

**ADVANCED ROYALTY TRACKING LLC**  
**NON-RECOURSE LOAN AND SECURITY AGREEMENT**

This Agreement dated as of \_\_\_\_\_, \_\_\_\_, is between Advanced Royalty Tracking, LLC, a Delaware limited liability company (the “Lender”), and \_\_\_\_\_ (the “Borrower”). The Borrower Loan number (the “Borrower Loan Number”) is \_\_\_\_\_.

**ARTICLE 1. LINE OF CREDIT AMOUNT AND TERMS**

1.1. Line of Credit Amount.

(a) During the Availability Period (as defined in Section 1.2(a) below), the Lender will provide a line of credit to the Borrower. The amount of the line of credit (the “Commitment”) is \$ \_\_\_\_\_. Lender may increase the Commitment at its discretion during the Availability Period.

(b) This is a revolving line of credit. During the Availability Period, the Borrower may repay principal amounts and reborrow them.

(c) During the Availability Period, the Borrower may request an advance in an amount of up to the difference between (i) the balance of advances then outstanding that have not been repaid, plus accrued and unpaid interest thereon, and (ii) the Commitment. Lender in its discretion may also approve advances in excess of the Commitment that are excluded from the line of credit and may not be reborrowed against once they are repaid.

(d)

1.2. Availability Period.

(a) This line of credit is available between the date of this Agreement and the first anniversary of such date, the death of the Borrower in the case of a Borrower that is a natural person, the dissolution of the Borrower in the case of a Borrower that is an entity or such earlier date as the availability may terminate as a result of an Event of Default or for any other reason as provided in this Agreement, whether by voluntary termination, acceleration or otherwise (such period being the “Availability Period” and the last day of the Availability Period being referred to as the “Availability Termination Date”).

(b) After the Availability Termination Date, Lender shall not be obligated to make additional advances to Borrower.

1.3. Interest Rate and Payment Terms. Interest shall accrue on all outstanding Obligations (as defined in Section 3.1(a) below) at a rate equal to 13% (a daily rate of .03562% on outstanding balance compounded daily) an APR equivalent of 13.8802%. Lender does not intend to charge or collect anything more than the law allows. If Lender charges or collects anything more than the law allows, it will apply the excess first to the unpaid principal amount of advances, and Lender will refund any excess if Borrower has paid such amount in full.

1.4. Repayment Terms. Outstanding Obligations shall be repaid from accumulated proceeds received by the Lender in respect of the Royalty Collateral in accordance with the following:

(a) At any time prior to the Availability Termination Date and at any time following the last day of the last Monthly Period (as defined in Section 1.4(b) below), the Lender shall apply all proceeds of the Royalty Collateral received by the Lender on the Business Day immediately following the receipt of such proceeds in the following order of priority: (i) first, to the payment of all Expenses due to Lender; (ii) second, the remainder, if any, to the payment of all accrued and unpaid interest on the Obligations until such accrued and unpaid interest has been paid in full; (iii) third, the remainder, if any, to the payment of all other outstanding Obligations due to Lender in any order determined by Lender until all outstanding Obligations due Lender have been paid in full in cash; and (iv) thereafter, the remainder, if any, to the Borrower, which application pursuant to this clause (iv) shall be made within 5 Business Days of the Lender’s receipt of the related proceeds.

(b) At any time on and following the Availability Termination Date through the last day of the last Monthly Period, the Lender shall apply all proceeds of the Royalty Collateral received by the Lender on the Business Day immediately following the receipt of such proceeds in the following order of priority: (i) first, to the payment of all accrued and unpaid interest on the Obligations until such accrued and unpaid interest has been paid in full; (ii) second, the remainder, if any, to the payment of all outstanding Monthly Amounts (as defined below in this Section 1.4(b)) for the Monthly Periods ending on or prior to the date of

payment (with such payment being applied first, to outstanding Expenses, and second, to other outstanding Obligations in any order determined by Lender); and (iii) thereafter, the remainder, if any, to the Borrower, which application pursuant to this clause (iii) shall be made within 5 Business Days of the Lender's receipt of the related proceeds. "Monthly Amount" with respect to each Monthly Period means an amount equal to 1/60<sup>th</sup> of the outstanding Obligations (other than accrued and unpaid interest) as of the Advance Termination Date. "Monthly Period" means the first full month following the Advance Termination Date and each of the following 59 months.

