall be deemed legitimately authorized by Label, provided that (A) the name and likeness concerned shall only be used in a manner that is accurately descriptive and representative of the artists whose featured performances are embodied in Label Audio Recordings available via the Services, and only in a manner that appropriately and proportionately reflects such availability, such as by listing all such artists (including Label Artists) in alphabetical order at all times, or alternatively, by rotating such names and likenesses in a rotation consisting of no less than an aggregate of twenty-five (25) names of different artists such that no particular Label Artist is disproportionately used or emphasized, (B) such names and such likenesses of Label Artists (to the extent displayed in connection with the applicable Services or on the Company's website) shall not be given more or less prominence than all other artists made available via the applicable Services by position, name, type size, type style or otherwise, and (C) Company shall not use any such name or likeness in a manner that can be construed by a reasonable Person as an endorsement of any product or service, including the Services.

(e) Notwithstanding the foregoing or anything elsewhere herein, Label may, at its sole election, require Company to cease using any Label Audio Recordings, Label Video Recordings or other Label-provided materials upon two (2) business days' notice to Company (whilst such notice shall ordinarily be communicated in a machine-readable form, in time-critical or other exceptional or important scenarios, it may be delivered via electronic mail, the receipt of which by a natural Person at Company is confirmed) (each, a "Take Down Notice") for reasons of artist relations, loss of rights and/or any third party claim regarding such content. Within two (2) business days following Company's receipt of such Take-Down Notice, Company shall restrict access to the applicable items on or in connection with the Service such that the applicable item(s) are not available for streaming or download on the Service ("Take Down Materials").

(f) Company shall not be authorized to make available any particular item of Label Materials via any of the Services in any particular part of the Territory unless and until Label has provided to Company release date information for the particular item and part of the Territory. Label shall provide, as a minimum, for every item of Label Materials, a general release date indicating the day upon which such item is authorized for distribution via the Ad Supported Service (if applicable) and the Subscription Service in particular parts of the Territory (the "General Release Date"). However, subject always to sub-paragraph (i) below, Label shall additionally be entitled to direct Company to hold back items of Label Materials from the Ad Supported Service until a secondary release date (the "Ad Supported Release Date"). The General Release Date and the Ad Supported Release Date information shall be referred to collectively as the "Release Date Information". Label shall provide Release Date Information in a form that is reasonably practicable to enable Company to be in compliance with its relevant obligations hereunder (e.g., via XML, data feeds or other reasonable notification methods).

(g) To the extent that a General Release Date, and in certain cases an Ad Supported Release Date, for a particular title is provided to Company as set forth in the previous sub-paragraph, Company shall not make the corresponding Stream or Cached Download (and, subject to any agreement to the contrary, any corresponding Label Authorized Artwork or Preview Clip) available for distribution in the relevant part or parts of the Territory earlier than the date or dates provided by Label in the corresponding Release Date Information. If Label fails to provide a General Release Date for any particular title for any part or parts of the Territory, the corresponding recording shall not be deemed eligible for use in connection with any of the Services in such part or parts of the Territory. If Label fails to provide an Ad Supported Release Date for any particular title for any part or parts of the Territory, the corresponding recording shall be deemed eligible for use in connection with the Ad Supported Services as of the General Release Date provided for such titles in such part or parts of the Territory. Company shall have no obligation to make any item of Label Material available for purchase as a permanent download via the Ad Supported Service during any period in which such item is not authorized for distribution on the Ad Supported Service.

(h) Notwithstanding the requirement for a Label Affiliate Agreement to be executed in respect of any part of the Territory in which Company wishes to exploit Label Materials, subject always to any Take Down Notice, if Label delivers the relevant territory clearances for such part of the Territory within Label's XML feed, then Company shall be deemed to have been granted the applicable rights to exploit the Label Materials concerned in that part of the Territory, subject to relevant Release Date Information provided to Company.

(i) At any time during the Term, Label may exercise its full discretion, subject to the remaining provisions of this paragraph, to establish and communicate to Company an Ad Supported Release Date for one or more parts of the Territory in respect of any particular item of Label Materials (which may include, for the avoidance of doubt, an individual track or an album/bundle configurations of tracks) not yet released within the respective part or parts of the Territory, which is up to fourteen (14) days later than General Release Date set by Label for the corresponding item. Label shall be permitted to set an Ad Supported Release Date for any particular item of Label Materials in any particular part of the Territory solely to the extent that Similar Authorized Services are not authorized to distribute such item in such part of the Territory until a date which is the same as, or later than, the relevant Ad Supported Release Date. Notwithstanding the previous sentence, nothing shall prevent Label from authorizing the making available of any particular item of Label Materials prior to its Ad Supported Release Date via Permitted Services. For the avoidance of doubt, in every case that Label has communicated a General Release Date for a particular recording, Company shall make such recording available as soon as reasonably practicable following such General Release Date via the Subscription Services.

(j) Label may also exercise its full discretion, subject only to the remainder of this sub-paragraph, to designate Label Materials which shall not be made available for distribution via the Ad Supported Service, whether or not such Label Materials are yet to be released or are already available via the Ad Supported Service at the date Label advises Company of the designation (the "Excluded Tracks"). In the event Label designates as Excluded Tracks particular Label Materials which are already available on the Ad Supported Service in one or more parts of the Territory, Company shall disable access to such Excluded Tracks, together with Alternate Versions, via the Ad Supported Service no later than five (5) business days following the date of such designation and shall not re-enable access to such Excluded Tracks until further notice from Label. In the event Label designates particular Label Materials as Excluded Tracks prior to the General Release Date (or where applicable, any Ad Supported Release Date), then Company shall not provide access to such Excluded Tracks, together with Alternate Versions, via the Ad Supported Service only until further notice from Label. Label shall be deemed to have designated Excluded Tracks to Company where it communicates such details in a form that is reasonably practicable to enable Company to be in compliance with its relevant obligations hereunder (e.g., via XML, data feeds or other reasonable notification methods). Label's right to notify Company of Excluded Tracks under this paragraph shall always be subject to the following conditions:

- (A) Label shall be permitted to designate a maximum ("Excluded Maximum") of seven hundred and fifty (750) unique Label Audio Recordings as Excluded Tracks in each part of the Territory within each twelve (12) month period, such periods to run consecutively commencing on the Effective Date (each, an "Exclusion Period"). For the purposes of calculating the Excluded Maximum, Label Audio Recordings which have only been designated as Excluded Tracks for part of any such Exclusion Period shall nevertheless count toward the Excluded Maximum, but an Excluded Track which appears within multiple Label-provided configurations (i.e. albums or other track bundles) shall only

be counted once. For the avoidance of doubt, a Label Audio Recording shall not be counted as an Excluded Track solely by means of Label allocating such Label Audio Recording an Ad Supported Release Date;

- (B) Label agrees that, in aggregate, the Excluded Tracks in any part of the Territory (irrespective of whether they are new releases or so-called back catalogue) shall not constitute a commercially substantial portion of all Label Audio Recordings available via the Ad Supported Service in such part of the Territory at any given time during the Term;
- (C) Label acknowledges that Company has entered into this Agreement based on the understanding that Label will not exercise the rights described in this Paragraph 7(j) in a manner that would defeat or undermine the purpose or value of this Agreement to Company. An example of an exercise that would undermine the purpose and value of the Agreement is the creation of a so called "yo-yo" effect, i.e. a specific Label Audio Recording going from being an Excluded Track to being authorized more than once.

(k) For the purposes of Paragraph 7(j), "Alternate Versions" means all Label Audio Recordings embodying featured musical performances of the same musical composition by the same SME Artist, and when counting the number of Excluded Tracks in any given Exclusion Period, all Alternate Versions shall constitute the same Label Audio Recording, including for the avoidance of doubt, all remixed, edited, remastered, demo, acoustic and live versions thereof. Company's obligation to prevent access to Alternative Versions pursuant to Paragraph 7(j) shall be subject to and conditional upon either Label providing a full list of all such Alternative Versions, or Label providing a reasonably effective means for Company to identify Alternative Versions itself via metadata references or other means.

(l) Notwithstanding the foregoing, Label will have the absolute unfettered right, in its sole discretion, but with respect to a limited number of Label Materials and on a case-by-case basis only, to set Release Date Information so as to delay Company's use of a limited number of selected Label Materials as compared to selected third party services (including, but not limited to, for the avoidance of doubt Similar Authorised Services) for the purposes of conducting time-limited exclusive usage of such content by such third party services in connection with exclusive artist and/or label promotional and marketing campaigns. Label's exercise of the right described in this subparagraph with respect to particular Label Materials shall not be a breach of this Agreement.

