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9 *Interim Lead Counsel for Plaintiffs and the [Proposed] Class*

10  
 11 **UNITED STATES DISTRICT COURT**  
 12 **CENTRAL DISTRICT OF CALIFORNIA**  
 13 **WESTERN DIVISION**

14 GOOD MORNING TO YOU  
 PRODUCTIONS CORP., et al.,

15 Plaintiffs,

16 v.

17 WARNER/CHAPPELL MUSIC, INC.,  
 18 et al.,

19 Defendants.

Lead Case No. CV 13-04460-GHK  
 (MRWx)

**REVISED CLASS ACTION  
 SETTLEMENT AGREEMENT**

Judge: Hon. George H. King,  
 Chief Judge

Courtroom: 650



1 entities (excluding Defendants’ directors, officers, employees, and affiliates) who  
2 entered into an agreement with Warner/Chappell or paid it for the use of the Song (as  
3 hereafter defined) at any time from June 18, 2009;

4 WHEREAS, Plaintiffs’ Second Amended Consolidated Complaint asserted  
5 claims for (1) a declaratory judgment, 28 U.S.C. § 2201; (2) declaratory and injunctive  
6 relief and damages, 28 U.S.C. § 2202; (3) violation of California’s unfair competition  
7 law, Bus. & Prof. Code §§ 17200 *et seq.*; (4) breach of contract; (5) money had and  
8 received; (6) rescission; and (7) violation of California’s false advertising law, Bus. &  
9 Prof. Code §§ 17500 *et seq.*;

10 WHEREAS, on August 30, 2013, Defendants moved to dismiss the Second  
11 Amended Consolidated Complaint and/or to strike Plaintiffs’ proposed class  
12 definition;

13 WHEREAS, on September 6, 2013, the Court appointed Wolf Haldenstein  
14 Adler Freeman & Herz LLP (“Wolf Haldenstein”) as Interim Class Counsel;

15 WHEREAS, on October 16, 2013, the Court granted in part and denied in part  
16 Defendants’ motions to dismiss and/or strike Plaintiffs’ Second Amended  
17 Consolidated Complaint, bifurcating Plaintiffs’ first claim from Plaintiffs’ remaining  
18 claims for purposes of discovery through summary judgment and granting Plaintiffs  
19 leave to file an amended complaint;

20 WHEREAS, on November 6, 2013, Plaintiffs filed a Third Amended  
21 Consolidated Complaint, asserting the same seven claims as set forth above, and which  
22 Defendants answered as to claim one only on December 11, 2013;

23 WHEREAS, on April 29, 2014, Plaintiffs filed a Fourth Amended Consolidated  
24 Complaint, asserting the same seven claims as set forth above, and which Defendants  
25 answered as to claim one only on May 6, 2014;

26 WHEREAS, between February and July 2014, Plaintiffs and Defendants  
27  
28

1 engaged in extensive written, deposition, and document discovery<sup>1</sup>;

2 WHEREAS, on November 26, 2014, Plaintiffs and Defendants filed  
3 cross-motions for summary judgment;

4 WHEREAS, on September 22, 2015, the Court denied Defendants' motion for  
5 summary judgment and granted in part and denied in part Plaintiffs' motion for  
6 summary judgment;

7 WHEREAS, on October 15, 2015, Defendants filed a motion for reconsideration  
8 of the Court's summary judgment order or, alternatively, certification of that order for  
9 interlocutory appeal under 8 U.S.C. § 1292(b);

10 WHEREAS, on October 29, 2015, Plaintiffs filed a motion for leave to amend  
11 and file a Fifth Amended Consolidated Complaint;

12 WHEREAS, on November 9, 2015, ACEI and the Hill Foundation filed an  
13 unopposed motion to intervene;

14 WHEREAS, on December 1, 2015, the Parties held an all-day, in-person  
15 mediation with mediator David Rotman, Esq.;

16 WHEREAS, on December 6, 2015, after a series of telephone and email  
17 communications with counsel for the parties following the in-person mediation on  
18 December 1, 2015, Mr. Rotman made a confidential mediator's proposal of the  
19 material terms on which to settle the Action;

20 WHEREAS, on December 7, 2015, the Court granted Intervenors' motion to  
21 intervene;

22 WHEREAS, on December 7, 2015, the Court granted Plaintiffs' motion for  
23 leave to amend and file a Fifth Amended Consolidated Complaint;

24  
25 <sup>1</sup> Among other things, Plaintiffs took depositions of Warner/Chappell's corporate  
26 representative and of its Vice President of Administration. Plaintiffs and Defendants  
27 each answered numerous interrogatories and requests for admissions. Plaintiffs and  
28 Defendants each produced thousands of pages of documents. Plaintiffs produced an  
expert report, and Defendants deposed Plaintiffs' expert. Plaintiffs subpoenaed  
documents from a number of third parties.

1 WHEREAS, on December 9, 2015, Plaintiffs filed a Fifth Amended  
2 Consolidated Complaint on behalf of a putative class of persons or entities (excluding  
3 Defendants' directors, officers, employees, and affiliates) who entered into a license  
4 with Defendants or their predecessors-in-interest or paid Defendants or their  
5 predecessors-in-interest for use of the Song at any time since at least September 3,  
6 1949; Plaintiffs' Fifth Amended Consolidated Complaint alleged the same seven  
7 claims set forth above;

8 WHEREAS, on December 8, 2015, counsel for all Parties notified Mr. Rotman  
9 that all parties had accepted the material terms of a settlement contained in the  
10 confidential mediator's proposal, which terms are embodied in this Settlement  
11 Agreement;

12 WHEREAS, in all five consolidated complaints, Plaintiffs defined the proposed  
13 class as beginning on June 18, 2009, but represent that this was an inadvertent error  
14 because the first complaint was filed by Good Morning to You Production Corp. on  
15 June 13, 2013;

16 WHEREAS, Plaintiffs do not believe that using June 13, 2009, rather than June  
17 18, 2009, as the line of demarcation between Period One Settlement Claims and Period  
18 Two Settlement Claims (as hereafter defined) will have any material effect on any  
19 party's rights or obligations hereunder;

20 WHEREAS, Warner/Chappell: (1) denies (a) Plaintiffs' contention that  
21 Warner/Chappell does not own a valid copyright in the Song, (b) Plaintiffs' contention  
22 that the Song is in the public domain, and (c) all of Plaintiffs' allegations of  
23 wrongdoing, fault, or liability or that Warner/Chappell has acted improperly as  
24 alleged; (2) believes that the Fifth Amended Consolidated Complaint as well as all  
25 predecessor complaints lack merit; (3) would have continued to resist vigorously  
26 Plaintiffs' claims and contentions, and would have continued to assert its defenses  
27 thereto had this Settlement not been reached (and would have challenged the Court's  
28 rulings, if necessary, on appeal or by way of petition for certiorari); and (4) has entered

1 into this Settlement to put the claims to rest finally and forever solely for the purpose of  
2 avoiding prolonged and expensive litigation, without acknowledging or admitting in  
3 any way any of Plaintiffs' contentions or claims or any fault, wrongdoing or liability  
4 whatsoever;

5 WHEREAS, Intervenors: (1) deny that the Song is in the public domain;  
6 (2) believe that if Warner/Chappell does not own a valid federally registered copyright  
7 in the Song, then Intervenors own either the federally registered copyright or a  
8 common law copyright in the Song; (3) believe that the Fifth Amended Consolidated  
9 Complaint as well as all predecessor complaints lack merit; (4) would have continued  
10 to resist vigorously Plaintiffs' claims and contentions; and (5) have entered into this  
11 Settlement to put the claims to rest finally and forever solely for the purpose of  
12 avoiding prolonged and expensive litigation, without acknowledging or admitting in  
13 any way any of Plaintiffs' contentions or claims or any fault, wrongdoing or liability  
14 whatsoever;

15 WHEREAS, Plaintiffs and Class Counsel: (1) believe that the claims asserted in  
16 the Action are meritorious, but (2) have considered and weighed the issues involved in  
17 establishing the validity of their claims and the ability to establish damages and have  
18 concluded that, in light of the uncertainty of the outcome as well as the substantial risks  
19 and inevitable delay in proceeding to trial, compared to the benefits being provided  
20 hereby, the terms and conditions set forth herein are fair and reasonable and should be  
21 submitted to the Court for approval.

22 **NOW THEREFORE**, without any admission or concession by any Party to any  
23 claim, contention or allegation by any other Party, **IT IS HEREBY STIPULATED**  
24 **AND AGREED**, by and among the Parties, through their respective counsel, subject to  
25 approval of the Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, in  
26 consideration of the benefits flowing to the Parties hereto from the Settlement, that all  
27 Released Claims as against all Released Parties shall be compromised, settled, released  
28 and dismissed with prejudice, upon and subject to the following terms and conditions:

1 **1. DEFINITIONS**

2 As used in this Settlement Agreement, the following terms shall have the  
3 meanings specified below. The singular includes the plural and vice versa.

4 1.1 “**Action**” means the putative class action captioned *Good Morning to*  
5 *You Productions Corp., et al. v. Warner/Chappell Music, Inc., et al.*, Lead Case No.  
6 CV 13-04460-GHK (MRWx), pending in the Court.

7 1.2 “**Affiliate**” means a second Person that is related in whole or in part to the  
8 first Person as a direct or indirect parent or subsidiary, or is otherwise owned or  
9 controlled in whole or in part by the first Person or by a direct or indirect parent or  
10 subsidiary of the first Person.

11 1.3 “**Alfred**” means Alfred Music, Inc.

12 1.4 “**Authorized Claimants**” means Authorized Period One Claimants and  
13 Authorized Period Two Claimants.

14 1.5 “**Authorized Claims**” means Authorized Period One Claims and  
15 Authorized Period Two Claims.

16 1.6 “**Authorized Period One Claim**” means a Claim submitted by a Period  
17 One Settlement Class Member that is: (a) submitted timely and in accordance with the  
18 directions on the Period One Claim Form and the provisions of this Settlement  
19 Agreement; (b) fully and truthfully completed and executed by the Period One  
20 Settlement Class Member with all of the information requested in the Period One  
21 Claim Form, including valid documentation of the Period One Licensing Costs for  
22 which a share of the Net Settlement Fund is claimed and a valid and complete IRS  
23 Form W-9; (c) signed by the Period One Settlement Class Member; and (d) accepted  
24 by the Settlement Administrator in accordance with Section 3 hereof.