(c) The Obligations shall mature and become due and payable on the thirtieth anniversary of the Availability Termination Date.

1.5. Non Recourse to Borrower. In the absence of an Event of Default (as defined in Article 8.1, 8.4, 8.5, 8.6 and 8.7 below), Lender agrees that it shall look only to the Collateral, including the proceeds of Royalty Collateral, for repayment of the Obligations and shall not commence any action against, or otherwise seek to collect amounts due hereunder directly from, Borrower.

## ARTICLE 2. FEES AND EXPENSES

2.1. Expenses. The Borrower agrees to reimburse the Lender for all fees, costs and expenses incurred by the Lender in connection with this Agreement, the Obligations or the Royalty Collateral (collectively, the "Expenses"), including without limitation filing, recording and search fees; appraisal fees; documentation fees; fees and expenses of counsel to the Lender; expenses incurred in the preparation of this Agreement, any agreement or instrument required by this Agreement, any modification or amendment of this Agreement or such other agreement or instrument; any fees or expenses incurred in connection with periodic field examinations of the Borrower's books, records and collateral at such intervals as the Lender may reasonably require. Borrower also agrees to pay an origination fee in the amount of \$ \_\_\_\_\_ at the time this Agreement is executed.

## ARTICLE 3. SECURITY AGREEMENT

### 3.1. Grant of Security Interest.

(a) Defined Terms. All terms used in this Agreement and defined in Article 9 of the Code (as defined below) shall have the respective meanings assigned to those terms in Article 9 of the Code. In addition, the following terms shall have the following respective meanings:

"Code" shall mean the Uniform Commercial Code as the same may from time to time be in effect in the State of \_\_\_\_\_ or, by reason of mandatory application, any other applicable jurisdiction.

"Collateral" shall have the meaning assigned to it in Section 3.1(b) of this Agreement.

"Obligations" shall mean all the unpaid principal amount of the advances made under this Agreement whether or not they are part of the credit limit, all accrued interest on such advances and any unpaid Expenses, and all other obligations and liabilities of the Borrower under this Agreement, now existing or hereafter incurred, under, arising out of or in connection with, this Agreement including, without limitation, all costs and expenses of the Lender, including attorney fees and costs, that are reimbursable by the Borrower pursuant to this Agreement.

### (b) Grant of Security Interest: Perfection.

(i) Grant of Security Interest. As collateral security for the prompt and complete payment and performance when due of all the Obligations and in order to induce the Lender to make advances under this Agreement, the Borrower hereby pledges and grants to the Lender a security interest in all the Borrower's right, title and interest in, to and under the following properties and assets, wherever located, and whether now held or in the future acquired by the Borrower and whether now existing or in the future coming into existence (all of which being hereinafter collectively called the "Collateral"):

(A) (1) all agreements for payment of royalties or other compensation for use of artistic works identified on Part 1 of Schedule A to this Agreement, (2) all rights of payment, regardless of how arising, with respect to the use, distribution or performance of the artistic works identified on Part 2 of Schedule A to this Agreement (the Collateral described in clauses (A) and (B) being the "Royalty Collateral"), (3) all accounts, deposit accounts, securities accounts, contract rights, rights to the payment of money, insurance policies, insurance refund claims and all other insurance claims and proceeds, tort claims, documents, instruments, securities and other investment property, deposit accounts, rights to proceeds of letters of credit, letter-of-credit rights, supporting obligations of every nature arising in respect of or as an adjunct to the Royalty Collateral, (4) all copyrights, and works protectable by copyright, throughout the world relating to any one or more of the artistic works identified on Parts 1 and 2 of Schedule A to this Agreement, all future works which incorporate all or a portion of, or are otherwise a derivative of the artistic works identified on Parts 1 and 2 of Schedule A to this Agreement, and all other general intangibles relating to any of the foregoing, including all tax refund claims, license fees, patents, patent applications, trademarks, trademark applications, trade names, copyright applications, rights to sue and recover for past infringement of patents, trademarks and copyrights, computer programs, computer software, service marks, customer lists, goodwill, and all licenses, permits, agreements of any kind or nature, and (5) all recorded data of any

