

*By clicking to agree to this Digital Music Download Sales Agreement, which is hereby offered to COMPANY by ITUNES (as those terms are defined below), COMPANY agrees with ITUNES to the terms and conditions set forth herein, and you personally represent and warrant to ITUNES that you are authorized to electronically sign this Digital Music Download Sales Agreement on COMPANY's behalf.*

**DIGITAL MUSIC DOWNLOAD SALES AGREEMENT**  
**United States / Canada / Mexico / Latin America / Caribbean**

This Agreement is by and between Apple Inc. ("ITUNES"), having its principal place of business at 1 Infinite Loop, Cupertino, California 95014, and the legal entity associated with the iTunes Connect account through which this Agreement is executed ("COMPANY"), and is entered into as of the date on which this Agreement is electronically executed by COMPANY via iTunes Connect (the "Effective Date").

WHEREAS, ITUNES desires and, in exchange for ITUNES' obligations herein, COMPANY is willing to allow ITUNES to sell COMPANY's content in digital form as provided herein;

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, ITUNES and COMPANY (each a "Party" and collectively, "Parties") hereby agree as follows:

1. Definitions. The following terms shall have the following meanings for purposes of this Agreement:

- (a) "Artwork" means album cover artwork, screen shots and/or any other artwork relating to COMPANY Content that COMPANY has cleared for use by ITUNES pursuant to the terms of this Agreement. COMPANY shall not provide to ITUNES any artwork that has not been so cleared.
- (b) "COMPANY Content" means sound recordings owned or controlled by COMPANY that COMPANY has cleared for use by ITUNES pursuant to the terms of this Agreement. COMPANY shall not provide to ITUNES any sound recordings that have not been so cleared.
- (c) "Content File" means each digital file containing COMPANY Content, applicable Artwork, parental advisory notices, copyright notices, and associated metadata (e.g., artist name, track or video title, track or video title version, territories cleared for sale, copyright notice, ISRC, UPC and corresponding album title and editorial content data, and any Lyrics).
- (d) "eMaster" means a copy of COMPANY Content in DRM-free digital format suitable for exploitation on the Online Store (provided that the audio quality and integrity attributable to such format shall at all times be commensurate with the sound quality and integrity generally attributable to the format of third party sound recordings available on the Online Store), which ITUNES may sell on the Online Store pursuant to the terms and conditions of this Agreement.
- (e) "Fulfillment Activities" means sales activities relating to the sale and delivery of COMPANY's eMasters pursuant to the terms and conditions of this Agreement.

- (f) “iTunes Connect” means ITUNES’ proprietary content management portal, free access to which is provided by ITUNES to COMPANY during the Term subject to acceptance of applicable terms and conditions.
- (g) “Lyrics” means lyrics associated with COMPANY Content that COMPANY, in its sole discretion, may deliver to ITUNES as part of the metadata contained in a Content File or as otherwise permitted by ITUNES, and that COMPANY has cleared for use by ITUNES pursuant to the terms of this Agreement. COMPANY shall not provide to ITUNES any lyrics that have not been so cleared.
- (h) “Online Store” means an electronic store and its storefronts branded, and owned and/or controlled by ITUNES or an affiliate of ITUNES, from which end users can receive eMasters by any means for use as permitted hereunder.
- (i) “Term” means the period beginning on the Effective Date and continuing until terminated (i) under Section 14(a), or (ii) at any time, for any or no reason, by either Party by written notice effective thirty (30) days from notice.
- (j) “Territory” means the United States, its territories and possessions (collectively, “United States”); Canada, its territories and provinces (collectively, “Canada”); Mexico, its territories and possessions (collectively, “Mexico”); Argentina, Bolivia, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, French Guiana, Guatemala, Honduras, Nicaragua, Panama, Paraguay, Peru, Uruguay, and Venezuela and their respective territories and possessions (collectively, “Latin America”); and Anguilla, Antigua and Barbuda, Bahamas, Barbados, Belize, Bermuda, British Virgin Islands, Cayman Islands, Dominica, Grenada, Guyana, Jamaica, Montserrat, Saint Kitts and Nevis, Saint Lucia, Suriname, Trinidad and Tobago, Turks and Caicos Islands, and Saint Vincent and the Grenadines (collectively, “Caribbean”).

## 2. Authorization.

- (a) Subject to the terms of this Agreement, COMPANY hereby appoints ITUNES as a reseller of eMasters in the Territory for end users’ personal and non-commercial use. Accordingly, COMPANY hereby grants a non-exclusive right to ITUNES, during the Term, to:
  - (i) reproduce and format COMPANY Content delivered by COMPANY or by COMPANY’s representative designated by COMPANY in writing into eMasters;
  - (ii) perform, exhibit and make available by streaming clips of the COMPANY Content (“Clips”) to promote the sale of applicable eMasters available on the Online Store in accordance with this Agreement;
  - (iii) promote, market, sell, distribute, perform and electronically fulfill and deliver eMasters and associated metadata to purchasers via the Online Store;
  - (iv) reproduce, display, distribute and electronically fulfill and deliver Artwork and Lyrics (if any) for personal use solely in conjunction with the applicable purchased eMaster; and
  - (v) use COMPANY Content, Artwork, Lyrics (if any) and metadata as may be reasonably necessary or desirable for ITUNES to exercise ITUNES’ rights under the terms of this Agreement.

- (b) ITUNES shall not be authorized to use COMPANY Content, Artwork or Lyrics (if any) in any manner or form not expressly authorized herein, provided that ITUNES may modify metadata as reasonably necessary to correct errors or to append sub-genres or like information for artist and content categories. Nothing in this Agreement shall be construed to prevent COMPANY from marketing or selling COMPANY Content, Artwork or Lyrics by any means. For avoidance of doubt, ITUNES shall have no obligation to exercise any of the rights granted to it hereunder.
- (c) Clips may be up to (i) ninety (90) seconds long for eMasters that are more than 2 minutes and 30 seconds (2:30) long, (ii) thirty (30) seconds long for shorter eMasters, or (iii) as long as the longest free previews that COMPANY permits any other digital distributor of COMPANY Content to make available, whichever is longer. Clips may be created by ITUNES from the applicable COMPANY Content.
- (d) In the event COMPANY delivers Lyrics for COMPANY Content that has previously been available on the Online Store, or COMPANY delivers updated Lyrics (e.g., in the event of errors in the originally delivered Lyrics), ITUNES may deliver such Lyrics to prior purchasers of the corresponding eMaster. Lyrics (like other metadata) may be used in connection with customer searches for content available on the Online Store and may be displayed in whole or in part in connection therewith.
- (e) ITUNES shall not pledge, mortgage or otherwise encumber any part of the COMPANY Content, eMasters, Artwork or Lyrics.

### 3. COMPANY Obligations.

- (a) Except for a special circumstance, such as an exclusive, limited-time, one-off promotion for particular COMPANY Content, or for a reason beyond COMPANY's control (e.g., a third party contractual restriction), or as otherwise agreed by the Parties, COMPANY (or a third party designated by COMPANY in writing and approved by ITUNES) shall commence delivery of all existing COMPANY Content as soon as reasonably possible following the Effective Date, and prospectively during the Term, for just cleared COMPANY Content and new releases, at least in time for ITUNES to begin selling eMasters the earlier of a general release date, provided by COMPANY, or when any other distributor is permitted to begin selling, or making commercially available, COMPANY Content in any format.
- (b) Except as otherwise agreed by the Parties, COMPANY shall make all COMPANY Content that COMPANY authorizes herein for sale on the Online Store available in both a so-called "single" format and in a multi-track "album" format. ITUNES may sell eMasters on the Online Store in the format that ITUNES believes most favorably furthers the commercial purpose of this Agreement and otherwise in accordance with ITUNES' then-current Online Store business practices.
- (c) COMPANY shall deliver Content Files to ITUNES, at COMPANY's expense, in the delivery format and via the delivery method reasonably specified by ITUNES on iTunes Connect at the time of COMPANY's delivery of the Content Files. COMPANY acknowledges that the specified delivery methods may require certain hardware and/or software. All COMPANY Content will be delivered to a server in California by means of telecommunications or via "load & leave" per California regulation 1502. No tangible personal property will transfer to ITUNES.

#### 4. Royalties.

- (a) United States: For uses of COMPANY Content authorized hereunder with respect to sales into the United States, COMPANY shall be responsible for and timely pay: (i) all record royalties to master rights owners, artists, producers, performers, musicians and other record royalty participants for the manufacture, storage, distribution, sound recording performance and sale of eMasters, (ii) all reproduction and distribution (i.e., mechanical) royalties payable to composers, lyricists, authors and publishers of compositions embodied in eMasters for the manufacture, storage, distribution and sale of eMasters, (iii) all payments that may be required under collective bargaining agreements applicable to COMPANY or third parties other than ITUNES, and (iv) any other royalties, fees and/or sums payable with respect to COMPANY Content, including the sound recordings and musical compositions embodied therein, Artwork, metadata and other materials provided by COMPANY and/or ITUNES' authorized use thereof hereunder, except that (x) ITUNES shall be responsible solely for any payments for the public performance rights in any musical compositions embodied in COMPANY Content (to the extent such rights may be implicated, if at all, by ITUNES' exploitation or other use of COMPANY Content hereunder), and (y) as between ITUNES and COMPANY, solely with respect to any use of Clips on the Online Store in the United States, ITUNES shall be responsible for clearing any required reproduction and distribution (i.e., mechanical) rights of composers, lyricists, authors and publishers of compositions embodied in any Clips longer than thirty (30) seconds, provided that COMPANY hereby grants to ITUNES on a gratis basis all such rights with respect to the entirety of any compositions that are owned or controlled, in whole or in part, by COMPANY or its affiliates (e.g., any publishing arm of COMPANY).
- (b) Canada: For uses of COMPANY Content authorized hereunder with respect to sales into Canada:
- (i) COMPANY shall be responsible for and timely pay: (A) all record royalties to master rights owners, artists, producers, performers, musicians and other record royalty participants for the manufacture, storage, distribution, sound recording performance and sale of eMasters, (B) all payments that may be required under collective bargaining agreements applicable to COMPANY or third parties other than ITUNES, and (C) any other royalties, fees and/or sums payable with respect to the sound recordings, Artwork, metadata and other materials provided by COMPANY and/or ITUNES' authorized use thereof hereunder.
- (ii) ITUNES shall be responsible for obtaining reproduction and distribution (i.e., mechanical) rights, and song performance (i.e., communication to the public) rights, from, and for making and making arrangements for payments, royalties or sums payable to, composers, lyricists, authors and music publishers as may be reasonably necessary for the commercial exploitation hereunder of the compositions embodied in eMasters ("Author's Rights"); provided, however, that (notwithstanding any other provision in this Agreement) ITUNES' responsibilities under this paragraph 4(b)(ii) apply only to COMPANY Content for which reproduction rights in Canada may be cleared and paid through CMRRA-SODRAC, Inc. (hereafter, "CSI Content") and that ITUNES shall make payments related to reproduction rights in any COMPANY Content only to CMRRA-SODRAC, Inc. and to no other party. COMPANY understands and acknowledges that ITUNES shall have no obligations whatsoever under this paragraph 4(b)(ii) for any COMPANY Content that is not CSI Content ("non-CSI Content"), and that all responsibility for rights clearances and payments related to Authors' Rights for any non-CSI Content which COMPANY authorizes ITUNES to exploit in Canada hereunder shall rest with COMPANY. To the extent that COMPANY owns or controls any part of the Authors' Rights in any COMPANY Content, COMPANY shall not withhold such rights in any way that could frustrate the purpose of this Agreement.

- (iii) The Parties acknowledge that the wholesale prices for eMasters set forth herein reflect a deduction for Author's Rights (if applicable) at the prevailing industry-wide royalty rates and that, in the event that higher or lower prevailing industry-wide royalty rates are established (whether by publication of an applicable rate, by a court or tribunal within the Territory or through negotiations), then the wholesale prices for eMasters set forth herein shall be prospectively reduced or increased (as the case may be) using such established industry-wide royalty rates. The Parties further acknowledge that whenever the prevailing industry-wide fixed minimum royalty fee is higher for particular eMasters sold hereunder than the royalty that would result from the application of the prevailing industry-wide royalty rate, ITUNES may deduct the excess from the wholesale prices otherwise payable for such sales.
  
- (c) Mexico: For uses of COMPANY Content authorized hereunder with respect to sales into Mexico, COMPANY shall be responsible for and timely pay: (i) all record royalties to master rights owners, artists, producers, performers, musicians and other record royalty participants for the manufacture, storage, distribution, sound recording performance and sale of eMasters, (ii) all reproduction and distribution (i.e., mechanical), performance, communication and/or transmission royalties (to the extent applicable) payable to composers, lyricists, authors and publishers of compositions embodied in eMasters for the manufacture, storage, distribution and sale of eMasters and/or the storage and streaming of Clips, (iii) all payments that may be required under collective bargaining agreements applicable to COMPANY or third parties other than ITUNES, (iv) any other royalties, fees and/or sums payable with respect to COMPANY Content, including the sound recordings and musical compositions embodied therein, Artwork, metadata and other materials provided by COMPANY and/or ITUNES' authorized use thereof hereunder, and (v) any consents that may be required with respect to any moral or neighboring rights related to COMPANY Content, including the sound recordings and musical compositions embodied therein, Artwork, metadata and other materials provided by COMPANY and/or ITUNES' authorized use thereof hereunder.
  
- (d) Latin America and Caribbean: For uses of COMPANY Content authorized hereunder with respect to sales into Latin America and Caribbean:
  - (i) COMPANY shall be responsible for and timely pay: (A) all record royalties to master rights owners, artists, producers, performers, musicians and other record royalty participants for the manufacture, storage, distribution, sound recording performance and sale of eMasters, (B) all payments that may be required under collective bargaining agreements applicable to COMPANY or third parties other than ITUNES, and (C) any other royalties, fees and/or sums payable with respect to the sound recordings, Artwork, metadata and other materials provided by COMPANY (including, without limitation, any moral rights or rights of performership associated therewith) and/or ITUNES' authorized use thereof hereunder.
  