(m) Company acknowledges and agrees that in respect of Label Audio Recordings, clearances for distribution by way of permanent download are separate from clearances for distribution by way of Streaming or Cached Downloads, and Company shall ingest and adhere to all such clearances during the Term. Notwithstanding the previous sentence, during a period of six (6) months following the date of signature of this Agreement, Label shall provide to Company from time to time a "delta list" showing where Label Audio Recordings which are cleared for distribution by way of Streaming or Cached Downloads are not cleared for distribution by way of permanent download, and vice-versa, and Company shall be entitled to utilize such information in order to ensure adherence with the relevant clearances, in lieu of ingesting and acting on clearances delivered by Label via metadata.

(n) From time to time, Label may at its sole discretion provide Company with the benefit of so-called 'pre-listening' periods for certain Label Audio Recordings selected by Label, whereby Company shall be entitled to make available those Label Audio Recordings as Streams and Cached Downloads (as applicable) via the Services or a part thereof in designated parts of the Territory from a date (to be determined by Label at its sole discretion) which is earlier than the date from which Label has authorized other third party services to make available those same Label Audio Recordings.

8. Requirements concerning operation of the Services:

(a) All Services:

(i) Other than as permitted under this Agreement, there shall be no licensing, sub-licensing, co-branding, syndication or private-labeling of the Services by Company to third parties.

(ii) All costs associated with hosting, streaming, billing, accounting and reporting in respect of distribution of the Label Materials shall be fully borne by Company, and Company shall be solely responsible for creating, maintaining and hosting, marketing and distributing the Services in accordance with the Technical and Security Specifications and Functionality Specifications at its sole cost and expense.

(iii) Except as expressly set forth herein, as between Label and Company, Company hereby assumes all liability which may arise from products and services, as the case may be, rendered to End Users and liability for injuries to and by servants, agents, employees or the general public in connection with the operation of the Services. Except as expressly set forth herein, all business risks related to the Services, including but not limited to the risk of non-payment by End Users shall be borne by Company.

(iv) Company shall cause copyright notices (or links thereto) relating to a Stream or Cached Download to be displayed to End Users in connection with the display of the corresponding album information where practicable. Each copyright notice shall be displayed in the following format, as designated by SONY MUSIC in each instance for the Stream or Cached Download concerned: "(P) (C) [Year of first publication] [SONY MUSIC designated name]."

(v) Each Stream and Cached Download shall only be made available for transmission or playback (as relevant) in a manner which makes the Stream or Cached Download concerned available in prominent, close proximity to an offer (e.g., a so-called "buy now" button or link) to purchase a digital download and/or CD from a legitimate distributor authorized by Label, that corresponds to the applicable Stream or Cached Download where practicable; provided, however, that the foregoing obligation shall not apply with respect to any Stream or Cached Download for which Label does not provide a corresponding buy button or link. Notwithstanding the previous sentence, in the absence of any button or link provided by Label, Company shall use its reasonable efforts to implement default buy buttons which link to an offer of a relevant product from a reputable and legitimate distributor of Company's choosing.

(vi) During the Term, Company shall investigate in good faith the feasibility of technically and practically facilitating the inclusion and management within the Authorized Application of commerce links/"buy buttons" and/or other materials and information (including web links) on artist pages associated with each of the Label Artists (each, a "Artist Area"), such Artist Areas to be editorially controlled solely by Label, subject to reasonable guidelines communicated by Company from time to time, provided such guidelines do not undermine the primary purpose of such Artist Areas as outlined in this paragraph.

(vii) Company agrees to extend the same Marketing and Promotional Support to Label as it may extend to any other content provider from time to time, on a basis and to a degree that is not materially less favourable than that upon which such Marketing and Promotional Support has been extended to the other content provider. For the purposes of this paragraph, it is agreed that Company will be deemed to fulfill its obligation to extend the required Marketing and Promotional Support to Label where (I) throughout the Term it provides a reasonable opportunity for Label to pitch appropriate releases and/or artists in connection with all relevant Marketing and Promotional Support opportunities; and (II) Company gives meaningful consideration to each such pitch, subject to retaining ultimate editorial discretion in each instance. Every six (6) months, Company and Label shall review in good faith the range of opportunities offered to Label in connection with Marketing and Promotional Support over the previous six (6) months as compared to opportunities offered to third parties over the previous six (6) months, with a view to remedying any material disparity going forwards.

(viii) Company agrees that it shall not, by way of any action or omission, unreasonably discriminate against Label Materials in the context of any aspect of the design, operation and management of the Services. It is agreed that it shall not be deemed reasonable to discriminate against Label Materials in this context merely because distribution of content from another rights-holder is economically favourable to Company.

(ix) As used in this paragraph 8(a)(vii), "Marketing and Promotional Support" means, but shall not be restricted to, so-called 'spotlights'; contests; features; placements; merchandising

opportunities; recommendations; end-user messaging; event sponsorships; tie-ins and cross-marketing campaigns (including, without limitation, in-store marketing); any offline marketing (e.g. TV ads, radio ads, print ads) or online marketing and/or any other marketing and promotional opportunities for prominent, above-the-fold display on all parts of the Services.

(x) For the avoidance of doubt, Authorised Applications shall not include any functionality which facilitates the sharing by any End User of permanent audio downloads or permanent video downloads with any other End User.

(xi) Company shall provide Label with no fewer than thirty (30) days' written notice prior to including as part of the Services any functionality which has the potential to result in a material reduction in the number of Royalty Bearing Plays. Company shall also notify Label of any other significant functionality before launching, including as part of any regularly scheduled business development meetings.

(xii) For the avoidance of doubt, all Royalty Bearing Plays, whether initiated actively by End Users or automatically by virtue of being part of a sequence of tracks within a playlist, set of search results or otherwise, shall be deemed to occur as part of the Services, and such Royalty Bearing Plays shall therefore be counted in the calculations in the relevant part of Paragraph 10(a) below.

(b) Ad Supported Service:

(i) Label Audio Recordings are to be rendered solely by means of streaming on an Ad Supported (free-to-user) basis.

(ii) During the period of six (6) months from the date each End User first makes a Royalty Bearing Stream on the Ad Supported Service, whether or not such End User actually makes use of the service in all such months (the "Unrestricted Free Period"), Company shall be authorised to make available Streams of recordings (including but not restricted to Label Audio Recordings) to such End User via such service on an unlimited basis. Following expiry of the Unrestricted Free Period for each End User, Company shall solely be authorised to make available to such End User a maximum of five (5) Royalty Bearing Plays of any particular recording (including but not restricted to any particular Label Audio Recording but excluding any Local Files) during the remainder of the lifetime of such Active User via the Ad Supported Service. Following expiry of the Unrestricted Free Period, in the event that an End User of the Ad Supported Service wishes to Stream any particular recording (including but not restricted to any particular Label Audio Recording but excluding any Local Files) in respect of which he/she has already made five (5) Royalty Bearing Plays, Company shall be restricted to offering such End User the ability to Stream or play back a thirty (30) second preview clip (and in the case of Label Audio Recordings, Preview Clips) of the relevant recording, provided always that Company shall work in good faith to design the user experience such that the End User is actively encouraged either to become an End User of the Subscription Service and/or to purchase a permanent download of the relevant recording in order to hear it again in full.

(iii) For the avoidance of doubt, the Unrestricted Free Period may be temporarily interrupted by any period of time during which the relevant End User is an End User of the Subscription Service, provided always that each End User's Unrestricted Period shall automatically resume immediately upon expiry of his/her subscription to the relevant Subscription Service and shall never have an aggregate cumulative duration in excess of six (6) months. Furthermore, for any End User of the Subscription Service who has never previously been, but subsequently becomes, an Active User, the Unrestricted Free Period shall begin on the date such End User first makes a Royalty Bearing Stream on the Ad Supported Service. For the avoidance of doubt, all End Users of the Ad Supported Service as at the Effective Date shall be deemed to have made their first Royalty Bearing Stream as at the Effective Date.

(iv) Except where an End User is accessing Local Files or permanent downloads purchased from the Service, Company shall use all commercially reasonable efforts to prevent access to Streaming on the Ad Supported Service from Approved Mobile Devices and Approved Static Home Entertainment Devices. Label may at Company's request approve any particular device or class of device to fall within the definition of an Approved Static Desktop Device from time to time during the Term and as such be

used to access the Ad Supported Service. In considering whether to grant such approval Label shall act reasonably and in good faith, taking into account all relevant factors, including but not restricted to which of the Services is intended to be offered via such devices. Company acknowledges that, as of the Effective Date, it is Label's intention that access to and use of the Ad-Supported Service be restricted to devices that are not designed with portability as a primary feature, excepting laptop computers which are capable of running Authorised Applications designed for Approved Static Desktop Devices.

