

Contract No.

Hollywood, California

Date:

A G R E E M E N T

This Agreement ("Agreement") is entered into by and between Capitol Records, Inc., a Delaware corporation ("Capitol") and _____, a _____ corporation ("Company") for the exclusive services of _____ individually, collectively and professionally known as "_____" ("Artist"), in connection with the production of records.

1. Engagement and Term:

a. Capitol hereby engages, and Company hereby agrees to provide to Capitol throughout the Territory (as defined in Paragraph 14. hereof), the exclusive personal services of Artist as vocalists and/or instrumental musicians in connection with the production of records, on the terms and conditions of this Agreement. The term of this Agreement shall be for an Initial Period commencing on the date hereof, which Initial Period shall continue until the later of (i) twelve (12) months following the date hereof, or (ii) seven (7) months following the date of delivery to Capitol of the minimum number of masters specified in the OPTION PERIODS AND MASTER SCHEDULE set forth below. Company hereby grants Capitol _____ () options, each to renew this Agreement for that period specified beside each option period in the "Duration" column of the OPTION PERIODS AND MASTER SCHEDULE, said options to run consecutively beginning at the expiration of the Initial Period. Each option may be exercised, if at all, by Capitol's giving Company written notice of such exercise at any time prior to the expiration of the then-current period.

OPTION PERIODS AND MASTER SCHEDULE

<u>Period of This Agreement</u>	<u>Duration</u>	<u>Minimum Number of Masters</u>
Initial Period	The later of twelve (12) months following the date of execution of this Agreement or seven (7) months following delivery to Capitol of the Minimum Number of Masters specified for the Initial Period.	
First Option Period	The later of twelve (12) months following the commencement of the First Option Period or seven (7) months following delivery to Capitol of the Minimum Number of Masters specified for the First Option Period.	
Second Option Period	The later of twelve (12) months following the commencement of the Second Option Period or seven (7) months following delivery to Capitol of the Minimum Number of Masters specified for the Second Option Period.	
Third Option Period	The later of twelve (12) months following the commencement of the Third Option Period or seven (7) months following delivery to Capitol of the Minimum Number of Masters specified for the Third Option Period.	

*Subject to increase pursuant to Paragraph 1.b. below.

b. With respect to the _____ Period hereunder, Capitol may, by giving written notice to Company at any time prior to the expiration of such Period, increase the Minimum Number of Masters in such Period by one (1) LP-Master ("Overcall LP-Master"), in which event the duration of the applicable Period shall be the later of eighteen (18) months following the commencement of such Period or seven (7) months following the delivery to Capitol of the Overcall LP-Master in the applicable Period.

2. Company's Recording Obligations:

In each period of this Agreement Company shall record and deliver to Capitol at least the number of masters shown in the "Minimum Number of Masters" column in the OPTION PERIODS AND MASTER SCHEDULE. Company shall be responsible for the timely delivery to Capitol of the required number of masters hereunder pursuant to the terms of this Agreement, including, without limitation, Paragraph 4. hereof. Notwithstanding the foregoing, nothing contained in this Agreement shall obligate Capitol to manufacture, distribute or sell records derived from masters recorded hereunder or to have Company, in fact, record or deliver the "Minimum Number of Masters" specified in the OPTION PERIODS AND MASTER SCHEDULE for any period hereunder. Capitol shall fulfill its entire obligation (including advance payments, if any) to Company as to undelivered masters by notifying Company in writing not to record and/or deliver the particular masters and by paying to Company Artist's applicable minimum union scale for each of the Minimum Number of Masters not delivered in the particular period.

3. Recording Budget:

a. Prior to the recording of each master to be recorded hereunder, Company or Producer (as that term is defined in Paragraph 9. hereof) shall submit to Capitol for approval a written proposal for the recording of each such master ("Recording Proposal"). The Recording Proposal shall specify the number of selections to be recorded, the titles and publishers thereof, the proposed time, date and place of the recording sessions, and shall include a proposed recording budget. Such proposed budget shall be substantially in the form of Exhibit "A" attached hereto and shall specify (i) the number of vocalists and/or musicians to be employed; and (ii) an estimate of the costs of recording masters ("Recording Costs"), which Recording Costs shall include, without limitation, applicable union scale to Artist, vocalists, musicians, conductors, arrangers (including "sketchers"), orchestrators and copyists; Producer fees and advances, if any; Artist advances, if any; studio rental (including without limitation editing, mixing and remixing time), instrument rentals, transportation, accommodations, mastering costs, and all other costs relating to the recording and editing of masters hereunder up to and including the final lacquer and/or metal master.

b. Company shall not commence the recording of any masters pursuant to this Agreement unless and until Capitol has approved in writing the Recording Proposal with respect to such masters. If Capitol has not approved the Recording Proposal within ten (10) business days after its submission, the Recording Proposal shall be deemed disapproved and Company shall promptly consult with Capitol to arrive at a satisfactory Recording

Proposal. Upon Capitol's written approval, the Recording Proposal shall become the "Approved Recording Proposal" and the recording budget contained in the Recording Proposal shall become the "Approved Budget." The total dollar amount of the particular recording budget for the LP-Master listed in Column "A" below (inclusive of Producer's fees and advances, if any, and Artist's advances, if any) shall not exceed the corresponding amounts in Column "B" below ("Approved Recording Fund"). Notwithstanding the foregoing to the contrary, and solely with respect to all LP-Masters other than the First LP-Master in the Initial Period, the Approved Recording Fund for the applicable LP-Master shall be the amount derived by applying the Formula (as defined in Paragraph 3.c. below) to said LP-Master; provided, however, that in no event shall the applicable Approved Recording Fund be less than the amount designated in Column "B" below nor exceed the amount designated in Column "C" below, with respect to the applicable LP-Master:

RECORDING FUND SCHEDULE

Column "A"

Column "B"

Column "C"

Initial Period:

Option Periods:

c. The word "Formula" shall refer to the derivation of an Approved Recording Fund for each applicable LP-Master ("Applicable LP-Master") by computing an amount equal to _____ percent (_____ %) of the net royalties accrued to Company hereunder with respect to net sales in the USA of Full Price Units (as that term is defined in Paragraph 15. hereof) of albums manufactured from the last LP-Master delivered hereunder immediately preceding the Applicable LP-Master ("Preceding Album") during the twelve (12) month period immediately following the release of the Preceding Album ("Applicable Period"), less a reasonable reserve for returns. Neither "Best of" nor "Live"

lp-masters shall be construed as constituting either an Applicable LP-Master or a Preceding Album. In the event that Capitol deems it necessary to compute the Formula for any Applicable LP-Master for an Applicable Period which is less than the required twelve (12) months, then the Approved Recording Fund for the Applicable LP-Master shall be the amount set forth in Column "B" of the RECORDING FUND SCHEDULE. At such time as the full twelve (12) month period has elapsed, Capitol shall recalculate the applicable recording fund and pay to Company the recalculated amount in accordance with the provisions of this Paragraph.

d. Company or Producer shall conduct the recording sessions in accordance with the Approved Recording Proposal for the masters specified therein and shall make all arrangements for such sessions. All Recording Costs paid or incurred by Capitol shall be deemed advances to Company, shall be deducted from the applicable Approved Recording Fund, and shall be recoupable from any royalties otherwise payable to Company by Capitol pursuant to this Agreement. If any of the Recording Costs are not direct charges to Capitol but are instead incurred at facilities owned or controlled by Capitol or a parent, subsidiary or affiliate of Capitol, such Recording Costs shall be computed pursuant to Capitol's then-current "Schedule of Standard Costs." If Company and/or Artist should delay the commencement of, completion of, or if Artist should be unavailable for, any recording session hereunder for any reason whatsoever, Company agrees to pay all expenses and charges incurred or paid by Capitol by reason thereof.

e. Company agrees that there will be no liens, encumbrances or obligations upon or in connection with masters recorded hereunder, and in connection with the recording and/or delivery of such masters all applicable government taxes shall be paid in full by Company.

f. Prior to the recording of each LP-Master hereunder, Capitol and Company shall determine whether Capitol's or Company's recording license will be utilized in recording the applicable LP-Master.