  - (ii) ITUNES shall be responsible for obtaining reproduction and distribution (i.e., mechanical) rights, and song performance (i.e., communication to the public) rights, from, and for making and making arrangements for payments, royalties or sums payable to, composers, lyricists, authors and music publishers as may be reasonably necessary for the commercial exploitation hereunder of the compositions embodied in eMasters ("Author's Rights"). Despite the foregoing, to the extent that COMPANY owns or controls any part of such Authors' Rights (whether directly or indirectly), COMPANY shall not withhold such rights in any way that could frustrate the purpose of this Agreement.

(iii) The Parties acknowledge that the wholesale prices for eMasters set forth herein reflect a deduction for Author's Rights at the prevailing industry-wide royalty rates and that, in the event that higher or lower prevailing industry-wide royalty rates are established in a country of the Territory (whether by publication of an applicable rate, by a court or tribunal within the Territory or through negotiations), then the wholesale prices for eMasters for such country set forth herein shall be prospectively reduced or increased (as the case may be) using such established industry-wide royalty rates. The Parties further acknowledge that whenever the prevailing industry-wide fixed minimum royalty fee is higher for particular eMasters sold hereunder than the royalty that would result from the application of the prevailing industry-wide royalty rate, ITUNES may deduct the excess from the wholesale prices otherwise payable for such sales.

(e) Lyrics: Notwithstanding any of the foregoing, COMPANY shall be responsible for clearance of all rights, and timely make all payments associated therewith, with respect to the use of Lyrics in the Territory as authorized hereunder, including without limitation, all reproduction and distribution (i.e., mechanical), performance, communication, transmission and/or display royalties (to the extent applicable) payable to composers, lyricists, authors and publishers of Lyrics.

5. Wholesale Price. ITUNES shall pay COMPANY for eMasters sold by ITUNES hereunder the applicable wholesale prices set forth in Exhibits A and C, which wholesale prices shall remain in effect throughout the Term (subject to Sections 4(b)(iii) and 4(d)(iii), if applicable). For avoidance of doubt, ITUNES reserves the right to determine the retail price in its sole discretion.

6. ITUNES Obligations.

(a) ITUNES shall condition sale and delivery of eMasters upon an end user's acknowledgement of terms of use for such eMasters ("Terms of Use"), which Terms of Use shall, at a minimum, provide that end users obtaining eMasters from ITUNES pursuant to the terms of this Agreement may use such eMasters solely for the end user's personal and non-commercial use and that the sale of eMasters does not transfer to the end user any commercial or promotional use rights in the eMasters.

(b) Subject to Section 4, ITUNES shall be responsible for all costs associated with ITUNES' Fulfillment Activities.

(c) If there is a change of circumstance during the Term as a result of which COMPANY reasonably believes that it does not have, or no longer has, the rights necessary to authorize ITUNES to use any COMPANY Content, Artwork or Lyrics as provided for herein, or COMPANY reasonably believes that ITUNES' continued sale of any COMPANY Content, Artwork or Lyrics will substantially harm COMPANY's relations, or violates the terms of any of COMPANY'S agreements, with any applicable copyright owner, artist, producer, director (in the case of audio-visual content) or distributor (each a "Clearance Issue"), then COMPANY shall have the right to withdraw authorization for the distribution of such COMPANY Content, Artwork or Lyrics to the extent of such Clearance Issue using iTunes Connect or via other technical means provided by ITUNES. ITUNES shall cease to offer such COMPANY Content, Artwork or Lyrics for sale within three (3) business days of such withdrawal. COMPANY shall promptly re-authorize ITUNES' distribution of such COMPANY Content, Artwork or Lyrics if it has been re-cleared for distribution by ITUNES hereunder. COMPANY shall not withdraw any authorization with respect to COMPANY Content, Artwork or Lyrics if COMPANY continues to provide such authorization to any other on-line digital distributor of COMPANY Content in the Territory.

(d) For avoidance of doubt, and without limiting ITUNES' other rights hereunder, ITUNES reserves the right to pull-down, or not offer for sale, any COMPANY Content, Artwork or Lyrics in the

event a third party claims that ITUNES is not authorized to sell or otherwise use such COMPANY Content, Artwork or Lyrics on the Online Store, in which case COMPANY shall cooperate with ITUNES' reasonable requests towards handling such third party claim.

7. Parental Advisory. COMPANY shall be responsible for determining parental advisory warning status for all eMasters, and if such parental advisory is required by applicable law or regulation, or otherwise deemed appropriate for a particular eMaster, COMPANY shall provide an appropriate parental advisory warning for such eMaster in the Content File, and ITUNES shall conspicuously display such parental advisory when other information about such eMaster is displayed. In no event shall COMPANY deliver to ITUNES or clear for availability on the Online Store in a particular country of the Territory any COMPANY Content, Artwork or Lyrics if (a) it has been rejected or banned by a competent government authority in such country (e.g., a review board or censor), (b) applicable law or regulation requires governmental review prior to its distribution, sale or other use in such country, and such review has not taken place, (c) its distribution, sale or other use by ITUNES hereunder otherwise would violate any applicable law or regulation in such country (e.g., it constitutes prohibited content or requires an age restriction or other limitation that the Online Store does not enforce), or (d) COMPANY has received any complaint, claim or allegation that it violates any applicable law or regulation in such country. COMPANY acknowledges that ITUNES may require it to provide additional representations, warranties and/or other commitments, and verification that appropriate processes have been implemented by COMPANY to ensure compliance with this paragraph and any such additional commitments, prior to permitting COMPANY Content, Artwork or Lyrics to be available in countries of the Territory that have particularly strict legal and/or cultural content restrictions.

8. Payment and Reports.

- (a) ITUNES shall remit payment to COMPANY for the sale of eMasters in accordance with the following: (i) the "sale" of each eMaster shall occur when such eMaster is successfully delivered by ITUNES to an end user; (ii) payments shall accrue at the time that such eMaster is sold; and (iii) for each eMaster sold, ITUNES shall pay to COMPANY an amount equal to the wholesale price for the applicable eMaster (collectively "eMaster Proceeds").
- (b) ITUNES shall pay eMaster Proceeds to COMPANY in the amount set forth in a monthly sales report reflecting all sales of eMasters and corresponding eMaster Proceeds for the particular monthly period ("Sales Report") and in accordance with ITUNES' standard business practices after the end of each monthly period during the Term. ITUNES will make each Sales Report available to COMPANY via iTunes Connect and will notify COMPANY via email when each Sales Report is available. ITUNES may modify the foregoing process in its reasonable discretion upon thirty (30) days' written notice. For avoidance of doubt, eMaster Proceeds shall constitute COMPANY's full consideration hereunder and shall be paid in the currency in which the wholesale prices for the applicable country of the Territory are expressed herein. Notwithstanding the foregoing: (i) ITUNES may provide a means on iTunes Connect to enable COMPANY to designate a primary currency for the bank account designated by COMPANY for receiving eMaster Proceeds ("Designated Currency"); (ii) ITUNES may cause ITUNES' bank to convert all eMaster Proceeds in any currency other than the Designated Currency into the Designated Currency prior to remittance to COMPANY; (iii) COMPANY agrees that any resulting currency exchange differentials or fees charged by ITUNES' bank may be deducted from such remittances; and (iv) COMPANY remains responsible for any fees (e.g., wire transfer fees) charged by COMPANY's bank or any intermediary banks between COMPANY's bank and ITUNES' bank.
- (c) ITUNES may withhold any taxes, duties, charges or levies on payments by ITUNES to COMPANY pursuant to this Agreement as may be required by applicable law, rule or regulation. ITUNES shall remit any such withheld taxes, duties, charges or levies to the appropriate tax authority. Despite the foregoing, provided COMPANY has fully satisfied all requirements to

document its eligibility for a lower or zero rate of withholding tax, including, without limitation, providing ITUNES with a valid Certificate of Residency, ITUNES shall withhold based on the lower withholding tax rate, or, if applicable, shall not withhold.

- (d) Payments made by ITUNES to COMPANY hereunder shall be by electronic funds transfer (“EFT”), and COMPANY shall be responsible for any of COMPANY’S bank transaction costs or fees arising from such payment. COMPANY shall provide ITUNES (via iTunes Connect) with COMPANY’S banking information reasonably necessary to effect payment.

9. Names and Likenesses; Promotional Use and Opportunities.

- (a) ITUNES may use the names and authorized likenesses of, and biographical material concerning, any eMaster artists, bands, producers, directors (in the case of audio-visual content) and/or songwriters (each, a “Talent”), as well as track title and/or album name, and Artwork, in any ITUNES marketing materials for the sale, promotion and advertising of the applicable eMaster which is offered for sale on the Online Store under the terms of this Agreement (e.g., an artist or band name and likeness may be used in an informational fashion, such as textual displays or other informational passages, to identify and represent authorship, production credits, and performances of the applicable artist or band in connection with the authorized exploitation of applicable eMasters). Further written approval of COMPANY shall be required if any Talent’s name or likeness is otherwise used as an endorsement of ITUNES, the Online Store, or other products.
- (b) ITUNES shall have the unrestricted right to market, promote and advertise the Online Store and content available for purchase on the Online Store as it determines in its discretion. Without limiting the foregoing, ITUNES shall have the right to determine which content, irrespective of any particular record company, label or other content provider affiliation, would best further the commercial purpose of the Online Store, and to promote such content more than others.

10. Copyright Notices; Ownership.

- (a) COMPANY may provide a copyright notice (which shall be not more than 21 characters in length) for applicable COMPANY Content and associated Artwork and Lyrics (if any) in the Content File, in which case ITUNES shall include such copyright notice in a manner that can be viewed prior to purchase of such eMaster. ITUNES shall not knowingly defeat, impair or alter any watermark in COMPANY Content, including any related Artwork or materials delivered by COMPANY hereunder; provided, for avoidance of doubt, that COMPANY shall not include any digital watermark or similar technologies in the audio (or video) file itself.
- (b) As between the Parties, all right, title and interest in and to (i) the COMPANY Content, (ii) the eMasters, (iii) the Clips, (iv) all copyrights and equivalent rights embodied therein, and (v) all materials furnished by COMPANY, except as to any rights of ITUNES (whether pre-existing or under this Agreement), shall remain the property of COMPANY, it being understood that under no circumstances shall ITUNES have any lesser rights than it would have as a member of the public.

11. Press Release. Without limiting the provisions of Section 16, COMPANY shall not make or issue any public statement or press release regarding this Agreement or its subject matter without prior written approval from ITUNES.

## 12. Data Protection.

- (a) In the event that ITUNES receives notice of a security breach of the servers or network components that store COMPANY Content on the Online Store such that unauthorized access to COMPANY Content becomes available via the Online Store, then ITUNES will disable the ability to purchase, and offers for sale of, eMasters embodying COMPANY Content via the Online Store within twenty-four (24) hours following ITUNES' receipt of notice thereof, which shall be ITUNES' sole obligation and COMPANY's sole remedy from ITUNES in the event of such a security breach.
- (b) COMPANY Content in ITUNES' control or possession shall reside on one or more network servers, workstations or equivalent devices owned or controlled by ITUNES or its contractors, each of which shall be secured with restricted access.

## 13. Record-Keeping and Audit

- (a) ITUNES shall maintain and keep complete and accurate books and records concerning the amounts payable to COMPANY arising from transactions relating to ITUNES' sale of eMasters for three (3) years following each particular Sales Report.
- (b) Upon reasonable advance written notice (in no event less than thirty (30) days), for up to two (2) years following each particular Sales Report (the "Audit Period"), COMPANY, at COMPANY's sole expense, may appoint an independent certified public accountant not then engaged in any audit of ITUNES or COMPANY to audit applicable books and records of ITUNES at ITUNES' principal place of business in the Territory for the sole purpose of verifying the amounts due from ITUNES to COMPANY hereunder. Such audit shall take place during regular business hours, and shall not occur more than once during any twelve (12) month period. The certified public accountant shall not be engaged on a contingency-fee basis and must sign and deliver to ITUNES a confidentiality agreement in a form acceptable to ITUNES that protects ITUNES' confidential information no less than the terms of this Agreement and no less than COMPANY protects its own similar information. COMPANY may audit information contained in a particular Sales Report only once, and no audit shall be allowed or conducted for a period spanning less than six (6) months.
- (c) COMPANY shall be deemed to have consented to all Sales Reports rendered by ITUNES hereunder, and said Sales Reports shall be binding upon COMPANY and shall not be subject to any objection by COMPANY for any reason unless specific objections are provided to ITUNES in writing within two (2) years of the rendering of the Sales Report. COMPANY agrees that ITUNES' books and records contain "Confidential Information" (as defined below).

## 14. Termination and Effect of Termination.

- (a) Either Party shall have the right to terminate this Agreement prior to the expiration of the Term in the event that the other Party (i) becomes insolvent, (ii) files a petition in bankruptcy, (iii) makes an assignment for the benefit of creditors, or (iv) breaches any material representation, obligation or covenant contained herein, unless such breach is cured prospectively, no later than thirty (30) days from the date of receipt of notice of such breach, or if not able to be so cured, then resolved to the other Party's satisfaction, not to be unreasonably withheld.
- (b) Sections 1, 4, 6(b), 8, 10(b), 11, 13, 14, 15, 16, 17, and 18 shall remain in full force and effect following the expiration or earlier termination of this Agreement. The expiration or earlier termination of this Agreement shall not relieve COMPANY or ITUNES of its respective

obligations to make any payments with respect to the sale of eMasters in the periods prior to such expiration or termination (and the associated accounting) in accordance with this Agreement.

- (c) Upon the expiration or earlier termination of this Agreement, all COMPANY Content, eMasters, Clips, Artwork and Lyrics in ITUNES' possession or control shall be promptly deleted or destroyed, excluding any archival copies maintained in accordance with ITUNES' standard business practices or required to be maintained by applicable law, rule or regulation.

