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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

HALOSONGS, INC.,
MARTIN HARRINGTON, and
THOMAS LEONARD,

Plaintiffs,

vs.

EDWARD CHRISTOPHER SHEERAN p/k/a
ED SHEERAN, ED SHEERAN LIMITED,
NATHAN CABLE TOURING LLP, JOHN
"JOHNNY" MCDAID, SONY/ATV SONGS
LLC, SONY/ATV MUSIC PUBLISHING
(UK) LIMITED, POLAR PATROL MUSIC
LIMITED d/b/a POLAR PATROL MUSIC
PUBLISHING, WARNER MUSIC UK LTD.,
WARNER MUSIC GROUP CORPORATION
d/b/a ASYLUM RECORDS, and ATLANTIC
RECORDING CORPORATION d/b/a
ATLANTIC,

Defendants.

) Case No. 8:16-cv-01062 JVS-JCG

) **STIPULATED**
) **PROTECTIVE ORDER**

1 The above-captioned Plaintiffs and Defendants (collectively, the “Parties”)
2 hereby stipulate to the entry of a Protective Order in the above-captioned action as
3 follows:

4 **1. PURPOSES AND LIMITATIONS AND GOOD CAUSE STATEMENT**

5 A. Purposes and Limitations

6 This action involves discovery which may require the production of confidential,
7 proprietary, or private information for which special protection from public disclosure
8 and from use for any purpose other than in this litigation may be warranted.

9 Accordingly, the Parties hereby stipulate to and petition the Court to enter the
10 following Stipulated Protective Order. The parties acknowledge that this Order does
11 not confer blanket protections on all disclosures or responses to discovery and that the
12 protection it affords from public disclosure and use extends only to the limited
13 information or items that are entitled to confidential treatment under the applicable
14 legal principles. The Parties further acknowledge, as set forth in Section 12.3 below,
15 that this Stipulated Protective Order does not entitle them to file confidential
16 information under seal. Civil Local Rule 79-5 sets forth the procedures that must be
17 followed and the standards that will be applied when a party seeks permission from the
18 court to file material under seal.

19 B. Good Cause Statement

20 This action involves confidential information including but not limited to
21 recording, publishing, and royalty agreements as well as revenue information, financial
22 statements and sensitive commercial agreements. Such information is highly private
23 and merits special protection from the public disclosure or use for any purpose other
24 than in this action. This confidential business and financial information includes
25 information generally unavailable to the public, or which may be privileged or
26 otherwise protected from disclosure under state or federal statutes, court rules, case
27 decisions, or common law. Accordingly, to expedite the flow of information, to
28 facilitate the prompt resolution of disputes over confidentiality of discovery materials,

1 to adequately protect information the Parties are entitled to keep confidential, to ensure
2 that the Parties are permitted reasonable necessary uses of such material in preparation
3 for and in the conduct of any proceedings in this matter, to address their handling at the
4 end of the litigation, and serve the ends of justice, a protective order for such
5 information is justified in this matter. It is the intent of the Parties that information will
6 not be designated as confidential for tactical reasons and that nothing be so designated
7 without a good faith belief that it has been maintained in a confidential, non-public
8 manner, and there is good cause why it should not be part of the public record.

9 **2. DEFINITIONS**

10 2.1 Action: *HaloSongs, Inc. v. Sheeran*, United States District Court, Central
11 District of California, Case No. 8:16-cv-01062 JVS-JCG.

12 2.2 Challenging Party: a Party or Non-Party that challenges the designation of
13 information or items under this Order.

14 2.3 “CONFIDENTIAL” Information or Items: information (regardless of how
15 it is generated, stored or maintained) or tangible things that qualify for protection under
16 Federal Rule of Civil Procedure 26(c), that contain sensitive financial, personal and/or
17 competitive commercial information, and as specified above in the Good Cause
18 Statement.

19 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their
20 support staff).

21 2.5 Designating Party: a Party or Non-Party that designates information or
22 items that it produces in disclosures or in responses to discovery as
23 “CONFIDENTIAL.”