kind or nature relating to the Royalty Collateral, regardless of the medium of recording, including all software, writings, plans, specifications and schematics;

(B) all other tangible and intangible property of the Borrower, including all books, correspondence, credit files, records, invoices, tapes, cards, computer runs and other papers and documents in the possession or under the control of the Borrower or any computer bureau or service company from time to time acting for the Borrower in each case relating to the Royalty Collateral; and

(C) to the extent not otherwise included, all proceeds and products in whatever form of all or any part of the Royalty Collateral, including all rents, profits, income and benefits and all condemnation awards and all other compensation for any casualty event with respect to all or any part of the Royalty Collateral (together with all rights to recover and proceed with respect to the same), and all accessions to, substitutions for and replacements of all or any part of the other Collateral.

(ii) *Perfection.* The Borrower authorizes the Lender to file such financing statements and continuation statements or other written instruments in such offices from time to time before, on or after the date of this Agreement, as are necessary or as the Lender may determine to be appropriate to create, perfect and establish the priority of the liens granted by this Agreement in any and all of the Collateral, to preserve the validity, perfection or priority of the liens granted by this Agreement in any and all of the Collateral or to enable the Lender to exercise its remedies, rights, powers and privileges under this Agreement, and consents that any such financing statements or other written instruments may be filed describing the Collateral as “all assets” or “all personal property” of the Borrower (without, however, modifying the description of the Collateral as set forth above in Section 3.1(b)(i)). Concurrently with the execution and delivery of this Agreement, the Borrower shall take all such other actions, and authenticate or sign and file or record such other records or instruments, as are necessary or as the Lender may request to perfect and establish the priority of the liens granted by this Agreement in any and all of the Collateral or to enable the Lender to exercise its remedies, rights, powers and privileges under this Agreement, including cooperating with the Lender in obtaining, and taking such other actions as are necessary or that the Lender may request in order for it to obtain, control with respect to any of the Collateral the perfection of which requires control under the Code (including, in the case of deposit accounts, causing the relevant bank at which that deposit account is maintained to enter into a account control agreement).

(c) Rights of the Lender; Limitations on the Lender’s Obligations. It is expressly agreed by the Borrower that, anything herein to the contrary notwithstanding, the Borrower shall remain liable under the contracts and agreements included in the Collateral, to observe and perform all the conditions and obligations to be observed and performed by it there under, all in accordance with and pursuant to the terms and provisions of each such contracts and agreements, to the same extent as if this Agreement had not been executed and delivered. The exercise by the Lender of any right, remedy, power or privilege in respect of this Agreement shall not release the Borrower from any of its duties and obligations under those contracts and agreements. The Lender shall have no obligation or liability under those contracts or agreements or in respect of any governmental approval included in the Collateral by reason of this Agreement or the assignment to the Lender of any payment relating to those contracts or agreements pursuant to this Agreement, nor shall the Lender be required or obligated in any manner to perform or fulfill any of the obligations of the Borrower under or pursuant to those contracts or agreements or any such governmental approval, or to make any payment, or to make any inquiry as to the nature or the sufficiency of any payment received by it or the sufficiency of any performance by any party under those contracts or agreements, or to present or file any claim, or to take any action to collect or enforce any performance or the payment of any amounts which may have been assigned to it or to which it may be entitled at any time or times.