15. Indemnification and Limitation of Liability.

- (a) ITUNES will indemnify and hold harmless, and upon COMPANY'S request, defend, COMPANY and its affiliates (and their respective directors, officers and employees) from and against any and all losses, liabilities, damages, costs and expenses (including reasonable attorneys' fees and costs) arising out of a claim by a third party by reason of: (i) any use by ITUNES of the COMPANY Content, Artwork or Lyrics in breach of this Agreement; (ii) a breach of any warranty, representation, covenant or obligation of ITUNES under this Agreement; or (iii) any claim that the technology used by ITUNES in the Fulfillment Activities infringes the intellectual property rights of another party. ITUNES will reimburse COMPANY and its affiliates on demand for any payments actually made in resolution of any liability or claim that is subject to indemnification under this Section 15, provided that COMPANY obtains ITUNES' written consent prior to making such payments. COMPANY shall promptly notify ITUNES of any such claim, and ITUNES may assume control of the defense or settlement of such claim. COMPANY shall have the right, at its expense, to participate in the defense thereof under ITUNES' direction.
- (b) COMPANY will indemnify and hold harmless, and upon ITUNES' request, defend, ITUNES and its affiliates and contractors (and their respective directors, officers and employees) from and against any and all losses, liabilities, damages, costs or expenses (including reasonable attorneys' fees and costs) arising out of a claim by a third party by reason of: (i) a breach of any warranty, representation, covenant or obligation of COMPANY under this Agreement; or (ii) excluding the rights that ITUNES is responsible for under Section(s) 4(b)(ii) and/or 4(d)(ii) (if applicable), any claim that any COMPANY Content, Artwork, Lyrics, metadata or any other materials provided or authorized by or on behalf of COMPANY hereunder or ITUNES' use thereof violates or infringes the rights of another party. COMPANY will reimburse ITUNES and its affiliates on demand for any payments actually made in resolution of any liability or claim that is subject to indemnification under this Section 15, provided that ITUNES obtains COMPANY's written consent prior to making such payments. ITUNES shall promptly notify COMPANY of any such claim, and COMPANY may assume control of the defense or settlement of such claim. ITUNES shall have the right, at its expense, to participate in the defense thereof under COMPANY's direction.
- (c) EXCEPT PURSUANT TO AN EXPRESS INDEMNITY OBLIGATION, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES, INCLUDING LOSS OF PROFITS OR PUNITIVE DAMAGES, EVEN IF ADVISED OF THEIR POSSIBILITY.
- (d) NO WARRANTY OR TERM, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, AS TO THE CONDITION, QUALITY, DURABILITY, PERFORMANCE, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE ONLINE STORE OR ANY ELEMENTS THEREOF IS GIVEN TO, OR SHOULD BE ASSUMED BY, COMPANY, AND ANY SUCH WARRANTIES AND TERMS ARE HEREBY EXCLUDED.

16. Confidentiality. Each Party acknowledges that by reason of this Agreement it may have access to certain information and materials concerning the other Party's business plans, customers, technology and products that are confidential and of substantial value to such Party, which value would be impaired if such information were disclosed to third parties or used for purposes other than as expressly permitted by this Agreement (referred to in this Agreement as "Confidential Information"). Each Party agrees to maintain any and all Confidential Information received from the other, in confidence, and agrees not to disclose or otherwise make available such Confidential Information to any third party without the prior written consent of the disclosing Party. Each Party agrees that Confidential Information shall be disclosed to its employees and other personnel under its control and supervision for purposes of performing under this Agreement solely on a need-to-know basis in furtherance of this Agreement, and solely to those individuals who are bound by a written non-disclosure agreement having terms no less restrictive than the non-disclosure terms of this Section 16, unless required by law, or court or governmental order. Confidential Information shall be deemed to include (i) information marked confidential, if conveyed in writing, and (ii) information identified orally as confidential, if conveyed orally. Confidential Information shall not be deemed to include any information which (a) is publicly known at the time of the disclosure, (b) becomes publicly known other than by breach of the terms of this Section 16, (c) becomes known to the receiving Party, without restriction, from a source free of any obligation of confidentiality and without breach of this Section 16, or (d) is independently developed by the receiving Party.

17. Additional Representations and Warranties of the Parties.

- (a) Each Party represents and warrants that it has full authority to enter into this Agreement, and to fully perform its obligations hereunder.
- (b) Each Party represents and warrants that it owns or controls the necessary rights in order to make the grant of rights, licenses and permissions herein, and that the exercise of such rights, licenses and permissions by the other Party hereto shall not violate or infringe the rights of any third party.
- (c) Each Party represents and warrants that it shall not act in any manner which conflicts or interferes with any existing commitment or obligation of such Party, and that no agreement previously entered into by such Party will interfere with such Party's performance of its obligations under this Agreement.
- (d) Each Party represents and warrants that it shall perform in compliance with any applicable laws, rules and regulations of any governmental authority.

18. General Provisions.

- (a) *No Agency or Joint Venture.* The Parties agree and acknowledge that the relationship between the Parties is that of independent contractors acting as seller and purchaser. This Agreement shall not be deemed to create a partnership or joint venture, and neither Party is the other's agent, partner, employee, or representative.
- (b) *Contractors.* ITUNES may contract with third parties to provide Fulfillment Activities on behalf of ITUNES, provided such third parties are subject to terms no less restrictive than the terms ITUNES is subject to under this Agreement. ITUNES shall be responsible for the performance of such third parties while under ITUNES' control and supervision.
- (c) *Entire Agreement, Modification, Waiver.* This Agreement, including any annexes, schedules and exhibits hereto, contains the entire understanding of the Parties relating to the subject matter hereof, and supersedes all previous agreements or arrangements between the Parties relating to the subject matter hereof. This Agreement cannot be changed or modified except by a writing signed by the Parties. A waiver by either Party of any term or condition of this Agreement in any instance shall not be deemed or construed as a waiver of such term or condition for the future, or

of any subsequent breach thereof. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable, such determination shall not affect any other provision hereof, and the unenforceable provision shall be replaced by an enforceable provision that most closely meets the commercial intent of the Parties.

- (d) *Binding on Successors.* This Agreement shall be binding on the assigns, heirs, executors, personal representatives, administrators, and successors (whether through merger, operation of law, or otherwise) of the Parties. ITUNES may assign or transfer any part of this Agreement to an affiliate of ITUNES without COMPANY's consent.
- (e) *Notices.* Any notice, approval, request, authorization, direction or other communication under this Agreement shall be given in writing and shall be deemed to have been delivered and given for all purposes: (i) on the delivery date if delivered personally to the Party to whom the same is directed or delivered; (ii) upon delivery by confirmed-receipt facsimile to the appropriate number set forth below (and, further, confirmation of receipt is made by telephone); (iii) one (1) business day after deposit with a commercial overnight carrier, with written verification of receipt; or (iv) five (5) business days after the mailing date, whether or not actually received, if sent by certified mail, return receipt requested, postage and charges prepaid, to the address of the Party to whom the same is directed as set forth below (or such other address as such other Party may supply by written notice duly given).

If to COMPANY, to the Senior Management contact specified by COMPANY via iTunes Connect, with a courtesy copy by email or facsimile, which copy shall not constitute notice, to the Legal contact specified by COMPANY via iTunes Connect.

If to ITUNES, to:  
Associate General Counsel, iTunes  
Apple Inc.  
1 Infinite Loop, MS 3-ITS  
Cupertino, CA 95014  
Fax: 408-974-9105

- (f) *Governing Law.* This Agreement shall be governed and interpreted in accordance with the laws of the State of California, without regard to principles of conflict of laws. The Parties agree that any proceeding relating to this Agreement will take place in the No. District of California; and both Parties hereby waive the right to object to that choice of law, personal jurisdiction or venue.
- (g) *Counterparts.* This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document.
- (h) *Remedies.* To the extent permitted by applicable law, the rights and remedies of the Parties provided under this Agreement are cumulative and in addition to any other rights and remedies of the Parties at law or equity.
- (i) *Headings.* The titles used in this Agreement are for convenience only and are not to be considered in construing or interpreting the Agreement.
- (j) *No Third-Party Beneficiaries.* This Agreement is for the sole benefit of the Parties hereto and their authorized successors and permitted assigns. Nothing herein, express or implied, is intended to or shall confer upon any person or entity, other than the Parties hereto and their authorized successors and permitted assigns, any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

- (k) *Force Majeure.* For the purposes of this Agreement, "Force Majeure" shall mean any event which a Party hereto could not foresee, such as fire, flood, acts of God or public enemy, Internet failures, earthquakes, governmental or court order, national emergency, strikes or labor disputes, the effect of which it could not reasonably prevent or predict and which renders impossible or impractical the performance of contractual obligations either totally or in part. The Party invoking a Force Majeure shall notify the other Party within three (3) business days of its occurrence by accurately describing all the circumstances of the situation involved and its effect upon the performance of its contractual obligations. The taking place of a Force Majeure shall have the effect of suspending the obligations of the Party which has invoked the provisions of this Section to the extent such obligations are affected by the Force Majeure. Contractual dates shall be extended for a period equal to the duration of a Force Majeure. The cessation of a Force Majeure shall be communicated by notice within three (3) business days of its occurrence by the Party that invoked it.

19. Termination of Any Prior Agreements. If the Parties have previously entered into any Digital Music Download Sales Agreement or Digital Video Download Sales Agreement, covering the distribution of music and/or music videos, that is in effect as of the Effective Date and the territory of which includes any part of the Territory (each a "Prior Agreement"), the Parties hereby terminate each such Prior Agreement as of the Effective Date.

EXHIBIT A

Schedule of Wholesale Prices - Audio

Single-Track Wholesale Prices

<u>Single Tier</u>	<u>US Wholesale Price</u> Greater of (i) 70 percent of retail price (excluding taxes) or (ii) the floor wholesale price set forth below for the applicable Single Tier (in United States Dollars (US\$)):	<u>Canada Wholesale Price</u> Greater of (i) 60 percent of retail price (excluding taxes) or (ii) the floor wholesale price set forth below for the applicable Single Tier (in Canadian Dollars (CDN\$)):	<u>Mexico Wholesale Price</u> Greater of (i) 70 percent of retail price (excluding taxes) or (ii) the floor wholesale price set forth below for the applicable Single Tier (in Mexican Pesos (MXN)):	<u>Latin America Wholesale Price</u> Greater of (i) 70 percent of retail price (excluding taxes) minus applicable royalties for Author's Rights payable by ITUNES or (ii) the floor wholesale price set forth below for the applicable Single Tier (in US\$):	<u>Caribbean Wholesale Price</u> Greater of (i) 70 percent of retail price (excluding taxes) minus applicable royalties for Author's Rights payable by ITUNES or (ii) the floor wholesale price set forth below for the applicable Single Tier (in US\$):
1	US\$0.91	CDN\$0.91	MXN10.50	US\$0.79	US\$0.79
2	US\$0.70	CDN\$0.70	MXN8.40	US\$0.60	US\$0.60
3	US\$0.49	CDN\$0.49	MXN6.30	US\$0.42	US\$0.42
4	-	-	-	-	US\$0.30
5	-	-	-	-	US\$0.18

Multi-Track Album Wholesale Prices (excluding taxes)

<u>Album Tier</u>	<u>US Wholesale Price</u>	<u>Canada Wholesale Price</u>	<u>Mexico Wholesale Price</u>	<u>Latin America and Caribbean Wholesale Price</u>
Digital 45	US\$1.40	CDN\$1.40	MXN14.00	US\$1.20
Mini EP	US\$2.10	CDN\$2.10	MXN21.00	US\$1.80
EP	US\$2.80	CDN\$2.80	MXN28.00	US\$2.40
Mini Album One	US\$3.50	CDN\$3.50	MXN35.00	US\$3.00
Mini Album Two	US\$3.50	CDN\$3.50	MXN35.00	US\$3.00
Budget One	US\$4.20	CDN\$4.20	MXN42.00	US\$3.60
Budget Two	US\$4.90	CDN\$4.90	MXN52.50	US\$4.20
Back	US\$5.60	CDN\$5.60	MXN63.00	US\$4.80
Mid	US\$6.30	CDN\$6.30	MXN73.50	US\$5.40
Mid/Front	US\$7.00	CDN\$7.00	MXN84.00	US\$6.00
Front One	US\$7.70	CDN\$7.70	MXN91.00	US\$6.60
Front Two	US\$7.70	CDN\$7.70	MXN98.00	US\$6.60
Front Plus	US\$8.40	CDN\$8.40	MXN105.00	US\$7.20
Deluxe One	US\$9.10	CDN\$9.10	MXN112.00	US\$7.80
Deluxe Two	US\$9.80	CDN\$9.80	MXN119.00	US\$8.40
Deluxe Three	US\$10.50	CDN\$10.50	MXN126.00	US\$9.00
Deluxe Four	US\$11.20	CDN\$11.20	MXN133.00	US\$9.60

Multi-CD Set	(Selected Album Tier Wholesale Price) x (# of CDs)	(Selected Album Tier Wholesale Price) x (# of CDs)	(Selected Album Tier Wholesale Price) x (# of CDs)	(Selected Album Tier Wholesale Price) x (# of CDs)
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Notwithstanding anything to the contrary herein (including any album tier designation pursuant hereto), the wholesale price for any multi-track album shall not exceed the aggregate price of the single tracks on that album if sold separately as single tracks.

Subject to any limitations set forth herein regarding the use of a particular tier, COMPANY shall have the right to designate the single or album tier, as applicable, for each eMaster provided by COMPANY to ITUNES. In the event COMPANY does not designate a tier for a particular eMaster, COMPANY shall be deemed to have designated Tier 2 for any such single eMaster and the Mid/Front Tier for any such multi-track album eMaster, until such time as COMPANY designates a different tier for such eMaster. COMPANY may change the designated tier for a particular eMaster no more than three (3) times during any twelve (12) month period during the Term. ITUNES shall implement any changed tier designation in accordance with ITUNES' standard business practices. ITUNES may in its discretion make available additional tiers during the Term.