(i) In the event that Company's recording license is utilized, the following provisions shall apply:

(A) The applicable LP-Master to be recorded and delivered hereunder will be recorded under Company's current Phonograph Record Labor Contract with the American Federation of Musicians ("AFM") and all musicians who render services in connection with the recording of such masters (including instrumentalists, if any) will be paid the scale set forth in the said Labor Contract and Company shall pay the contributions to the Pension Welfare Fund required by Exhibit "B" thereto.

(B) All American Federation of Television and Radio Artists ("AFTRA") members whose performances are embodied in the masters will be paid by Company the rates applicable under the current AFTRA Code of Fair Practices for Phonograph Recordings. Company agrees to be solely responsible for and to pay all royalties and/or other sums payable to Artist, other performers and Producers, and any other persons whose performances are embodied on masters recorded hereunder. Company shall, if necessary, also pay to the AFTRA Pension and Welfare Fund any contribution required to be made under the AFTRA Code based on compensation to other performers whose performances are embodied on masters recorded pursuant to this Agreement.

(C) The foregoing representations and warranties are included for the benefit, respectively, of the AFM, AFTRA, the AFM and AFTRA members whose performances are embodied in the masters, and for the benefit of Capitol, and may be enforced by AFM and/or AFTRA or their respective designees, as the case may be, and by Capitol. Company represents and warrants that Company is or will be a signatory to the current AFM and AFTRA agreements and as a material obligation of Company hereunder, Company agrees to keep such signatory status current with respect to the current and all successor agreements during the term hereof. Company further agrees to deliver to Capitol copies of the current AFM and AFTRA agreements signed by Company concurrently with the execution hereof.

(D) Company shall furnish Capitol with copies of all union contracts and/or union session reports showing that all payments have been made in a timely fashion to the proper parties thereunder. Company hereby agrees to indemnify Capitol against, and hold Capitol harmless from, any claims arising out of Company's breach of any of the terms and provisions contained in this Paragraph.

(E) Capitol shall be responsible for payments to the AFM Music Performance Trust Fund and Special Payments Fund arising from the manufacture and sale of records embodying masters recorded hereunder.

(F) If (1) Capitol receives any claim for the payment of any costs relating to the recording of any master hereunder; or (2) proper accountings pursuant to the applicable union agreements are not received by Capitol relating to the services of any musician or vocalist; or (3) Capitol is requested to pay any costs for the recording of any master hereunder; then, in addition to any of Capitol's other rights and remedies hereunder, Capitol shall have the

right to elect to pay Recording Costs for any and/or all such masters, and any such costs paid by Capitol shall be deducted from the applicable Approved Recording Fund and shall be recoupable by Capitol from royalties otherwise payable to Company hereunder.

(G) Company agrees to furnish Capitol, within fourteen (14) days following delivery of the applicable masters recorded hereunder, a detailed accounting of all costs paid for or incurred by or on Company's behalf with respect to the recording of such masters, together with all documentation relating thereto. If Company fails to comply with the above provisions in this Paragraph and solely as a result of such failure Capitol incurs sales and/or use tax liability in excess of that amount Capitol would have otherwise incurred had Company complied with such provisions ("Excess Tax"), then Capitol may deduct from any amounts payable to Company hereunder the amount of such Excess Tax and/or recoup such amount from royalties otherwise payable to Company hereunder.

(H) Subject to the provisions of Paragraph 2. hereof, with respect to each LP-Master recorded and delivered hereunder, Capitol agrees to pay to Company the following amounts from the applicable Approved Recording Funds as advances which shall be fully recoupable from royalties otherwise payable hereunder:

(1) _____ (___ %) of the applicable Approved Recording Fund within fourteen (14) days following commencement of recording of the applicable LP-Master.

(2) the balance of the applicable Approved Recording Fund less all Recording Costs and advances which Capitol may have agreed to pay directly in the interim, within fourteen (14) days following delivery to Capitol of the applicable LP-Master; provided, however, that Capitol may retain a reasonable reserve with respect to unpaid Recording Costs. Such reserve shall be payable to Company by Capitol within sixty (60) days following delivery of the applicable LP-Master, provided that all Recording Costs shall have theretofore been paid in full.

(ii) In the event that Capitol's recording license is utilized, the following provisions shall apply:

(A) The applicable LP-Master to be recorded and delivered hereunder will be recorded under Capitol's current Phonograph Record Labor Contract with the AFM

and all musicians who render services in connection with the recording of such masters (including instrumentalists, if any) will be paid by Capitol, on Company's behalf, the scale set forth in the said Labor Contract and Capitol, on Company's behalf, shall pay the contributions to the Pension Welfare Fund required by Exhibit "B" thereto.

(B) All AFTRA members whose performances are embodied in the masters will be paid by Capitol, on Company's behalf, the rates applicable under the current AFTRA Code of Fair Practices for Phonograph Recordings. Company agrees to be solely responsible for and to pay all royalties and/or other sums payable to Artist, other performers, Producer(s) and any other persons whose performances are embodied on applicable masters recorded hereunder. Company warrants and represents that Artist is or shall become a member in good standing of AFTRA subject to and in accordance with the applicable union security provisions of the AFTRA National Code of Fair Practice for Phonograph Recordings. Capitol shall, on Company's behalf, if necessary, also pay to the AFTRA Pension and Welfare Fund any contribution required to be made under the AFTRA Code based on compensation to other performers whose performances are embodied on the applicable masters recorded hereunder.

(C) The foregoing representations and warranties are included for the benefit, respectively, of the AFM, AFTRA, and the AFM and AFTRA members whose performances are embodied in the applicable masters, and for the benefit of Capitol, and may be enforced by AFM and/or AFTRA or their respective designees, as the case may be, and by Capitol.

(D) Company shall furnish or shall cause the applicable Producer to furnish Capitol with copies of all union contracts and/or union session reports so that all payments may be made by Capitol, on Company's behalf, in a timely fashion to the proper parties thereunder; and if Company fails to do so with the result that Capitol is required to pay any penalty sum for making a late payment under the applicable union agreements, such payments shall be a direct debt from Company to Capitol which, in addition to any other remedy Capitol may have, Capitol may recover from any monies otherwise payable to Company. Company hereby agrees to indemnify Capitol against, and hold Capitol harmless from, any claims arising out of Company's breach of any of the material terms and provisions contained in this Paragraph.

(E) Capitol shall be responsible for payments to the AFM Music Performance Trust Fund and Special Payments Fund arising from the manufacture and sale of records embodying masters recorded hereunder.