(v) Company shall use its best efforts to maximise audio, graphical and audio-visual advertising revenues in respect of the Ad Supported Service. At all times during the Term, within each 20 (twenty) minute period of Streaming of audio recordings (whether or not including Label Audio Recordings, but excluding Streaming of Local Files), to be measured on the basis of aggregate total duration and number of audio Streams in each calendar month, Company will cause at least one interruptive block of audio advertisements (which may comprise one or more individual advertisements), each with a duration no shorter than 30 (thirty) seconds, to be transmitted between Streams of such audio recordings (such requirement referred to herein as the "Minimum Content-To-Commercial Ratio"). The parties acknowledge that Label customarily has more onerous requirements generally with respect to minimum advertisement-to-content ratios, including but not restricted to requiring, on average (over the course of each month), no less than one Advertisement for each Stream of a Label Audio Recording. However, it is agreed that during the Term the parties shall evaluate the usage of the Ad Supported service, Company's performance in relation to the volume and type of Advertisements sold (including CPMs achieved) and the actual advertisement-to-content ratio achieved in practice in each part of the Territory. It is contemplated by the Parties that Company will experiment with a variety of advertising unit types, sizes, lengths, interruption duration and interactivity features in respect of the Ad Supported Service, including pre-roll placements, post-roll placements, in-stream placements, static so-called "single card" visual advertisements and so-called "flash pop-ups", subject to (i) satisfying the Minimum Content To Commercial Ratio in all events, and (ii) meaningful advance consultation with Label regarding such types, sizes, lengths, interruption durations (between the range prescribed above) and interactivity features. The creative elements of each Advertisement may be a mix of commercial advertisements sold by Company to third parties, so-called "public service announcements" selected by Company, so-called "station IDs" for the Services or so-called "house ads" promoting Company's owned or controlled content or features. From time to time during the Term, the parties shall meet to discuss in good faith these matters (and any related issues), together with any course of action that may be followed to improve monetisation of Label Materials, it being understood that Company shall have sole discretion to determine the frequency and placements of all advertisements on the Services, subject only to the Minimum Content to Commercial Ratio.

(vi) For the avoidance of doubt, the grant of rights hereunder does not extend to authorizing Company to offer Label Video Recordings as part of the Ad Supported Service (or any variant thereof) in any part of the Territory.

(vii) Company shall meaningfully consult with Label from time to time during the Term with regard to striking an appropriate balance between providing an optimal consumer experience and encouraging and incentivizing End Users to convert from the Ad Supported Service to one of the Subscription Services.

(c) Subscription Services:

(i) Except where an End User is accessing Local Files or permanent downloads purchased from the Service, Company shall use all commercially reasonable efforts to prevent access to Streams and Cached Downloads via the Online Subscription from Approved Mobile Devices. Label may at Company's request approve any particular device or class of device to fall within the definition of an Approved Static Desktop Device or any Approved Static Home Entertainment Device from time to time during the Term and as such be used to access the Online Subscription. In considering whether to grant such approval Label shall act reasonably and in good faith, taking into account all relevant factors, including but not restricted to which of the Services is intended to be offered via such devices. Company acknowledges that, as of the Effective Date, it is Label's intention that access to and use of the Online Subscription (including the Online Day Pass) be restricted to devices that are not designed with

portability as a primary feature, excepting laptop computers which are capable of running Authorised Applications designed for Approved Static Desktop Devices.

(ii) Company shall use all commercially reasonable efforts to prevent access to Cached Downloads, and also to multiple simultaneous Streams by the same End User, through the Online Subscription.

(iii) Company shall use effective digital rights management solution (to be approved by Label) to ensure that Cached Downloads stored on devices as part of a Premium Subscription remain tethered to such devices and are incapable of playback outside of the relevant device, or on the relevant device following expiry of the End User's Premium Subscription, subject to any Grace Period outlined in the Functionality Specifications.

(iv) For the avoidance of doubt, End Users shall be permitted to access the Premium Subscription from all types of Approved Devices (including Approved Static Home Entertainment Devices which support multiple simultaneous Streams via the same End User account), provided always that the Premium Subscription and Approved Devices comply with the Functionality Specifications. For the further avoidance of doubt, End Users shall be permitted to access the Online Subscription through Approved Static Home Entertainment Devices, subject to Company's compliance with the other restrictions set out in this Paragraph.

9. Authorized Distribution:

(a) Authorized platform:

(1) Company shall be authorised to facilitate access to and use of the Services by End Users solely with an Approved Device via an Authorised Application, and solely to the extent that access using a particular type of Approved Device is permitted in connection with each particular Service. For the avoidance of doubt nothing in this Agreement shall prohibit Company from allowing End Users access to Local Files or permanent downloads purchased from the Service

(2) Any co-branding, sub-licensing or white-labeling of an Authorised Application shall be subject to the provisions outlined in sub-paragraph 9(b) below, and Company shall not be entitled to embed an Authorised Application into any third party property without Label's prior written approval.

(3) Streams of Label Materials (either on an on-demand basis or as part of playlists) using an Authorised Application may be initiated by End Users either (i) directly via such Authorised Application or (ii) indirectly via any Company-branded "web 2.0" widget embedded in and integrated into Company's web pages or third party web sites (as and to the extent the Company permits relevant widgets to be embeddable into third party web sites), provided always that (x) widgets may only trigger Streams via an Authorised Application by End Users and shall not enable Streaming of content outside of an Authorised Application and/or to devices of users other than End Users; and (y) co-branding of such widgets with a third party's brand shall be permitted solely pursuant to the provisions outlined in sub-paragraph 9(b) below.

(4) Where Company permits third party developers to create applications (including but not restricted to websites, web pages and software applications) on different platforms which can access materials hosted by Company (including Label Materials and corresponding data, images, text, metadata and other materials) by making available to such developers relevant application programming interfaces (APIs), which may include client libraries, the same shall be permitted by Label (and the grant of rights under this Agreement shall cover the making available of such Label Materials and their communication to the public) solely to the extent that Company maintains and promptly enforces suitable API terms and conditions which prohibit any use of materials which would constitute a breach of this Agreement. For the avoidance of doubt, to the extent technically practicable Company shall retain the control and ability to disable all instances of any application which is found to be in contravention of Company's API terms and

conditions. The provisions of Paragraphs 11(2) and (3) relating to Server Security Breaches and Stream Security Breaches shall continue to apply in respect of access to and use of Label Materials via any API. As of the Effective Date, Company's API terms and conditions are located at:

- <http://developer.spotify.com/en/metadata-api/terms-of-use/>
- <http://developer.spotify.com/en/libspotify/terms-of-use/>

(b) Authorised Distributors:

(1) Access to the Online Subscription and the Premium Subscription may be (i) retailed to potential End Users by Company directly, or (ii) resold to potential End Users by third parties either on a stand-alone basis or bundled with the products/services of such third parties, subject always to Company obtaining Label's written approval, which approval shall not be unreasonably withheld or delayed, on a case-by-case basis prior to authorizing such third party to do so (each such authorised and approved third party being referred to herein as an "Authorised Distributor").

(2) Notwithstanding sub-paragraph (1) above, but subject always to sub-paragraph (3) below, no approval shall be required from Label where:

(I) Company maintains the billing relationship with End Users and the Services retailed carry predominantly Company Branding;

(II) a third party retailer or hardware manufacturer sells access to any Subscription Service on a stand-alone (i.e. non-bundled), 'a la carte' basis (via gift cards, redeemable codes or otherwise) in the normal course of its business. In the event that any such retailer pre-purchases or guarantees to purchase from Company access to any Subscription Service in bulk, for the avoidance of doubt all such revenues will be shared with Label; and/or

(III) a third party sells access to any Subscription Service where acting solely on behalf of Company in the normal course of its business as a payment/billing solutions provider to facilitate distribution of the Subscription Service by Company, provided always that such third party has not pre-purchased or guaranteed to purchase from Company access to any Subscription Service in bulk.

For the avoidance of doubt, all revenues derived from access to Subscription Services retailed by third parties fulfilling the requirements in this sub-paragraph (2) shall be recoupable against the Advance and all such End Users shall be considered Organically Derived Subscribers.