To the extent ITUNES or any of its worldwide affiliates responsible for operating the Online Store (for purposes of this paragraph only, "ITUNES") has entered into any agreement(s) (other than this Agreement) with COMPANY or any of COMPANY's affiliates (for purposes of this paragraph only, "COMPANY") relating to the delivery of COMPANY's music content through the Online Store under which any wholesale prices are payable to COMPANY in USD, each such agreement shall be deemed an "Other USD Agreement" for purposes of this paragraph. ITUNES and COMPANY acknowledge that, due to technical constraints, the two lowest USD single track wholesale price tiers applicable hereunder solely to certain countries of the Territory (the "Low Tiers") may be visible and technically designable by COMPANY for other countries where USD is the currency, but in which this Agreement or, as applicable, the Other USD Agreements do not permit use of the Low Tiers ("Other USD Countries"). In the event that COMPANY mis-designates a Low Tier for a particular track in an Other USD Country (including without limitation the U.S., Canada, Mexico, or Latin America), such mis-designation shall be COMPANY's responsibility to cure, and notwithstanding anything to the contrary in this Agreement or the applicable Other USD Agreement, until such mis-designation is cured, ITUNES shall be responsible for paying COMPANY only the Applicable Low Tier Wholesale Price for sales of such track (and not, for the avoidance of doubt, any higher wholesale price that otherwise might be required under this Agreement or the applicable Other USD Agreement). For purposes of this paragraph, the "Applicable Low Tier Wholesale Price" shall be the wholesale price set forth in this Agreement for the applicable Low Tier, adjusted by the publishing deduction (or lack thereof, as in the case of the United States) applicable to the Other USD Country at issue under this Agreement or the applicable Other USD Agreement.

COMPANY may select the Digital 45 tier only for a multi-track album consisting of no more than four (4) single-track eMasters, the Mini EP tier only for a multi-track album consisting of no more than seven (7) single-track eMasters, and the EP tier only for a multi-track album consisting of no more than ten (10) single-track eMasters. The remaining tiers may be used solely for multi-track albums with the same track selection and order as the corresponding albums released as physical CDs. In addition, the Multi-CD Set tier may be used solely where the corresponding physical release consists of multiple CDs. ITUNES may in its discretion waive, on a case-by-case basis, any of the restrictions set forth in this paragraph.

EXHIBIT B

Schedule of Wholesale Prices – Videos

Single Video Wholesale Prices

<u>Single Video Tier</u>	<u>US Wholesale Price</u>	<u>Canada Wholesale Price</u>	<u>Mexico Wholesale Price</u>	<u>Latin America and Caribbean Wholesale Price</u>
1	US\$1.40	CDN\$1.65	MXN16.80	US\$1.21
2	US\$1.05	CDN\$1.05	MXN12.60	US\$0.91
3	US\$0.70	CDN\$0.70	MXN8.40	US\$0.60

COMPANY shall have the right to designate the tier for each eMaster provided by COMPANY to ITUNES. In the event COMPANY does not designate a tier for a particular eMaster, COMPANY shall be deemed to have designated Tier 2 for any such eMaster, until such time as COMPANY designates a different tier for such eMaster. COMPANY may change the designated tier for a particular eMaster no more than three (3) times during any twelve (12) month period during the Term. ITUNES shall implement any changed tier designation in accordance with ITUNES' standard business practices. ITUNES may in its discretion make available additional tiers during the Term.

Other Products

If ITUNES at any time during the Term exercises its discretion under Section 3(b) to accept additional product configurations, then ITUNES will make available one or more wholesale price tiers for such additional products. If multiple tiers are made available, COMPANY shall have the right to designate any applicable tier for each product of COMPANY Content delivered by COMPANY to ITUNES; provided that COMPANY may change the designated tier for a particular product no more than three (3) times during any twelve (12) month period during the Term. ITUNES shall implement any changed tier designation in accordance with ITUNES' standard business practices. Notwithstanding anything to the contrary herein (including any wholesale price tier made available by ITUNES or tier designation by COMPANY), the wholesale price for any product shall not exceed the aggregate price of the single videos (and, if applicable, single audio tracks) included in the product if sold separately as single videos (and/or tracks). For avoidance of doubt, the applicable multi-track album wholesale prices set forth on Exhibits A and C shall include any video(s) sold or upgraded as part of a multi-track audio album (e.g., bonus videos).

EXHIBIT C

Upgrades

The term “DRM eMaster” shall mean a sound recording previously sold via the Online Store in a digital format including the proprietary Apple content protection system marketed as Fairplay.

The first sale of a particular single eMaster to an end user who previously purchased the same single track from the Online Store as a DRM eMaster shall be deemed a “Single Upgrade.” The first sale of a particular multi-track album eMaster to an end user who previously purchased the same multi-track album from the Online Store as a DRM eMaster shall be deemed an “Album Upgrade.” The Upgrade Wholesale Prices set forth in this Exhibit C shall apply to all Single Upgrade and Album Upgrade transactions.

<u>Single / Album Tier</u>	<u>US Upgrade Wholesale Price</u>	<u>Canada Upgrade Wholesale Price</u>
Single	US\$0.20	CDN\$0.26
Digital 45	US\$0.40	CDN\$0.35
Mini EP	US\$0.60	CDN\$0.53
EP	US\$0.80	CDN\$0.70
Mini Album One	US\$1.00	CDN\$0.88
Mini Album Two	US\$1.00	CDN\$0.88
Budget One	US\$1.20	CDN\$1.05
Budget Two	US\$1.40	CDN\$1.23
Back	US\$1.60	CDN\$1.40
Mid	US\$1.80	CDN\$1.58
Mid/Front	US\$2.00	CDN\$1.75
Front One	US\$2.20	CDN\$1.93
Front Two	US\$2.20	CDN\$1.93
Front Plus	US\$2.40	CDN\$2.10
Deluxe One	US\$2.60	CDN\$2.28
Deluxe Two	US\$2.79	CDN\$2.45
Deluxe Three	US\$2.99	CDN\$2.63
Deluxe Four	US\$3.19	CDN\$2.80
Multi-CD Set	(Upgrade Wholesale Price for selected Album Tier) x (# of CDs)	(Upgrade Wholesale Price for selected Album Tier) x (# of CDs)

## EXHIBIT D

### Music Videos

The following additional or modified terms and conditions shall apply to the sale of permanent downloads of music videos under the Agreement. In all other respects the terms and conditions of the Agreement shall apply equally to music videos. Solely for purposes of this Exhibit D:

1. Section 1(b) shall state: “COMPANY Content” means music videos, including, without limitation, audio and video files, owned or controlled by COMPANY that COMPANY has cleared for use by ITUNES pursuant to the terms of this Agreement. COMPANY shall not provide to ITUNES any music videos that have not been so cleared.
2. Section 1(d) shall state: “eMaster” means a copy of COMPANY Content in DRM-free digital format suitable for exploitation on the Online Store (provided that the audio and video quality and integrity attributable to such format shall at all times be commensurate with the audio and video quality and integrity generally attributable to the format of third party short-form music videos available on the Online Store), which ITUNES may sell on the Online Store pursuant to the terms and conditions of this Agreement. COMPANY acknowledges that each eMaster may include more than one copy of the COMPANY Content, each providing a different resolution in order to accommodate efficient transfer and rendering of the COMPANY Content to different devices; or that, in the alternative, an eMaster may be transcoded to an appropriate format and resolution as part of its transfer to a particular device.
3. Section 3(b) shall state: COMPANY shall make all COMPANY Content that COMPANY authorizes herein for sale on the Online Store available as single videos. From time to time during the Term, ITUNES may in its discretion decide to accept additional product configurations (e.g., multi-video albums) from COMPANY, in which case COMPANY may, in its discretion, offer to make particular COMPANY Content available for sale on the Online Store in such product configurations.
4. Sections 4(a), 4(b)(i-ii) and 4(c) shall state: For uses of COMPANY Content authorized hereunder with respect to sales into the United States, Canada and/or Mexico, COMPANY shall be responsible for: (i) obtaining all rights of, and all waivers of any applicable moral or similar rights by, artists, performers, writers, producers, directors, the composers, lyricists, authors and/or publishers of any musical compositions embodied in COMPANY Content (including their mechanical, i.e., reproduction and distribution, rights and, with respect to sales of eMasters and streaming of Clips to Mexico, any performance, communication and/or transmission rights), and any other third party rights holders necessary for ITUNES’ unencumbered sale, promotion, storage, distribution and other use as authorized hereunder of COMPANY Content, Artwork, metadata and/or any other materials provided to ITUNES by COMPANY; and (ii) making corresponding full and timely payments of all royalties, residuals, participation payments, repeat fees and/or other sums payable for such rights and/or waivers, and all payments that may be required under any collective bargaining, union or guild agreements related to the COMPANY Content or its exploitation or other use hereunder, including any similar payments which are not now but hereafter become payable, except that ITUNES shall be responsible for obtaining or making payments solely for any public performance rights with respect to sales into the United States, and any communication to the public rights with respect to sales into Canada, in any musical compositions embodied in COMPANY Content (to the extent such rights may be implicated, if at all, by ITUNES’ exploitation or other use of COMPANY Content hereunder).
5. Sections 4(d)(i-ii) shall state: For uses of COMPANY Content authorized hereunder with respect to sales into Latin America and Caribbean:
  - (i) Except as provided in Section 4(d)(ii) below, COMPANY shall be responsible for: (A) obtaining all rights of, and all waivers of any applicable moral or similar rights by, artists, performers, musicians, writers, producers, directors and any other third party rights

holders necessary for ITUNES' unencumbered sale, promotion, storage, distribution and other use as authorized hereunder of COMPANY Content, Artwork, metadata and/or any other materials provided to ITUNES by COMPANY; and (B) making corresponding full and timely payments of all royalties, residuals, participation payments, repeat fees and/or other sums payable for such rights and/or waivers, and all payments that may be required under any collective bargaining, union or guild agreements related to the COMPANY Content or its exploitation or other use hereunder, including any similar payments which are not now but hereafter become payable.

- (ii) ITUNES shall be responsible for: (A) obtaining the reproduction and distribution (i.e., mechanical), public performance and communication to the public rights in the musical compositions embodied in COMPANY Content (but not, for avoidance of doubt, any rights related to the original creation of the COMPANY Content, including but not limited to so called synchronization rights (if any)) as may be reasonably necessary for ITUNES' sale, promotion, storage, distribution and other use as authorized hereunder of COMPANY Content ("Author's Rights"); and (B) making corresponding full and timely payments of all royalties and/or other sums payable for such rights, including any similar payments which are not now but hereafter become payable. Notwithstanding the foregoing, to the extent that COMPANY owns or controls any part of such rights (whether directly or indirectly), COMPANY shall not withhold such rights in any way that could frustrate the purpose of this Agreement.

- 6. All references to Exhibit A shall instead be to Exhibit B.
- 7. The following Upgrade Wholesale Prices shall apply for Single video eMasters: US\$0.40 and CDN\$0.52.

## EXHIBIT E

### Complete My Album

Notwithstanding any other provisions of this Agreement, the following terms shall apply to any CMA Offers and CMA Transactions (as defined below):

1. Definitions.

- (a) “Purchased Track” means a track or video previously acquired by a customer from the Online Store by (i) purchase by any payment means or (ii) through a promotional download, so long as ITUNES paid to COMPANY the appropriate wholesale price under this Agreement for such download.
- (b) “CMA Album” means an album with which one or more Purchased Tracks are “associated” (as provided in paragraph 3 below).
- (c) “Remaining Tracks” means all tracks or videos contained on a CMA Album, other than any Purchased Tracks.
- (d) “CMA Offer” means the option by a particular customer to purchase the Remaining Tracks of a CMA Album as a bundle – i.e., to “complete” that album – at a specified bundle price.
- (e) “CMA Transaction” means the purchase by a customer of the Remaining Tracks of a particular CMA Album as a bundle at a specified bundle price.
- (f) “Advance Single” means a single track released on the Online Store in advance of the release of the corresponding album (e.g., a radio edit or pre-release single).
- (g) “Subsequent Album” means the album, released subsequent to an Advance Single’s release, on which the Advance Single was included upon the album’s release.

2. Authorization of CMA Offers and Transactions. ITUNES is hereby authorized to make CMA Offers and conclude CMA Transactions as provided in this Exhibit.

3. “Associated” Purchased Tracks and CMA Albums.

- (a) Except as provided in paragraphs 3(b)-(e) below, a Purchased Track is only deemed “associated” with the album on the Online Store off of which it was acquired by the customer.
- (b) For Advance Singles, the Subsequent Album shall be deemed to be the “associated” CMA Album. If only one (unmarked) version of the Advance Single was offered, and both clean and explicit versions of the Subsequent Album are offered on the Online Store, then each such version of the Subsequent Album shall be deemed to be a CMA Album “associated” with the Advance Single.
- (c) If standard and deluxe versions of an album are offered on the Online Store, then each such version of the album shall be deemed to be a CMA Album “associated” with any Purchased Track acquired off of either version of the album.
- (d) A redelivered album shall be deemed to be a CMA Album “associated” with any Purchased Track that was acquired off of any version of that same album that was previously available (but is no longer available) on the Online Store under the authority of COMPANY. ITUNES will use

commercially reasonable efforts to create automated “matching” such that CMA Offers involving redelivered albums are made available to customers consistent with this subparagraph.

- (e) A Purchased Track originally purchased in DRM eMaster (as defined in Exhibit C) format off of the DRM eMaster version of a particular album, and then subsequently upgraded to eMaster format, shall thereafter also be deemed “associated” with the eMaster version of that album.
- (f) To the extent a customer is presented with more than one CMA Offer with respect to the same Purchased Track (because more than one album is deemed a CMA Album “associated” with such Purchased Track hereunder), the customer may only select one such option. In no event may one Purchased Track be applied to more than one CMA Transaction.