25 1.7 “**Authorized Period One Claimant**” means a Period One Settlement  
26 Class Member who submits an Authorized Period One Claim.

27 1.8 “**Authorized Period Two Claim**” means a Claim submitted by a Period  
28 Two Settlement Class Member that is: (a) submitted timely and in accordance with the

1 directions on the Period Two Claim Form and the provisions of this Settlement  
2 Agreement; (b) fully and truthfully completed and executed by the Period Two  
3 Settlement Class Member with all of the information requested in the Period Two  
4 Claim Form, including valid documentation of the Period Two Licensing Costs for  
5 which a share of the Net Settlement Fund is claimed and a valid and complete IRS  
6 Form W-9; (c) signed by the Period Two Settlement Class Member; and (d) accepted  
7 by the Settlement Administrator in accordance with Section 3 hereof.

8       1.9    “**Authorized Period Two Claimant**” means a Period Two Settlement  
9 Class Member who submits an Authorized Period Two Claim.

10       1.10 “**CAFA Notice**” means the notice intended to comply with the  
11 requirements of the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, as provided  
12 for in Section 5.2 hereof.

13       1.11 “**Claim**” means a written request submitted by mail by a Settlement  
14 Class Member consistent with the provisions of this Agreement, seeking a cash  
15 payment in connection with the Settlement.

16       1.12 “**Claim Form**” means the document substantially in the form attached  
17 hereto as Exhibit A. The Claim Form shall be available for submission either in  
18 electronic or paper format.

19       1.13 “**Claims Deadline**” means the date by which a Claim Form must be  
20 postmarked or received to be timely and shall be set as a date no later than sixty (60)  
21 days after the Notice Date.

22       1.14 “**Class Counsel**” means Wolf Haldenstein; Randall S. Newman PC;  
23 Hunt, Ortmann, Palffy, Nieves, Darling & Mah, Inc.; Donahue Fitzgerald, LLP; and  
24 Glancy Prongay & Murray, LLP. Wolf Haldenstein shall be Lead Class Counsel.

25       1.15 “**Class Representatives**” or “**Plaintiffs**” means Good Morning to You  
26 Productions Corp., Robert Siegel, Rupa Marya d/b/a Rupa & The April Fishes, and  
27 Majar Productions, LLC.

28       1.16 “**Court**” means the United States District Court for the Central District of

1 California.

2 1.17 **“Defendants”** means Warner/Chappell Music, Inc. and  
3 Summy-Birchard, Inc.

4 1.18 **“Defendants’ Counsel”** means Munger, Tolles & Olson LLP.

5 1.19 **“Escrow Account”** means the separate, interest-bearing escrow account  
6 to be established by the Settlement Administrator under terms agreed upon by Class  
7 Counsel and Defendants at a depository institution that is insured by the Federal  
8 Deposit Insurance Corporation and that has total assets of at least \$500 million and a  
9 short-term deposit rating of at least P-1 (Moody’s) or A-1 (Standard & Poors). The  
10 money in the Escrow Account shall be invested in the following types of accounts or  
11 instruments and no other: (a) demand deposit accounts, or (b) time deposit accounts  
12 and certificates of deposit, in either case with maturities of forty-five (45) days or less.  
13 The costs of establishing and maintaining the Escrow Account shall be paid from the  
14 Settlement Fund.

15 1.20 **“Faber”** means Faber Music Ltd.

16 1.21 **“Fee and Expense Award”** means any attorneys’ fees, expenses, and  
17 costs awarded by the Court to Class Counsel following the written motion or  
18 application for such awards made in accordance with Section 8 hereof.

19 1.22 **“Final Approval Hearing”** means the hearing before the Court where  
20 the Parties will request the Final Order and Judgment to be entered by the Court  
21 approving the Settlement Agreement and where Plaintiffs will request approval of the  
22 Fee and Expense Award to Class Counsel and the Incentive Award to the Class  
23 Representatives. The Final Approval Hearing shall be no earlier than sixty (60) days  
24 after the Notice Date or such other time as the Court shall set.

25 1.23 **“Final Order and Judgment”** means the final order and judgment,  
26 substantially in the form attached hereto as Exhibit E, granting final approval to this  
27 Settlement after the Final Approval Hearing as set forth in Section 6.4 hereof.

28 1.24 **“Final Settlement Date”** means the date one (1) business day after the

1 Final Order and Judgment becomes “Final.” For purposes of this Section, “Final”  
2 means that all of the following events have occurred: (a) the time has expired for filing  
3 or noticing any appeal of the Final Order and Judgment; (b) if any appeal or appeals  
4 have been taken from the Final Order and Judgment (other than an appeal or appeals  
5 solely with respect to the Fee and Expense Award or Incentive Award), completion, in  
6 a manner that finally affirms and leaves in place the Final Order and Judgment without  
7 any material modification thereto, of all proceedings arising out of the appeal or  
8 appeals (including, but not limited to, the expiration of all deadlines for motions for  
9 reconsideration, rehearing en banc, or petitions for review or certiorari, all proceedings  
10 ordered on remand, and all proceedings arising out of any subsequent appeal or appeals  
11 following decisions on remand); and (c) final disposition of any proceeding(s) on  
12 petition(s) for writ of certiorari to the Supreme Court of the United States, if any,  
13 arising out of the Final Order and Judgment (other than any petition(s) solely  
14 concerning the Fee and Expense Award or Incentive Award).

15 1.25 “**HFA**” means The Harry Fox Agency, Inc.

16 1.26 “**Incentive Award**” means any amount awarded by the Court to the  
17 Class Representatives following the written motion or application for such award made  
18 in accordance with Section 8.2 hereof.

19 1.27 “**Intervenors**” means the Association for Childhood Education  
20 International and the Hill Foundation, Inc.

21 1.28 “**Intervenors’ Counsel**” means Whiteford Taylor Preston LLP and  
22 Payne & Fears LLP.

23 1.29 “**Licensing Costs**” means Period One Licensing Costs and Period Two  
24 Licensing Costs.

25 1.30 “**Mail Notice**” means the notice of the Settlement and Final Approval  
26 Hearing, substantially in the form attached hereto as Exhibit B.

27 1.31 “**Net Settlement Fund**” means the Settlement Fund, less Settlement  
28 Administration and Notice Expenses (up to \$100,000), Taxes, Tax Expenses, and any

1 Fee and Expense Award and Incentive Awards.

2 1.32 “**Notice**” means notice to the Settlement Class of the Settlement,  
3 consisting of the Mail Notice, Publication Notice, and Website Notice.

4 1.33 “**Notice Date**” means the date by which the Notice Plan is completed,  
5 which shall be a date no later than thirty (30) days after the date of entry of the  
6 Preliminary Approval Order.

7 1.34 “**Notice Plan**” means the plan of disseminating notice of the Settlement  
8 to the Settlement Class, as set forth in Section 5.1 hereof.

9 1.35 “**Objection/Exclusion Deadline**” means the date by which a written  
10 objection to the Settlement or an exclusion request must be filed with the Court or  
11 postmarked, which shall be set as a date no later than fourteen (14) days before the  
12 Final Approval Hearing.

13 1.36 “**Period One Claim Form**” means the portion of the Claim Form used  
14 for submitting Period One Settlement Claims.

15 1.37 “**Period One Licensing Costs**” means the aggregate amount of money  
16 paid for use of the Song by a Period One Settlement Class Member (whether on such  
17 Period One Settlement Class Member’s own behalf, on behalf of any other Person, or  
18 both) directly to Defendants, to their Affiliates, or to HFA, Alfred or Faber as agents  
19 for any of the foregoing at any time on or after June 13, 2009.

20 1.38 “**Period One Settlement Claim**” means a Claim submitted by a Period  
21 One Settlement Class Member on a Period One Claim Form.

22 1.39 “**Period One Settlement Class Member**” means a Settlement Class  
23 Member who directly paid Defendants, their Affiliates, or HFA, Alfred or Faber as  
24 agents for any of the foregoing for use of the Song (whether on such Period One  
25 Settlement Class Member’s own behalf, on behalf of any other Person, or both) on or  
26 after June 13, 2009.

27 1.40 “**Period Two Claim Form**” means the portion of the Claim Form used  
28 for submitting Period Two Settlement Claims.

1           1.41    “**Period Two Licensing Costs**” means the aggregate amount of money  
2 paid for use of the Song by a Period Two Settlement Class Member (whether on such  
3 Period Two Settlement Class Member’s own behalf, on behalf of any other Person, or  
4 both) directly to Defendants or Defendants’ predecessors-in-interest, to either’s  
5 Affiliates, or to HFA, Alfred or Faber as agents for any of the foregoing, at any time  
6 between September 3, 1949 and June 13, 2009.

7           1.42    “**Period Two Settlement Claim**” means a Claim submitted by a Period  
8 Two Settlement Class Member on a Period Two Claim Form.

9           1.43    “**Period Two Settlement Class Member**” means a Settlement Class  
10 Member who directly paid Defendants or their predecessors-in-interest (or either’s  
11 Affiliates), or HFA, Alfred or Faber as agents for any of the foregoing for use of the  
12 Song (whether on such Period Two Settlement Class Member’s own behalf, on behalf  
13 of any other Person, or both) any time between September 3, 1949, and June 13, 2009.

14          1.44    “**Person**” means, without limitation, any individual, corporation,  
15 partnership, limited partnership, limited liability partnership, limited liability  
16 company, association, joint stock company, estate, legal representative, trust,  
17 unincorporated association, government or any political subdivision or agency thereof,  
18 and any business or legal entity and their spouses, heirs, predecessors, successors,  
19 representatives, or assigns.

20          1.45    “**Preliminary Approval Order**” means the order, substantially in the  
21 form attached hereto as Exhibit D, preliminarily approving the Settlement, certifying  
22 the Settlement Class for settlement purposes only, approving the form of the Notice  
23 and the Notice Plan, and directing dissemination of Notice in accordance with the  
24 Notice Plan, as set forth in Section 5.1 hereof.