24 2.6 Disclosure or Discovery Material: all items or information, regardless of
25 the medium or manner in which it is generated, stored, or maintained (including,
26 among other things, testimony, transcripts, and tangible things), that are produced or
27 generated in disclosures or responses to discovery in this matter.

28

1 2.7 Expert: a person with specialized knowledge or experience in a matter
2 pertinent to the Action who has been retained by a Party or its counsel to serve as an
3 expert witness or as a consultant in this Action.

4 2.8 House Counsel: attorneys who are employees of a party to this Action.
5 House Counsel does not include Outside Counsel of Record or any other outside
6 counsel.

7 2.9 Non-Party: any natural person, partnership, corporation, association, or
8 other legal entity not named as a Party to this action.

9 2.10 Outside Counsel of Record: attorneys who are not employees of a party to
10 this Action but are retained to represent or advise a party to this Action and have
11 appeared in this Action on behalf of that party or are affiliated with a law firm which
12 has appeared on behalf of that party, and includes support staff.

13 2.11 Party: any party to this Action, including all of its officers, directors,
14 employees, consultants, retained experts, and Outside Counsel of Record (and their
15 support staffs).

16 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
17 Discovery Material in this Action.

18 2.13 Professional Vendors: persons or entities that provide litigation support
19 services (e.g., photocopying, videotaping, translating, preparing exhibits or
20 demonstrations, and organizing, storing, or retrieving data in any form or medium) and
21 their employees and subcontractors.

22 2.14 Protected Material: any Disclosure or Discovery Material that is
23 designated as “CONFIDENTIAL.”

24 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material
25 from a Producing Party.

26 **3. SCOPE**

27 The protections conferred by this Stipulation and Order cover not only
28 Protected Material (as defined above), but also (1) any information copied or

1 extracted from Protected Material; (2) all copies, excerpts, summaries, or
2 compilations of Protected Material; and (3) any testimony, conversations, or
3 presentations by Parties or their Counsel that might reveal Protected Material.
4 Any use of Protected Material at trial shall be governed by the orders of the
5 trial judge. This Order does not govern the use of Protected Material at trial.

6 **4. DURATION**

7 Even after final disposition of this litigation, the confidentiality obligations
8 imposed by this Order shall remain in effect until a Designating Party agrees otherwise
9 in writing or a court order otherwise directs. Final disposition shall be deemed to be the
10 later of (1) dismissal of all claims and defenses in this Action, with or without
11 prejudice; and (2) final judgment herein after the completion and exhaustion of all
12 appeals, rehearings, remands, trials, or reviews of this Action, including the time limits
13 for filing any motions or applications for extension of time pursuant to applicable law.

14 **5. DESIGNATING PROTECTED MATERIAL**

15 5.1 Exercise of Restraint and Care in Designating Material for Protection.

16 Each Party or Non-Party that designates information or items for protection under this
17 Order must take care to limit any such designation to specific material that qualifies
18 under the appropriate standards. The Designating Party must designate for protection
19 only those parts of material, documents, items, or oral or written communications that
20 qualify so that other portions of the material, documents, items, or communications for
21 which protection is not warranted are not swept unjustifiably within the ambit of this
22 Order. Mass, indiscriminate, or routinized designations are prohibited. Designations
23 that are shown to be clearly unjustified or that have been made for an improper purpose
24 (e.g., to unnecessarily encumber the case development process or to impose
25 unnecessary expenses and burdens on other parties) may expose the Designating Party
26 to sanctions. If it comes to a Designating Party's attention that information or items
27 that it designated for protection do not qualify for protection, that Designating Party
28

1 must promptly notify all other Parties that it is withdrawing the inapplicable
2 designation.