(3) Label's prior written approval shall always be required (i) in cases where Company authorizes any third party to bundle access to any of the Services with the sale of a consumer electronics device, excluding for the avoidance of doubt any case in which such third party is solely pre-loading a version of the Spotify software client (which may or may not include a free-to-user trial period for access to the Subscription Service); or (ii) in respect of any of the ISPs and carriers listed in Exhibit I to this Agreement; or (iii) in cases where Company authorizes any third party to distribute invitations to subscribe to a version of the Ad-Supported Service in any country where such service is available on an invitation-only basis, unless the number of invitations which the third party is authorised to distribute is less than or equal to 8,000 (eight thousand) in each 12 month period; or (iv) in cases where Company wishes to modify the wholesale amounts otherwise payable to Label under this Agreement in connection with End Users' use of the Services as distributed by a third party either on a bundled basis or non-bundled, a la carte basis. For the avoidance of doubt, in each case Label provides such prior written approval, the relevant third party distributor shall be an Authorised Distributor hereunder.

(4) Distribution, bundling, co-branding and/or co-marketing of the Services with/via Prohibited Entities, or those engaged in Objectionable Activities shall be prohibited in the absence of prior written approval from Label.

(5) For the avoidance of doubt, Company shall not be entitled to white-label the Services without prior written approval of Label.

(6) In the event that Company is required to obtain Label's written approval in connection with this paragraph, Company shall provide full background information regarding the proposed opportunity and the third party concerned. Label shall use its best endeavours to provide a response as soon as reasonably practicable following receipt of any request by Company. However, such approval shall in no circumstances be deemed granted in the absence of a written communication from Label to that effect, and it is acknowledged by Company that Label shall have the sole discretion whether or not to grant approval in any particular circumstances, provided always that Label acts reasonably and in good faith in reaching such decision.

(7) Company shall provide to Label promptly on demand from time to time during the Term, a comprehensive list of third parties (including Authorised Distributors) reselling or otherwise enabling access to the Services.

(8) During the Term, Company shall use its best endeavours either:

- (i) to provide via email to Label in good faith on a monthly basis an up-to-date list of third parties wishing to resell or otherwise enable access to the Services with which Company is engaged in meaningful negotiation, including brief status information for each such negotiation; or
- (ii) to make relevant personnel available to meet with Label on a quarterly basis to discuss in detail any specific business development opportunities.

(c) Distribution Method:

- In respect of the Ad Supported Service, the Online Subscription, the Premium Subscription, and the Day Pass, the Label Materials shall be made available to End Users via Authorised Applications solely as follows: (i) as "single-play", on-demand streamed performances, (ii) as part of a sequence of streamed performances forming part of "playlists" (including playlists comprising search results) permitting unlimited backwards and forwards skips, and/or (iii) as part of a sequence of streamed performances delivered as part of artist-related or thematic 'radios' programmed by Company permitting unlimited backward and forward skips. For the avoidance of doubt, except with respect to Local Files, no permanent downloads or time-limited downloads shall be authorised other than to the extent Cached Downloads are authorised hereunder as part of Premium Subscriptions, or otherwise strictly as agreed as part of any caching process described in the Technical and Security Specifications.

10. Label Fees:

(a) In consideration of the rights granted to Company in respect of the use and exploitation of Label Materials in connection with the Services, Company shall pay to Label at the end of each calendar month (and in accordance with the provisions of this paragraph 10) the fees, calculated and reported on a territory-by-territory basis (the "Label Fees") as follows:

(1) In respect of the use and exploitation of Label Audio Recordings in connection with the Ad Supported Service: Subject to Paragraph 10(c) below, an amount equal to the greater of the amounts prescribed in sub-paragraphs (i) and (ii) below:

- (i) Revenue Share Calculation. Label's Usage Percentage during such month multiplied by sixty percent (60%) of Gross Revenues in the relevant part of the Ad Supported Territory during such month; or
- (ii) Usage Based Minimum.

In the event that Company has attained both the Conversion Goal and the Subscriber Goal (as measured across the Territory immediately prior to the end of the

calendar month concerned): the sum of \$0.02250 for each and every Royalty Bearing Play of a Label Audio Recording via the Ad Supported Service in the relevant part of the Territory in the calendar month concerned. Solely by way of a non-precedential introductory discount, the aforementioned rate shall be discounted during the Term to \$0.00225.

In the event that Company has not attained both the Conversion Goal and the Subscriber Goal (as measured across the Territory immediately prior to the end of the calendar month concerned): the sum of \$0.02500 for each and every Royalty Bearing Play of a Label Audio Recording via the Ad Supported Service in the relevant part of the Territory in the calendar month concerned. Solely by way of a non-precedential introductory discount, the aforementioned rate shall be discounted during the Term to \$0.00250.

(2) In respect of the use and exploitation of Label Audio Recordings and Label Video Recordings via Online Subscriptions and Online Day Passes: An amount equal to the greater of the amounts prescribed in sub-paragraphs (i) and (ii) below:

(i) Revenue Share Calculation. Label's Usage Percentage during such month multiplied by sixty percent (60%) of Gross Revenues in the relevant part of the Territory during such month; or

(ii) Per Subscriber Minimum. Label's Usage Percentage during such month multiplied by the number of End Users with an Online Subscription in the relevant part of the Territory in the calendar month concerned multiplied by amount C, PLUS Label's Usage Percentage during such month multiplied by the number of Online Day Passes sold in the relevant part of the Territory in the calendar month concerned multiplied by amount D.

(3) In respect of the use and exploitation of Label Audio Recordings and Label Video Recordings via Premium Subscriptions: An amount equal to the greater of the amounts prescribed in sub-paragraphs (i) and (ii) below:

(i) Revenue Share Calculation. Label's Usage Percentage during such month multiplied by sixty percent (60%) of Gross Revenues in the relevant part of the Territory during such month; or

(ii) Per Subscriber Minimum. Label's Usage Percentage during such month multiplied by the number of End Users (excluding for the avoidance of doubt End Users who have registered for a Free Trial with a duration not exceeding seven (7) days only) with a Premium Subscription in the relevant part of the Territory in the calendar month concerned multiplied by amount E.

For the avoidance of doubt, all End Users with a subscription to a Subscription Service shall be included in the calculations in sub-sub-paragraphs (a)(2) and a(3), whether or not they access or use the service via one or more device types in the relevant month.

The values of C, D and E in this sub-paragraph (a) shall vary according to the part of the Territory in which End Users are based, in accordance with the following table:

Service		US	Canada
Online Service	C	US\$3.00	CA\$3.00
Online Day Pass	D	US\$0.60	CA\$0.60
Premium Subscription	E	US\$6.00	CA\$6.00

(b) Top-Up Fees:

(i) In the event that a Territory Continuation Notice has been served by Company in accordance with Paragraph 2(d), then solely to the extent that any relevant Company Opt-Out Notice has not become effective, Company shall include within each set of Monthly Reports and Financial Statements details of incremental Top-Up Fees to the extent due in accordance with the provisions set out in the remainder of this Paragraph 10(b). Such Top-Up Fees shall be paid together with regular Label Fees for the relevant calendar month in accordance with Section 2(b)(3) of this Agreement.

(ii) The Top-Up Fees in respect of each calendar month for a particular part of the Territory shall be calculated immediately following the end of each calendar month and shall be equal to the Weighted Average Wholesale MULTIPLIED by the Subscriber Shortfall. For the purposes of this Agreement:

$$\text{"Weighted Average Wholesale"} = \frac{S(X) + T(Y)}{S + T}$$

Where:

S = number of Online Subscription users in the relevant calendar month across the Territory;

T = number of Premium Subscription users in the relevant calendar month across the Territory;

X = Label ARPU for the Online Subscription in the relevant calendar month across the Territory;

Y = Label ARPU for the Premium Subscription in the relevant calendar month across the Territory

"Label ARPU" means total Label Fees for the relevant service (according to the Monthly Report) divided by the number of users to such service.

"Subscriber Shortfall" means:

- Where Company has failed to meet the Subscriber Goal across the Territory, as calculated upon expiry of the relevant calendar month, amount (A) below; or
- Where Company failed to meet the Conversion Goal across the Territory, as calculated upon expiry of the relevant calendar month, amount (B) below; or
- Where Company failed to meet both the Conversion Goal and the Subscriber Goal across the Territory, as calculated upon expiry of the relevant calendar month, the greater of amounts (A) and (B) below.

(A) One million (1,000,000) LESS the number of Qualifying Subscribers, but not including any such End Users in excess of the first five hundred thousand (500,000) Third Party Acquired Subscribers.

(B) Ten percent (10%) of the Ad Supported Userbase LESS the number of Qualifying Subscribers, provided that the number of Qualifying Subscribers to be deducted shall not include Third Party Acquired Subscribers to the extent such Third Party Subscribers exceed five percent (5%) of the Ad Supported Userbase.