4. Partial Albums. Only full albums (including video albums) available for sale on the Online Store are eligible to be CMA Albums. Partial albums are not eligible.

5. Wholesale Price. ITUNES will pay COMPANY the CMA Wholesale Price (as defined in this paragraph) for each CMA Transaction. The CMA Wholesale Price will equal the wholesale price under this Agreement for the CMA Album in effect at the time of the CMA Transaction (“Regular Wholesale Price”) less the sum of the wholesale prices ITUNES previously paid for the Purchased Tracks to COMPANY; provided, however, that the CMA Wholesale Price in no event shall be less than the wholesale price under this Agreement for a single track (a single music video in the event the CMA Album is a video-only album) in effect at the time of the CMA Transaction. For avoidance of doubt, ITUNES may determine retail prices on the Online Store, including retail prices for CMA Transactions, entirely at its sole discretion.

6. Reporting. Each CMA Transaction will be reflected on sales and royalty reports as follows: (i) a new sale of the full CMA Album at the Regular Wholesale Price, identified as a CMA sale; and (ii) a return (i.e., negative royalty) for each Purchased Track contained on the CMA Album in the amount ITUNES previously paid for the Purchased Track to COMPANY, each identified as a CMA return.

## EXHIBIT F

### iTunes LP

Notwithstanding any other provisions of this Agreement, the following terms shall apply to iTunes LPs (as defined below):

1. Definitions.

- (a) “Additional Materials” shall mean all content included in an iTunes LP other than sound recordings and audiovisual works (e.g., lyrics, photographs and other graphical or textual materials, games or other interactive media).
- (b) “iTunes LP” shall mean an interactive package of content delivered by COMPANY to ITUNES, which package may be made available for download by end users of the Online Store pursuant to the Agreement solely as part of a playlist delivered and designated by COMPANY (i.e., “album only”). Except as otherwise provided in this Exhibit F, all of the provisions of the Agreement applicable to COMPANY’s other content shall apply to the content embodied in iTunes LPs as well.
- (c) “iTunes LP Album” shall mean a playlist delivered by COMPANY to ITUNES pursuant to the Agreement, which is designated by COMPANY to be distributed with a particular iTunes LP. For the avoidance of doubt, the wholesale price payable by ITUNES for each download of an iTunes LP Album under the Agreement shall constitute full consideration therefor, including for the iTunes LP included therein, and no additional payment shall be due from ITUNES to COMPANY with respect to any iTunes LP.

2. Third Party Rights. The respective responsibilities of ITUNES and COMPANY for the clearance of, and payments related to, any third party rights related to any sound recordings or audiovisual works embodied in an iTunes LP shall be as set forth in the Agreement. With respect to any Additional Materials included in an iTunes LP, as between ITUNES and COMPANY, COMPANY shall be solely responsible for clearance of all necessary third party rights implicated by ITUNES’ exploitation of iTunes LPs as set forth in this Exhibit F or the Agreement, and payment of any royalties or other payments related to such third party rights.

3. Metadata. COMPANY shall provide for each piece of content within each iTunes LP the same metadata as required for all other similar content delivered by COMPANY to ITUNES under the Agreement. To the extent any single piece of content embodies multiple copyrighted works (e.g., a longform video embodying recorded performances of multiple musical compositions), the metadata shall include “cue sheet” information (at a minimum, the title and length of use of each work and, if applicable, its start and end time within such piece of content).

4. Changes to iTunes LP Albums. COMPANY agrees that, subject to the expiration or termination of, and any applicable withdrawal rights set forth in, the Agreement, COMPANY shall not alter the playlist of an iTunes LP Album (which would “break” the iTunes LP) for a period of twelve (12) months from the date the iTunes LP is first made available on the Online Store, unless, prior to the alteration of the playlist, COMPANY delivers a revised iTunes LP approved by ITUNES that correctly reflects the altered playlist.

5. iTunes LP Contents / Indemnity. COMPANY represents and warrants that any iTunes LP delivered by COMPANY to ITUNES shall not contain (a) any malware, malicious or harmful code, program or other internal component (e.g., computer viruses, worms, trojan horses, “backdoors”) which could damage, destroy or adversely affect other software, firmware, hardware, data, systems, services or networks; (b) any materials that are obscene, pornographic or defamatory; or (c) any advertising, product promotion or marketing materials of any kind. For the avoidance of doubt, the indemnity provisions of the Agreement shall apply to all the covenants, representations and warranties made by the Parties in this Exhibit F.

EXHIBIT G

Ring Tones

Notwithstanding any other provisions of this Agreement, the following terms shall apply to Ring Tones (as defined below):

1. Definitions:

- (a) “Ring Tone” means an up to 30-second content file that serves the function on a device of alerting the user to an event on the device (e.g., incoming call, alarm clock ring, calendar alert, chat notification, etc.).
- (b) “COMPANY Ring Tone” means a Ring Tone embodying COMPANY Content.

2. Authorization and Availability.

(a) Except as otherwise set forth in this Exhibit G, all provisions of the Agreement applicable to eMasters shall also apply to COMPANY Ring Tones. For the avoidance of doubt, ITUNES is hereby authorized to exploit Ring Tones in the Territory in the same manner and to the same extent provided with respect to eMasters and other COMPANY Content in the Agreement (including, without limitation, Section 2 thereof).

(b) Except for a special circumstance, such as an exclusive, limited-time, one-off promotion for particular COMPANY Content, or for a reason beyond COMPANY’s control (e.g., a third party contractual restriction), or as otherwise agreed by the Parties, COMPANY (or a third party designated by COMPANY in writing and approved by ITUNES) shall commence delivery of COMPANY Ring Tones corresponding (on a track-by-track and excerpt-by-excerpt basis) to all so-called master tones that COMPANY makes available to any other distributor in the Territory as soon as reasonably possible following the Effective Date, and prospectively during the Term, for just cleared COMPANY Content and new releases, at least in time for ITUNES to begin selling COMPANY Ring Tones the earlier of a general release date, provided by COMPANY, or when any other distributor is permitted to begin selling, or making commercially available, COMPANY Content as so-called master tones. Unless otherwise agreed by the Parties, COMPANY Ring Tones delivered by COMPANY to ITUNES hereunder shall not be substantially less than 30 seconds in length.

(c) Notwithstanding Section 4(b)(i)-(ii) of the Agreement, for uses of COMPANY Content authorized hereunder with respect to sales of COMPANY Ring Tones into Canada, COMPANY shall be responsible for and timely pay: (i) all record royalties to artists, producers, performers, musicians and other record royalty participants for the manufacture, storage, distribution and sale of COMPANY Ring Tones, (ii) all reproduction and distribution (i.e., mechanical) royalties payable to composers, lyricists, authors and publishers of compositions embodied in COMPANY Ring Tones for the manufacture, storage, distribution and sale of eMasters, (iii) all payments that may be required under collective bargaining agreements applicable to COMPANY or third parties other than ITUNES, and (iv) any other royalties, fees and/or sums payable with respect to the sound recordings, Artwork, metadata and other materials provided by COMPANY and/or ITUNES’ authorized use thereof hereunder. For the avoidance of doubt, Sections 4(a), 4(c) and 4(d) shall govern sales of COMPANY Ring Tones into the United States, Mexico and Latin America and the Caribbean, respectively, and Section 4(e) shall apply hereto.

3. Wholesale Price. For each sale of a Ring Tone hereunder, ITUNES shall pay COMPANY a wholesale price as follows:

<u>US Wholesale Price</u>	<u>Canada Wholesale Price</u>	<u>Mexico Wholesale Price</u>	<u>Latin America and Caribbean Wholesale Price</u>
US\$1.00	CDN\$1.00	MXN11.60	US\$0.88

## EXHIBIT H

### Concert Films

Notwithstanding any other provisions of this Agreement, the following terms shall apply to Concert Films (as defined below):

1. Additional Definitions.

- (a) “Asset Specification Guide” means, collectively, the iTunes technical documentation, information and requirements applicable to Concert Films and/or other COMPANY Content that are available on iTunes Connect at the time of delivery of the applicable COMPANY Content.
- (b) “Concert Film” means an audio-visual work, the principal subject matter of which is a live, audio-visual musical performance(s), with a minimum length of 30 minutes, and includes, without limitation, all associated audio, video and other files (e.g., any so-called “iTunes Extras”). A series of separate short-form music videos, typically sold as individual music videos, shall not be deemed a Concert Film unless approved by ITUNES in writing. Concert Films owned or controlled by COMPANY that COMPANY has cleared for use by ITUNES pursuant to the terms of this Agreement shall be deemed COMPANY Content and treated as such under the Agreement (except as specifically set forth to the contrary in this Exhibit H), and COMPANY shall not provide to ITUNES any Concert Films that have not been so cleared. For the avoidance of doubt, Sections 4 and 5 (as applicable) of Exhibit D shall apply to Concert Films; and Exhibit F shall apply to any iTunes Extras (which shall be treated as iTunes LPs for purposes hereof). Concert Films formatted for sale on the Online Store pursuant to the terms and conditions of this Agreement shall be deemed eMasters and treated as such under the Agreement (except as specifically set forth to the contrary in this Exhibit H), provided that, notwithstanding anything to the contrary in the Agreement, eMasters embodying Concert Films shall include the Security Solution. To the extent any Concert Film is included as part of a multi-track album delivered by COMPANY to ITUNES (subject to ITUNES’ permission for such inclusion), the terms of Exhibit E shall apply to any such Concert Film the same as any other track or video.
- (c) “Concert Film Usage Rules” mean the usage rules that specify the terms under which Concert Films distributed via VOD and/or EST may be used by end users, as set forth in ITUNES’ Concert Film Usage Rules Guide (available on iTunes Connect), which may be modified at ITUNES’ reasonable discretion from time to time, but which shall be no less restrictive than the usage rules applicable to third party Concert Films sold on the Online Store.
- (d) “DVD” means standard definition digital video disc (referred to hereafter as “SD DVD”), Blu-ray disc or other high definition format, any successor or derivative format thereof, and/or any other current or future physical format for distributing audiovisual content.
- (e) “EST” means the electronic sell-through (or permanent download) method of distributing Concert Films, where such Concert Film is distributed to an end user as a permanent copy for personal, non-commercial use (subject to and in accordance with the applicable Concert Film Usage Rules).
- (f) “EST Provider” means COMPANY or any third party that is licensed or authorized by COMPANY to offer Concert Films via electronic sell-through or a substantially similar method in the Territory.
- (g) “Security Solution” means the proprietary Apple content protection system marketed as Fairplay and used to protect Concert Films sold on the Online Store pursuant to this Exhibit H, which

content protection system may be modified at ITUNES' reasonable discretion from time to time, but which shall be no less protective than the protection system used to protect third party Concert Films sold on the Online Store.

- (h) "Trailers" mean preview clips of Concert Films. The terms applicable to Clips in the Agreement shall be applicable to Trailers, except that Trailers created by COMPANY shall be no less than two (2) minutes, and up to three (3) minutes, in length; and Trailers may be created by ITUNES from the applicable Concert Films and may be up to three (3) minutes in length, provided that COMPANY may provide as part of metadata the start time for Trailers.
- (i) "VOD" means the video-on-demand method of distributing Concert Films, where a Concert Film is distributed to an end user for personal, non-commercial use (subject to and in accordance with the applicable Concert Film Usage Rules), and the end user (not ITUNES) schedules the start time within a specified time period and then may view the Video once or repeatedly during the applicable viewing period.
- (j) "VOD Provider" means COMPANY or any third party that is licensed or authorized by COMPANY to offer Concert Films via video-on-demand or a substantially similar method (including, without limitation, via the Internet, satellite, cable or terrestrial media) in the Territory.

2. Authorization and Territory. For the avoidance of doubt, all the authorizations set forth in Section 2 of the Agreement shall apply to ITUNES' exploitation of Concert Films as provided hereunder on an EST and/or VOD basis. Additionally, COMPANY hereby grants a non-exclusive right to ITUNES (which shall survive the termination of this Agreement), in the Territory, to allow an end user to access and re-download any Concert Film previously downloaded by such end user from the Online Store (including any Concert Film to which COMPANY has acquired the necessary rights to grant the authorization in this Section subsequent to its original download by the end user) an unlimited number of times through the Online Store to devices associated with that end user's Online Store account, subject to the Concert Film Usage Rules and the terms of this Exhibit and the Agreement; provided that (i) each such Concert Film will be in the same or an equivalent format as the applicable Concert Film initially acquired by the end user (e.g., the file could have an updated version of the Security Solution, but if the end user originally acquired an SD file, the re-downloaded Concert Film could not be provided in HD), and (ii) the availability to access and re-download Concert Films hereunder shall not be deemed an offer for sale of such Concert Films and, notwithstanding anything to the contrary herein or in the Agreement (including Section 5 and Exhibit A), shall not require any additional payments, however arising, by ITUNES.

3. Availability of Concert Films.

- (a) In addition to COMPANY's other obligations under the Agreement, COMPANY shall offer to make available for distribution by ITUNES (i) on a VOD and/or EST basis, as the case may be, all Concert Films that COMPANY makes or will make available on such basis during the Term in the Territory to any other VOD and/or EST Provider, as of a date not later than the date such Concert Films are made available to any such other VOD and/or EST Provider ("Earliest Availability Date"); and (ii) on an EST basis all Concert Films that COMPANY releases or will release on DVD during the Term in the Territory in a manner that allows ITUNES to offer such Concert Films to end users no later than on a day-and-date basis with the initial commercial release of such Concert Films on DVD in the Territory ("Day and Date"). COMPANY shall offer each Concert Film to ITUNES in accordance with the preceding sentence no later than two (2) weeks prior to the Delivery Date (as defined below), and ITUNES then shall indicate, in its sole discretion, whether or not it wishes COMPANY to deliver such Concert Film to ITUNES. For the avoidance of doubt, COMPANY shall not be obligated to deliver, and shall not deliver, to ITUNES any Concert Film unless ITUNES indicates to COMPANY that it wishes COMPANY to deliver such Concert Film to ITUNES.