25          1.46    “**Publication Notice**” means the notice of the Settlement and Final  
26 Approval Hearing, substantially in the form attached hereto as Exhibit C.

27          1.47    “**Released Claims**” means any and all actions, causes of action, claims,  
28 demands, liabilities, obligations, damages (including, without limitation, punitive,

1 statutory, exemplary and multiple damages), penalties, sanctions, losses, debts,  
2 contracts, agreements, attorneys' fees, costs, expenses, and rights of any nature and  
3 description whatsoever (including "Unknown Claims" as defined below), whether  
4 based on federal, state, or local statutes, common law, regulations, rules or any other  
5 law of the United States or foreign jurisdiction, known or unknown, fixed or  
6 contingent, suspected or unsuspected, in law or in equity, that were asserted or could  
7 have been asserted arising from or related to: (a) the licensing of the Song, collection  
8 of payment for use of the Song, or representations or omissions or other  
9 communications regarding ownership of the Song, by (i) Defendants, (ii) their agents,  
10 (iii) their Affiliates, (iv) any of the Persons listed in sub-paragraphs (b)-(d) of the  
11 definition of "Settlement Class" in Section 1.53 hereof, or (v) any  
12 predecessor(s)-in-interest of any or all of the foregoing; (b) Intervenors' or any of their  
13 agents' or Affiliates' (or any of their predecessors-in-interest's) licensing of the Song,  
14 collection of payment for use of the Song, or representations or omissions or other  
15 communications regarding ownership of the Song; or (c) as between Defendants and  
16 Intervenors, any matter related to the ownership, transfer, or obligations of any kind  
17 relating to the Song, including without limitation any and all federal or common law  
18 copyrights, as well as any claim for indemnification or contribution.

19       1.48 **"Released Parties"** means (a) Defendants and any and all of their  
20 present or former heirs, executors, estates, administrators, predecessors,  
21 predecessors-in-interest, successors, successors -in-interest, assigns, owners, parents,  
22 subsidiaries, associates, Affiliates and related entities, employers, employees, agents,  
23 representatives, consultants, independent contractors, directors, managing directors,  
24 officers, partners, principals, members, attorneys, accountants, financial and other  
25 advisors, investment bankers, insurers, reinsurers, underwriters, shareholders, lenders,  
26 auditors, investment advisors, and any and all present and former companies, firms,  
27 trusts, corporations, officers, directors, other individuals or entities in which  
28 Defendants have a controlling interest or which is affiliated with any of them, or any

1 other representatives of any of these Persons and entities; and (b) Intervenor and any  
2 and all of its present or former heirs, executors, personal representatives, estates,  
3 administrators, predecessors, predecessors-in-interest, successors,  
4 successors-in-interest, assigns, parents, subsidiaries, associates, affiliated and related  
5 entities, employers, employees, agents, representatives, consultants, independent  
6 contractors, directors, managing directors, officers, partners, principals, members,  
7 attorneys, accountants, financial and other advisors, investment bankers, insurers,  
8 reinsurers, underwriters, shareholders, lenders, auditors, investment advisors, and any  
9 and all present and former companies, firms, trusts, corporations, officers, directors,  
10 other individuals or entities in which Intervenor have a controlling interest or which is  
11 affiliated with any of them, or any other representatives of any of these Persons and  
12 entities.

13 1.49 “**Releasing Parties**” means: (a) Plaintiffs and Settlement Class  
14 Members, regardless of whether such Settlement Class Members submit claims, and  
15 all of their present, former, and future licensees with respect to the Song (including,  
16 without limitation, any blanket licensee or subscriber of a Settlement Class Member),  
17 heirs, executors, administrators, representatives, agents, attorneys, partners,  
18 predecessors, predecessors-in-interest, successors, successors-in-interest, assigns, and  
19 legatees; to the extent a Settlement Class Member is not an individual, Releasing  
20 Parties also includes all of its present, former, and future licensees with respect to the  
21 Song (including, without limitation, any blanket licensee or subscriber of a Settlement  
22 Class Member), direct and indirect parent companies, Affiliates, subsidiaries,  
23 divisions, agents, franchisees, predecessors, predecessors-in-interest, successors, and  
24 successors-in-interest; and (b) with respect to the Released Claims released between  
25 Defendants and Intervenor, all of the Released Parties.

26 1.50 “**Settlement**” means the class action settlement set forth in this  
27 Settlement Agreement.

28 1.51 “**Settlement Administrator**” means Rust Consulting, Inc., selected by

1 and with the joint concurrence of Plaintiffs and Defendants, and subject to approval by  
2 the Court, which shall perform the settlement administration duties set forth in this  
3 Settlement Agreement and as may be ordered by the Court.

4       1.52   **“Settlement Administration and Notice Expenses”** means any and all  
5 expenses reasonably incurred by the Settlement Administrator relating to  
6 implementation of this Settlement Agreement, including, without limitation, the costs  
7 reasonably incurred by the Settlement Administrator in: (a) disseminating Notice in  
8 accordance with the Notice Plan and CAFA Notice; (b) processing Claim Forms,  
9 objections, and requests for exclusion; (c) establishing and maintaining the Settlement  
10 Website and Escrow Account; (d) administering payments to Authorized Claimants  
11 via ACH transfers or by physical check (including the costs of mailing checks); and  
12 (e) otherwise performing with reasonable diligence the services it is obligated to  
13 perform under this Settlement Agreement. Settlement Administration and Notice  
14 Expenses up to \$100,000 will be paid out of the Settlement Fund. Settlement  
15 Administration and Notice Expenses beyond \$100,000 will be paid by Defendants  
16 directly to the Settlement Administrator on terms that are agreed upon by Defendants  
17 and the Settlement Administrator.

18       1.53   **“Settlement Class”** means:

19       (a) all Persons who, at any time since September 3, 1949, directly paid  
20 Defendants, Intervenors, any of their predecessors-in-interest (or any of the Affiliates  
21 of any of the foregoing) for each such Person’s use of the Song;

22       (b) all Persons who, at any time since September 3, 1949, directly paid HFA,  
23 Alfred or Faber as agents for Defendants or their predecessors-in-interest for each such  
24 Person’s use of the Song; or

25       (c) the American Society of Composers, Authors and Publishers (ASCAP),  
26 foreign collecting societies (such as, for example, SACEM and GEMA), and any other  
27 Person who at any time since September 3, 1949 has issued blanket licenses covering  
28 the Song, but only for the amounts allocated to the Song by such Persons and directly

1 paid to Defendants or their predecessors-in-interest (or either's Affiliates) pursuant to  
2 such blanket licenses; or

3 (d)(i) digital rights aggregation services (such as, for example, Music Reports,  
4 Inc.), (ii) foreign sub-publishers (such as, for example, EMI Music Publishing Ltd.),  
5 and (iii) Persons not enumerated in sub-paragraph (b), (c), or items (i)-(ii) of this  
6 sub-paragraph (d) who directly paid Defendants, Intervenors, any of their  
7 predecessors-in-interest (or any of the Affiliates of any of the foregoing) on behalf of  
8 other Persons for such other Persons' use of the Song at any time since September 3,  
9 1949, but only to the extent that the Persons listed in items (i)-(iii) of this  
10 sub-paragraph (d) directly paid Defendants, Intervenors, any of their  
11 predecessors-in-interest (or any of the Affiliates of any of the foregoing) amounts that  
12 were comprised of payments by or on behalf of other Persons for such other Persons'  
13 use of the Song.

14 In the case of payments referenced in sub-paragraphs (c) and (d), the Persons  
15 enumerated in sub-paragraphs (c) and (d) who made the direct payments to Defendants  
16 Intervenors, any of their predecessors-in-interest (or any of the Affiliates of any of the  
17 foregoing) are part of the Settlement Class, whereas the Persons on whose behalf such  
18 Persons obtained the rights to use the Song (whether through a blanket license or  
19 otherwise) are *not* part of the Settlement Class.

20 For purposes of this Settlement Agreement, the term "directly paid" includes  
21 payments made by a Person's accountant, attorney, business manager or similar agent  
22 acting for such Person solely in the capacity of remitting payment and not for the  
23 purpose of providing licensing services to other Persons. In the case of a direct  
24 payment by a Person's accountant, attorney, business manager or similar agent as  
25 described in the preceding sentence, said Person on whose behalf the payment is made  
26 is the Person in the Settlement Class (subject to all other requirements of this  
27 definition), and that Person's accountant, attorney, business manager or similar agent  
28 as described in the preceding sentence is not in the Settlement Class by virtue of that

1 payment.

2 Excluded from the Settlement Class are the following: (I) Defendants, their  
3 Affiliates, and HFA, and their respective officers, directors and employees;  
4 (II) Intervenors, their subsidiaries, and Affiliates and their respective officers,  
5 directors, employees; and (III) Class Counsel, Defendants' Counsel, and Intervenors'  
6 Counsel. For the avoidance of doubt, Alfred and Faber are part of the Settlement Class  
7 under sub-paragraph (a) with respect to their own direct licenses of the Song from  
8 Defendants or their predecessors-in-interest (or either's Affiliates), but only the  
9 sub-licensees of Alfred and Faber are part of the Settlement Class under sub-paragraph  
10 (b).

11 1.54 **"Settlement Class Member"** means a Person who falls within the  
12 definition of the Settlement Class and who has not submitted a timely and valid request  
13 for exclusion from the Settlement Class.

14 1.55 **"Settlement Class Member Address List"** means a list or lists, in  
15 electronic form, (a) that Defendants will generate to the extent reasonably practicable  
16 (i) in electronic form from SHARP and WAMPS, which are electronic licensing  
17 databases, (ii) in electronic form from HFA's electronic licensing database, and (iii) in  
18 paper form if and to the extent that a list or lists of names and addresses of Settlement  
19 Class Members is/are reasonably available to Defendants in paper form; and (b) that  
20 contains or contain the names and current or last known mailing and email addresses of  
21 Settlement Class Members that are reasonably available to Defendants from the  
22 sources described above. Defendants believe that SHARP, WAMPS and/or HFA's  
23 electronic licensing database contain the names and/or addresses of most Period One  
24 Settlement Class Members and likely contain the names and/or addresses of many of  
25 the Period Two Settlement Class Members. Defendants will provide the Settlement  
26 Class Member Address List to the Settlement Administrator for the sole purpose of the  
27 latter's effectuating the Notice Plan.