(c) In the event that Company fails to pay Top-Up Fees to Label in any particular month in which such become due pursuant to this Agreement, then notwithstanding any other provisions in this Agreement, Label shall have the right to terminate this Agreement solely in respect of the Ad Supported Service in the Territory effective upon a minimum of seven (7) days' written notice.

(d) Minimum term subscriptions: In the event that Company or an Authorised Distributor retails either a six (6) or twelve (12) month minimum term Online Subscription or Premium Subscription to a particular consumer, and such end user pays in full for the minimum term up-front, the relevant Label Fees may, at Company's option, be calculated using the relevant formulae above, subject to (i) a 10% (in the case of 6 month term) or 15% (in the case of a 12 month term) discount on the values of C or E (according to the type of subscription); and (ii) using the Label's Usage Percentage for the month in which the subscription commenced as a proxy for projecting the relevant Label market share in the remaining months. If Company elects to calculate Label Fees using such discount, Company shall account to Label in full settlement of the relevant Label Fees due in connection with each such subscription at the end of the month in which the subscription

commenced. It is agreed that such subscribers' usage of the Services shall continue to count towards the Label's Usage Percentage as part of the month-by-month calculation of Gross Revenues due in respect of other non-discounted subscribers. For the avoidance of doubt, the wholesale pricing discounts described in this subparagraph shall only apply where Company passes onto the consumer percentage discounts in the retail price which are at least equal to the relevant wholesale discounts.

(e) Free Trials: Company shall be entitled to offer to potential customers trial access to the Premium Subscription on a free-of-charge basis (each such offering, a "Free Trial"). In respect of all Free Trials, the usual Label Fees shall be payable by Company, other than in the following circumstances. For the first seven (7) days of any genuine Free Trial to a Premium Subscription offered directly by Company, Label shall waive its otherwise applicable wholesale fees. Such waiver is subject to the requirements that (i) the relevant End User has not previously received the benefit of a Free Trial (as verified by user name, billing address (if applicable) and/or email address); (ii) the relevant End User has provided payment information prior to receiving the benefit of the Free Trial when this is practicable and in accordance with applicable laws; (iii) upon expiry, each Free Trial automatically converts to a paying subscription unless the End User has actively opted out when this is practicable and in accordance with applicable laws; and (iv) when the Free Trial period has expired, all access to Label Materials via the Premium Subscription shall become inaccessible to such End User promptly following expiry of the Free Trial. For the avoidance of doubt, any Free Trial with a duration in excess of seven (7) days shall be treated as if a portion of a regular Premium Subscription month has commenced on the eighth day of such Free Trial, with a fraction of the wholesale fees being payable to Label, the numerator of which shall be the additional days for which the Free Trial was offered beyond seven (7), and the denominator of which shall be the number of days in that calendar month. Company shall include in its monthly reporting to Label the number of Free Trials offered in the previous month.

(f) Wholesale discounting:

(1) In the event that Company wishes to pre-purchase subscription months in connection with an Authorised Distributor, the parties shall agree on a case-by-case basis the up-front payment to Label to be made in connection with such pre-purchase, and in doing so shall take into reasonable consideration all relevant factors including Label's market share in the relevant territory.

(2) From time to time, Company and Label may also agree in writing a schedule of wholesale fee discounts to have effect where Company enters into an agreement with an Authorised Distributor which is an ISP or mobile network operator, permitting such Authorised Distributor to bundle access to a Premium Subscription or Online Subscription as part of a consumer tariff. Such schedule shall offer increasing discounts on Label's regular wholesale fees linked with the scale of the bundling opportunity, provided always that Company will account to Label for every customer of the Authorised Distributor who subscribes to the relevant tariff, whether or not they actually use or otherwise access the Premium Subscription or Online Subscription (as relevant).

(g) In the event that a third party (i) guarantees to purchase from Company a minimum number of months' access to the Premium Subscription or Online Subscription for the purpose of distributing such months to end users during a certain period of time, or (ii) guarantees minimum wholesale revenue to Company in respect of distributing access to the Premium Subscription or Online Subscription to end users during a certain period of time, Company agrees the general principle that the value of any such guaranteed but ultimately unused subscription months or wholesale revenue shall be shared with Label as Gross Revenues for the purposes of this Agreement. Unless otherwise agreed with Label as part of the process of obtaining Label's approval (where required) in connection with arrangements for any particular Authorised Distributor, at the end of the relevant guarantee period and when such revenue becomes due, Company shall calculate Label's share of any guaranteed but unused value and include details of such share as part of the immediately following Monthly Report. For the purposes of calculating Label's share in such circumstances, Company shall calculate 'Label's Usage Percentage' as an average of Label's Usage Percentage in each of the three (3) immediately previous months.

(h) Company shall not engage in advertising or any other form of monetization practice which has the general or overall effect of treating Label content, or advertising inventory on the Services, less favorably relative to content from, or advertising inventory on other pages or components of Authorised Applications not connected with the Services. It is further understood and agreed that Company will not specifically target the

sale of sponsorships or commerce links to pages where Label Materials do not appear for the purpose of, or which has the effect of, diminishing Label's economic interest in maximizing the amount of Label Fees, or otherwise frustrating this paragraph.

(i) Label Fees shall be payable in US Dollars. To the extent that any amounts payable hereunder are required to be converted from a currency to US Dollars, such conversion shall be made at the exchange rate for such other currency published in the Wall Street Journal on the last business day of each calendar month.

11. Security.

(1) At all times during the Term, the Label Materials shall be stored, hosted, secured, served and delivered directly to End Users solely from (i) computer servers that are owned, operated and controlled solely by Company and the Company-approved content delivery networks ("CDNs") listed on Exhibit F ("Company Servers"); and (ii) Approved Devices of other End Users via Company's proprietary per-to-peer protocol, in both cases solely in accordance with the Technical and Security Specifications attached hereto. Company represents and warrants that, at all times during the Term, Company Servers containing Label Materials that are controlled by Company (as opposed to those controlled by CDNs) shall be located solely at such locations as the Company has notified Label in writing with reasonable particularity as to its exact physical location (e.g. by providing the name of the facility, the street address of such facility and the main phone number for such facility). Company shall give Label 30 days' prior notice before changing the location of any Company Server containing Label Materials that is controlled by Company. For the avoidance of doubt, it shall not be considered a material breach of this Agreement by Company in the event that it fails to notify Label in accordance with the previous sentence. As of the date hereof, the Company Servers are located at the facilities and locations disclosed in Exhibit F attached hereto.

(2) If Company becomes aware of any unauthorized access to or unauthorized reproduction of Label Materials in contravention of the terms, conditions or limitations prescribed in this Agreement as a result of a breach of security with respect to Company Servers or any other aspect of Company's server-side distribution platform, including network components used in connection with Company Servers (e.g., a server hack), or if Company becomes aware that any of the security features contained in the Technical and Security Specifications, solely insofar as they relate to server-side security, are capable of circumvention (a "Server Security Breach"), Company shall (i) immediately notify Label (in the event that Label was not the person or entity that made Company so aware), (ii) reasonably cooperate with Label, at Company's expense, to promptly cure the Server Security Breach concerned to Label's reasonable satisfaction and (iii) give Label such assurances and furnish to Label such plans as are reasonably satisfactory to Label detailing, with reasonable particularity, the steps that have been taken and the steps that Company proposes to take to eliminate the Server Security Breach concerned. Without limiting Label's rights and remedies hereunder or otherwise, in the event that Company is unwilling or unable to cure such Server Security Breach to Label's reasonable satisfaction as soon as possible (taking into account all relevant circumstances including the severity of the Server Security Breach) after, but in any event within 3 business days of, becoming aware of such Server Security Breach, Label shall have the right, in its sole discretion, as of the end of such 3 business days period, exercisable by notice to Company (which notice, notwithstanding anything to the contrary herein, may be delivered via facsimile, electronic mail or any other effective method of written communication) to suspend the running of the Term and the grant of rights by Label under this Agreement until such Server Security Breach is cured to Label's reasonable satisfaction. During the pendency of any such suspension period, (x) the running of the Term shall be suspended, and (y) all Label Materials otherwise made available via the Service shall immediately be disabled or otherwise taken-down (such Label Materials are sometimes referred to herein as "Take-Down Materials"), as Label shall direct. Without limiting the generality of the foregoing, Label shall be permitted to terminate the Term if the suspension of the Term under the foregoing provisions of this subparagraph lasts more than 60 consecutive days (or 90 days in any period of 180 consecutive days).