(F) Company shall cause all bills incurred with respect to masters recorded hereunder pursuant to the applicable Approved Recording Fund to be sent promptly to Capitol after having placed on such bills (a) sufficient identification so that Capitol may ascertain the particular Recording Fund involved and the nature of the bills, and (b) written authorization for Capitol to pay such bills. If Company fails to do so and if as a result thereof, Capitol is required to pay any penalty sum for making untimely or late payments, such penalty payments shall be deemed a direct debt from Company to Capitol which, in addition to any other remedy Capitol may have, Capitol may recover from any monies otherwise payable to Company hereunder.

(G) Capitol shall pay the Recording Costs, on Company's behalf, in connection with the recording of the applicable masters hereunder up to the amount of the applicable Approved Budget and Company shall be responsible for any excess. In the event that Capitol pays any such excess, such payments shall be a direct debt from Company to Capitol which Capitol may, in addition to any other remedy Capitol may have, recover such excess from any monies payable to Company under this or any other agreement between Capitol and Company.

(H) Following payment by Capitol of the Recording Costs as provided herein, Capitol shall pay to Company the balance, if any, remaining of the Approved Recording Fund for the applicable LP-Master as follows: If the total expenses, inclusive of Recording Costs, advances and fees payable to Company, paid by Capitol relating to the recording of the applicable masters do not exceed the applicable Approved Recording Fund, the difference between such total expenses and the applicable Approved Recording Fund will be paid to Company within thirty (30) days following delivery of the applicable masters to Capitol; provided, however, that Capitol may retain a reasonable reserve with respect to unpaid Recording Costs. Said reserve shall be payable to Company by Capitol within sixty (60) days following delivery of the applicable LP-Master, provided that all Recording Costs shall have theretofore been paid in full.

g. Capitol shall charge all amounts paid or costs incurred by Capitol pursuant to this Paragraph 3. against and recoup the same from royalties otherwise payable to Company

hereunder; provided, however, that all amounts paid or costs incurred by Capitol pursuant to this Paragraph 3. which are expressly deemed herein to be direct debts from Company to Capitol shall be chargeable against and recoupable from all monies otherwise payable by Capitol to Company hereunder. All advances paid to Company hereunder are hereby deemed to include all applicable union session payments due and owing to Artist at the time of such advance payment.

4. Company's Master Delivery Obligations:

a. Company shall cause the masters required hereunder to be delivered to Capitol as follows:

(i) the First LP-Master in the Initial Period shall be delivered no later than three (3) months after the execution of this Agreement;

(ii) the Second LP-Master in the Initial Period shall be delivered no earlier than _____ months and no later than _____ months following the delivery of the First LP-Master in the Initial Period.

(iii) the Overcall LP-Master in the Initial Period, if any, shall be delivered to Capitol no later than four (4) months following Capitol's request therefor.

(iv) the First LP-Master in each Option Period, if any, shall be delivered no later than four (4) months following the commencement of the applicable Option Period.

(v) the Second LP-Master in each Option Period, if shall be delivered no earlier than _____ months and no later than _____ months following the delivery of the First LP-Master in the applicable Option Period.

(vi) the Overcall LP-Master, if any, in each Option Period shall be delivered no later than four (4) months following Capitol's request therefor.

b. Company shall not commence recording with the intention of completing an LP-Master (i) without Capitol's prior written consent and (ii) until Company has delivered the immediately preceding LP-Master to Capitol.

c. In the event Company fails to deliver any master required hereunder when such master was due as aforesaid, Capitol, in addition to any other rights or remedies which it may have, may elect to terminate this Agreement by giving written notice thereof to Company and thereby be relieved of any liability in connection with undelivered masters.

d. Masters shall not be deemed to be delivered hereunder until such time as the following items have been delivered to and have been accepted by an authorized employee of Capitol at the address for purposes of serving notices on Capitol or at such other location as Capitol may advise Company by written notice from time to time: (i) Fully equalized, edited two-track stereophonic tape copies of such masters acceptable to Capitol as commercially satisfactory for the manufacture and sale of records, and ready for the manufacture of final lacquer masters, and (ii) fully-proofed final reference discs of such masters, and (iii) all elements necessary for Capitol to have complete "label copy" information with respect to such masters (including, without limitation, (A) the title of each selection embodied on the masters, (B) the timing of each such selection, (C) the publisher(s) of each such selection, (D) any other information that is to appear on labels and/or liners of records embodying such masters, (E) all "sideman" clearances, (F) all mechanical licenses for each musical composition embodied in the masters, at the rates specified in Paragraph 10. hereof, and (G) all other elements and approvals required by Capitol). Company further agrees to irrevocably direct in writing the person who has possession of any and all tapes of masters or digital masters recorded hereunder that all such tapes and masters are Capitol's property and that such person shall be obligated to deliver such tapes and masters to Capitol upon Capitol's written request.

e. With the exception of Paragraph 10. hereof, for the purposes of this Agreement, more than one (1) lp-disc intended to be initially used in the manufacture of an album shall nevertheless be deemed to be one (1) LP-Master and there shall be no so-called "live" recording without the prior written consent of Capitol.

f. Times of delivery of masters as provided hereinabove are of the essence of this Agreement.

5. Capitol's Ownership of Masters and Related Rights:

Company acknowledges that Capitol is the sole, exclusive, and perpetual owner throughout the Territory of all masters from inception, which ownership entitles Capitol among other things to:

a. The exclusive and perpetual ownership of all duplicates of the masters and records manufactured therefrom and the right to use and control the same and the performances embodied therein.

b. The exclusive and perpetual right throughout the Territory to manufacture, advertise, sell, lease, license, synchronize with any medium, or otherwise use or dispose of

masters and records manufactured from or embodying all or any part of the contents of the masters, or to refrain therefrom, in any and all fields of use throughout the Territory upon such terms and conditions as Capitol may determine, and the right to perform publicly such records in any medium by any means whatsoever.

c. The perpetual right to use and publish and to permit others to use and publish the names (including any professional names heretofore or hereafter adopted), likenesses of, and biographical material concerning Artist and all the performers who recorded the masters, for advertising and trade purposes in connection with the sale and exploitation of the masters and records produced from the masters, or to refrain therefrom.

d. The right to release records manufactured from the masters under the name of "Capitol" or such other trade name or mark as Capitol may elect.

e. The right to sell and exploit records manufactured from the masters on which performances by other artists are coupled and to sell records manufactured from the masters in albums, which albums may contain pictures, prose and verse, and records embodying performances of other artists.

f. Capitol's ownership and rights with respect to the masters shall extend to all records, tapes and other physical devices embodying performances made at recording sessions held pursuant to the terms of this Agreement.

g. During the term of this Agreement, including all renewals, extensions, days of suspension, and all periods added by amendments or by other agreements, (i) Company will not authorize or permit Artist to perform, and Artist will not perform, for the purpose of making records for anyone other than Capitol; and (ii) neither Company nor Artist will authorize or permit the use of Artist's name, likeness, or other identification for the purpose of distributing, selling, advertising, or exploiting records for anyone other than Capitol.

6. Sound Recording Copyright:

a. With respect to any person whose services are furnished by Company in connection with masters recorded hereunder, including without limitation Artist and any person engaged to act as a Producer, Company has or shall have a contract in which such person acknowledges that each master embodying the results and proceeds of his services is prepared within the scope of Company's engagement of his personal services and is a work made for hire, or is prepared as part of an LP-Master which constitutes a work specially ordered by Company for use as a contribution to a collective work and shall be considered a work made for hire.