28 1.56 **"Settlement Fund"** means the sum of \$14 million that Defendants will

1 make available for payment of Authorized Claims, Settlement Administration and  
2 Notice Expenses (up to \$100,000), and any Fee and Expense Award and Incentive  
3 Awards.

4 1.57 “**Settlement Website**” means the website to be created by the Settlement  
5 Administrator containing details and information about the Settlement, including this  
6 Agreement, the Website Notice, the Claim Form, and the IRS Form W-9.

7 1.58 “**Song**” means the musical work entitled *Happy Birthday to You!* with the  
8 lyrics, “Happy Birthday to you, Happy Birthday to you, Happy Birthday dear \_\_\_\_\_,  
9 Happy Birthday to you!”

10 1.59 “**Tax Expenses**” means any and all expenses and costs incurred in  
11 connection with the calculation and payment of taxes or the preparation of tax returns  
12 and related documents (including, without limitation, expenses of tax attorneys or  
13 accountants and costs and expenses relating to filing (or failing to file) the returns).  
14 Tax Expenses will be paid out of the Settlement Fund.

15 1.60 “**Taxes**” means all taxes (including any estimated taxes, interest, or  
16 penalties) relating to the income earned by the Settlement Fund. Taxes will be paid out  
17 of the Settlement Fund.

18 1.61 “**Unknown Claims**” means claims that could have been raised in the  
19 Action and that the Releasing Parties, or any of them, do not know or suspect to exist,  
20 which, if known by him, her, or it, might affect his, her or its agreement to release the  
21 Released Parties or the Released Claims or might affect his, her or its decision to agree,  
22 not agree, object, or not object to the Settlement. Upon the Final Settlement Date, the  
23 Releasing Parties shall be deemed to have, and shall have, expressly waived and  
24 relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits  
25 of Section 1542 of the California Civil Code, which provides as follows:

26 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS**  
27 **WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT**  
28 **TO EXIST IN HIS OR HER FAVOR AT THE TIME OF**  
**EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM**  
**OR HER MUST HAVE MATERIALLY AFFECTED HIS OR**



1 Settlement Administrator.

2           2.1.4    The Settlement Fund includes all interest that shall accrue on the  
3 sums deposited in the Escrow Account. The Settlement Administrator shall be  
4 responsible for all tax filings with respect to any earnings on the Settlement Fund and  
5 the payment of all taxes that may be due on such earnings.

6           2.1.5    In no event shall Defendants' financial obligation under this  
7 Settlement (including all amounts payable from the Settlement Fund and any Fee and  
8 Expense Award and Incentive Award, but excluding Settlement Administration and  
9 Notice Expenses beyond \$100,000) exceed the total amount of \$14 million.

10           **2.2    Prospective Relief.**

11           2.2.1    Defendants and Intervenors agree that, upon the Final Settlement  
12 Date, they will relinquish their ownership claims to the Song and all their rights to the  
13 Song. Defendants and Intervenors further agree that, following the Final Settlement  
14 Date, they will not: (a) claim to own, or represent that they own, a federally registered  
15 or common law copyright in the Song, or (b) charge any Person a fee for use of the  
16 Song. Prior to the Final Settlement Date, Defendants and Intervenors do not agree to  
17 relinquish any rights they believe they have in the Song. Plaintiffs do not hereby  
18 concede that Defendants and Intervenors have or had any such rights.

19           2.2.2    All Parties acknowledge that they are not aware of any Person  
20 other than Defendants and Intervenors who does or could claim ownership of any  
21 rights in the Song. Accordingly, upon relinquishment of such ownership claims in  
22 accordance with the terms of Section 2.2.1 above, all Parties believe the Song will be in  
23 the public domain on the Final Settlement Date. Based on the foregoing provisions of  
24 this Section 2.2.2 and Section 2.2.1 above, Defendants and Intervenors will not oppose  
25 Plaintiffs' request that the Final Judgment and Order include a declaratory judgment  
26 that, as of the Final Settlement Date, the Song will be in the public domain.

27 **3.    DISTRIBUTIONS TO AUTHORIZED CLAIMANTS**

28           3.1    **Plan of Distribution.** Distributions to Authorized Claimants shall be

1 made as follows:

2           3.1.1    The Settlement Administrator will make payments to Authorized  
3 Claimants, based on the calculations set forth below, within sixty (60) days after the  
4 Final Settlement Date.

5                   (a)    Payments will be made to Authorized Claimants  
6 either by (i) physical check, or (ii) ACH (Automated Clearing House) transfer.

7                   (b)    Authorized Claimants who receive a physical check  
8 shall have ninety (90) days after the date of issuance to cash the check. The Settlement  
9 Administrator shall make reasonable efforts to contact each Authorized Claimant  
10 whose settlement check has not been cashed within ninety (90) days, whose settlement  
11 check is returned as undeliverable, or whose ACH transfer could not be completed.  
12 Thereafter, any funds from checks not cashed, funds from checks returned as  
13 undeliverable, and funds from failed ACH transfers shall revert to the Settlement Fund.  
14 If, in consultation with the Settlement Administrator, the Parties determine that any  
15 such reverted funds can be distributed *pro rata* to other Authorized Claimants in a way  
16 that is fair and economically feasible, such funds shall be distributed accordingly. If  
17 not, any such reverted funds shall be returned to Defendants. In no event shall any  
18 such reverted funds constitute abandoned or unclaimed property.

19           3.1.2    **Period One Settlement Claims.**

20                   (a)    Any Period One Settlement Class Member may  
21 submit a Claim to the Settlement Administrator for a share of the Net Settlement Fund  
22 based on the Period One Licensing Costs that a Period One Settlement Class Member  
23 claims, documents, and proves in accordance with the process set forth in Section 3.2  
24 hereof (and as further set forth in the Period One Claim Form).

25                   (b)    If the aggregate amount of all Authorized Period One  
26 Claims is less than or equal to \$6,250,000, then: (i) each Authorized Period One  
27 Claimant's *pro rata* share of the Net Settlement Fund shall be calculated based upon  
28 the full amount of such Authorized Period One Claimant's Period One Licensing Costs

1 as computed by the Settlement Administrator from the Period One Claim Form; and  
2 (ii) any amount of the sum of \$6,250,000 remaining in the Net Settlement Fund after all  
3 such Authorized Period One Claims are paid in full shall remain in the Net Settlement  
4 Fund and shall be available for distribution to Authorized Period Two Claimants  
5 pursuant to Section 3.1.3 below.

6 (c) If the aggregate amount of all Authorized Period One  
7 Claims is greater than \$6,250,000, then each Authorized Period One Claimant's *pro*  
8 *rata* share of the Net Settlement Fund shall be calculated by: (i) determining the full  
9 amount of such Authorized Period One Claimant's Period One Licensing Costs as  
10 computed by the Settlement Administrator from the Period One Claim Form (ii) and  
11 then reducing the foregoing amount on a *pro rata* basis relative to the Authorized  
12 Period One Claims of all other Authorized Period One Claimants as necessary to  
13 allocate a total of \$6,250,000 of the Net Settlement Fund to the payment of Authorized  
14 Period One Claims.

15 (d) In no event shall more than \$6,250,000 of the Net  
16 Settlement Fund be allocated to the payment of Authorized Period One claims.

### 17 3.1.3 Period Two Settlement Claims.

18 (a) Any Period Two Settlement Class Member may  
19 submit a Claim to the Settlement Administrator for a share of the Net Settlement Fund  
20 based on the Period Two Licensing Costs that a Period Two Settlement Class Member  
21 claims, documents, and proves in accordance with the process set forth in Section 3.2  
22 hereof (and as further set forth in the Period Two Claim Form).

23 (b) Each Authorized Period Two Claimant's *pro rata*  
24 share of the Net Settlement Fund shall be calculated based upon fifteen percent (15%)  
25 of the amount of such Authorized Period Two Claimant's Period Two Licensing Costs  
26 as computed by the Settlement Administrator from the Period Two Claim Form;  
27 provided, however, that if the aggregate amount of all Authorized Period Two Claims  
28 would exceed the amount remaining in the Net Settlement Fund after all Authorized

1 Period One Claims are paid, then the foregoing amount (*i.e.*, fifteen percent (15%) of  
2 the amount of an Authorized Period Two Claimant's Period Two Licensing Costs as  
3 computed by the Settlement Administrator from the Period Two Claim Form) will be  
4 reduced on a *pro rata* basis relative to the Authorized Period Two Claims of all other  
5 Authorized Period Two Claimants as necessary not to exceed the amount remaining in  
6 the Net Settlement Fund after all Authorized Period One Claims are paid.

7           3.1.4 There is a limit of one Period One Settlement Claim per Period  
8 One Settlement Class Member for all Period One Licensing Costs paid by that  
9 Settlement Class Member. There is a limit of one Period Two Settlement Claim per  
10 Period Two Settlement Class Member for all Period Two Licensing Costs paid by that  
11 Settlement Class Member. Any Settlement Class Member who made payments for use  
12 of the Song both before and on or after June 13, 2009, may file one Period One  
13 Settlement Claim and one Period Two Settlement Claim, which may be submitted  
14 together in a single Claim Form that provides both the information required by the  
15 Period One Claim Form and the information required by the Period Two Claim Form.

## 16           3.2     **Claims Administration**

17           3.2.1 Claim Forms shall be substantially in the form attached hereto  
18 as Exhibit A, which allows for the submission of Period One Settlement Claims, Period  
19 Two Settlement Claims, or both. Period One Settlement Class Members shall have  
20 until the Claims Deadline to submit a Period One Claim Form. A Period One  
21 Settlement Class Member may file only one (1) Period One Claim Form. Period Two  
22 Settlement Class Members shall have until the Claims Deadline to submit a Period  
23 Two Claim Form. A Period Two Settlement Class Member may file only one (1)  
24 Period Two Claim Form. If a Person is a Period One Settlement Class Member and a  
25 Period Two Settlement Class Member, then the Person may submit a single Claim  
26 Form that provides both the information required by the Period One Claim Form and  
27 the information required by the Period Two Claim Form.