(3) Company shall employ a technology solution (including a secure streaming format approved in writing by Label) that administers and enforces the security of streams and Cached Downloads embodying Label Materials delivered via the Service. Without limiting any other provision of this Agreement in respect of Company's administration and enforcement of such security, in the event that such technology solution (including the approved secure streaming format) fails to effectively enforce the intended security for any particular items of Label Materials hereunder (a "Stream Security Breach"), Company shall (i) immediately notify Label (in the event that Label was not the person or entity that made Company so aware), (ii) reasonably

cooperate with Label, at Company's expense, to promptly cure the Stream Security Breach concerned on a prospective basis to Label's reasonable satisfaction and (iii) give Label such assurances and furnish to Label such plans as are reasonably satisfactory to Label detailing, with reasonable particularity, the steps that have been taken and the steps that Company proposes to take to eliminate the Stream Security Breach concerned on a prospective basis. Without limiting Label's rights and remedies hereunder or otherwise, in the event that Company is unwilling or unable to cure such Stream Security Breach on a prospective basis to Label's reasonable satisfaction within 5 business days from the date Company becomes aware of such Stream Security Breach, Label shall have the right, in its sole discretion, as of the end of such 5 business day period, exercisable by notice to Company (which notice, notwithstanding anything to the contrary herein, may be delivered via facsimile, electronic mail or any other effective method of written communication) to suspend the running of the Term and the grant of rights by Label under this Agreement until such Stream Security Breach is cured to Label's reasonable satisfaction. During the pendency of any such suspension period, (x) the Term shall be suspended, and (y) all Label Materials otherwise made available via the Service shall immediately be disabled or otherwise taken-down (such Label Materials are sometimes referred to herein as "Take-Down Materials"), as Label shall direct. Without limiting the generality of the foregoing, Label shall be permitted to terminate the Term if the suspension of the Term under the foregoing provisions of this subparagraph lasts more than 60 consecutive days (or 90 days in any period of 180 consecutive days).

(4) For the avoidance of doubt, Label acknowledges that Company shall only be responsible under the above provisions in respect of any method of capturing Streams or Cached Downloads of Label Materials which specifically exploits any aspect of Company's streaming protocol or other software/technology under Company's control, and Company shall not be liable in connection with any generic stream-ripping tool that captures audio or video content at an operating system, hardware or driver level.

12. Delivery/Encoding: Label and IODA will deliver encoded Content Files containing Label Video Recordings and Label Audio Recordings in accordance with the mutually agreed Content Preparation and Delivery Specifications. Label Materials utilized in connection with the Services shall be derived solely from such encoded files delivered by Label, or such other persons or entities as Label designates in its sole discretion, and other than as expressly agreed by Label, Company shall not, and shall not authorize any person or entity to, add, delete, transcode or otherwise alter such Label Materials in any way.

13. MFN.

(a) (1) Company represents, warrants and covenants that, as of the date of execution of this Agreement and throughout the remainder of the Term, it has not entered into any agreement or other understanding with any third party provider of recorded music, videos artwork or other assets used in connection with the Services (each, an "Other Party") that, includes terms and conditions which, when evaluated as a whole, are more favorable to such Other Party than the terms and conditions, when evaluated as a whole, contained in this Agreement (such agreement or other understanding with any such Other Party, is sometimes referred to as a "Generally More Favorable Agreement"). Label acknowledges that the structure of, and the circumstances connected with the entry into, Company's agreements with Label and each Other Party may be such that the terms of such agreements may not all be directly comparable and that the assessment of which terms are more favourable must be made on an overall basis and must take into account all relevant benefits afforded to the Other Party by Company and all relevant concessions made by the Other Party to Company.

(b) (1) Company represents, warrants and covenants that, as of the date of execution of this Agreement, it has not entered into, any agreement or other understanding with any Other Party that contains any Key Provisions (as defined below) that are more favorable to such Other Party than the corresponding or reasonably analogous terms and conditions contained in this Agreement (such agreement or other understanding with any such Other Party, solely to the extent it contains any Key Provisions, is sometimes referred to as a "Specifically More Favorable Agreement"). Company represents, warrants and covenants that, after the Effective Date, if Company enters into a Specifically More Favorable Agreement, then Company shall promptly provide notice to Label of such event and offer to accord to Label the benefit of the applicable Key Provisions contained in such Specifically More Favorable Agreement in lieu of the corresponding or reasonably analogous terms contained in this Agreement.

(2) As used herein, "Key Provisions" means, individually and collectively:

(i) provisions concerning the security and reliability of the formats used to deliver streams embodying copyrighted audio or audiovisual materials, and/or the hardware and software components and systems utilized in connection with the storage, hosting, security, serving, delivery and other use such materials;

(ii) provisions describing any minimum content to advertisement ratio requirements, or guidelines related to the duration, size, length, placement, and/or commercial interactivity of advertising units;

(iii) the definition of Active User (or equivalent concept);

(iv) the formula for determining the pro-rata share of subscription services;

(v) the definition of a Royalty Bearing Play, with reference to both minimum duration and provenance (including but not restricted to counting plays of locally stored or user-uploaded cloud-based files which do not originate from Company);

(vi) any provision enabling an Other Party to hold back new release content from being made available via the Ad Supported Service for a period longer than fifteen (15) days following such content's general release date;

(vii) any provision giving an Other Party a minimum guaranteed share of Marketing and Promotional Support greater than such Other Party's pro-rata share in the Service;

(viii) the definition of Gross Revenue (or equivalent concept) with respect to the intended scope of top line revenue to be shared with third party content providers (subject to it being agreed by Label that inclusion within the definition of Gross Revenue of e-commerce, "referral fees"/bounties and like revenue generated from sales of permanent audio and video downloads shall not be treated as a Key Provision); and

(ix) the provision to an Other Party, prior to the later of (a) six (6) months after the Effective Date; and (b) launch of the Services in any part of the Territory, of any securities in Company (or an affiliate thereof) by Company (or an affiliate thereof) or any shareholders therein, provided that determination of whether any such provision is more favorable to the Other Party must be undertaken in the context of (x) the provision to Label of any securities in Company (or an affiliate thereof) by Company (or an affiliate thereof) or any shareholders therein as part of any agreement executed at the same time as this Agreement, and (y) the details of any consideration (whether monetary or otherwise) paid by the Other Party in return for such securities.

(c) Label shall have the option to accept or reject the benefit of the applicable Key Provisions contained in such Specifically More Favorable Agreement in lieu of the corresponding or reasonably analogous terms contained in this Agreement, as Label may elect in each instance; provided, however, that Label may accept or reject each of the Key Provisions described in clauses (i) through (ix) of Paragraph 13(b)(2) above separately.

(d) To the extent that Label has elected to accept any Key Provisions in any instance, the parties shall promptly amend the Agreement for the remainder of the Term to reflect the incorporation and applicability of the applicable Key Provisions accepted by Label.

(e) Label shall have the right, not more than once per year of the Term, upon not less than fifteen (15) business days' notice, to reasonably request that an independent third party auditor ("Independent Auditor") determine whether Company:

(i) has entered into a potential Generally More Favorable Agreement with any Other Party;

- (ii) has entered into a potential Specifically More Favorable Agreement with any Other Party; and/or
- (iii) has accurately undertaken, pursuant to Paragraph 5, any required true-up of the Advances payable under this Agreement.

(f) The Independent Auditor shall produce a report setting out reasoned conclusions as to whether Company has entered into a Generally More Favourable Agreement, a Specifically More Favourable Agreement, and/or has accurately undertaken required true-ups of Advances but without disclosing detailed information about the terms of the agreement(s) entered into with any Other Party.

(g) At the request of the Independent Auditor, both Company and Label shall provide all information and any reasonable assistance and cooperation necessary (including, without limitation, reasonable access to the premises, accounting books, agreements, records and personnel) to allow the Independent Auditor to determine whether Company has entered into a Generally More Favourable Agreement, a Specifically More Favorable Agreement, and/or has accurately undertaken required true-ups of Advances. The Independent Auditor shall be required to give confidentiality undertakings to both Company and Label, under which the Independent Auditor shall be required to keep all such information, including details of the terms of any agreements and the identity of the relevant Other Parties (to the extent not already known by Label), confidential. In particular, the Independent Auditor shall not: (i) disclose to Label any confidential information provided by Company; or (ii) disclose to Company any confidential information provided by Label.