Company further agrees that Company shall cause each such person to execute and deliver to Capitol a "Declaration Re Collective Work and Power of Attorney" in the form attached hereto as Exhibit "B".

b. With respect to each master recorded hereunder and all "sound recordings," "phonorecords," and "copies" manufactured therefrom (individually and collectively called the "Work"), Company hereby grants, assigns and transfers to Capitol exclusively, perpetually and throughout the Territory all right, title and interest in and to such Work, including but not limited to the ownership of the Work and all rights of the owner of copyright specified in 17 U.S.C. §106. Company hereby grants to Capitol a power of attorney, irrevocable and coupled with an interest, to execute for Company and in Company's name all documents and instruments necessary or desirable to effectuate the intents and purposes of this Paragraph and to accomplish, evidence and perfect the rights granted to Capitol pursuant to this Paragraph, including, but not limited to Exhibit "C" attached hereto and documents to apply for and obtain all registrations of copyrights in and to any such Work, and documents to assign such copyrights to Capitol.

7. Royalty Provisions:

In consideration of (i) the copyright ownership provided herein, (ii) Capitol's right to use Artist's name and likeness as provided herein, and (iii) the other agreements, representations and warranties contained herein, Capitol agrees to pay Company in connection with records manufactured from masters recorded hereunder a royalty on net sales of records manufactured from the masters delivered hereunder at the applicable rates specified in the Royalty Schedule below. Such royalty shall include royalties due to Artist and Producer and all other artists, musicians, performers, producer(s), and A&R personnel (other than those employed by Capitol) which become or may become due by reason of Capitol's exploitation of the masters delivered hereunder.

ROYALTY SCHEDULE*

<u>U S A & C A N A D A</u>			
<u>LP-Master</u>	<u>7" Singles</u>	<u>12" Singles</u>	<u>All Other Records</u>

<u>F O R E I G N</u>			
<u>Territory</u>	<u>7" Singles</u>	<u>12" Singles</u>	<u>All Other Records</u>

*Subject to increases, decreases and adjustments as set forth hereinbelow.

Royalties payable hereunder shall be computed and paid as follows:

a. (i) Royalties will be computed and paid upon net sales of records. Capitol shall be entitled to withhold from payments otherwise due from time to time reserves against anticipated returns, rebates and credits.

(ii) The royalty rate applicable to (A) budget-line records, (B) records sold through a record club distribution plan owned or controlled by Capitol or Capitol's licensees outside the USA who distribute Capitol's top line records ("Primary Licensees"), and (C) records sold through a special markets plan owned or controlled by Capitol or a Primary Licensee shall be fifty percent (50%) of the otherwise applicable rate specified in the Royalty Schedule above.

(iii) No royalties will be payable on records

(A) furnished as free and/or bonus to members or other participants in a record club distribution plan or special markets plan; or

(B) given away for promotional purposes to disc jockeys, radio and television stations or networks or others; or

(C) distributed as a sales inducement or otherwise and invoiced on a "no charge" basis to independent distributors, subdistributors, dealers and others; or

(D) licensed or distributed for airline, background use or other transportation use; or

(E) sold as scrap.

(iv) No royalties will be paid on sales made to anyone at prices fifty percent (50%) or more below the otherwise regular price to subdistributors ("Closeout Price").

(v) As to records sold by a licensee of Capitol through a special markets plan or record club distribution plan; or as to soundtrack albums (other than soundtrack albums distributed by Capitol or licensed by Capitol to be distributed by Primary Licensees) embodying masters; or with respect to masters otherwise used by licensees of Capitol (other than Primary Licensees) where the consideration payable to Capitol is based on a flat fee, cent rate or a percentage basis, then in lieu of any other royalty specified in this Agreement, Company's royalty shall be fifty percent (50%) of the net royalties received by Capitol from such licensee with respect to (a) such sales of records or (b) such other use of the applicable masters, as the case may be, computed on the same quantity, basis and in the same manner as Capitol is paid. For purposes hereof the term "net royalties" shall mean the gross monies received by Capitol from the applicable licensee with respect to either:

(A) net sales of records, or

(B) where record sales are not involved, the use of the records or masters, as the case may be, by said licensee,

less any amounts Capitol is required to pay to third parties with respect to the net sales or use, as the case may be, of such records or masters, other than any amounts that Capitol may be obligated to pay a Producer. Any portion of monies received by Capitol hereunder which Capitol may be obligated to pay a Producer of masters hereunder shall be deducted solely from Company's share of net royalties.

b. As to records manufactured under this Agreement and sold in the USA by Capitol, royalties will be based upon the retail selling price per record (less all excise, sales and use taxes and other similar taxes, however designated, if any), and shall be computed on net sales of such records within the USA, except as hereinafter provided.

c. As to records manufactured under this Agreement and sold in Canada, royalties will be the same number of Canadian pennies as USA pennies would be payable if the same records had been sold in the USA, except that, as to records sold by licensees of Capitol's Canadian affiliate ("Capitol-Canada"), royalties based on percentage will be computed upon the same quantity, on the same basis, and in the same manner as fees payable to Capitol-Canada are computed. All royalties applicable to this Agreement received from Canada shall be computed in the national currency of Canada and shall be paid in USA currency at the same rate of exchange as Capitol is paid or credited.

d. As to records manufactured under this Agreement and sold outside the USA and Canada:

(i) Royalties will be based on the retail selling price per record (less excise and other applicable taxes) for retail sales in the country of manufacture or the country of sale (depending upon the basis upon which Capitol was paid) on net sales of records, except as hereinafter provided.

(ii) Except as provided in Paragraph 7.h. below, only records for which payment is received by Capitol in the USA or for which Capitol's account has been credited shall be deemed sold.

(iii) All royalties will be computed in the national currency of the country to which the retail selling price so elected applies and will be paid in USA currency at the same rate of exchange as Capitol is paid.

(iv) All royalties applicable to this Agreement received from foreign sources shall be subject to and reduced by any applicable taxes, including without limitation that portion of all withholding and/or monetary transfer or export taxes, if any, charged to or paid by Capitol's licensees on Capitol's behalf which are attributable to income to Capitol which would otherwise be payable as a royalty to Company hereunder.

(v) Royalties on records packaged in jackets, in boxes, on reels, or in or on similar "containers" shall be computed on the retail selling price less the container deductions charged to Capitol by Capitol's licensee. That

portion of the retail selling price of the record attributed to the "container" and any tax on the "container" will be excluded in said computation.