28           3.2.2 The Settlement Administrator may reject a Period One Claim

1 Form or Period Two Claim Form where the Person submitting the Period One Claim  
2 Form or Period Two Claim Form does not appear to be a Period One Settlement Class  
3 Member or Period Two Settlement Class Member, respectively. The Settlement  
4 Administrator may reject a Claim Form, submitted pursuant to the last sentence of  
5 Section 3.2.1, where the Person submitting the claim does not appear to be either a  
6 Period One Settlement Class Member or Period Two Settlement Class Member.

7 3.2.3 The Settlement Administrator shall employ reasonable  
8 procedures to screen Claims for abuse or fraud and deny Period One Claim Forms or  
9 Period Two Claim Forms (or both where submitted together pursuant to the last  
10 sentence of Section 3.2.1) where there is evidence of abuse or fraud.

11 3.2.4 The Settlement Administrator shall determine whether a Period  
12 One Claim Form submitted by a Period One Settlement Class Member is an  
13 Authorized Period One Claim and shall reject Period One Claim Forms that fail to  
14 comply with the instructions thereon—including, but not limited to, by failing to  
15 provide valid documentation of the Period One Licensing Costs for which a share of  
16 the Net Settlement Fund is claimed (*e.g.*, copies of receipts, email or letter  
17 confirmations, executed licenses) or a valid and complete IRS Form W-9—or the  
18 terms of this Settlement Agreement, after giving the claimant a reasonable opportunity  
19 to correct any deficiency. In no event shall any Period One Settlement Class Member  
20 have more than twenty-one (21) days after the Settlement Administrator gives notice  
21 of any deficiency in a submitted Period One Claim Form to correct that deficiency.  
22 The twenty-one (21) days to correct that deficiency runs from the date that the  
23 Settlement Administrator gives notice and extends the deadline set forth in Sections  
24 1.13 and 3.2.1 hereof for the Settlement Class Member to submit a timely and valid  
25 claim.

26 3.2.5 Likewise, the Settlement Administrator shall determine whether  
27 a Period Two Claim Form submitted by a Period Two Settlement Class Member is an  
28 Authorized Period Two Claim and shall reject Period Two Claim Forms that fail to

1 comply with the instructions thereon—including, but not limited to, by failing to  
2 provide valid documentation of the Period Two Licensing Costs for which a share of  
3 the Net Settlement Fund is claimed (*e.g.*, copies of receipts, email or letter  
4 confirmations, executed licenses) or a valid and complete IRS Form W-9—or the  
5 terms of this Settlement Agreement, after giving the Person a reasonable opportunity to  
6 correct any deficiency. In no event shall any Period Two Settlement Class Member  
7 have more than twenty-one (21) days after the Settlement Administrator gives notice  
8 of any deficiency in a submitted Period Two Claim Form to correct that deficiency.

9 **4. RELEASES**

10 4.1 The Parties agree that should the Court grant final approval of the  
11 Settlement and enter the Final Order and Judgment, such Final Order and Judgment  
12 shall include a provision retaining the Court’s jurisdiction over the Parties to enforce  
13 the terms of this Settlement Agreement.

14 4.2 Upon the Final Settlement Date, the Releasing Parties, and each of them,  
15 shall be deemed to have, and by operation of the Final Order and Judgment shall have,  
16 fully, finally, and forever released, relinquished, and discharged all Released Claims  
17 against the Released Parties, and each of them, whether or not such Releasing Party has  
18 made a claim under the Settlement. This Settlement Agreement shall be the sole and  
19 exclusive remedy for any and all Released Claims against the Released Parties. In  
20 entering into this Release, the Releasing Parties acknowledge that they assume the risk  
21 of any mistake of fact or law. If they, or any of them, should later discover that any fact  
22 which they relied upon in entering into this Settlement Agreement is not true, or that  
23 their understanding of the facts or law was incorrect, they shall not be entitled to  
24 modify, reform, or set aside this Settlement Agreement, in whole or in part, by reason  
25 thereof.

26 4.3 Upon the Final Settlement Date, every Releasing Party (including  
27 without limitation every Settlement Class Member) shall be bound by this Settlement  
28 Agreement, and each of them shall be permanently barred and enjoined from

1 commencing or prosecuting any action in any court or tribunal asserting any Released  
2 Claim, either directly, representatively, derivatively or in any other capacity, against  
3 any Released Party.

4 **5. NOTICE**

5 5.1 **Notice Plan.** Subject to entry of the Preliminary Approval Order, notice  
6 of the Settlement shall be disseminated to the Settlement Class as follows:

7 5.1.1 Direct Notice. Within five (5) days after the Court's issuance of  
8 the Preliminary Approval Order, Defendants shall provide the Settlement Class  
9 Member Address List to the Settlement Administrator. Within twenty-one (21) days  
10 after entry of the Preliminary Approval Order, the Settlement Administrator shall mail  
11 the Mail Notice and Claim Form to each Settlement Class Member identified in the  
12 Settlement Class Member Address List.

13 5.1.2 Publication Notice. Within five (5) days after Direct Notice is  
14 mailed pursuant to Section 5.1.1 hereof, the Settlement Administrator shall cause the  
15 Publication Notice, substantially in the form attached hereto as Exhibit C, to appear  
16 once each in *The Hollywood Reporter* (in one-eighth page size), the U.S. edition of  
17 *Variety* (in one-eighth page size), and *Billboard* (in one-eighth page size). Nothing in  
18 this Agreement shall prohibit Plaintiffs and Class Counsel from performing their duties  
19 and/or taking additional steps to maximize notice to the Class.

20 5.1.3 Settlement Website and Website Notice. Within five (5) days  
21 after entry of the Preliminary Approval Order, the Settlement Administrator shall  
22 publish the Website Notice, substantially in the form attached hereto as Exhibit B,  
23 through the Settlement Website. The Settlement Website shall be developed, hosted,  
24 and maintained by the Settlement Administrator through the Final Settlement Date.

25 5.2 **CAFA Notice.** Within ten (10) days after the Settlement Agreement is  
26 filed with the Court, the Settlement Administrator shall provide CAFA Notice by  
27 serving upon the relevant government officials notice of the Settlement Agreement in  
28 accordance with the Class Action Fairness Act of 2005, 28 U.S.C. § 1715.

1           **5.3 Notice Costs.** Settlement Administration and Notice Expenses up to  
2 \$100,000 will be paid out of the Settlement Fund, provided such expenses are  
3 approved by the Court at the Final Approval Hearing. Additional Settlement  
4 Administration and Notice Expenses beyond \$100,000 will be paid by Defendants  
5 directly to the Settlement Administrator on terms that are agreed upon by Defendants  
6 and the Settlement Administrator provided such expenses are approved by the Court at  
7 the Final Approval Hearing.

8           **6. COURT APPROVAL OF THE SETTLEMENT**

9           **6.1 Preliminary Approval.** Promptly after the execution of this Settlement  
10 Agreement, Class Counsel shall submit this Settlement Agreement to the Court and  
11 shall move the Court for preliminary approval of the Settlement and entry of the  
12 Preliminary Approval Order, substantially in the form attached hereto as Exhibit D,  
13 preliminarily approving the Settlement, certifying the Settlement Class for settlement  
14 purposes only, appointing Class Counsel and the Class Representatives, approving the  
15 form of the Notice and the Notice Plan and directing dissemination of Notice in  
16 accordance with the Notice Plan, setting a Final Approval Hearing date, and  
17 authorizing the Parties, without further approval from the Court, to agree to and adopt  
18 such amendments, modifications and expansions of the Settlement Agreement and  
19 Release and its implementing documents (including all attached exhibits) so long as  
20 they are consistent in all material respects with the Final Order and Judgment and do  
21 not limit the rights of Settlement Class Members.

22           **6.2 Exclusion Requests.** A Person in the Settlement Class may request to be  
23 excluded from the Settlement Class by sending a written request to the Settlement  
24 Administrator postmarked on or before the Objection/Exclusion Deadline, including:  
25 the case number of the Action; such Person's name, address, email address (if  
26 applicable), phone number and signature (or the signature of an authorized  
27 representative of such Person); the date(s) of all direct payment(s) to Defendants or  
28 Defendants' predecessors-in-interest or either's Affiliates or HFA, Alfred or Faber for

1 use of the Song, and the dollar amount(s) paid to Defendants or Defendants’  
2 predecessors-in-interest or either’s Affiliates or HFA, Alfred or Faber for use of the  
3 Song; and a statement that such Person wishes to be excluded from the Settlement  
4 Class. An exclusion request that does not include all of this information, or that is sent  
5 to an address other than that designated in the Notice, or that is not postmarked within  
6 the time specified, shall be invalid, and the Person(s) serving such an exclusion request  
7 shall be a member(s) of the Settlement Class and shall be bound as Settlement Class  
8 Members by the Settlement Agreement, if approved. Any Person in the Settlement  
9 Class who submits a timely and valid exclusion request shall not: (a) be bound by the  
10 Final Order and Judgment; (b) be entitled to relief under this Settlement Agreement;  
11 (c) gain any rights by virtue of this Settlement Agreement; or (d) be entitled to object  
12 to any aspect of this Settlement Agreement. A request for exclusion may not request  
13 exclusion of more than one Settlement Class Member.

14           **6.3 Objections.** Any Settlement Class Members who wishes to object to the  
15 proposed Settlement and/or the application for the Fee and Expense Award or  
16 Incentive Award must file with the Court, and serve upon Class Counsel, Defendants’  
17 Counsel, and Intervenors’ Counsel a written objection no later than the  
18 Objection/Exclusion Deadline. Settlement Class Members may object on their own or  
19 may do so through separate counsel at their own expense. All objections and any  
20 papers submitted in support of such objection shall be considered by the Court at the  
21 Final Approval Hearing only if, on or before the Objection/Exclusion Deadline  
22 approved by the Court and specified in the Notice, the Settlement Class Member  
23 submits copies of such objections and any papers to the Court by: (a) filing an  
24 objection in the United States District Court for the Central District of California in  
25 person, by CM/ECF, or by U.S. mail addressed to the Clerk of the Court, and (b)  
26 sending a letter by U.S. mail to counsel for the Parties; provided that any objection  
27 made by a Settlement Class Member represented by counsel must be filed through the  
28 Court’s Case Management/Electronic Case Filing (CM/ECF) system.