- (b) COMPANY authorizes ITUNES to make all Concert Films delivered hereunder available for distribution in SD, and also in HD at least as follows: (i) in HD for EST to the extent COMPANY makes the Concert Film available to any EST Provider in the Territory in any so-called “High Definition” or “HD” format (or makes such Concert Film available in HD for distribution via VOD hereunder); and/or (ii) in HD for VOD to the extent COMPANY makes the Concert Film available to any VOD Provider in the Territory in any so-called “High Definition” or “HD” format (or makes such Concert Film available in HD for distribution via EST hereunder). In the event COMPANY releases a DVD for the Concert Film in HD (e.g., on Blu-Ray) in a particular country of the Territory, and COMPANY has the necessary rights to make such Concert Film available to ITUNES in such country, then it shall make such Concert Film available to ITUNES via the method(s) of distribution (EST, VOD, or both EST and VOD) in which COMPANY has the rights to make such Concert Film available to ITUNES in HD for such country.
- (c) COMPANY shall have the right to hold back any Concert Film hereunder from distribution on a VOD and/or EST basis, as applicable, if: (i) COMPANY enters into a “one off,” limited-time promotion with a third party EST Provider or VOD Provider, on a title-by-title basis (and such holdback shall apply only to the platform(s), i.e., EST and/or VOD, for which such third party is granted such distribution rights); or (ii) COMPANY’s exploitation of the Concert Film is subject to express contractual limitations, which limitations apply the same to all EST Providers and VOD Providers.
- (d) For the avoidance of doubt, it is the Parties’ intention that, in addition to any new releases COMPANY is to deliver to ITUNES pursuant to Sections 3(a) and 3(b) above, COMPANY shall also offer to make available to ITUNES, within a reasonable time period following the Effective Date (but otherwise consistent with the process set forth in Section 3(a) above), at least all Concert Films released prior to the Effective Date that COMPANY makes available through any other EST Provider and/or VOD Provider, as the case may be, in the Territory.

#### 4. Additional Obligations for Concert Films.

- (a) COMPANY shall be responsible for determining parental advisory warning status or ratings required and/or certified by the applicable ratings board, service or other organization (a “Ratings Board”) for each Concert Film for each locality in the Territory, and for providing any such advisories or ratings to ITUNES, as required by the Asset Specification Guide. If, for any reason, an applicable Ratings Board rating is not provided, then ITUNES reserves the right, in its sole discretion, to rate the applicable Concert Film as “explicit” or “unrated,” or alternatively ITUNES may exercise its right not to make the relevant Concert Films available on the Online Store. Notwithstanding anything to the contrary, in no event shall COMPANY deliver Concert Films to ITUNES which: (i) are rated NC-17, -18, R-18, X, or of a similar rating, as applicable in the particular country (unless confirmed by ITUNES in writing); (ii) are known as pornographic or which are considered “adult entertainment” (e.g., as evidenced by the same content being distributed by so-called “adult entertainment” companies); (iii) contain any lower frontal nudity or simulation thereof (unless confirmed by ITUNES in writing); (iv) might seriously impair the physical, mental or moral development of minors; (v) have been rejected by the applicable Ratings Board; or (vi) with respect to Concert Films authorized to be distributed in a given country of the Territory, appear on any banned or prohibited content list for such country.
- (b) COMPANY warrants that it has not, prior to the delivery of the relevant Concert Films, received any complaint, claim or allegation that any such Concert Film violates any relevant law, regulation or code of any country in the Territory.

- (c) COMPANY warrants that the Concert Films comply with all relevant laws and regulations in the Territory governing video content.
- (d) COMPANY warrants that the Concert Films do not contain material that will or is likely to expose ITUNES to any civil or criminal proceedings, including but not limited to proceedings related to defamation and/or invasion of, or breach of rights, to privacy.
- (e) COMPANY shall be responsible for providing ITUNES, in metadata or as otherwise directed by ITUNES, with any attribution or credit requirements imposed on COMPANY by any applicable union, guild or contractual obligations. Such credit information shall be complete and accurate, and shall be embodied in the Concert Films in the same manner as if the Concert Films were being viewed on DVD or theatrically, without ITUNES having to modify the delivered assets.
- (f) COMPANY shall provide ITUNES with cue sheets for each Concert Film, in accordance with the Asset Specification Guide (which cue sheets will include, at minimum, the name of each musical composition performed in the particular Concert Film and the start and end times of each such performance). COMPANY further agrees to provide ITUNES with any information in COMPANY's possession or control that ITUNES may need to satisfy its reporting obligations to any relevant collecting society or other rightsholder in the Territory who administers the collection and payment of mechanical royalties and/or royalties for the communication to the public of musical compositions, and to cooperate with ITUNES, in a timely manner, with respect to any other third party requirements concerning the use or other exploitation of musical compositions hereunder.
- (g) Notwithstanding anything to the contrary in the Agreement, COMPANY shall have the right to withdraw authorization with respect to the distribution of particular Concert Films, using iTunes Connect or via other technical means provided by ITUNES, only as follows: (i) except with respect to distribution pursuant to the last sentence in Section 2 of this Exhibit, if there is a material change of circumstance during the Term as a result of which COMPANY no longer has the rights necessary to authorize ITUNES to use such Concert Film as provided for in this Exhibit, in which case ITUNES shall cease to offer such Concert Film for sale within five (5) business days of such withdrawal, and (ii) with respect to distribution pursuant to the last sentence in Section 2 of this Exhibit, if COMPANY receives a serious claim or threat of claim that the availability of a particular item of Concert Film as provided in the last sentence of Section 2 of this Exhibit infringes the rights of a third party or if COMPANY permanently no longer has the necessary rights in the applicable Concert Film to authorize its distribution pursuant to the last sentence in Section 2 of this Exhibit, in which case ITUNES shall cease to make such Concert Film available pursuant to the last sentence in Section 2 of this Exhibit within thirty (30) days of such withdrawal ("Notice Period"), provided that during the Notice Period, end users who previously downloaded the applicable Concert Film may be notified that it cannot continue to be re-downloaded and may either be offered the right to download it or have it placed in their download queues by ITUNES. COMPANY shall promptly re-authorize ITUNES' distribution of any withdrawn Concert Film if it has been re-cleared for distribution by ITUNES hereunder. COMPANY shall not withdraw any authorization with respect to a particular Concert Film if COMPANY continues to provide such authorization to any EST or VOD Provider in the Territory. COMPANY shall not discriminate against ITUNES in any manner in relation to withdrawal of Concert Films, including the extent to which COMPANY contributes a portion of the original purchase price for customer refunds.

5. Technical and Delivery Specifications for Concert Films.

(a) Delivery to ITUNES.

- (i) COMPANY shall deliver each Concert Film not less than four (4) weeks prior to the Earliest Availability Date or Day and Date, or any earlier date on which COMPANY desires ITUNES to commence distribution of such Concert Film, whichever date is earliest (the “Delivery Date”).
- (ii) For HD Concert Films, COMPANY shall deliver each file to ITUNES at the native resolution of the HD source (that has not been upscaled from SD or lower-resolution HD). COMPANY shall otherwise deliver Concert Films to ITUNES in accordance with the Asset Specification Guide.

(b) Delivery to End Users. ITUNES may convert, transcode and format Concert Films, as delivered to ITUNES, for download and delivery as follows: for the video portion, into H.264 Advanced Video Codec (AVC); for the audio portion, into MPEG-4 Advanced Audio Coding (AAC); or in such other encoded format as ITUNES may reasonably select for video and/or audio content; provided that the video and audio quality and integrity, attributable to such format(s) is no less than, and at least commensurate with, the then-current quality and integrity of other Concert Films that are similarly distributed by ITUNES; or in such other encoded format as the Parties may mutually agree. COMPANY acknowledges that each HD download of a Concert Film may include more than one copy of the Concert Film, each in a different resolution (i.e., one SD copy and one HD copy) to accommodate efficient transfer and rendering of Concert Films to different devices; or that, in the alternative, a Concert Film may be transcoded to an appropriate format and resolution as part of its transfer to a particular device. For purposes hereof, unless otherwise provided in the Asset Specification Guide, “HD” shall mean a Concert Film with a vertical resolution of 720p or higher, and “SD” shall mean a Concert Film with a vertical resolution under 720p.

(c) Closed Captioning. COMPANY shall deliver Concert Films to ITUNES with closed captioning in a country in the Territory in the following circumstances: (i) if a version of a Concert Film made available by COMPANY to any EST Provider and/or VOD Provider or in any other media (e.g., broadcast, theatrical exhibition, DVD) in such country includes closed captioning; (ii) if closed captioning is required by law in such country; or (iii) as provided in the Asset Specification Guide.

(d) Languages. Unless otherwise stated in the Asset Specification Guide or otherwise communicated by ITUNES, COMPANY shall deliver each Concert Film made available for distribution in each particular country of the Territory with at least the languages (whether dubs, subtitles, or both) included on other versions of such Concert Film made available by COMPANY in such country (whether via DVD, EST or VOD), provided that COMPANY controls the necessary rights to provide such language versions to ITUNES hereunder. If any other languages are required as a matter of law in connection with any aspect of the exploitation of the rights granted herein, then delivery shall also include such other language(s) to the extent required by law.

6. Content Protection.

(a) If the Security Solution is compromised such that COMPANY’s Concert Films have been unencrypted and are being widely used without restriction, having an adverse material effect on the commercial intent of this Exhibit H, then ITUNES shall use commercially reasonable efforts to return the level of content protection by the Security Solution to the level existing prior to such compromise of the Security Solution within a reasonable period of time following ITUNES’

receipt of notice thereof, not to exceed 30 days (“Cure Period”). If the level of content protection by the Security Solution is not restored during the Cure Period, then ITUNES shall temporarily suspend selling COMPANY’s Concert Films until such level of content protection is restored. The foregoing shall constitute ITUNES’ sole obligation and COMPANY’s sole remedy from ITUNES in the event of such a security breach.

- (b) In the event that ITUNES receives notice of a security breach of the servers or network components that store COMPANY’s Concert Films on the Online Store such that unauthorized access to COMPANY’s Concert Films becomes available via the Online Store, then ITUNES will temporarily disable the availability of COMPANY’s Concert Films via the Online Store within 24 hours following ITUNES’ receipt of notice thereof until such time as ITUNES restores the level of content protection to the level existing prior to the security breach. The foregoing shall constitute ITUNES’ sole obligation and COMPANY’s sole remedy from ITUNES in the event of such a security breach.

7. Additional Terms Applicable Solely to Certain Countries of the Territory.

- (a) The following additional provisions shall apply to any Concert Films made available for distribution in Canada:

- (i) In the event that the sums paid by ITUNES to third parties (e.g., music publishers or collecting societies) in relation to Concert Films exceed three percent (3%) of the consumer price received by ITUNES (or of such other sum to which such percentage applies), or in the event that any third party (e.g., a music publisher or a collecting society) or legal obligation (e.g., compliance with an applicable tariff) imposes any material requirements on ITUNES apart from such payment, then, upon ITUNES’ notice thereof to COMPANY, the Agreement shall be deemed modified to exclude Canada from the Territory unless COMPANY and ITUNES mutually agree on a solution to address such excess fees or material requirements imposed on ITUNES. ITUNES’ failure to exercise its right to exclude Canada from the Territory in any instance shall not be deemed a waiver of its right to exercise same at a later date.

- (ii) COMPANY shall deliver all Concert Films made available for distribution in Canada in both English and French languages (provided that subtitled and dubbed versions shall satisfy the foregoing requirement) to the extent such language versions exist and COMPANY controls the necessary rights to provide such versions to ITUNES hereunder.

- (b) The following additional provision shall apply to any Concert Films made available for distribution in Latin America and Caribbean:

The Parties acknowledge that the wholesale prices set forth in Section 8 of this Exhibit H reflect a deduction for Author’s Rights (as defined in Section 5 of Exhibit D) at the prevailing applicable royalty rates. In the event that the sums paid by ITUNES to third parties (e.g., music publishers or collecting societies) in relation to Concert Films exceed the applicable deduction taken for Author’s Rights in a particular country of the Territory, or in the event that any third party (e.g., a music publisher or a collecting society) imposes any material requirements on ITUNES apart from such payment in such country, then, upon ITUNES’ notice thereof to COMPANY, the Agreement shall be deemed modified to exclude such country from the Territory unless COMPANY and ITUNES mutually agree on a solution to address such excess fees or other material requirements imposed upon ITUNES. ITUNES’ failure to exercise its right to exclude a particular country from the Territory in any instance shall not be deemed a waiver of its right to exercise same at a later date.

8. Wholesale Prices for Concert Films. For each sale of a Concert Film hereunder, ITUNES shall pay to COMPANY the wholesale price based on the tier selected for such Concert Film by COMPANY in accordance with the following eligibility requirements and accompanying rules and restrictions:

(a) EST Wholesale Price Tiers.