3 5.2 Manner and Timing of Designations. Except as otherwise provided in this
4 Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated
5 or ordered, Disclosure or Discovery Material that qualifies for protection under this
6 Order must be clearly so designated before the material is disclosed or produced.
7 Designation in conformity with this Order requires:

8 (a) for information in documentary form (e.g., paper or electronic documents,
9 but excluding transcripts of depositions or other pretrial or trial proceedings), that the
10 Producing Party affix at a minimum, the legend “CONFIDENTIAL” (hereinafter
11 “CONFIDENTIAL legend”), to each page that contains protected material. If only a
12 portion or portions of the material on a page qualifies for protection, the Producing
13 Party also must clearly identify the protected portion(s) (e.g., by making appropriate
14 markings in the margins). A Party or Non-Party that makes original documents
15 available for inspection need not designate them for protection until after the
16 inspecting Party has indicated which documents it would like copied and produced.
17 During the inspection and before the designation, all of the material made available for
18 inspection shall be deemed “CONFIDENTIAL.” After the inspecting Party has
19 identified the documents it wants copied and produced, the Producing Party must
20 determine which documents, or portions thereof, qualify for protection under this
21 Order. Then, before producing the specified documents, the Producing Party must affix
22 the “CONFIDENTIAL legend” to each page that contains Protected Material. If only a
23 portion or portions of the material on a page qualifies for protection, the Producing
24 Party also must clearly identify the protected portion(s) (e.g., by making appropriate
25 markings in the margins).

26 (b) for testimony given in depositions, that the Designating Party identify the
27 Disclosure or Discovery Material on the record, before the close of the deposition all
28 protected testimony, or within 21 days of receiving the final transcript, notify the

1 Receiving Party in writing that it is designating the testimony, or portions thereof, as
2 Confidential.

3 (c) for information produced in some form other than documentary and for
4 any other tangible items, that the Producing Party affix in a prominent place on the
5 exterior of the container or containers in which the information is stored the legend
6 “CONFIDENTIAL.” If only a portion or portions of the information warrants
7 protection, the Producing Party, to the extent practicable, shall identify the protected
8 portion(s).

9 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
10 failure to designate qualified information or items does not, standing alone, waive the
11 Designating Party’s right to secure protection under this Order for such material. Upon
12 timely correction of a designation, the Receiving Party must make reasonable efforts to
13 assure that the material is treated in accordance with the provisions of this Order.

14 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

15 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
16 designation of confidentiality at any time that is consistent with the Court’s Scheduling
17 Order.

18 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
19 resolution process under Local Rule 37.1 et seq.

20 6.3 The burden of persuasion in any such challenge proceeding shall be on the
21 Designating Party. Frivolous challenges, and those made for an improper purpose (e.g.,
22 to harass or impose unnecessary expenses and burdens on other parties) may expose
23 the Challenging Party to sanctions. Unless the Designating Party has waived or
24 withdrawn the confidentiality designation, all parties shall continue to afford the
25 material in question the level of protection to which it is entitled under the Producing
26 Party’s designation until the Court rules on the challenge.

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1 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

2 7.1 Basic Principles. A Receiving Party may use Protected Material that is
3 disclosed or produced by another Party or by a Non-Party in connection with this
4 Action only for prosecuting, defending, or attempting to settle this Action. Such
5 Protected Material may be disclosed only to the categories of persons and under the
6 conditions described in this Order. When the Action has been terminated, a Receiving
7 Party must comply with the provisions of section 13 below (FINAL DISPOSITION).
8 Protected Material must be stored and maintained by a Receiving Party at a location
9 and in a secure manner that ensures that access is limited to the persons authorized
10 under this Order.

11 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise
12 ordered by the court or permitted in writing by the Designating Party, a Receiving
13 Party may disclose any information or item designated “CONFIDENTIAL” only to:

14 (a) the Receiving Party’s Outside Counsel of Record in this Action, as well as
15 employees of said Outside Counsel of Record to whom it is reasonably necessary to
16 disclose the information for this Action;

17 (b) the officers, directors, and employees (including House Counsel) of the
18 Receiving Party to whom disclosure is reasonably necessary for this Action. To the
19 extent a Party to this action is a natural person, disclosure may be made to such person
20 if reasonably necessary for this action;

21 (c) Experts (as defined in this Order) of the Receiving Party to whom
22 disclosure is reasonably necessary for this Action and who have signed the
23 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

24 (d) the court and its personnel;

25 (e) court reporters and their staff;

26 (f) professional jury or trial consultants, mock jurors, and Professional
27 Vendors to whom disclosure is reasonably necessary for this Action and who have
28 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