(vi) Royalties applicable to records sold under special merchandising plans or otherwise at less than the regular wholesale price applicable to the initial release of the records and/or applicable to records of that type in the record industry shall be reduced in the same proportion as the regular wholesale price was reduced on such sales.

e. With respect to records sold or distributed as premiums or in connection with the sale or distribution of any other product, commodity or service, the royalty rate shall be fifty percent (50%) of the otherwise applicable royalty rate set forth in the Royalty Schedule hereinabove, and shall be applied to the amount per record actually received by Capitol, less the container deduction provided for herein, applicable taxes, and shipping and delivery expenses, rather than to the retail selling price.

f. Royalties applicable to records sold in any territory at prices in excess of Closeout Prices, but less than the normal wholesale price applicable to the initial release of the records and/or applicable to records of that type in such territory, shall be reduced in the same proportion as the regular wholesale price was reduced on such sales.

g. The specified percent royalty rate for a given master recorded hereunder embodied on a particular record shall be equal to a fraction of the applicable royalty, the numerator of which is one (1) and the denominator of which is the total number of master recordings (including the master) embodied on said record.

h. If royalties are not paid to Capitol by a licensee because the currency of the relevant country is "blocked," Capitol may elect to accept payment of royalties in the currency of such country, in which case Capitol will deposit to Company's credit (and at Company's expense) in such foreign currency in a depository selected by Capitol any payments so received as royalties applicable to this Agreement and will notify Company thereof promptly. Deposit in accordance with the foregoing shall fulfill Capitol's obligations under this Agreement as to record sales to which such royalty payments are applicable.

i. It is understood and agreed that Capitol shall have the right, at its sole option, to calculate royalties payable to Company on a wholesale basis, in which event the royalty rates at which royalties are payable hereunder shall be adjusted by Capitol

such that, at the time of the adjustment, the royalty, in pennies, payable on a wholesale basis shall equal the royalty, in pennies, otherwise payable hereunder.

j. Notwithstanding anything to the contrary contained herein, Capitol shall have no obligation to pay royalties to Company upon records sold by Capitol to a person who is licensed to manufacture records outside the USA ("Foreign Associate") utilizing masters owned by Capitol on which sales Capitol does not collect a royalty, pressing or other license fee ("Ex Fee Record") until the Foreign Associate sells the Ex Fee Record to its customer; and for royalty computation purposes hereunder the sale of such Ex Fee Record shall be deemed made at the time when and in the country where the Foreign Associate made its sale. The sale to a Foreign Associate of an Ex Fee Record which embodies any Owned Composition (as "Owned Composition" is defined in Paragraph 14. hereof) shall not give rise to an obligation to pay USA mechanical license royalties, but such Ex Fee Record shall be subject to the payment of mechanical license royalties by the Foreign Associate at the rate applicable in the country of sale when and if the Foreign Associate sells the applicable Ex Fee Record to its customer.

k. Notwithstanding anything to the contrary contained herein, with respect to sales of records hereunder by Capitol's licensees in East Germany, Hungary, Czechoslovakia, Poland, the U.S.S.R., Romania and Bulgaria, Capitol's obligation to pay royalties to Company shall be limited to fifty percent (50%) of gross hard currency receipts actually received by Capitol from Capitol's applicable licensees with respect to such sales, provided that in no event shall such royalty exceed that which would be payable in the event the other applicable royalty provisions contained in this Agreement applied to such sales.

l. As to each master recorded hereunder jointly ("Joint Master") with another artist whose compensation for such recording is based on a royalty payable by Capitol ("Other Royalty Artist") and as to records that are manufactured therefrom, the applicable royalty rate under any other provision of this Agreement shall be reduced on a pro rata basis based upon the total number of Other Royalty Artists participating in the recording of such Joint Master. No Joint Master shall be recorded absent Capitol's prior written consent.

m. Notwithstanding anything to the contrary contained in this Agreement, Capitol agrees to pay Company in connection with net sales of Compact Discs (as that term is defined in Paragraph 14. hereof) distributed hereunder which are manufactured from masters recorded hereunder a royalty ("Compact Disc Royalty") calculated in accordance with and subject to the terms, conditions

and provisions contained in this Agreement, provided that such royalty will be the same number of pennies as would be payable if the masters embodied in the Compact Disc were embodied in the corresponding analog tape record.

n. (i) Notwithstanding anything to the contrary contained in the Royalty Schedule hereinabove, and with respect to each _____ derived solely from an LP-Master delivered to Capitol during the term hereof, the royalty rate to be applied to net sales in the USA of Full Price Units (as that term is defined in Paragraph 14. hereof) of each such _____ pursuant to the terms hereof shall be the royalty rate specified in the Royalty Escalation Schedule below:

Royalty Escalation Schedule

<u>LP-Master</u>	<u>Net Sales in the USA of Full Price Units</u>		
	<u>0-500,000</u>	<u>500,000- 1,000,000</u>	<u>1,000,000+</u>

o. Company agrees to be solely responsible for accounting to and paying Artist and Producer any and all advances and royalties in connection with masters delivered to Capitol hereunder.

p. Notwithstanding anything to the contrary contained herein, royalties for records sold at armed forces post exchanges ("PX Sales") irrespective of where the initial transaction occurs, shall be based upon the published PX retail selling price for such PX Sales in the USA (less all excise, sales use and other similar taxes, however designated, if any, and the applicable container deduction, which deduction shall be computed upon the published PX retail selling price for such records in accordance with the provisions of Paragraph 14. hereof.)

8. Audit Provisions:

a. Capitol will compute royalties payable hereunder, and shall furnish Company with a statement thereof, within sixty (60) days after the first day of April and October of each year (or such other semiannual payment dates as Capitol may adopt) for the preceding six (6) month period and will pay such royalties, less reserves and any then unrecouped advances or other recoupable payments within such sixty (60) days. Notwithstanding the foregoing to the contrary, no statement or payment shall be due to Company hereunder until at least sixty (60) days following the full execution of this Agreement.

b. Provided that Company shall have theretofore notified Capitol in writing of its objections to such statement, specifying with particularity each element of such statement to which objection is made, Company may, at any time within one (1) year after any royalty statement is due to Company hereunder, notify Capitol in writing of Company's intention to examine the books and records of Capitol described below with respect to such objections. Such examination shall be commenced at a mutually convenient time and conducted at Company's sole cost and expense, by an independent certified public accountant designated by Company who is not then engaged in an outstanding examination of Capitol's books and records on behalf of a person other than Company and who certifies (i) that he will conduct such examination in accordance with the then current rules and regulations of the applicable society of Certified Public Accountants, and (ii) that such examination shall be made in accordance with generally accepted accounting principles. Such examination shall be made during Capitol's usual business hours at the place where Capitol maintains the books and records which relate to Company and which are necessary to verify the accuracy of the statement or statements specified in Company's notice to Capitol, and Company's examination shall be limited to the foregoing. Company's sole right to inspect Capitol's books and records shall be as set forth in this Paragraph, and Capitol shall have no obligation to produce such books and records more than once with respect to each statement rendered to Company nor more than once in any calendar year. Without limiting the generality of the foregoing, Capitol shall have no obligation to furnish Company with any books and/or records that do not specifically show sales or gratis distributions of phonograph records as to which royalties may be payable to Company hereunder. Except with respect to objections made by Company in accordance with the first sentence of this Paragraph, each royalty statement rendered to Company shall be final, conclusive and binding on Company and shall constitute an account stated. Company shall be foreclosed from maintaining any action, claim or proceeding against Capitol in any forum or tribunal with respect to any statement or

accounting due hereunder unless such action, claim or proceeding is commenced against Capitol in a court of competent jurisdiction within three (3) years after the date of such statement or accounting.

c. If at the time any royalties would otherwise be payable under this Agreement, there are recoupable payments, charges or advances which have been paid or incurred hereunder but which have not theretofore been recovered from royalties as set forth herein, Capitol may recoup such payments, charges and/or advances from royalties otherwise payable hereunder prior to paying any royalties hereunder.