<b>US Wholesale Price</b>	<b>Canada Wholesale Price</b>	<b>Mexico Wholesale Price</b>	<b>Latin America and Caribbean Wholesale Price</b>	<b>Eligibility</b>
SD - US\$15.50 HD - US\$18.89	SD - CDN\$17.49 HD - CDN\$20.99	SD – MXP136 HD – MXP180	SD – US\$13.52 HD – US\$16.46	SD DVD wholesale price at least US\$25.00, CDN\$28.00 or MXP200 as applicable*
SD - US\$13.99 HD - US\$17.49	SD - CDN\$16.09 HD - CDN\$19.59	SD – MXP125 HD – MXP160	SD – US\$12.19 HD – US\$15.24	SD DVD wholesale price at least US\$22.00, CDN\$24.00 or MXP184, as applicable*
SD - US\$10.50 HD - US\$13.99	SD - CDN\$11.89 HD - CDN\$15.39	SD – MXP104 HD – MXP139	SD – US\$9.15 HD – US\$12.19	SD DVD wholesale price at least US\$17.00, CDN\$19.00 or MXP163, as applicable*
SD - US\$9.10 HD - US\$11.19	SD - CDN\$10.49 HD - CDN\$12.59	SD – MXP90 HD – MXP104	SD – US\$7.93 HD – US\$9.75	SD DVD wholesale price at least US\$13.00, CDN\$13.00 or MXP141, as applicable*
SD - US\$9.10 HD - US\$11.19	SD - CDN\$10.49 HD - CDN\$12.59	SD – MXP90 HD – MXP104	SD – US\$7.93 HD – US\$9.75	at least 90 minutes in length
SD - US\$7.00 HD - US\$9.10	SD - CDN\$7.00 HD - CDN\$9.10	SD – MXP69 HD – MXP90	SD – US\$6.10 HD – US\$7.93	at least 60 minutes in length
SD - US\$5.60 HD - US\$7.00	SD - CDN\$5.60 HD - CDN\$7.00	SD – MXP55 HD – MXP69	SD – US\$4.88 HD – US\$6.10	at least 45 minutes in length
SD - US\$3.50 HD - US\$4.19	SD - CDN\$3.50 HD - CDN\$4.19	SD – MXP35 HD – MXP42	SD – US\$3.05 HD – US\$3.65	at least 30 minutes in length

\* also must have a DVD release and be at least 60 minutes in length; with respect to Latin America and Caribbean, the applicable SD DVD wholesale prices shall be measured in US\$ equivalents, based on the applicable local currencies.

COMPANY may change the EST Wholesale Price for a particular Concert Film no more than three (3) times during any twelve (12) month period during the Term, provided such changed EST Wholesale Price conforms to the eligibility requirements for the above tiers. In the event COMPANY does not designate a tier for a particular Concert Film, COMPANY shall be deemed to have designated the lowest EST tier for such Concert Film, until such time as COMPANY designates a different tier for said Concert Film.

(b) VOD Wholesale Price Tiers.

<b>US Wholesale Price</b>	<b>Canada Wholesale Price</b>	<b>Mexico Wholesale Price</b>	<b>Latin America and Caribbean Wholesale Price</b>	<b>Eligibility</b>
Greater of US\$2.39 or 60% of Retail Price	Greater of CDN\$2.99 or 60% of Retail Price	Greater of MXP23.40 or 60% of Retail Price	Greater of US\$2.03 or 51% of Retail Price	Current Concert Films in SD
Greater of US\$1.49 or 50% of Retail Price	Greater of CDN\$1.99 or 50% of Retail Price	Greater of MXP12.50 or 50% of Retail Price	Greater of US\$1.23 or 41% of Retail Price	Library Concert Films in SD

<b>US Wholesale Price</b>	<b>Canada Wholesale Price</b>	<b>Mexico Wholesale Price</b>	<b>Latin America and Caribbean Wholesale Price</b>	<b>Eligibility</b>
US\$0.69	CDN\$0.69	MXP6.30	US\$0.60	Promotional Concert Films in SD 1
US\$1.39	CDN\$1.39	MXP10.50	US\$1.21	Promotional Concert Films in SD 2
US\$0.69	CDN\$0.69	MXP6.30	US\$0.60	Promotional Concert Films in SD 3
Greater of US\$2.99 or 60% of Retail Price	Greater of CDN\$3.59 or 60% of Retail Price	Greater of MXP29.40 or 60% of Retail Price	Greater of US\$2.54 or 51% of Retail Price	Current Concert Films in HD
Greater of US\$1.99 or 50% of Retail Price	Greater of CDN\$2.49 or 50% of Retail Price	Greater of MXP19.50 or 50% of Retail Price	Greater of US\$1.64 or 41% of Retail Price	Library Concert Films in HD
US\$1.39	CDN\$1.39	MXP13.30	US\$1.21	Promotional Concert Films in HD 1
US\$2.09	CDN\$2.09	MXP17.50	US\$1.82	Promotional Concert Films in HD 2
US\$0.69	CDN\$0.69	MXP6.30	US\$0.60	Promotional Concert Films in HD 3

For purposes of the above VOD Wholesale Price tiers, any Concert Film that is at least 60 minutes in length shall be deemed a “Current Concert Film” solely for the first twelve (12) months following its initial commercial release in the Territory. All other Concert Films (including any that previously were, but no longer are, Current Concert Films) shall qualify only for the “Library Concert Films” or “Promotional Concert Films” tiers. “Retail Price” means the sum received by ITUNES from the end user less any taxes, levies, or fees required by any applicable law, rule, regulation or governmental body. In the event COMPANY does not designate a tier for a particular Concert Film, COMPANY shall be deemed to have designated the “Library” tier for such Concert Film, until such time as COMPANY designates a different tier for said Concert Film.

- (c) Additional EST and/or VOD Wholesale Price Tiers. Subject to the rules and limits set forth herein, COMPANY shall have the right to designate the tier for each Concert Film that COMPANY provides to ITUNES. Each particular Concert Film shall be offered in SD and HD within the same tier. ITUNES may in its discretion make available additional tiers (e.g., via iTunes Connect), which COMPANY thereafter may choose to select for particular Concert Films (subject to any applicable rules set forth by ITUNES). COMPANY shall be deemed to have agreed to any such additional tier(s) if it designates and delivers any Concert Films thereunder.
- (d) EST HD Upgrades. The first sale via EST of a particular Concert Film in HD format to an end user who previously purchased the same Concert Film in SD format from the Online Store via EST may be deemed an “EST HD Upgrade.” Notwithstanding anything to the contrary, the wholesale price for an EST HD Upgrade shall be the difference between the HD wholesale price and the SD wholesale price at the tier designated at the time the EST HD Upgrade is sold.

## EXHIBIT I

### Ring Tone Service

Notwithstanding any other provisions of this Agreement, the following terms shall apply to Service Ring Tones (as defined below):

1. Definitions:

- (a) “Service” means a paid-for service provided by ITUNES that enables Online Store users to select up to a 30-second segment of certain content stored in their iTunes Library for use in alerting the user to an event on the device (e.g., incoming call, alarm clock ring, calendar alert, chat notification, etc.).
- (b) “Service Ring Tone” means the up to 30-second content file created using the Service.
- (c) “COMPANY Service Ring Tone” means a Service Ring Tone created from an Eligible Track.
- (d) “COMPANY Track” means an audio track in an Online Store user’s iTunes Library that is the same track as an eMaster authorized for sale on the Online Store in the Territory by COMPANY, regardless of whether the track in the Online Store user’s iTunes Library was purchased from the Online Store.
- (e) “Eligible Track” means any COMPANY Track that COMPANY has not notified ITUNES is ineligible for inclusion in the Service pursuant to Paragraph 2(b) below.
- (f) “Territory” means the United States and its territories and possessions.
- (g) “Sale” of a COMPANY Service Ring Tone means the act of using the Service with respect to that COMPANY Service Ring Tone and the corresponding Eligible Track. “Sold” or to “Sell” shall be construed accordingly.

2. Authorization for the Service.

- (a) ITUNES is hereby authorized to sell COMPANY Service Ring Tones by making the Service available in the Territory.
- (b) COMPANY may notify ITUNES’ designated representative in writing from time to time that one or more COMPANY Tracks are not eligible for inclusion in the Service because of a Clearance Issue, in which case such COMPANY Track will cease to be an Eligible Track and ITUNES will cease to include it in the Service within five (5) business days of receiving the notice. ITUNES’ current designated representative for such notices is itunesproducer@apple.com. ITUNES may, from time to time, change the designated representative and means for giving written notice by posting a notice on its iTunes Connect site.
- (c) If a COMPANY Track was not purchased from the Online Store or if the same exact version of the COMPANY Track is no longer available on the Online Store (e.g., due to redelivery), then ITUNES shall use the track metadata on the Online Store user’s hard drive to determine whether the track is an Eligible Track for purposes of determining whether the track is eligible for inclusion in the Service and, if so, for purposes of reporting and payment.
- (d) COMPANY shall be responsible for and timely pay: (i) all record royalties to artists, producers, performers, musicians and other record royalty participants for the Sale of COMPANY Service

Ring Tones, (ii) all reproduction and distribution (i.e., mechanical) royalties payable to composers, lyricists, authors and publishers of compositions embodied in COMPANY Service Ring Tones for the Sale of COMPANY Service Ring Tones, (iii) all payments that may be required under collective bargaining agreements applicable to COMPANY or third parties other than ITUNES, and (iv) any other royalties, fees and/or sums payable with respect to the Sale of COMPANY Service Ring Tones as part of the Service hereunder.

3. Pricing, Payment and Reporting. For each Sale of a COMPANY Service Ring Tone hereunder, ITUNES shall pay COMPANY a wholesale price of US\$1.00.

## EXHIBIT J

### Cloud Features

Notwithstanding any other provisions of this Agreement, the following terms shall apply to Cloud Features (as defined below):

1. Additional Definitions.

- (a) “Aggregate Monthly Cloud Service Fees” means that portion of the total amount of Cloud Service Fees actually received by ITUNES from all Cloud Service Users that is allocated to a given month in accordance with ITUNES’ standard business practices.
- (b) “Cloud Features” means the auto-download and re-access features described in Paragraph 2 below and the Cloud Service.
- (c) “Cloud Service” means the remote server backup and access service described in Paragraph 3 below.
- (d) “Cloud Service Fee” means the retail price, less applicable taxes (if any), charged by ITUNES to an end user for participation in the Cloud Service. For the avoidance of doubt, the amount of such retail price shall be determined at ITUNES’ sole discretion.
- (e) “Cloud Service Library” means, for each Cloud Service User, the library of content available for access to that Cloud Service User using the Cloud Service.
- (f) “Cloud Service User” means an end user with an Online Store account in the Territory who has signed up for the Cloud Service.
- (g) “Content Access Rules” mean the content access rules applicable to the Cloud Features, as set forth in ITUNES’ Content Access Rules Guide (available on iTunes Connect), which may be modified at ITUNES’ reasonable discretion from time to time, but which shall be no less restrictive than the content access rules applicable to similar third party content with respect to the Cloud Features.
- (h) “Eligible Content” means COMPANY Content (including sound recordings, music videos, Ring Tones, and their related materials, such as Artwork) that (i) is available on the Online Store in the applicable country of the Territory at the time of end user access of the Cloud Features or (ii) at one time was, but no longer is, available on the Online Store in the applicable country of the Territory at the time of end user access of the Cloud Features, but not including Uncleared Content.
- (i) “Monthly COMPANY Share” means, with respect to any particular month, the percentage equal to the number of Plays of Eligible Content during such month divided by the total number of plays (calculated in the same manner as Plays) of all content during such month.
- (j) “Play” means either (i) a single download of Matched Content from the Cloud Service or re-download of Eligible Content as authorized in Paragraph 2 hereof, or (ii) five (5) streams of Matched Content from the Cloud Service or of Eligible Content as authorized in Paragraph 2 hereof. For example, fifty (50) downloads/re-downloads and twenty-six (26) streams shall count as fifty-five and two-tenths (55.2) Plays.

- (k) “Rights Issue” means the loss by COMPANY of the necessary rights to authorize ITUNES to make a particular piece of Eligible Content available on the Online Store in the applicable country of the Territory.
- (l) “Uncleared Content” means COMPANY Content (including sound recordings, music videos, Ring Tones, and their related materials, such as Artwork) that at one time was, but no longer is, available on the Online Store in the applicable country of the Territory at the time of end user access of the Cloud Features, which was removed from availability by COMPANY due to a Rights Issue and which COMPANY has identified as such via means made available to COMPANY by ITUNES (e.g., via iTunes Connect). In addition, any expiration or termination of the Agreement shall cause all COMPANY Content to become Uncleared Content as of the date of expiration or termination, and notwithstanding such expiration or termination, the last sentence of Paragraph 2(b) and Paragraph 3(e) shall apply.
- (m) “Unmatched Content” means content in a Cloud Service User’s iTunes content library that has not been matched to any Eligible Content.

2. Free Auto-Downloads and Re-Access. COMPANY hereby grants to ITUNES the right to:

- (a) Auto-Downloads: permit end users who acquire Eligible Content through the Online Store to simultaneously auto-download such Eligible Content to additional computers and/or devices consistent with the Content Access Rules; and
- (b) Re-Access: permit end users who at any time in the past acquired Eligible Content through the Online Store to re-download or stream such Eligible Content to computers and/or devices consistent with the Content Access Rules. If a piece of Eligible Content becomes Uncleared Content after the launch of re-access, ITUNES may, within thirty (30) days of COMPANY’s notice of such change in status, on behalf of all end users who previously acquired such content, place such content in such end users’ download queues as if they had requested to re-download it.

3. Paid Backup and Cloud Access Service. The Cloud Service may permit Cloud Service Users to remotely back up and access content as follows:

- (a) The Cloud Service will scan the iTunes content library on an end user’s computer or device to identify any content that matches Eligible Content (“Matched Content”); provided that if ITUNES has not cleared some or all of the third party rights that are ITUNES’ responsibility hereunder with respect to particular Matched Content, then ITUNES in its reasonable discretion may treat such Matched Content as Unmatched Content.
- (b) All Matched Content may be included in the particular Cloud Service User’s Cloud Service Library. When Matched Content is placed in a Cloud Service Library, a separate copy of the corresponding Eligible Content need not be created each time. Instead, each Cloud Service Library that includes a particular piece of Eligible Content as Matched Content may access one or more centralized copies of such Eligible Content (including the copies used for purposes of the Online Store) in order to provide the particular Cloud Service User with access to such Eligible Content in accordance with the Content Access Rules.
- (c) All Unmatched Content in an iTunes content library scanned by the Cloud Service may be uploaded by the Cloud Service User to the Cloud Service’s servers (“Uploaded Content”), and copies of such Uploaded Content may thereafter be placed in that Cloud Service User’s Cloud Service Library.