1 (g) the author or recipient of a document containing the information or a
2 custodian or other person who otherwise possessed or knew the information;

3 (h) during their depositions, witnesses, and attorneys for witnesses, in the
4 Action to whom disclosure is reasonably necessary provided: (1) the deposing party
5 requests that the witness sign the form attached as Exhibit A hereto; and (2) they will
6 not be permitted to keep any confidential information unless they sign the
7 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise agreed
8 by the Designating Party or ordered by the court. Pages of transcribed deposition
9 testimony or exhibits to depositions that reveal Protected Material may be separately
10 bound by the court reporter and may not be disclosed to anyone except as permitted
11 under this Stipulated Protective Order; and

12 (i) any mediator or settlement officer, and their supporting personnel,
13 mutually agreed upon by any of the parties engaged in settlement discussions.

14 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
15 **PRODUCED IN OTHER LITIGATION**

16 If a Party is served with a subpoena or a court order issued in other litigation that
17 compels disclosure of any information or items designated in this Action as
18 “CONFIDENTIAL,” that Party must:

19 (a) promptly notify in writing the Designating Party. Such notification shall
20 include a copy of the subpoena or court order;

21 (b) promptly notify in writing the party who caused the subpoena or order to
22 issue in the other litigation that some or all of the material covered by the subpoena or
23 order is subject to this Protective Order. Such notification shall include a copy of this
24 Stipulated Protective Order; and

25 (c) cooperate with respect to all reasonable procedures sought to be pursued
26 by the Designating Party whose Protected Material may be affected. If the Designating
27 Party timely seeks a protective order, the Party served with the subpoena or court order
28 shall not produce any information designated in this action as “CONFIDENTIAL”

1 before a determination by the court from which the subpoena or order issued, unless
2 the Party has obtained the Designating Party's permission. The Designating Party shall
3 bear the burden and expense of seeking protection in that court of its confidential
4 material and nothing in these provisions should be construed as authorizing or
5 encouraging a Receiving Party in this Action to disobey a lawful directive from
6 another court.

7 **9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE**
8 **PRODUCED IN THIS LITIGATION**

9 (a) The terms of this Order are applicable to information produced by a Non-
10 Party in this Action and designated as "CONFIDENTIAL." Such information produced
11 by Non-Parties in connection with this litigation is protected by the remedies and relief
12 provided by this Order. Nothing in these provisions should be construed as prohibiting
13 a Non-Party from seeking additional protections.

14 (b) In the event that a Party is required, by a valid discovery request, to
15 produce a Non-Party's confidential information in its possession, and the Party is
16 subject to an agreement with the Non-Party not to produce the Non-Party's
17 confidential information, then the Party shall: (1) promptly notify in writing the
18 Requesting Party and the Non-Party that some or all of the information requested is
19 subject to a confidentiality agreement with a Non-Party; (2) promptly provide the Non-
20 Party with a copy of the Stipulated Protective Order in this Action, the relevant
21 discovery request(s), and a reasonably specific description of the information
22 requested; and (3) make the information requested available for inspection by the Non-
23 Party, if requested.

24 (c) If the Non-Party fails to seek a protective order from this court within 14
25 days of receiving the notice and accompanying information, the Party in possession of
26 the Non-Party's confidential information may produce such information unless doing
27 so would be inconsistent with the Party's preexisting agreement with the Non-Party. If
28 the Non-Party timely seeks a protective order, the Receiving Party shall not produce

1 any information in its possession or control that is subject to the confidentiality
2 agreement with the Non-Party before a determination by the court. Absent a court
3 order to the contrary, the Non-Party shall bear the burden and expense of seeking
4 protection in this court of its Protected Material.

5 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

6 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
7 Protected Material to any person or in any circumstance not authorized under this
8 Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing
9 the Designating Party of the unauthorized disclosures; (b) use its best efforts to retrieve
10 all unauthorized copies of the Protected Material; (c) inform the person or persons to
11 whom unauthorized disclosures were made of all the terms of this Order; and (d)
12 request such person or persons to execute the “Acknowledgment and Agreement to Be
13 Bound” that is attached hereto as Exhibit A.