9. Individual Producer of Masters:

Notwithstanding anything to the contrary contained herein, each individual producer of masters hereunder ("Producer") shall be subject to the written approval of Capitol. Company shall be solely responsible for the payment of royalties and advances to each Producer of masters hereunder and agrees to indemnify and hold Capitol harmless from any claims and expenses (including reasonable attorney's fees) arising from Company's breach or claimed breach of such obligation. In the event Capitol agrees to pay any royalties and/or advances to a Producer, Capitol shall reduce Company's royalties hereunder and the Approved Recording Fund for the applicable LP-Masters by the royalties and advances payable to such Producer and by the full amount of all royalties accrued for payment by Capitol to such Producer. If at the time a particular Producer is paid royalties by Capitol, any advance or other recoupable payment made by Capitol hereunder has not been fully recouped by Capitol from royalties otherwise payable to Company, then any such royalties paid to such Producer shall be deemed a direct debt from Company to Capitol which, in addition to any other rights and remedies available to Capitol, Capitol may recover from royalties or any other payments to be made by Capitol to Company under this Agreement. Company shall cause each Producer to sign and deliver to Capitol a Producer's Declaration in the form attached to this Agreement as Exhibit "D" prior to utilizing such Producer's services hereunder and Company shall have no right to utilize any Producer's services absent such executed Producer's Declaration.

10. Mechanical License Provisions:

a. Company agrees that with respect to each different selection embodied in a record manufactured from masters recorded hereunder and sold at Capitol's invoiced price and not returned, Company shall grant to Capitol, or cause the publisher(s) to grant to Capitol, mechanical licenses for the USA and Canada at the statutory rate for a musical composition with a playing time of

five (5) minutes ("Standard Musical Composition") current at the time any record embodying such selection is first manufactured hereunder ("Statutory Rate"); provided, however, that in no event shall the combined rates for all of the selections in an album manufactured from masters recorded hereunder exceed the total of ten (10) times the Statutory Rate for a Standard Musical Composition; and provided further that in no event shall the combined rates for all selections in a single record manufactured from masters recorded hereunder exceed two (2) times the Statutory Rate for a Standard Musical Composition; and provided further that in no event shall the combined rates for all of the selections in a mini-lp record manufactured from masters recorded hereunder exceed three (3) times the Statutory Rate for a Standard Musical Composition. Notwithstanding the foregoing, if a particular selection recorded hereunder is embodied more than once in a particular record, Capitol shall pay mechanical royalties in connection therewith at the Statutory Rate as though the selection were embodied therein only once.

b. Notwithstanding anything to the contrary contained in Paragraph 10.a. above, the following provisions shall apply with respect to each Owned Composition (as defined in Paragraph 14. hereof) embodied in a record sold at Capitol's invoiced price and not returned: Company shall grant or cause the applicable publisher(s) thereof to grant to Capitol a mechanical license for the USA for each different Owned Composition embodied in such record at seventy-five percent (75%) of the Statutory Rate for a Standard Musical Composition; and with respect to mechanical licenses for Canada, Company shall grant or cause the publisher thereof to grant to Capitol a mechanical license for Canada at the minimum statutory rate required by the laws of the Commonwealth of Canada; provided, however, that in no event shall Capitol be obligated to pay for a mechanical license in Canada in excess of an amount equal to seventy-five percent (75%) of the Statutory Rate for a Standard Musical Composition in the USA.

c. Capitol shall pay mechanical royalties only for selections embodied in records sold at Capitol's invoiced price and not returned. Company agrees to indemnify and hold Capitol harmless from rates in excess of the amounts specified herein. If Capitol pays any such excess, such payments shall be a direct debt from Company to Capitol which Capitol may recover from royalties or any other monies otherwise payable by Capitol to Company pursuant to this Agreement.

11. Audiovisual:

From time to time during the term hereof, at Capitol's request, Company shall cause Artist to perform at sessions for the purposes of embodying Artist's performances on videotape and/or film ("Tapes").

a. Capitol and Company hereby agree that all Tapes produced hereunder shall be subject to the terms and conditions of this Paragraph 11.

b. Company agrees that Capitol is the sole, exclusive and perpetual owner of the Tapes from inception including, but not limited to, the sole, exclusive and perpetual owner of all copyrights of any nature whatsoever in and to the Tapes.

c. Company consents to the exhibition and exploitation of the Tapes by Capitol and its licensees for such purposes, at such times and places, and in such media as determined by Capitol and its licensees.

d. (i) Company agrees that Capitol and its licensees shall have the right to use all Owned Compositions embodied in Tapes with no further payment for the use of such Owned Compositions, provided that in the event that any Owned Composition is embodied on videograms distributed to the home video market, Capitol shall pay a mechanical royalty equal to four percent (4%) of the distributor price for each videogram actually sold in the USA and Canada by companies wholly-owned by THORN-EMI and a royalty of twelve and one-half percent (12½%) of Capitol's net receipts on each videogram actually sold in the USA and Canada by a non THORN-EMI company or rented in the USA and Canada by any company. With respect to all sales of videograms outside the USA and Canada, a royalty will be negotiated in good faith between Capitol's licensees and the applicable subpublisher or mechanical rights collecting society in the particular country.

(ii) Company agrees to use its best efforts to cause the publisher of any non-Owned Composition embodied in a Tape hereunder to grant synchronization licenses at the rates specified in Paragraph 11.d.(i).

(iii) Company agrees to hold Capitol harmless from rates in excess of those specified in this Paragraph 11.d. If Capitol pays any such excess, such excess payments shall be a direct debt from Company to Capitol which, in addition to any other remedies Capitol may have, Capitol may recover from royalties and/or any other payments to be made by Capitol to Company.

e. (i) With respect to the commercial exploitation of the Tapes by means of theatrical distribution, non-theatrical distribution (as that term is defined below), on television (including free, pay, subscription, cable and CATV) and any other commercial exploitation of the Tapes with the exception of the types of exploitation of the Tapes specified in Paragraph 11.g. hereinbelow, Capitol agrees to pay Company fifty percent (50%) of Capitol's adjusted gross receipts (as that term is defined below).

(ii) With respect to the exploitation of the Tapes, or any portion thereof, in generic television commercials (as defined herein), Capitol agrees to pay Company twenty-five percent (25%) of Capitol's net revenues from such exploitation of the Tapes. The words "generic television commercial(s)" as used herein, shall mean advertisements for radio stations, on television, using visual and/or audiovisual portions of the Tapes.

f. In the event that any Tapes are combined with other tapes to create a videotape program ("Program"), all payments arising from the distribution and/or exploitation of the Tapes included in the Program (including, without limitation, payments to Company, publishers of all selections embodied on the Tapes, video directors and audio producers) shall be calculated and paid from a pro-rata share of Capitol's adjusted gross receipts from the Program ("Tape Share"). The Tape Share shall be determined by multiplying Capitol's adjusted gross receipts from the Program by a fraction the numerator of which shall be the playing time of the Tapes and the denominator of which shall be the aggregate playing time of the portion of the Program, inclusive of the Tapes.

g. In the event that Capitol embodies any Tape(s) produced hereunder on videograms distributed to the home video market, Company shall be paid a royalty of ten percent (10%) of the distributor price (less taxes) on net sales of each videogram by THORN-EMI companies and fifty percent (50%) of Capitol's net receipts from sales and rentals of such videograms by non-THORN-EMI companies.

