

**AGREEMENT RESPECTING THE ASSIGNMENT AND LICENSING OF
SOUND RECORDINGS AND VIDEOGRAMS**

ENTERED INTO BETWEEN “The Quebec Collective Society for the Rights of Makers of Sound and Video Recordings (SOPROQ)”, corporation duly incorporated pursuant to Part II of the *Canada Business Corporations Act*, having its principal place of business at 6420 Saint-Denis Street, Montreal, Quebec, H2S 2R7 (“SOPROQ”), and “**Nom_de_cie**”, (incorporated corporation) or (general partnership) or (individual) [strike out the description that does not apply], having its principal place of business at «Adresse», «Ville», «Province», «Code_Postal» (the “**Member**”).

1. DEFINITIONS

When used in this Agreement, unless the purpose or context hereof should indicate otherwise, the terms and expressions below shall have the following meaning:

1.1 “**Sound Recording**” shall mean a recording, fixed in any material form, consisting of sounds, resulting or not from the performance of a work, but shall exclude any soundtrack of a cinematographic work where accompanied thereby.

1.2 “**Right**” shall collectively refer to any right contemplated in Section 3 hereof.

1.3 “**Act**” shall mean the *Copyright Act* (R.S.C., 1985, c. C-42), as amended.

1.3 “**Maker**” shall mean the person by whom the arrangements necessary for the making of a Videogram or, in relation to a Sound Recording, for the first fixation of the sounds, are undertaken. These arrangements include arrangements respecting the conclusion of an agreement with performers, for financing and for technical services required for the first fixation of sounds in a Sound Recording.

1.4 “**Videogram**” shall mean any recording comprised of an animated sequence of images, whether or not of a visual representation of a work and, where applicable, of sounds, resulting or not from the performance of a work, which Videogram may be fixed in any material form whatsoever, but shall exclude any Sound Recording.

2. TERM

This Agreement shall come into effect on the date on which both parties execute this Agreement and expire on December 31st, 2011 (“**Initial Term**”). Thereafter, it shall be automatically renewed for successive terms of two (2) years each (“**Additional Terms**”), unless it is terminated upon expiry of the term then in effect by written notice given by either party by registered mail sent to the last address known to the other party, and this no less than three (3) months prior to expiry of said term.

3. RIGHTS

3.1 **Assignment.** The Member shall assign the following rights to SOPROQ, which accepts:

3.1.1 **Equitable Remuneration.** the right granted under the Act to the Maker of a published Sound Recording to receive equitable remuneration for the public performance or communication to the public by telecommunication of said published Sound Recording and any similar right granted by legislation of any other country, except for any retransmission;

3.1.2 **Private Reproduction.** the right granted by the Act to the Maker of any Sound Recording to receive remuneration for the reproduction for private use of said Sound Recording, and any similar right granted by legislation of any other country; and

3.1.3 **Retransmission Right.** the right granted by the Act to the holder of the copyright over any Videogram to receive remuneration for the retransmission of said Videogram, and any similar right granted by the legislation of any other country.

3.2 **Licensing.** The Member grants SOPROQ, which accepts, a non-exclusive license respecting the following Rights:

3.2.1 **Broadcasting Right.** the right to communicate any Videogram to the public by telecommunication, to present any Videogram to the public and to authorize the carrying out of such acts;

3.2.2 **Reproduction for the Purposes of Broadcasting.** the right to reproduce any Sound Recording and Videogram for the sole purposes of allowing or facilitating the exercise of any broadcasting Right granted in respect thereto and to authorize the carrying out of such acts, and

3.2.3 **Repertoire Licenses.** the right to reproduce any Sound Recording and Videogram, provided said right is only granted as part of a general license authorizing the reproduction of all or a substantial part of SOPROQ’s repertoire of Sound Recordings or Videograms, or the repertoire of any management company authorized by SOPROQ to grant such licenses.

3.3 **Unlicensed Member.** Should the Member hold no license respecting the Right contemplated by Paragraphs 3.1 or 3.2 in connection with a Sound Recording or Videogram but is the beneficiary of a license, mandate or other right authorizing it to exercise said right, the assignment or license provided for in said paragraphs shall then be deemed to affect the right of which the Member is a beneficiary or, if the Member is unable to assign or grant a license respecting said right to SOPROQ, the Member shall then be deemed to have granted a mandate to SOPROQ to exercise said right on behalf of the Member.