1           6.3.1 Any Settlement Class Member who intends to object to this  
2 Settlement Agreement must present the objection in writing, which must be personally  
3 signed by the objector and include: (a) the objector’s name, address, email address, and  
4 contact phone number; (b) an explanation of the basis upon which the objector claims  
5 to be a Settlement Class Member; (c) all grounds for the objection, including any  
6 supporting law or evidence, if any; (d) the name and contact information of any and all  
7 attorneys representing the objector in connection with the preparation or submission of  
8 the objection (the “Objecting Attorneys”); and (e) a statement indicating whether the  
9 objector intends to appear at the Final Approval Hearing (either personally or through  
10 counsel who files an appearance with the Court in accordance with the Court’s Local  
11 Rules). An objector shall not be permitted to object to the Settlement at the Final  
12 Approval Hearing unless notice of such intent (as described in (e) above) is either  
13 timely filed with or mailed to the Court.

14           6.3.2 Any Settlement Class Member who does not timely mail to, or  
15 file with, the Court a written objection in accordance with the terms of this Settlement  
16 Agreement and as detailed in the Notice (a) shall not be permitted to object to the  
17 Settlement at the Final Approval Hearing; (b) shall be foreclosed from seeking any  
18 review of the Settlement by appeal or other means; and (c) shall be deemed to have  
19 waived his, her or its objections and be forever barred from making any such  
20 objections in the Action or any other action or proceeding.

21           6.3.3 Any Party shall have the right to respond to any objection no later  
22 than fourteen (14) days prior to the Final Approval Hearing by filing a response with  
23 the Court that shall also be served on the objector and other Parties in the Action.

24           **6.4 Final Approval.** Not later than seven (7) days before the  
25 Objection/Exclusion Deadline, Class Counsel shall file with the Court a motion for  
26 entry of a Final Order and Judgment, which shall be substantially in the form attached  
27 hereto as Exhibit E.

1 **7. SETTLEMENT ADMINISTRATION**

2 7.1 The Settlement Administrator shall, under the Court’s supervision,  
3 administer the terms of the Settlement Agreement, including but not limited to by  
4 processing Claim Forms in a rational, responsive, cost-effective, and timely manner.

5 7.2 The Settlement Administrator shall maintain reasonably detailed records  
6 of its activities under this Settlement Agreement. The Settlement Administrator shall  
7 ensure that all such records will be made available to Class Counsel, Defendants’  
8 Counsel, and Intervenors’ Counsel upon request. The Settlement Administrator shall  
9 also provide reports and other information to the Court as the Court may require. The  
10 Settlement Administrator shall provide Class Counsel, Defendants’ Counsel, and  
11 Intervenors’ Counsel with information concerning Notice, administration, and  
12 implementation of the Settlement Agreement. Should the Court request, the Parties, in  
13 conjunction with the Settlement Administrator, shall submit a timely report to the  
14 Court summarizing the work performed by the Settlement Administrator.

15 7.3 Without limiting the foregoing, the Settlement Administrator shall:  
16 (a) receive exclusion requests from Persons in the Settlement Class and provide to  
17 Class Counsel, Defendants’ Counsel, and Intervenors’ Counsel copies thereof upon  
18 receipt, whether they are received before or after the Objection/Exclusion Deadline;  
19 (b) provide bi-weekly reports to Class Counsel, Defendants’ Counsel, and Intervenors’  
20 Counsel including without limitation, identifying the number of Period One Claim  
21 Forms and Period Two Claim Forms received, the number of Authorized Claims, and  
22 the categorization and description of Period One Claim Forms and Period Two Claim  
23 Forms rejected, in whole or in part, by the Settlement Administrator; and (c) make  
24 available for inspection by Class Counsel, Defendants’ Counsel, and Intervenors’  
25 Counsel Period One Claim Forms and Period Two Claim Forms and any supporting  
26 documentation received by the Settlement Administrator upon reasonable notice.

27 **8. ATTORNEYS’ FEES AND INCENTIVE AWARDS**

28 8.1 **Fee and Expense Award.** Class Counsel shall file their petition and

1 papers in support of Class Counsel's request for a Fee and Expense Award thirty (30)  
2 days after Notice is disseminated to the Settlement Class Members.

3 8.1.1 Defendants shall file their opposition, if any, to Class Counsel's  
4 petition in support of its request for a Fee and Expense Award no later than thirty (30)  
5 days after Class Counsel file their petition.

6 8.1.2 Class Counsel shall file any reply brief in support of their request  
7 for a Fee and Expense Award and respond to any objection from a Settlement Class  
8 Member fourteen (14) days before the Final Approval Hearing.

9 8.1.3 If the Court does not approve Class Counsel's request for a Fee  
10 and Expense Award, or if the Court awards fees and expenses in an amount less than  
11 that requested by Class Counsel, the Court's decision shall not affect the validity and  
12 enforceability of the Settlement and shall not be a basis for any Party or other Person to  
13 seek to terminate or void the Settlement or for rendering the Settlement null, void or  
14 unenforceable.

15 8.1.4 The Fee and Expense Award that the Court orders will be payable  
16 by Defendants to Lead Class Counsel by delivery of check or other negotiable  
17 instrument(s) or by wire transfer(s) within five (5) days of the Final Settlement Date.  
18 Lead Class Counsel is solely responsible for distributing the Fee and Expense award to  
19 any Class Counsel that may claim entitlement to attorneys' fees or costs in the Action  
20 in such amounts as Lead Class Counsel determines appropriate.

21 8.1.5 If Defendants appeal the Fee and Expense Award and all the  
22 conditions for the Final Settlement Date otherwise have occurred, the Settlement  
23 Administrator shall calculate the Net Settlement Fund based upon the amount of the  
24 Fee and Expense Award, and the Settlement Administrator shall make distributions to  
25 Authorized Claimants in accordance with the Plan of Distribution in Section 3.1.

26 (a) If the Net Settlement Fund does not pay all Authorized  
27 Claims, Defendants shall deliver to the Settlement Administrator the difference  
28 between the amount of the Fee and Expense Award and the amount Defendants

1 contend on appeal should have been awarded to Class Counsel. The Settlement  
2 Administrator shall hold this amount in the Escrow Account during the appeal.  
3 Defendants shall pay the remainder of the Fee and Expense Award in the manner  
4 provided in Section 8.1.4.

5 (b) If, as a result of the appeal, all or a portion of the  
6 amount held in the Escrow Account pursuant to sub-paragraph (a) becomes available  
7 for distribution to Authorized Claimants, the Settlement Administrator shall distribute  
8 such additional amount to the Authorized Claimants as if such additional amount had  
9 been part of the Net Settlement Fund, in accordance with the terms of Section 3.1.  
10 After completing such additional distribution, the Settlement Administrator shall pay  
11 to Defendants any amount then remaining in the Escrow Account.

12 (c) If, as a result of the appeal, Class Counsel are entitled  
13 to all or any portion of the amount held in the Escrow Account pursuant to  
14 sub-paragraph (a), the Settlement Administrator shall pay that amount to Lead Class  
15 Counsel on behalf of all Class Counsel.

16 8.1.6 If Class Counsel appeals the Fee and Expense Award and all the  
17 conditions for the Final Settlement Date otherwise have occurred, the Settlement  
18 Administrator shall calculate the Net Settlement Fund based upon the amount of the  
19 fees and expenses sought by Class Counsel in the appeal, and the Settlement  
20 Administrator shall make distributions to Authorized Claimants in accordance with the  
21 Plan of Distribution in Section 3.1.

22 (a) Defendants shall pay the Fee and Expense Award to  
23 Class Counsel in the manner provided for in Section 8.1.4. If the Net Settlement Fund  
24 does not pay all Authorized Claims in accordance with the Plan of Distribution,  
25 Defendants shall deliver to the Settlement Administrator, which shall then hold in the  
26 Escrow Account, such portion of the additional amount that Class Counsel seek on  
27 appeal as would be necessary to pay all Authorized Claims in accordance with the Plan  
28 of Distribution.

1 (b) If, as a result of the appeal, all or a portion of the  
2 amount held in the Escrow Account pursuant to sub-paragraph (a) becomes available  
3 for distribution to Authorized Claimants, the Settlement Administrator shall distribute  
4 that additional amount to the Authorized Claimants as if that additional amount had  
5 been part of the Net Settlement Fund, subject to the limitations in Section 3.1.

6 (c) If, as a result of the appeal, Class Counsel are entitled  
7 to all or any portion of the amount held in the Escrow Account pursuant to  
8 sub-paragraph (a), the Settlement Administrator shall pay that additional amount to  
9 Lead Class Counsel on behalf of all Class Counsel. If, as a result of the appeal, Class  
10 Counsel are entitled to an amount above and beyond that held in the Escrow Account  
11 pursuant to sub-paragraph (a) of this Section 8.1.6, Defendants shall pay that additional  
12 amount to Class Counsel in the manner provided for in Section 8.1.4.

13 (d) If, after the payments in sub-sections (b) and (c) of this  
14 Section 8.1.6, any amount remains in the Escrow Account, the Settlement  
15 Administrator shall return that amount to Defendants.

16 8.1.7 If Defendants or Class Counsel unsuccessfully appeal the Fee  
17 and Expense Award, then the unsuccessful party on appeal shall pay such Settlement  
18 Administration and Notice Expenses as may be incurred in connection with the  
19 supplemental distribution under Section 8.1.5 or 8.1.6.

20 8.2 **Incentive Award.** Class Counsel will apply to the Court for Incentive  
21 Awards of \$15,000.00 to Plaintiff Good Morning to You Productions Corp., and for  
22 \$10,000.00 to each of Plaintiffs Robert Siegel, Rupa Marya d/b/a Rupa & The April  
23 Fishes, and Majar Productions, LLC, which requests Defendants and Intervenors shall  
24 not oppose. Class Counsel shall file their papers supporting any Incentive Award  
25 thirty days (30) after Notice is disseminated to the Settlement Class Members.

26 8.2.1 Defendants shall, within five (5) days of the Final Settlement  
27 Date, pay the amount of the Court-approved Incentive Awards for the Plaintiffs via  
28 check, to be sent care of Lead Class Counsel.