14 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
15 **PROTECTED MATERIAL**

16 When a Producing Party gives notice to Receiving Parties that certain
17 inadvertently produced material is subject to a claim of privilege or other protection,
18 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
19 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
20 may be established in an e-discovery order that provides for production without prior
21 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
22 parties reach an agreement on the effect of disclosure of a communication or
23 information covered by the attorney-client privilege or work product protection, the
24 parties may incorporate their agreement in the stipulated protective order submitted to
25 the court.

26 **12. MISCELLANEOUS**

27 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
28 person to seek its modification by the Court in the future.

1 12.2 Right to Assert Other Objections. By stipulating to the entry of this
2 Protective Order no Party waives any right it otherwise would have to object to
3 disclosing or producing any information or item on any ground not addressed in this
4 Stipulated Protective Order. Similarly, no Party waives any right to object on any
5 ground to use in evidence of any of the material covered by this Protective Order.

6 12.3 Filing Protected Material. A Party that seeks to file under seal any
7 Protected Material must comply with Civil Local Rule 79-5. Protected Material may
8 only be filed under seal pursuant to a court order authorizing the sealing of the specific
9 Protected Material at issue. If a Party's request to file Protected Material under seal is
10 denied by the court, then the Receiving Party may file the information in the public
11 record unless otherwise instructed by the court.

12 12.4 Non-Waiver of Jurisdictional Defenses. Certain of the Defendants have
13 moved to dismiss the First Amended Complaint pursuant to Fed. R. Civ. P. 12(b)(2)
14 based on this Court's lack of personal jurisdiction over them. By agreeing to this
15 Stipulated Protective Order, those Defendants expressly reserve, and do not waive,
16 their objection to this Court's jurisdiction over them and do not consent to the
17 jurisdiction of this Court.

18 **13. FINAL DISPOSITION**

19 After the final disposition of this Action, as defined in paragraph 4, within 60
20 days of a written request by the Designating Party, each Receiving Party must return
21 all Protected Material to the Producing Party or destroy such material. As used in this
22 subdivision, "all Protected Material" includes all copies, abstracts, compilations,
23 summaries, and any other format reproducing or capturing any of the Protected
24 Material. Whether the Protected Material is returned or destroyed, the Receiving Party
25 must submit a written certification to the Producing Party (and, if not the same person
26 or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by
27 category, where appropriate) all the Protected Material that was returned or destroyed;
28 and (2) affirms that the Receiving Party has not retained any copies, abstracts,

1 compilations, summaries or any other format reproducing or capturing any of the
2 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an
3 archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts,
4 legal memoranda, correspondence, deposition and trial exhibits, expert reports,
5 attorney work product, and consultant and expert work product, even if such materials
6 contain Protected Material. Any such archival copies that contain or constitute
7 Protected Material remain subject to this Protective Order as set forth in Section 4
8 (DURATION).

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1 **14. VIOLATIONS OF THIS ORDER**

2 Any violation of this Order may be punished by any and all appropriate
3 measures including, without limitation, contempt proceedings and/or monetary
4 sanctions.

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6 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD

7
8 **PRYOR CASHMAN LLP**

9
10 Dated: November 15, 2016 By: /s/ Michael J. Niborski
11 Michael J. Niborski
12 *mniborski@pryorcashman.com*

13 Attorneys for Defendants

14
15 **KING & BALLOW**

16 Dated: November 15, 2016 By: /s/ Paul Duvall
17 Paul Duvall
18 *pduvall@kingballow.com*

19 Attorneys for Plaintiffs

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21 **ORDER**

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23 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

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25 DATED: November 21, 2016

26 
27 Judge J. _____
28 United States Magistrate Judge

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, [NAME] of [ADDRESS], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Central District of California on [DATE] in the case of *HaloSongs, Inc. v. Sheeran*, United States District Court, Central District of California, Case No. 8:16-cv-01062 JVS-JCG.

I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action. I hereby appoint [NAME] of [ADDRESS] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed:

Signature: _____

Printed Name: _____