3.4 **Scope of rights Assigned or Granted.** The rights assigned, granted or otherwise transferred under Paragraphs 3.1 through 3.3:

3.4.1 **Subject to the Articles and By-Laws.** shall be subject to any provisions of the Articles, Rules and By-Laws of SOPROQ, as amended from time to time;

3.4.2 **Time and Place for Fixing or Publication.** shall affect any Sound Recording and Videogram fixed or published within any country prior to or during the term of this Agreement;

3.4.3 **Territory.** shall be valid in all countries;

3.4.4 **Coming into Force and Term of Rights.** shall take effect, with respect to any given Sound Recording or Videogram, as of the date on which the given Right first came into effect in the country in question, even if said date precedes the effective date hereof, although said date shall not precede the date on which the Member first became a holder or beneficiary of said Right in the country at issue, whether by operation of law, contract or otherwise, and said Right shall remain valid throughout the Initial Term and, where applicable, any Additional Term;

3.4.5 **Technical Means.** shall affect communications to the public by telecommunication, retransmission, public performance and reproduction carried out by any existing or future technical mean; and

3.4.6 **Rights to Assign, Grant and Delegate.** for greater certainty, shall include the right for SOPROQ to assign said rights, grant licenses, sub-licenses, mandates or delegations with respect to said Rights, and to entrust the management of all or part of such Rights within all or part of the territory contemplated hereunder to any other corporation or person designated by SOPROQ.

4. REPRESENTATIONS AND WARRANTIES

4.1 The Member represents and warrants to SOPROQ:

4.1.1 **Title.** that it holds all rights required to either assign, grant or otherwise transfer the Rights to SOPROQ in accordance herewith without violating the rights of third parties, including, without limiting the generality of the foregoing, with respect to the Videograms, the rights over any screenplay or choreography of such Videograms, the rights respecting synchronization and/or the mechanical reproduction of musical works, the right to use the artist's image or to grant a license to use said image in connection with Videograms and any other rights respecting Videograms allowing SOPROQ to fulfil its obligations under contracts of assignment, license, mandate or any other agreements entered into with third parties;

4.1.2 **Exclusivity.** that it holds exclusive Rights, unless the Member should indicate otherwise in the form prescribed by SOPROQ, in which case it guarantees it holds the Rights described in said form;

4.1.3 **Third Party Rights.** that the Rights do not violate the rights of any third party;

4.1.4 **Contractual Obligations.** that the assignment or granting of Rights violate no agreement to which the Member is a party, and it is neither bound by nor shall it become a party to any agreement whereby any Rights may be assigned to a third party other than as surety to guarantee any financing of the Member;

4.1.5 **Capacity.** that it is entitled to execute this Agreement and, where applicable, has obtained all necessary authorizations to do so;

4.1.6 **Qualification of Sound Recordings.** that any Sound Recording contemplated hereby: (i) is published; (ii) the Maker thereof, on the date of first fixing said Sound Recording, is a Canadian citizen or permanent resident of Canada within the meaning of the *Immigration Act* or a citizen or permanent resident of a country that is a party to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, entered into in Rome on October 26, 1961 ("Rome Convention") or, in the case of a legal person, has its head office in Canada or in such a country; (iii) all fixings of the recording took place in Canada or in a country that is party to the Rome Convention, and (iv) it is not the subject of a declaration published pursuant to the Act limiting the scope and terms of the protection granted thereunder; and

4.1.7 **Payments to Third Parties.** all payments respecting any work, including Videograms and Sound Recordings, under the scope of this Agreement, required to be made to third parties having an interest in said works or Sound Recordings, specifically and without limiting the generality of the foregoing, the American Federation of Musicians and the Musicians Guild, the Union des Artistes, the creator of the work, the performing artist or performer, the author, the composer and the editor, have been or will be made by the Member.

4.2 **Indemnification.** The Member shall take up the defence of SOPROQ in the event of any proceeding the allegations of which, if founded, constitute a violation of the representations and warranties granted hereunder by the Member, and the Member undertakes to save and hold SOPROQ harmless against any loss, damage, interest, penalty and fee, including legal and expert fees resulting from such proceedings.

5. OBLIGATIONS OF THE MEMBER

5.1. **Declaration of Sound Recordings and Videograms.** As of the execution hereof, the Member shall declare to SOPROQ, in writing and in the manner prescribed by SOPROQ, all Sound Recording and Videograms over which it currently holds the Rights assigned, granted or otherwise transferred hereunder. The Member shall, throughout the term hereof, declare to SOPROQ, in writing and in the manner prescribed by SOPROQ, all Sound Recordings and Videograms over which it has acquired the Rights assigned, granted or otherwise transferred hereunder at the rate said Rights are acquired by the Member. The Member also undertakes to provide SOPROQ, upon request, a copy of each Sound Recording and Videogram affected. SOPROQ shall not be liable for any loss or damage suffered by the Member should it fail to comply with this provision or be bound to make any payment whatsoever respecting any Sound Recording or Videogram that has not been declared.

5.2. **Cooperation.** The Member shall, throughout the term hereof and thereafter, upon request by SOPROQ, sign any document and take any action useful or necessary to confirm, give effect or to enforce the Rights or to enable it to exercise any right or obligation hereunder.