h. Capitol shall reduce Company's royalty arising from the distribution of videograms and all other forms of exploitation of the Tapes the amount of all royalties paid to third parties in connection with the distribution of videograms and all other forms of exploitation of the Tapes, including, without limitation, audio producers, video directors, publishers and unions (or a reasonable reserve with respect thereto).

i. No royalties shall be payable to Company with respect to Tapes produced hereunder until such time as Company's

Liability Share (as hereafter defined) has been fully recouped pursuant to Paragraph 11.m. hereinbelow.

j. Except as otherwise expressly set forth to the contrary in this Paragraph 11., Capitol's manufacture, distribution, sale, advertising, promotion, marketing and other exploitation of the Tapes and records derived therefrom shall at all times be subject to all of the other terms and conditions contained in this Agreement. Capitol shall have the right to embody Tapes produced hereunder with videotapes embodying the performances of other artists.

k. In connection with the Tapes, Capitol's sole royalty obligation to Company is to make the payments specified in this Paragraph 11.

l. For purposes of this Paragraph 11. the term "commercial exploitation" shall mean those uses of the Tapes for which Capitol receives money which is allocated or is reasonably allocable to the Tapes produced hereunder, with the exception of the use provided for in Paragraph 11.g. hereof.

m. Notwithstanding anything in the foregoing to the contrary Capitol shall create an account ("Tape Account") which shall be (1) credited with all sums payable to Company pursuant to this Paragraph 11. in connection with Capitol's exploitation of the Tapes ("Company's Revenue Share"); and (2) debited with one hundred percent (100%) of all Production Costs (as hereinafter defined) in connection with the Tapes ("Company's Liability Share"). Company's Liability Share shall be fully recoupable from Company's Revenue Share. To the extent that Company's Liability Share is not recouped from Company's Revenue Share, one hundred percent (100%) of Company's Liability Share shall be recoupable from Company's audio record royalty account hereunder.

n. The words "non-theatrical distribution" shall mean any use of the Tapes on airlines, ships at sea, or in institutions, churches, etc., but shall specifically exclude the types of exploitation of the Tapes specified in Paragraph 11.g. hereof.

o. The words "adjusted gross receipts" shall mean Capitol's gross receipts relating to the exploitation of the Tapes with the exception of the exploitation set forth in Paragraph 11.g. hereof less (1) a distribution fee equal to thirty-five percent (35%) of Capitol's gross receipts from such exploitation of the Tapes; or if higher, the distribution fee charged Capitol by a subdistributor plus ten percent (10%).

p. The words "gross receipts" shall mean all sums received by Capitol in connection with the exploitation of the

Tape (with the exception of the exploitation of the Tape as specified in Paragraph 11.g. hereof) after deducting any taxes paid or payable arising from the aforesaid exploitation of the Tape.

q. The words "net receipts" shall mean all sums received by Capitol from non-THORN-EMI companies in connection with the distribution of videograms to the home video market.

r. Capitol shall have the right to charge as a Production Cost, interest on unrecouped Production Costs incurred and/or paid by Capitol hereunder, which interest shall be (i) deemed to be a Production Cost in connection with the Tape; (ii) recoupable by Capitol from royalties otherwise payable to Company hereunder; and (iii) computed for each accounting period and calculated at one percent above the prime bank lending rate of the Hollywood Main Office of the Bank of America in effect on the last day of such production accounting period.

s. For the purpose of this Paragraph 11. Production Costs shall be deemed to include all costs incurred and/or paid by Capitol in connection with the production of the Tape(s) including but not limited to (i) video master tape duplication costs; (ii) broadcast system transfer charges; (iii) shipping and freight charges; (iv) synchronization fees paid to publishers of selections embodied on the Tape(s); (v) assemblage costs; (vi) artwork costs; and (vii) all other payments to third parties, exclusive of those payments specified in Paragraph 11.h. hereof.

t. The word "videogram" shall mean videotape cassettes, videodiscs, audio-visual "laser discs" and all similar or future records on which the Tape(s) may be replicated for the Home Video Market as defined hereinafter.

u. The words "Home Video Market" shall mean the sale, lease or rental of videograms to individuals for private viewing in the home, and not for viewing at a place open to the public or any place where a substantial number of persons outside the social circle of the family or its acquaintances is gathered, or where admission charge is made, or for viewing beyond the immediate place of exhibition, or for viewing over any television broadcast or transmission system.

v. In the event that videograms embodying Tapes are (i) distributed through record clubs owned and/or controlled by Thorn-EMI companies; or (ii) embodied on budget videograms distributed by Thorn-EMI companies; or (iii) embodied on EP videograms distributed by Thorn-EMI companies; or (iv) distributed by Thorn-EMI companies through special markets plans, the otherwise applicable royalty rates arising from the distribution

of videograms embodying Tapes by Thorn-EMI companies shall be reduced by one-half ($\frac{1}{2}$).

w. For the purpose of this agreement the words "budget videogram" shall mean a videogram which bears a retail selling price at the date of release of three-fourths percent ($\frac{3}{4}$) or less of the then current retail selling price for the substantial number of top line videograms in that category.

x. For purposes of this Agreement the words "EP videogram" shall mean a videogram embodying thereon not less than three (3) nor more than five (5) selections.

12. Personal Appearances

a. From time to time at Capitol's request, Company shall cause Artist to: (a) appear for photography, artwork and similar reasons under the direction of Capitol or its duly authorized agent; (b) appear for interviews with such representatives of newspapers, magazines and other publications, and of publicity and public relations firms as Capitol may arrange; (c) confer and consult with Capitol regarding Artist's performances hereunder and other matters which may concern the parties hereto. Company shall also, if requested by Capitol, cause Artist to be available for personal appearances on radio and television and elsewhere, and to record taped interviews, spot announcements, trailers and electrical transcriptions, all for the purpose of advertising, promoting, publicizing and exploiting records hereunder and for other general public relations and promotional purposes related to the record business of Capitol or its subsidiary and related companies. Neither Company nor Artist shall be entitled to any compensation from Capitol for such services, other than minimum union scale to Artist if such payment is required by applicable agreements.

b. Capitol may recover from all royalties otherwise payable to Company all costs incurred or paid by Capitol in connection with the following: tours, personal appearances, television appearances or other performances by Artist including, but not limited to, agency fees, costs of transportation, costs of accommodations, instrument rental, costumes and other costs related to such appearances.

13. Other Termination Rights:

a. If Artist's ability to perform as vocalists or musicians should be materially impaired, or if Company or Artist should fail, refuse or neglect to comply with any of their respective obligations hereunder, then, and in addition to any other rights or remedies which Capitol may have, Capitol may elect

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b. Capitol may recover from all royalties otherwise payable to Company all costs incurred or paid by Capitol in connection with the following: tours, personal appearances, television appearances or other performances by Artist including, but not limited to, agency fees, costs of transportation, costs of accommodations, instrument rental, costumes and other costs related to such appearances.

13. Other Termination Rights:

a. If Artist's ability to perform as vocalists or musicians should be materially impaired, or if Company or Artist should fail, refuse or neglect to comply with any of their respective obligations hereunder, then, and in addition to any other rights or remedies which Capitol may have, Capitol may elect

to terminate this Agreement by notice in writing and shall thereby be relieved of any liability in connection with undelivered masters.

b. No termination of this Agreement (whether by Company or by Capitol) shall in any way limit or curtail any of Capitol's rights, title, interest or privileges to or in connection with any of the results and proceeds of Company's and/or Artist's endeavors under this Agreement or any rights or privileges of Capitol which continue after the term of this Agreement ends.