(h) If the Independent Auditor reasonably determines that Company has entered into a Generally More Favourable Agreement and/or a Specifically More Favorable Agreement then upon the written request of Label: Label and Company shall amend the terms of this Agreement, with retrospective effect to the date on which the Generally More Favourable and/or the Specifically More Favourable Agreement (as applicable) became effective, to the extent necessary to ensure that there is no longer a Generally More Favourable Agreement and/or a Specifically More Favourable Agreement (as applicable). If the Independent Auditor reasonably determines that Company has not accurately undertaken required true-ups of Advances hereunder, then Label and Company shall make arrangements so as to give accurate effect to any required true-ups. Provided that the resultant changes made to any part of this Agreement lead to an increase of more than 10% in total payments otherwise due to Label, Company shall reimburse the reasonable costs incurred by Label in respect of the Independent Auditor.

(i) In the event that Company agrees to any provision in any third-party agreement that would have the effect of permitting such third party (each, a "Third Party") to compare any of the terms of this Agreement with any terms in such third-party agreement, Company agrees that, in connection with such a comparison, Company (i) will only permit such Third Party to review the terms of this Agreement by means of an independent third-party auditor that agrees to maintain the confidentiality of all terms of this Agreement in a manner consistent with the confidentiality provisions of this Agreement, and (ii) will not disclose to such Third Party or to such third-party auditor the identity of Label as a party to this Agreement.

(i) For the avoidance of doubt, to the extent that Company is found to have entered into a Specifically More Favourable Agreement with an Other Party featuring the Key Provision allowing for calculation of such Other Party's wholesale fees to reference the number of plays of locally stored or user-uploaded cloud-based files in addition to plays of Cached Downloads or files based on Company Servers, any subsequent amendment of the terms of this Agreement (as prescribed hereunder) shall also include appropriate changes to all provisions which would otherwise cause such plays of Cached Downloads or files based on Company Servers to be excluded.

14. Advertising Inventory:

(a) In respect of each of contract period, Label will receive a credit for advertising inventory (the "Credited Inventory") on the Services in an amount equal to the following:

Contract Period 1: \$2,500,000 (two million five hundred thousand US dollars)
Contract Period 2: \$3,000,000 (three million US dollars)
Contract Period 3: \$3,500,000 (three million five hundred thousand US dollars)

All such Credited Inventory shall be determined and valued at Company's so-called "best" or "preferred customer" rates for the applicable type and category of advertising, being the lesser of (i) the lowest effective CPM then being offered by or on behalf of Company for ad insertions (but excluding any CPM offered by Company to one of its affiliates engaged in the sale of advertising to external parties at a higher CPM) excluding any amounts included therein by or on behalf of Company in respect of advertising sales commissions, or (ii) an effective CPM of €50 per thousand (the "Discounted Rate"). Label shall also be entitled to purchase from Company additional advertising inventory (the "Purchased Inventory") at the Discounted Rate during the Term, subject to a maximum aggregate spend as follows:

Contract Period 1: \$3,000,000 (three million US dollars)
Contract Period 2: \$5,000,000 (five million US dollars)
Contract Period 3: \$7,000,000 (seven million US dollars)

For the avoidance of doubt, Purchased Inventory shall have the same attributes as Credited Inventory hereunder, with the exception that Label shall have no right to resell Purchased Inventory to third parties and the provisions of paragraph 14(e) shall not apply.

(b) At all times during the Term, Company shall make available as Credited Inventory all advertising units then made available for insertion at the Discounted Rate, and Label shall have sole discretion over the types and categories of advertising units and, as between Company and Label, the creative elements (subject to sub-paragraph (c) below) of advertisements (but not the advertising formats) that are resold by Label hereunder. At Label's request from time to time, Company shall communicate to Label its advertising rate card (together with the maximum available discounts) as applicable in the cases where Company sells inventory directly to agencies or advertisers.

(c) Label acknowledges that its allocation, sale and resale (under paragraph 14(e) below) of the Credited Inventory herein shall be subject to Company's advertising guidelines which are (i) provided to Label in writing in advance (as such advertising guidelines may be changed from time-to-time during the Term, which changes, to be effective, shall be delivered to Label in a written notice delivered not less than thirty (30) days in advance in each instance), and (ii) applied to all advertisers even handedly and on a non-discriminatory basis. For the avoidance of doubt, Company's advertising guidelines in effect as of the Effective Date are attached hereto as Exhibit G; provided, however, that if Label delivers any Credited Advertising for insertion in contravention of such advertising guidelines then in effect, Company's sole remedy shall be the right to reject (and not insert) the Credited Advertising concerned, and such Credited Advertising, if so rejected, shall not count in reduction of Label's allocation of Credited Advertising during the Contract Year concerned.

(d) For the avoidance of doubt, Company's advertising units as of the Effective Date (using IAB standards) are attached hereto as Exhibit E.

(e) Label shall have the right to re-sell the Credited Inventory at prices determined by Label in Label's sole discretion (or utilize the Credited Inventory for so-called "house ads" for the general marketing and promotion of Label artists or the sale of recorded music product owned or controlled by Label), and for the avoidance of doubt, such ad units may contain so-called "active links" (to the extent technically feasible for the applicable type of ad unit); provided, however, that in order to mitigate the possibility of Label's sales efforts interfering, conflicting with or undermining the sales efforts of Company's own advertising sales initiatives, notwithstanding the foregoing or anything elsewhere herein, Credited Inventory that is resold (as opposed to Credited Inventory that is utilized for so-called "house ads" for the general marketing and promotion of Label artists or the sale of recorded music product or services owned, controlled or operated by Label in whole or in part) shall only be sold as part of a so-called "commingled" pool of advertising inventory that includes Credited Inventory together with other advertising inventory for insertion on other web sites or other electronic properties in a manner whereby the CPMs attributable to resold Credited Inventory cannot readily or easily be "backed out" and attributed solely to insertion in the on the Service. Label shall procure that its affiliates understand the importance of, and fully respect, the proviso set out in this sub-paragraph, and the need to work in good faith with Company in order to manage efficiently any and all scenarios in which Credited Inventory that Label wishes to resell.

(f) With respect to Credited Inventory that is resold (as opposed to Credited Inventory that is utilized for so-called "house ads" for the general marketing and promotion of Label artists or the sale of recorded music product or services owned, controlled or operated by Label in whole or in part), Label shall retain for its own account 100% (one hundred percent) of monies received by Label which are attributable to Credited Inventory resold by Label hereunder.

(g) Advertising units and insertions on web pages related to Label artists sold by Label shall be filled by Company on an auction basis as entered into Company's advertising sales management system; all other advertising units will be filled subject to availability and the priority of Company's advertising insertions.

(h) Subject to the terms hereunder, one hundred percent (100%) of the Credited Inventory will be filled by Company in accordance with ad insertion orders delivered by Label to Company for the campaign concerned on a reasonably timely basis consistent with Company's then-current ad insertion policies, procedures and practices for insertions by Company's "preferred" advertising vendors and partners.

(i) To the extent there is a shortfall in impressions from the Credited Inventory due to the priority of Company's ad insertions during any particular contract period during the Term or as a result of Company's refusal on one or more occasions to facilitate the resale of inventory by Label despite Label's compliance with all relevant terms and conditions in sub-paragraphs (d) and (e) above (each, a "Shortfall"). In respect of any Shortfall as of the end of a particular contract period, Company will provide Label with additional or comparable "make good" impressions equal to 100% of the number of impressions that constitute the Shortfall for the relevant contract period, which Label may require Company to fill at any time during the initial 60 days of the following 12 month period; provided, however, that if Company does not make available or fill such or comparable "make good" impressions equal to 100% of the number of impressions that constitute the Shortfall (such non-available or unfilled inventory, the "Uncured Shortfall"), then, Company shall make a non-recoupable, non-returnable cash payment to Label in the amount of the Uncured Shortfall for the relevant contract period within thirty (30) days following the 60th day of the subsequent contract period. For the avoidance of doubt, such cash payment shall only be due from Company where Label has acted in good faith.

(j) Without limiting the generality of the foregoing, Label shall have the right to use any portion of the Credited Inventory for its own advertising and marketing purposes, including without limitation, for marketing and promoting Label Artists and associated products (e.g., CDs, downloads etc.). To the extent that Company offers structured promotional packages to third parties (including but not restricted to so-called 'platinum', 'gold' and 'silver' packages), Company acknowledges that (I) such packages constitute a type of Marketing and Promotion Support for the purposes of paragraph 8(a)(vii) above; and (II) subject to the provisions of paragraph 8(a)(vii), to the extent Company provides Label with the opportunity to purchase such packages, Label shall be entitled to use the value of any remaining Credited Inventory to purchase such packages, notwithstanding that such packages may require Label to provide limited content exclusives as part of any package, or that Company may impose an overall limit on the number of packages of each type which Label can purchase during each Contract Year.