- (d) A Cloud Service User may access any content in his or her Cloud Service Library via download or streaming in accordance with the Content Access Rules.
- (e) If a piece of Eligible Content that is included in one or more Cloud Service Libraries as Matched Content subsequently becomes Uncleared Content, ITUNES may, within thirty (30) days of COMPANY's notice of such change in status, on behalf of the affected Cloud Service Users, upload a copy of such content to the Cloud Service Library of each such affected Cloud Service User. Thereafter, those copies shall be deemed to be and treated as Uploaded Content.

4. Formats. The format rules for content downloaded, re-downloaded or streamed using the Cloud Features shall be the same with respect to Eligible Content as any similar third party content authorized for the Cloud Features.

5. Payment. ITUNES will pay to COMPANY, in consideration of the authorizations related to the Cloud Features set forth herein, in the same manner as eMaster Proceeds under Section 8(b) of the Agreement, the Monthly COMPANY Share of the greater of:

(i) seventy percent (70%) of Aggregate Monthly Cloud Service Fees less the payments made by or on behalf of ITUNES for any additional mechanical and/or performance rights that may be implicated with respect to the musical compositions embodied in Eligible Content as a result of the Cloud Features (such rights, "Incremental Publishing Rights," and such payments, "Publishing Payments"), provided that Publishing Payments shall not exceed an amount equal to the Publishing Rate multiplied by the Monthly COMPANY Share of the Aggregate Monthly Cloud Service Fees, where "Publishing Rate" is a percentage-based rate designated by ITUNES to COMPANY, provided that ITUNES shall apply the same Publishing Rate to all similar third party content authorized for the Cloud Features in the applicable country; and

(ii) the number of Cloud Service Users (allocated to the particular month in accordance with ITUNES' standard business practices) multiplied by one-twelfth (1/12) of the Minimum Fee for the applicable country listed below.

Minimum Fee

United States	US\$17.50 less Publishing Payments
Canada	CDN\$14.50
Mexico	MXN174
Latin America and Caribbean	US\$14.50

6. Third Party Rights Clearances, Payments and Reporting. The Parties' respective responsibilities for the clearance of any applicable third party rights, and payment of any royalties or other similar payments to third parties, shall remain as set forth in Section 4 of the Agreement, except as follows:

- (a) Solely with respect to Cloud Features in the United States, (i) as between ITUNES and COMPANY, ITUNES shall be responsible for obtaining licenses from third parties with respect to any Incremental Publishing Rights, provided that COMPANY hereby grants to ITUNES all such rights with respect to the entirety of any compositions that are owned or controlled, in whole or in part, by COMPANY or its affiliates (e.g., any publishing arm of COMPANY); and (ii) COMPANY hereby agrees to administer, on ITUNES' behalf and on at least a quarterly basis, the payments for Incremental Publishing Rights related to Eligible Content to the appropriate music publishers or other applicable rights holders or administrators ("Publishers"). To that end, ITUNES will provide to COMPANY, at the same time and in the same manner as the payments under Paragraph 5 above, an amount equal to the Publishing Payments, which monies COMPANY will hold in trust until paid by COMPANY to the appropriate Publishers.

- (b) Solely with respect to Cloud Features in Mexico, upon notice by ITUNES to COMPANY (which may be via email or iTunes Connect), as between ITUNES and COMPANY, ITUNES shall become responsible for obtaining licenses from and making payments to third parties with respect to any Incremental Publishing Rights and, if the notice so provides, for the clearances and payments described in Section 4(c)(ii) of the Agreement (“Download Publishing Clearances”), provided that in such case the Mexico wholesale prices on Exhibits A, B and G shall be correspondingly reduced to reflect the altered responsibility for the Download Publishing Clearances.

## EXHIBIT K

### Radio Service

Notwithstanding any other provisions of this Agreement, the following terms shall apply to the Radio Service (as defined below):

#### 1. Additional Definitions.

- (a) “Apple Media Player” means Apple-branded software which (i) Listeners may use to receive Digital Audio Transmissions embodying eMasters by any means (e.g., Internet or over the air) for use as permitted hereunder, and (ii) operates on any Online Store platform (e.g., OS X, iOS, Apple TV, Windows) and any successors thereto.
- (b) “COMPANY Share” means, with respect to any particular time period (e.g., a month or quarter), the percentage equal to the number of Royalty Bearing Performances of COMPANY Content during such time period divided by the total number of Royalty Bearing Performances of all content during such time period.
- (c) “Complete-My-Album Play” means a Performance of a sound recording identified for a given Listener as a Remaining Track and rendered for such Listener in order to promote the relevant CMA Offer.
- (d) “Digital Audio Transmissions” has the meaning set forth in 17 U.S.C. § 114(j)(5), provided that this term includes any temporary device-side caches of streams of the sound recording(s) then being rendered, plus the immediately following sound recording, provided such caches are only performed substantially contemporaneously with their delivery while the Apple Media Player is connected to the Radio Service, and are purged within a reasonable period of time.
- (e) “Functionality Overview” means the functionality overview describing the general functionality of the Radio Service that qualifies for a statutory license under 17 U.S.C. § 114(d)(2) for eligible nonsubscription transmissions (as defined in 17 U.S.C. § 114(j)(6)), and which may be modified at ITUNES’ reasonable discretion from time to time. The general functionality shall be the same for COMPANY Content as for sound recordings provided to ITUNES by other third party licensors on the Radio Service. The Functionality Overview as of the Effective Date is set forth in Paragraph 4 of this Exhibit K.
- (f) “Heat-Seeker Play” means a Performance of a sound recording accepted by ITUNES in its editorial discretion for special promotion via the Radio Service.
- (g) “Incidental Performance” means a Digital Audio Transmission of any portion of a sound recording to a Listener through the Radio Service that both (i) makes no more than incidental use of a sound recording including, but not limited to, brief musical transitions in and out of commercials or program segments, brief performances during news, talk and sports programming, brief background performances during disk jockey announcements, brief performances during commercials that continue for sixty seconds or less in total duration, or brief performances during sporting or other public events; and (ii) other than ambient music not directly transmitted by ITUNES that is background at a public event, does not feature a particular sound recording for more than thirty seconds.
- (h) “Initial Year” means the period commencing on the Effective Date and ending on the first anniversary of the public and commercial (i.e., non-beta) launch of the Radio Service.

- (i) “Listener” means an end user of the Radio Service who has established an Online Store account in the applicable country of the Radio Service Territory.
- (j) “Listener Hour” means sixty (60) minutes of the Radio Service delivered to a Listener, including, without limitation, Performances, advertising, talk, weather, news and any other content delivered as part of the Radio Service, provided that ITUNES may exclude from the calculation of a Listener Hour the minutes (or fraction thereof) of audio delivered to Listeners via the Radio Service that are (i) advertisements by ITUNES advertising the availability of particular sound recordings for sale as downloads on the Online Store and (ii) de minimis in length announcer lead-ins and/or lead-outs announcing the sound recording and/or artist that is about to be performed or had just previously been performed on the Radio Service.
- (k) “Listener Matched Content” means sound recordings identified by ITUNES using customary means as being in a Listener’s personal music collection.
- (l) “Net Advertising Revenues” is defined as gross advertising revenue (including through sponsorships) recognized through the delivery of ads by ITUNES as part of the Radio Service, less actual third-party agency and agent fees, discounts, commissions and referral fees paid by ITUNES and actual fees paid to third party data and services providers that facilitate ad sales or delivery (collectively and in the aggregate, capped at three percent (3%) of gross advertising revenue per month). Any advertising or placement through the Radio Service of Apple music products or services (e.g., iTunes music downloads, iTunes Match, etc.) shall be free to ITUNES (i.e. shall be at a deemed CPM of zero). Nothing herein shall limit ITUNES’ ability to include a reasonably limited amount of free or reduced cost inventory in support of bona fide third-party advertiser campaigns where ITUNES deems it beneficial to do so (e.g., in support of surveys that accompany campaigns, as make-goods, as part of bonus/test campaigns, or under other similar circumstances).
- (m) “Performance” means each Digital Audio Transmission of any portion of a sound recording to a Listener through the Radio Service, other than an Incidental Performance.
- (n) “Radio Service” means the radio streaming service owned by ITUNES and operated by or on behalf of ITUNES, which is provided free to users or ad-free as part of the Cloud Service for no additional charge, that makes available, delivers and markets the provision of Webcasts solely through the Apple Media Player, and conforms to the Functionality Overview.
- (o) “Radio Service Territory” means the United States.
- (p) “Royalty Bearing Performance” means each Performance of an individual sound recording through the Radio Service, excluding: (i) any Performances to Invited Beta Testers during the Limited Beta Testing Period; (ii) up to six (6) Performances of individual sound recordings which are not rendered for more than twenty (20) seconds in duration each (i.e., skips), per Listener per hour per channel or station; (iii) up to two (2) Performances per Listener Hour (measured in the aggregate across all Listener Hours in a given month) where the Performance is either (A) of Listener Matched Content, (B) a Complete-My-Album Play, or (C) a Heat-Seeker Play; and (iv) any Performances to Listeners who are Cloud Service Users.
- (q) “Webcast” means any Digital Audio Transmission (including Performances and Incidental Performances) made via the Radio Service.

## 2. Authorization.

- (a) COMPANY hereby grants to ITUNES the right, in the Radio Service Territory, to:

- (i) publicly perform and make available by streaming eMasters to Listeners by means of Webcasts (i.e., for the avoidance of doubt, in accordance with the statutory license under 17 U.S.C. § 114(d)(2) for eligible nonsubscription transmissions (as defined in 17 U.S.C. § 114(j)(6))); and
  - (ii) display Artwork to Listeners via the Radio Service in connection with Webcasts of the corresponding eMasters.
- (b) During a period of no more than one hundred twenty (120) days following the Effective Date (the “Limited Beta Testing Period”), ITUNES may use and exploit COMPANY Content as set forth in this Exhibit K without regard to paragraph 3(a) below for the sole and limited purpose of enabling current ITUNES employees, registered Apple developers, bona-fide members of the press and media, and selected representatives of licensors (the “Invited Beta Testers”) to evaluate and test the Radio Service and the Apple Media Player, and to provide feedback to ITUNES so that ITUNES may develop and refine the user experience and technical implementation of the Radio Service. In each case, the Invited Beta Testers will be subject to customary terms of use, confidentiality requirements or employee policy guidelines, as the case may be.

### 3. Royalties, Payment and Reports.

- (a) Royalties. ITUNES will pay to COMPANY, in consideration of the authorizations related to the Radio Service set forth herein: (i) for the Initial Year, the sum of (A) US\$0.0013 per Royalty Bearing Performance of COMPANY Content in the applicable month, and (B) the applicable monthly COMPANY Share multiplied by 15% of Net Advertising Revenues; and (ii) for the remainder of the Term, the sum of (A) US\$0.0014 per Royalty Bearing Performance in the applicable month, and (B) the applicable monthly COMPANY Share multiplied by 19% of Net Advertising Revenues (“Radio Service Royalties”).
- (b) Minimum Radio Service Royalties. Notwithstanding the foregoing, Radio Service Royalties payable by ITUNES to COMPANY hereunder in any given quarterly period of the Term shall be at least:
  - (i) the quarterly COMPANY Share of forty-five percent (45%) of the Net Advertising Revenues for such quarter; and
  - (ii) on a Revenue Per Thousand Listener Hours (RPM) basis, (A) twenty-one dollars and twenty-five cents (USD\$21.25) in each applicable quarterly period in the Initial Year and (B) twenty-two dollars and twenty-five cents (USD\$22.25) in each applicable quarterly period for the remainder of the Term. For purposes of this paragraph, “Revenue per Thousand Listener Hours (RPM)” means the Radio Service Royalties in the applicable quarter divided by the number of Listener Hours in such quarter, multiplied by one thousand (1,000).
- (c) Payment and Reports. Subject to Apple’s standard business practices relating to the Radio Service (e.g., format and timing of reports and payments), Payments and the related Sales Reports shall be made monthly in accordance with the terms of Section 8(b) of the Agreement applicable to eMaster Proceeds.

4. Functionality Overview. As of the Effective Date (and subject to Paragraph 1(f) of this Exhibit K), the Parties acknowledge that the Radio Service satisfies the eligibility criteria for a statutory license under 17 U.S.C. § 114(d)(2) for eligible nonsubscription transmissions (as defined in 17 U.S.C. § 114(j)(6)), including the following functionality:

- (a) DMCA Performance Complement. Except as expressly authorized by COMPANY in performance complement waivers, all channels and stations will follow the DMCA performance complement.
- (b) Format Stations. Some channels and stations may consist of pre-programmed playlists that are reasonably equivalent or analogous to traditional terrestrial radio program formats, music genres and subgenres, etc.
- (c) Customized Channels and Stations. Channels and stations may be dynamically created “on the fly” utilizing ITUNES’ proprietary programming algorithms, and customized based on various factors related to the particular Listener.
- (d) Skipping. Listeners may be permitted to skip forward up to six (6) Performances per channel or station in any one (1) hour period.
- (e) Buy Buttons. A “buy now” link or button, containing an offer for the Listener to purchase the corresponding eMaster through the Online Store, will be displayed while the eMaster is being rendered for playback.
- (f) Electronic Program Guide. The Radio Service may include an electronic program guide which displays the sound recordings then being rendered for performance (but no pre-announcements) on channels and stations other than the channel or station that is then being listened to by the particular Listener.
- (g) Other Restrictions. No rewinding, backward skipping or re-starting will be permitted (but resuming a paused song shall be permitted).
- (h) Cloud Service Users Ad-Free. Cloud Service Users may receive the Radio Service free of advertisements.
- (i) Artwork. Artwork corresponding to eMasters may be displayed while the corresponding eMaster is being rendered for playback, and as part of a “history” of sound recordings rendered for performance to that Listener through the Radio Service in the past.
- (j) Content Protection. COMPANY Content used in connection with the Radio Service will be protected no less than any other third party content used in connection with the Radio Service.