14. Definitions:

a. The word "selection" means a single musical work (including a medley), story, poem or similar work, irrespective of length. Different versions of a selection, including without limitation vocal versions, instrumental versions, remixed, re-edited, and/or re-arranged versions, and versions of different durations shall nevertheless be deemed to be the same selection.

b. The word "master" means any original recording of a selection not theretofore recorded by Artist which is commercially acceptable to Capitol for the manufacture and sale of records and which embodies a performance by Artist of a selection approved by Capitol. Masters shall not contain selections designed to appeal to a specialized or limited market including, but not limited to, gospel, Christmas and/or children's music. Further, Artist's performances on masters hereunder shall be of the same quality and style as those recordings of Artist which originally induced Capitol to enter into this Agreement with Company for the services of Artist. The word "master" includes the original recording and all derivatives therefrom, including, without limitation, mix-down tapes and lacquer masters produced therefrom. There shall be no "live" recording hereunder in the absence of Capitol's consent.

c. The noun "record" means any device by which sound may be recorded for later transmission to listeners, whether now known or unknown and howsoever used, whether embodying sound alone or synchronized with or accompanied by visual images. The noun "record" does not include a "master" as defined above.

d. The words "tape record" mean a record recorded on magnetic tape, whether reel-to-reel, continuous loop or otherwise.

e. The term "lp-disc" means a 12 inch, 33-1/3 rpm, long playing disc-type record or its tape equivalent, embodying thereon not less than eight (8) selections and not more than twelve (12) selections.

f. The term "LP-Master" means a set of masters sufficient to constitute an lp-disc.

g. The word "album" means one (1) or more lp-discs released in one (1) package, or the tape record or compact disc equivalent thereof.

h. The words "single record" or "single" mean a disc-type record, regardless of size or playing speed embodying therein not more than two (2) different selections, or the tape record equivalent thereof.

i. The words "seven-inch single record" or "seven-inch single" mean a 7", 45 rpm, disc-type record, embodying not more than two (2) different selections or the tape record equivalent thereof.

j. The words "twelve-inch single record" or "twelve-inch single" shall mean a 12", 33-1/3 rpm, disc-type record embodying not more than two (2) different selections or the tape record equivalent thereof.

k. The words "mini-lp" shall mean a 12-inch, 33-1/3 rpm, long-playing disc-type record or the tape equivalent thereof, embodying therein not less than three (3) selections and not more than five (5) selections.

l. The words "mini-lp master" means a set of masters sufficient to constitute a mini-lp.

m. The term "Compact Disc" shall mean a 120MM diameter (or such other size) disc record primarily reproducing sound (but not together with visual images), the signals of which are read and transmitted from such disc by means of laser, such disc being commercially suitable in the opinion of Capitol for release to the public.

n. The words "budget line record" mean a record which bears a retail selling price at the date of release of three-quarters (3/4) or less of the then current retail selling price for the substantial number of top line records in that particular category.

o. The term "Owned Composition" shall mean each musical composition that is written by Artist in whole or in part, or owned or controlled, directly or indirectly, by Company and/or Artist in whole or in part, or by a publishing company owned or controlled by Company and/or Artist directly or indirectly, in whole or in part.

p. The word "royalties" as used in this Agreement include only royalties payable under this Agreement.

q. The word "person" means a person, firm, association or corporation.

r. The letters "USA" mean the United States of America, its territories and possessions.

s. The word "Territory" shall mean the universe, including without limitation, the Solar System.

t. The term "Major Territories" shall mean _____

u. The phrase "net sales" with respect to records shall refer, in the case of sales by Capitol or Capitol-Canada, to _____ percent (___%) of the aggregate number of records sold for which Capitol has been paid or credited, in each applicable royalty category, after deducting returns, rebates and credits on records returned in each royalty category; or, in the case of sales by Capitol's licensees, to the same quantity of records for which Capitol is paid or credited.

v. (i) The phrase "retail selling price" shall be deemed to mean the retail selling price, as defined in Paragraph 14.v.(ii) below, less all taxes and a container deduction equal to twelve and one-half percent (12½%) of the retail list price for albums in a single-fold cover, mini-lps, twelve-inch (12") singles and seven-inch (7") singles in other than standard sleeves; seventeen percent (17%) for albums in a double-fold cover or including a special insert; and twenty percent (20%) for tape records and compact discs.

(ii) The words "retail selling price" shall mean (A) the retail price suggested by the manufacturer in the USA for records sold in the USA; (B) the retail price suggested by the manufacturer in Canada for the records sold in Canada; and (C) in countries outside the USA and Canada, the retail price suggested either by the manufacturer in the country of manufacture or by the seller in the country of sale, depending upon which such price Capitol's reporting licensee utilizes in computing record royalties payable to Capitol.

(iii) Notwithstanding the foregoing, if, at the end of a period for which royalties are being computed hereunder, no retail price for the particular record is suggested or recommended by the manufacturer in the relevant country, then for royalty accounting purposes hereunder with respect to that country the basis upon which royalty computations shall be made ("Base"), shall be determined by the method then in general use in the phonograph record industry

in that country for arriving at a Base, such as (A) utilizing the retail price agreed upon by the phonograph record industry generally and the local mechanical rights society for copyright accounting purposes; (B) determining the prices at which various classes of phonograph records are customarily available to purchasers through retail outlets in that country by means of an averaging or sampling of data gathered through a survey undertaken by or for the phonograph record industry; or (C) applying a percentage retail mark-up to the wholesale prices for various classes of records established by a similar process. If at that time no method is in general use in the phonograph record industry in that country for arriving at a Base, then Capitol or its applicable licensee will establish the Base by use of one of the methods described in the preceding sentence but applied only to such licensee's own various classes of Capitol's phonograph records and not on an industrywide basis. From the Base as determined above, there shall be deducted such sales or other taxes levied on sales as are recovered directly or indirectly as part of the selling price and the appropriate container deduction provided for elsewhere in this Agreement unless in the determination of the Base those deductions were previously made. In no event shall the Base for sales by the applicable licensee of Capitol in a given country be lower than the Base utilized by such licensee in that country in accounting for fees payable to Capitol.

(iv) Notwithstanding the foregoing to the contrary, if with respect to sales in any territory other than the USA and Canada, Capitol is paid by its licensee on the basis of a "base price to dealer" or other wholesale price ("Dealer Price") instead of the retail selling price, Capitol shall compute that percentage of the Dealer Price which, in the currency of such territory, equals the monetary amount otherwise payable hereunder based on the retail price ("B.P.D. Rate"). Capitol shall notify Company in writing of the B.P.D. Rate with respect to each and any such territory. From and after the date of such notice from Capitol, all royalties due to Company from Capitol with respect to sales of records in such territories may be paid at the B.P.D. Rate based upon the Dealer Price (less all applicable taxes) in the territory of sale, instead of at the rate set forth in the Royalty Schedule based upon retail selling price. Royalties payable at the B.P.D. Rate shall be subject to all other terms and provisions of this Agreement.

w. The words "special markets plan" mean a marketing plan designed for ultimate distribution of all types of records to consumers through such methods including, but not limited to, methods commonly known in the recording industry as "direct mail