(k) Neither Label nor its agents shall be permitted to reference the Company specifically or represent Company on an individual basis with advertising agencies and/or advertisers; provided, however, that nothing contained herein shall be deemed to limit Label or its designees from referencing Company in connection with and in furtherance of the sale (and attempted sale) of Credited Inventory as part of a so-called "commingled" pool of advertising inventory that includes Credited Inventory together with other advertising inventory for insertion on other web sites or other electronic properties as and to the extent expressly permitted herein.

(n) Upon Label's request throughout the Term, Company will consult with Label regarding Company's reasonable, good-faith estimate of the quantities and types of advertising inventory (including, without limitation, with respect to the positioning, duration, size, format, configuration, and the number of available impressions) that are available for Label to use as Credited Inventory.

(o) Without limiting the generality of the foregoing, Label will reasonably consult with Company in good faith from time-to-time with a view toward avoiding possible channel conflicts, account confusion or duplication of efforts with respect to inventory then being sold by or on behalf of Company and Credited Inventory then being sold by or on behalf of Label.

(p) Company shall additionally offer to Label free of charge in each month of the Term an amount of available unsold monthly advertising inventory on the Services equal to the greater of (i) 10% (ten percent); and (ii) Label's Unsold Inventory Share of 50% (fifty percent), which for the avoidance of doubt may only be used by Label for so-called 'house' advertisements, being advertisements for Label's own advertising and marketing purposes, including without limitation, for marketing and promoting Label Artists and associated products (e.g., CDs, downloads etc.). As used in this sub-paragraph, "Label's Unsold Inventory Share" means a fraction, to be calculated by the parties every six calendar months and where the numerator of which is the number of Royalty Bearing Plays of Label Audio Recordings across all Services in all parts of the Territory in the previous six calendar months, and the denominator of which is the number of Royalty Bearing Plays of all audio recordings authorised by all Other Parties plus the number of Royalty Bearing Plays of Label Audio Recordings across all Services in all parts of the Territory during the previous six calendar months.

15. Additional reporting and data sharing

(a) In addition to its reporting obligations detailed in paragraph 2 of this Agreement, as soon as commercially practicable but no later than 6 (six) months following the Effective Date, Company shall provide access for Label to dashboard data during the Term at no additional cost, including online, real-time access to additional detailed statistics and usage data concerning the use of Label Materials on the Services on an aggregate basis. Company agrees that Label shall be entitled to make use of such data.

(b) Company shall also provide to Label on a regular basis during the Term (but at least quarterly) various data relating to Company's advertising sales activity in connection with Label Materials and End Users' experience in relation to any advertising on the Services, including:

- (i) Total available volumes for the reporting period of each advertising inventory type served around Label Materials.
- (ii) Sell-thru rate.
- (iii) Average CPM.
- (iv) Average ratio of ad units to content streams over the period.
- (v) Click-Through Rates

Company shall use its reasonable commercial endeavours to implement reporting of items (iii), (iv) and (v) above on a per ad-unit (i.e. non-aggregate) basis as soon as possible following the Effective Date.

(c) To the extent compliant with local law and regulation, Company shall use reasonable efforts to secure a data protection opt-in from end users, wherever appropriate within the Services but at a minimum during the user registration process, which opt-in shall be crafted by Company so as to constitute informed consent by those end users for Company to share their contact details paired with Service usage data ("Opt-In Data") with Label with a view to such end users receiving direct communications from Label.

(d) Company shall regularly during the Term make available Opt-In Data to Label via an agreed method.

(e) Company acknowledges and agrees that Opt-In Data shall be jointly owned by Label and Company, and that Label shall be entitled to exploit unilaterally such contact details (acting always within the scope of the data usage consent provided by the relevant end users, the confines of this Agreement and applicable laws and regulations), including for commercial gain. Notwithstanding the foregoing, Label agrees to include an "unsubscribe" option with every email, SMS or other electronic communication sent to end users. Without limiting any other applicable provision of this Agreement, Label shall not use Company's name in connection with the exploitation of Opt-In Data in any manner that would imply an endorsement by company of such exploitation.

(f) During the period from signature of this Agreement until August 31, 2011, subject to bona fide technical limitations, Company shall use its reasonable endeavours to provide a quarterly business metrics report, containing data relating to the volume of all Streams and playbacks of Cached Downloads of Label Materials (irrespective of whether such constitute Royalty Bearing Plays); and (ii) plays via the Services of End Users' own files stored on Authorised Devices which Company has identified (whether via metadata, fingerprinting or otherwise) as being recordings embodied in Label Audio Recordings.

(g) From September 1, 2011 and for the remainder of the Term, Company shall use its reasonable endeavours to provide to Label, on a monthly basis, a business metrics report including the categories of information set out in part (iii) of Exhibit B. With respect to providing information regarding Local Files that embody sound recordings owned or controlled by Label, Label acknowledges that the accuracy of such information is constrained by the inaccuracies in Company's identification technology and may not be accurate. In addition, the provision of the information set out in Exhibit B is always subject to Company's compliance with applicable privacy laws and Company's confidentiality obligations, and Label acknowledges therefore that certain information may be provided on an anonymised, aggregate basis.

16. Content from the Independent Online Distribution Alliance:

(a) The parties agree that, subject to the remaining provisions of this Paragraph 16, and solely with effect from the IODA Switchover Date until the end of the Term, all IODA Materials shall be treated as Label Materials for the purposes of this Agreement and, as such, all Royalty Bearing Plays of IODA Materials shall be afforded the same treatment as Royalty Bearing Plays of Label Materials hereunder.

(b) For the purpose of recoupment of Advances pursuant to Paragraph 4(a), following the IODA Switchover Date, Label Fees shall be deemed not to include IODA Fees and (save to the extent expressed otherwise in this agreement) IODA Fees shall be payable straight through to Label in respect of each calendar month in accordance with the payment terms otherwise applicable in this Agreement.

(c) Following the IODA Switchover Date, Company shall ensure that all Weekly Reports, Monthly Reports and, where applicable, Daily Reports include an appropriate identifier (as agreed from time to time with Label) to enable Label to distinguish between items of IODA Materials and other Label Materials. Alternatively, Company may deliver separate files dedicated to IODA Materials as part of each Weekly Report, Monthly Report and, where applicable, Daily Report.

(d) For the avoidance of doubt, Company shall not be required to pay any incremental advances or give any additional revenue guarantees in respect of the IODA Materials.

(e) Following the IODA Switchover Date, any notice issued by IODA to its member labels relating to the Services (including, without limitation, any such notice(s) posted on IODA's online dashboard) shall be in a form subject to the prior written approval of Company (such approval not to be unreasonably withheld or delayed).

(f) To the extent that the terms and conditions of this Agreement are required to be disclosed by IODA to any of its member labels, Label shall procure that, prior to such disclosures being made, the relevant member label(s), shall have signed a confidentiality agreement with IODA obligating the discloser to adhere to a standard of confidentiality at least to the extent that Label is obligated under this Agreement. In the event of a breach by IODA, any of its member labels or Label of the confidentiality obligations in this Agreement or any such confidentiality agreement between IODA and a member label leading to the unauthorized disclosure of the commercial terms hereunder in respect of distribution of IODA Materials, Company may (at its sole discretion) remove any or all IODA Materials from any or all of the Services.

(g) If any of IODA's member labels shall request any information relating to the terms and conditions of this Agreement that is not contained in a notice approved by Company pursuant to Paragraph 16 (e), Label shall procure that no such information is disclosed to such member label(s) unless and until (i) Company has approved in writing the identity of such member label(s) and the information to be disclosed to such member label(s); and (ii) such member label(s) shall have entered into a written confidentiality undertaking, expressed to be for the benefit of Company, in a form approved in writing by Company (such approval not to be unreasonably withheld or delayed).

(h) Notwithstanding anything to the contrary in this Agreement, Company acknowledges that IODA is comprised of a number of represented labels, each of which shall have the individual ability to decline to participate in the Services within a fourteen day period after being notified of the material terms hereof in accordance with Paragraph 16(e) (such notification hereafter referred to as a "Deal Notification"). Within five (5) business days of the approval of the Deal Notification by Company, IODA shall send a Deal Notification to all of

its represented labels and the opt-out period referred to in the immediately preceding sentence shall be deemed to commence on the date of notification which shall in no event be deemed later than the fifth (5) business day after IODA receives an agreement executed by both parties. If a particular represented label so declines to participate, the terms of this Agreement shall not be applicable to said represented label, its sound recordings shall not be considered part of the IODA Material subject to this Agreement, and for the avoidance of doubt IODA's failure to make available content from such represented label for distribution via the Services shall not be a breach of this Agreement.