1           8.3     It is not a condition of the Settlement that any Fee and Expense Award  
2 and/or Incentive Award be approved by the Court. Any order or proceeding relating to  
3 the amount of any Fee and Expense Award and/or Incentive Award, or any appeal from  
4 or reversal or modification thereof, shall not operate to modify, terminate or cancel the  
5 Settlement, or affect or delay the Final Order and Judgment.

6 **9.     TERMINATION OF SETTLEMENT**

7           9.1     Defendants may terminate the Settlement at any time within seven (7)  
8 days of the Objection/Exclusion Deadline if Defendants determine that either the  
9 number of or the total Licensing Costs paid by Persons who would otherwise be  
10 members of the Settlement Class, but who have timely and validly submitted requests  
11 for exclusion, equals or exceeds a number set forth in the Confidential Supplemental  
12 Agreement (the “Opt-Out Threshold”). Requests for exclusion from Persons who  
13 would not otherwise meet the Settlement Class definition do not count toward the  
14 Opt-Out Threshold. The Parties shall seek to keep the Opt-Out Threshold confidential.  
15 In the event of a termination of this Settlement Agreement pursuant to the Confidential  
16 Supplemental Agreement, this Agreement shall become null and void.

17           9.2     This Settlement Agreement is being entered into for settlement purposes  
18 only. If the Court conditions its approval of either the Preliminary Approval Order or  
19 the Final Order and Judgment on any modifications of this Settlement Agreement that  
20 are not acceptable to all Parties, or if the Court does not approve the Settlement or enter  
21 the Final Order and Judgment, or if the Final Settlement Date does not occur for any  
22 reason, then this Settlement Agreement will be deemed null and void *ab initio*. In  
23 addition to this Settlement Agreement being deemed null and void *ab initio* and: (a) the  
24 Preliminary Approval Order, and the Final Order and Judgment (if applicable) and all  
25 of its provisions will be vacated by its own terms, including, but not limited to,  
26 vacating conditional certification of the Settlement Class, vacating conditional  
27 appointment of Plaintiffs as Class Representatives, and vacating conditional  
28 appointment of Class Counsel; (b) the Action will revert to the status that existed

1 before the Settlement Agreement's execution date; and (c)(i) no term or draft of this  
2 Settlement Agreement, (ii) nor any part of the Parties' settlement discussions,  
3 communications, negotiations, or documentation (including any declaration or brief  
4 filed in support of the motion for preliminary approval or motion for final approval),  
5 (iii) nor any rulings regarding class certification for settlement purposes (including the  
6 Preliminary Approval Order and, if applicable, the Final Order and Judgment), will  
7 have any effect or be admissible into evidence for any purpose in the Action or any  
8 other proceeding. If the Court does not approve the Settlement or enter the Final Order  
9 and Judgment for any reason, or if the Final Settlement Date does not occur for any  
10 reason, Defendants and Intervenors shall retain all their rights, including, for example,  
11 to object to the maintenance of the Action as a class action, to move for summary  
12 judgment, and to assert any and all defenses at trial, and nothing in this Settlement  
13 Agreement or other papers or proceedings related to the settlement shall be used as  
14 evidence or argument by any Party for any purpose concerning whether the Action,  
15 including whether it may properly be maintained as a class action.

16           9.3 Unless otherwise ordered by the Court, in the event the Settlement  
17 Agreement is terminated for any reason (including without limitation in accordance  
18 with Sections 9.1 or 9.2 hereof), then within ten (10) business days after the Parties  
19 have provided the Court with notice that they are invoking this Section 9.3, the  
20 Settlement Administrator shall return the Settlement Fund (including accrued interest),  
21 less expenses and any costs which have either been disbursed or incurred, including  
22 Taxes and Tax Expenses, to Defendants pursuant to written instructions from  
23 Defendants' Counsel. At the request of Defendants' Counsel, the Settlement  
24 Administrator or its designee shall apply for any tax refund owed on the Settlement  
25 Fund and pay the proceeds, after deduction of any fees or expenses incurred in  
26 connection with such application(s) for refund, to Defendants.

27 **10. NO ADMISSION OF WRONGDOING**

28           10.1 Defendants and Intervenors deny any liability or wrongdoing of any kind

1 associated with the claims alleged and contend that this Action is not appropriate for  
2 class or collective action treatment pursuant to Federal Rule of Civil Procedure 23 or  
3 any other federal or state rule, statute, law, or provision. Defendants and Intervenor  
4 continue to assert that the Action fails to meet the prerequisites necessary for class or  
5 collective action treatment under applicable law. Defendants further deny: (a) that  
6 Warner/Chappell does not own a valid copyright in the Song; (b) Plaintiffs' contention  
7 that the Song is in the public domain; (c) that the Action states any causes of action; (d)  
8 that the practices as to which Plaintiffs seek relief violate any law or are wrongful in  
9 any way whatsoever; (e) that Defendants have breached any contract with Plaintiffs or  
10 any Settlement Class Member; and (f) that either Plaintiffs or any Settlement Class  
11 Member is entitled to any relief whatsoever. Intervenor further: (1) deny that the  
12 Song is in the public domain; (2) believe that if Warner/Chappell does not own a valid  
13 federally registered copyright in the Song, then Intervenor own either the federally  
14 registered copyright or a common law copyright in the Song; (3) deny that the Action  
15 states any valid causes of action; (4) deny that the practices as to which Plaintiffs seek  
16 relief violate any law or are wrongful in any way whatsoever; and (5) deny that either  
17 Plaintiffs or any Settlement Class Member is entitled to any relief whatsoever.

18 10.2 Defendants and Intervenor further agree that notwithstanding their good  
19 faith belief that they are not liable for any of the claims asserted, and despite their good  
20 faith belief that certification is not appropriate, they will not oppose the Court's  
21 certification of the Settlement Class contemplated by this Agreement solely for  
22 purposes of effectuating this Settlement Agreement. Other than for purposes of this  
23 Settlement, Defendants and Intervenor do not waive their objections to certification of  
24 the Settlement Class, or any other class, in this Action as a litigation class.

25 10.3 Plaintiffs contend that they initiated and litigated this Action in good  
26 faith based upon their and Plaintiffs' Counsel's investigation of the facts and the law,  
27 and that this Action is appropriate for class action treatment, but nonetheless believe in  
28 good faith that the Settlement is a fair, reasonable, and adequate resolution of the

1 claims asserted in the Action on behalf of the purported class.

2           10.4 Neither this Agreement, including all exhibits, orders or other documents  
3 referred to herein, nor any terms or provisions of the Settlement Agreement or any of  
4 the negotiations or proceedings related to this Settlement Agreement, whether or not  
5 consummated, shall be:

6           10.4.1 offered or received against Defendants, Intervenors, or any other  
7 Released Party as evidence of, or construed as or deemed to be evidence of, any  
8 presumption, concession, or admission by Defendants or Intervenors or any Released  
9 Party of the truth of any fact alleged by Plaintiffs or the validity of any claim that has  
10 been or could have been asserted in the Action or in any litigation, or the deficiency of  
11 any defense that has been or could have been asserted in the Action or in any litigation,  
12 or of any liability, negligence, fault, or wrongdoing of Defendants, Intervenors, or any  
13 Released Party;

14           10.4.2 offered or received against Defendants, Intervenors, or any  
15 Released Party as evidence of a presumption, concession, or admission of any fault,  
16 misrepresentation, or omission with respect to any statement or written document  
17 approved or made by Defendants, Intervenors, or any Released Party;

18           10.4.3 offered or received against Defendants, Intervenors, or any  
19 Released Party as evidence of a presumption, concession, or admission of any liability,  
20 negligence, fault or wrongdoing, or in any way referred to for any other reason as  
21 against any of the parties to this Agreement, in any other civil, criminal, or  
22 administrative action or proceeding, other than such proceedings as may be necessary  
23 to effectuate the provisions of this Agreement; provided, however, that if this  
24 Agreement is approved by the Court, Defendants, Intervenors, or any Released Party  
25 may refer to it to effectuate the liability protection granted hereunder; or

26           10.4.4 construed against Defendants, Intervenors, or any Released Party  
27 or Plaintiffs and the Settlement Class as an admission or concession that the  
28 consideration to be given hereunder represents the amount that could be or would have

1 been recovered after trial.

2 **11. ADDITIONAL PROVISIONS**

3 11.1 All of the exhibits attached hereto are hereby incorporated by reference  
4 as though fully set forth herein.

5 11.2 The Parties: (a) acknowledge that it is their intent to consummate this  
6 Settlement Agreement; and (b) agree, subject to their fiduciary and other legal  
7 obligations, to cooperate to the extent reasonably necessary to effectuate and  
8 implement all terms and conditions of this Settlement Agreement and to exercise their  
9 reasonable best efforts to accomplish the foregoing terms and conditions of this  
10 Settlement Agreement. The Parties, Class Counsel, Defendants' Counsel, and  
11 Intervenors' Counsel agree to cooperate with one another in seeking Court approval of  
12 the Preliminary Approval Order, the Settlement Agreement, and the Final Order and  
13 Judgment, and promptly to agree upon and execute all such other documentation as  
14 may be reasonably required to obtain final approval of the Settlement Agreement.

15 11.3 All time periods and dates described in this Settlement Agreement are  
16 subject to the Court's approval. These time periods and dates may be changed by the  
17 Court or by the Parties' written agreement without notice to the Settlement Class. The  
18 Parties reserve the right, subject to the Court's approval, to make any reasonable  
19 extensions of time that might be necessary to carry out any provisions of this  
20 Settlement Agreement.

21 11.4 The Parties intend this Settlement Agreement to be a final and complete  
22 resolution of all disputes between them with respect to the Released Claims by the  
23 Releasing Parties and each or any of them, on the one hand, against the Released  
24 Parties, and each or any of them, on the other hand.

25 11.5 The Parties executed this Settlement Agreement voluntarily and without  
26 duress or undue influence.

27 11.6 The Parties have relied upon the advice and representation of counsel,  
28 selected by them, concerning their respective legal liability for the claims hereby

1 released. The Parties have read and understand fully this Settlement Agreement and  
2 have been fully advised as to the legal effect thereof by counsel of their own selection  
3 and intend to be legally bound by the same.