5.3. **Interests of SOPROQ.** The Member shall refrain from doing any thing whatsoever that would violate the Rights or interests of SOPROQ and shall endeavour to cooperate with SOPROQ, its representatives and other Members for the purposes of contributing to the progress of SOPROQ.

5.4. **ISRC Codes.** For the purposes of controlling the use of Sound Recordings and Videograms, to simplify the collective management of the Rights and to facilitate the battle against piracy, the Member undertakes to attribute an ISRC code (International Standard Recording Code) to every Sound Recording and Videogram contemplated hereunder.

6. OBLIGATIONS OF SOPROQ

6.1. **Collection of Royalties.** SOPROQ shall do anything that is commercially reasonable to collect royalties payable to it pursuant to the Act or to any contract respecting the Rights over any Sound Recording or Videogram which the Member has declared within the prescribed period and in accordance herewith.

6.2. **Distribution of Royalties.** In accordance with its Articles, Rules and By-Laws, as amended from time to time, SOPROQ shall remit to the Member or to any other legal or natural person the Member may designate in writing, if any, any royalties that SOPROQ has collected which were generated by exercising the Rights over any Sound Recording or Videogram which the Member has declared within the prescribed period and in accordance herewith, minus any amount established pursuant to the Articles, Rules and By-Laws, as amended from time to time.

7. EXAMINATION OF REGISTERS

SOPROQ is expressly authorized to exercise any right the Member has to examine the books, registers and documents of any licensed or third party representative

IN WITNESS WHEREOF, the parties have executed this Agreement through their duly authorized officers, as they so declare.

THE QUEBEC COLLECTIVE SOCIETY FOR THE RIGHTS OF MAKERS OF SOUND AND VIDEO RECORDINGS

Lyette Bouchard
Executive Director

pursuant to this Agreement on behalf of the Member prior to receiving any instruction to this effect from the Member.

8. VIOLATION OF RIGHTS

SOPROQ, and any other corporation or person with which it has reached an agreement respecting reciprocity, management or representation may file, on their behalf or on behalf of the Member or otherwise, judicial proceedings to defend and enforce the assigned Rights or to defend itself against any such proceeding respecting the assigned Rights and to negotiate or enter into any transaction in that respect.

9. ASSIGNMENT

Unless stipulated otherwise, the Member shall neither assign this Agreement nor the rights and obligations created hereunder without the prior written authorization of SOPROQ, save in accordance with the Articles, Rules and By-Laws of SOPROQ, as amended from time to time.

10. MISCELLANEOUS

This Agreement shall constitute the entire and sole agreement entered into between the Member and SOPROQ respecting its subject matter, and shall supercede any prior agreement respecting said matter. This Agreement may only be amended by written instrument executed by both parties. This Agreement and its interpretation shall be governed by the laws of the province of Quebec and the laws of Canada applicable in said province, save and except any provision respecting conflicts of laws and, where applicable, the United Nations Convention on Contracts for the International Sales of Goods. The parties hereby attorn to the jurisdiction of the Courts of Quebec and the Federal Court of Canada sitting therein.

MEMBER

Per : _____
(Signature)

Name : _____
(Print in block letters)

Title : _____

Date : _____

S.I.N. : _____

ADDENDUM (graphic arts) to the "Agreement Respecting the Assignment and Licensing of Sound Recordings and Videograms" entered into by The Quebec Collective Society for the Rights of Makers of Sound and Video Recordings ("SOPROQ"), and «Nom_de_cie», ("Member") ("Membership Agreement").

The Membership Agreement is amended as follows:

1. Paragraph 1 ("Definitions") of the Membership Agreement is amended by the addition of the following definitions:

"**Packaging**" cases, booklets and all other packaging in which the relevant Sound Recording or Videogram is made available for sale to the public.

"**Graphic Arts**" graphic and literary, as the case may be, elements reproduced on the Packaging or supplied in the Packaging of the relevant Sound Recording or Videogram.

2. The following paragraph is added after paragraph 5 of the Membership Agreement:

5A. GRAPHIC ARTS

The rights granted or otherwise transferred and the representations, warranties and other obligations subscribed to by the Member concerning any Sound Recording and Videogram by way agreement of this agreement extends, furthermore, to the Graphic Arts of any such Sound Recording and Videogram.

3. The present addendum comes into force at the time of its execution by the Member.

IN WITNESS WHEREOF, the parties have executed this Agreement through their duly authorized officers, as they so declare.

THE QUEBEC COLLECTIVE SOCIETY FOR THE RIGHTS OF MAKERS OF SOUND AND VIDEO RECORDINGS

MEMBER

Per : _____
(Signature)

Name : _____
(Print in block letters)

Title : _____

Date : _____

Lytte Bouchard
Executive Director