4 11.7 Whether or not the Final Settlement Date occurs or the Settlement  
5 Agreement is terminated, neither this Settlement Agreement nor the settlement  
6 contained in this Settlement Agreement, nor any act performed or document executed  
7 pursuant to or in furtherance of this Settlement Agreement or the settlement:

8 11.7.1 is, may be deemed, or shall be used, offered or received against  
9 the Released Parties, or each or any of them, as an admission, concession, or evidence  
10 of, the validity of any Released Claims, the truth of any fact alleged by any Releasing  
11 Party, the deficiency of any defense that has been or could have been asserted in the  
12 Action, the violation of any law or statute, the reasonableness of the settlement amount  
13 or the Fee and Expense Award, or of any alleged wrongdoing, liability, negligence or  
14 fault of the Released Parties, or any of them;

15 11.7.2 is, may be deemed, or shall be used, offered, or received against  
16 the Settlement Class or any other Releasing Party as an admission, concession, or  
17 evidence of any fault, misrepresentation, or omission with respect to any statement or  
18 written document approved or made by the Releasing Parties, or any of them;

19 11.7.3 is, may be deemed, or shall be used, offered, or received against  
20 the Released Parties, or each or any of them, as an admission or concession with  
21 respect to any liability, negligence, fault or wrongdoing as against any Released  
22 Parties, in any civil, criminal, or administrative proceeding in any court, administrative  
23 agency, or other tribunal. However, the settlement, this Settlement Agreement, and  
24 any acts performed and/or documents executed in furtherance of or pursuant to this  
25 Settlement Agreement and/or Settlement may be used in any proceedings as may be  
26 necessary to effectuate the provisions of this Settlement Agreement. Notwithstanding  
27 the foregoing, if this Settlement Agreement is approved by the Court and the Final  
28 Settlement Date occurs, any of the Parties or any of the Released Parties may file this

1 Settlement Agreement and/or the Final Order and Judgment in any action that may be  
2 brought against such Party or Parties in order to support a defense or counterclaim  
3 based on principles of *res judicata*, collateral estoppel, release, good faith settlement,  
4 judgment bar or reduction, or any other theory of claim preclusion or issue preclusion  
5 or similar defense or counterclaim;

6 11.7.4 is, may be deemed, or shall be construed against the Releasing  
7 Parties, or each or any of them, or against the Released Parties, or each or any of them,  
8 as an admission or concession that the consideration to be given hereunder represents  
9 an amount equal to, less than, or greater than that amount that could have or would  
10 have been recovered after trial; and

11 11.7.5 is, may be deemed, or shall be construed as or received in  
12 evidence as an admission or concession against the Releasing Parties, or each and any  
13 of them, or against the Released Parties, or each or any of them, that any of the  
14 Releasing Parties' claims are with or without merit or that damages recoverable in the  
15 Action or any other action or proceeding would have exceeded or would have been less  
16 than any particular amount.

17 11.8 The headings used in this Settlement Agreement are used for the purpose  
18 of convenience only and are not meant to have legal effect.

19 11.9 The Recitals are incorporated by this reference and are part of the  
20 Settlement Agreement.

21 11.10 The waiver by one Party of any breach of this Settlement Agreement by  
22 any other Party shall not be deemed as a waiver of any other prior or subsequent  
23 breaches of this Settlement Agreement.

24 11.11 The Parties must execute and deliver any additional papers, documents,  
25 and other assurances, and must do any other acts reasonably necessary to perform their  
26 obligations under this Settlement Agreement and to carry out this Settlement  
27 Agreement's expressed intent.

28 11.12 This Settlement Agreement sets forth the entire agreement and

1 understanding of the Parties with respect to the matter set forth herein, and supersedes  
2 all prior negotiations, agreements, arrangements, and undertakings with respect to the  
3 matters set forth herein. No representations, warranties, or inducements have been  
4 made to any Party concerning this Settlement Agreement other than the  
5 representations, warranties, and covenants contained and memorialized in such  
6 documents. This Settlement Agreement may be amended or modified only by a written  
7 instrument signed by or on behalf of all Parties or their respective  
8 successors-in-interest.

9       11.13 Any inconsistency between this Settlement Agreement and Release and  
10 its attached exhibits, comprising the Settlement Agreement, will be resolved in favor  
11 of this Settlement Agreement and Release.

12       11.14 Except as otherwise provided in this Settlement Agreement, each Party  
13 shall bear its own fees and costs.

14       11.15 All Releasing Parties represent and warrant that they have not assigned,  
15 granted, or transferred any claim or right or interest therein as against the Released  
16 Parties to any other Person and that they are fully entitled to release the same.

17       11.16 Nothing in this Settlement Agreement, the negotiations, and the  
18 mediation relating thereto is intended to or shall be deemed to constitute a waiver of  
19 any applicable privilege or immunity, including without limitation the attorney-client  
20 privilege or work product immunity, by any Party.

21       11.17 Each counsel or other Person executing this Settlement Agreement or  
22 any related settlement documents on behalf of any party to this Settlement Agreement  
23 warrants and represents that such Person has the full authority to do so and has the  
24 authority to take appropriate action required or permitted to be taken pursuant to the  
25 Settlement Agreement to effectuate its terms.

26       11.18 This Settlement Agreement may be executed in one or more  
27 counterparts. Signature by digital, facsimile, or in PDF format will constitute  
28 sufficient execution of the Settlement Agreement. All executed counterparts and each

1 of them shall be deemed to be one and the same instrument. A complete set of original  
2 executed counterparts shall be filed with the Court if the Court so requests.

3 11.19 This Settlement Agreement shall be binding on, and inure to the benefit  
4 of, the successors and assigns of the Parties to this Agreement and the Released Parties.

5 11.20 The Court shall retain jurisdiction with respect to implementation and  
6 enforcement of the terms of this Settlement Agreement, and all Parties to this  
7 Settlement Agreement submit to the jurisdiction of the Court for purposes of  
8 implementing and enforcing the settlement embodied in this Settlement Agreement.

9 11.21 No opinion or advice concerning the tax consequences of the proposed  
10 Settlement Agreement to individual Settlement Class Members is being given or will  
11 be given by Class Counsel, Defendants' Counsel or Intervenors' Counsel; nor is any  
12 representation or warranty in this regard made by virtue of this Agreement. Each  
13 Settlement Class Member's tax obligations, and the determination thereof, are the sole  
14 responsibility of the Settlement Class Member, and it is understood that the tax  
15 consequences may vary depending on the particular circumstances of each individual  
16 Settlement Class Member.

17 11.22 This Settlement Agreement and any claim, cause of action, or dispute  
18 among the Parties arising out of or relating to this Settlement Agreement shall be  
19 governed by, interpreted under, and enforced in accordance with the laws of the State  
20 of California without regard to any conflict-of-law principles that may otherwise  
21 provide for the application of the law of another jurisdiction.

22 11.23 This Settlement Agreement is deemed to have been prepared by counsel  
23 for all Parties, as a result of arm's-length negotiations among the Parties with the aid of  
24 a neutral mediator. Whereas all Parties have contributed substantially and materially  
25 to the preparation of this Settlement Agreement, it shall not be construed more strictly  
26 against one party than another.

27 11.24 Where this Settlement Agreement requires notice to the Parties, such  
28 notice shall be sent to Class Counsel, Defendants' Counsel and Intervenors' Counsel.

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Dated: March 2, 2016

By: Jennifer  
Good Morning to You Productions  
Corp., individually and on behalf of  
the Settlement Class

By: \_\_\_\_\_  
Robert Siegel, individually and on  
behalf of the Settlement Class

By: \_\_\_\_\_  
Rupa Marya d/b/a Rupa & The April  
Fishes, individually and on behalf of  
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By: \_\_\_\_\_  
Majar Productions, LLC,  
individually and on behalf of the  
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Dated: March 2, 2016

WARNER MUSIC GROUP

By: \_\_\_\_\_  
Paul Robinson, Esq.  
Executive Vice President and  
General Counsel

Dated: March 2, 2016

WARNER/CHAPPELL MUSIC, INC.

By: \_\_\_\_\_  
Scott McDowell, Esq.  
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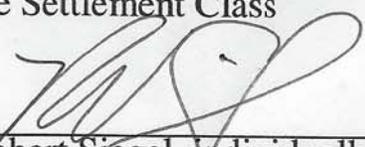
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Diane Whitehead  
Executive Director

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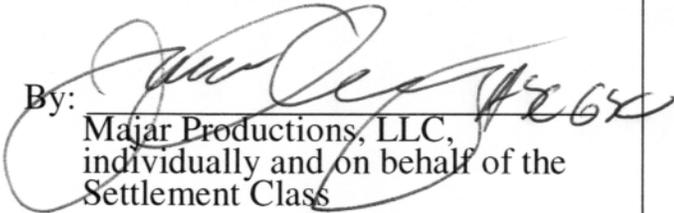
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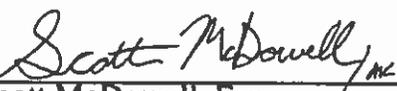
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Dated: March 2, 2016

ASSOCIATION FOR CHILDHOOD  
EDUCATION INTERNATIONAL

By: Diane Whitehead  
Diane Whitehead  
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1 Dated: March 2, 2016

HILL FOUNDATION, INC.

2  
3 By: Diane Whitehead  
4 Diane Whitehead  
Executive Director

5 **APPROVED AS TO FORM BY COUNSEL:**

6  
7 Dated: March 2, 2016

WOLF HALDENSTEIN ADLER FREEMAN  
& HERZ LLP

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9 Attorneys for Plaintiffs and Lead Class  
Counsel

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11 By: \_\_\_\_\_  
12 Mark C. Rifkin, Esq.  
13 Betsy C. Manifold, Esq.  
14 Janine L. Pollack, Esq.

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& HERZ LLP

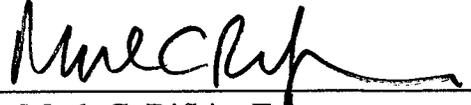
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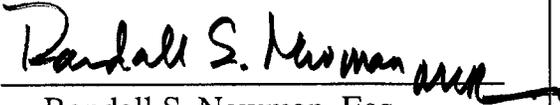
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7 Dated: March 2, 2016

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Kara M. Wolke, Esq. *authorized*

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