(d) Representations and Warranties. The Borrower hereby represents and warrants at the time this Agreement is executed and at the time of each advance that:

(i) The Borrower is the sole beneficial owner of the Collateral or otherwise has the power to grant a security interest in the Collateral pursuant to this Agreement, and the Collateral is free and clear of all liens and other encumbrances, and no security agreement, financing statement, equivalent security or lien instrument or continuation statement covering all or any part of the Collateral is on file or of record in any public office, except such as may have been filed in favor of the Lender pursuant to this Agreement.

(ii) The liens granted by this Agreement in favor of the Lender have attached and constitute a perfected security interest in all of the Collateral. This Agreement constitutes a valid and continuing first lien on and first security interest in the Collateral in favor of the Lender, prior to all other liens, encumbrances, security interests and rights of others.

(iii) Schedule A sets forth completely and correctly all agreements, copyrights, patents and trademarks owned by Borrower as of the date of this Agreement that relate to the artistic works that are the subject of the Royalty Collateral.

(e) Covenants. The Borrower covenants and agrees with the Lender that from and after the date of this Agreement and until the Obligations are fully satisfied:

(i) *Further Documentation.* At any time and from time to time, upon the written request of the Lender, and at the sole expense of the Borrower, the Borrower promptly and duly shall execute and deliver any and all such further instruments and documents and take such further action as the Lender reasonably may deem desirable to create, perfect and establish the priority of the liens granted by this Agreement in any and all of the Collateral, to preserve the validity, perfection or priority of the liens granted by this Agreement in any and all of the Collateral, and otherwise to enable the Lender to obtain the full benefits of this Agreement and of the rights and powers herein granted, including the filing of any financing or continuation statements under the Code in effect in any jurisdiction with respect to the liens and security interests granted hereby. The Borrower also hereby authorizes the Lender to file any such financing or continuation statement without the signature of the Borrower to the extent permitted by applicable law. If any amount payable under or in connection with any of the Collateral shall be or become evidenced by any promissory note or other instrument, such note or instrument shall immediately become a part of the Collateral and shall be pledged to the Lender, duly endorsed by the Borrower in a manner satisfactory to the Lender.

(ii) *Maintenance of Records.* The Borrower will keep and maintain at its own cost and expense satisfactory and complete records of the Collateral including a record of all payments received and all credits granted with respect to the Collateral and all other dealings with the Collateral. The Borrower will mark, to the extent feasible, its books and records pertaining to the Collateral to evidence this Agreement and the security interests granted hereby. For the Lender's further security, the Borrower agrees that the Lender shall have a special property interest in all of the Borrower's books and records pertaining to the Collateral and the Borrower shall deliver and turn over copies of any such books and records to the Lender or to its representatives at any time on reasonable demand of the Lender.

(iii) *Limitation on Sale and Liens.* The Borrower will not (i) dispose of the Collateral, (ii) permit any person other than the Lender to have control of any of the Collateral or grant any security interest in the Collateral to anyone other than Lender (iii) create, permit or suffer to exist, and will defend the Collateral against and take such other action as is necessary to remove, any lien, security interest, encumbrance, claim or right, in or to the Collateral including but not limited to any garnishment of the Collateral for income taxes, child support or for any other purpose, and will defend the right, title and interest of the Lender in and to any of the Borrower's rights under and in the Collateral against the claims and demands of all persons whomsoever.

(f) The Lender's Appointment as Attorney in Fact. (a) The Borrower hereby irrevocably constitutes and appoints the Lender and any officer or agent thereof, with full power of substitution, as its true and lawful attorney in fact with full irrevocable power and authority in the place and stead of the Borrower and in the name of the Borrower or in its own name, from time to time in the Lender's discretion, for the purpose of carrying out the terms of this Agreement, to take any and all appropriate action and to execute any and all documents and instruments which may be necessary or desirable to accomplish the purposes of this Agreement and, without limiting the generality of the foregoing, hereby gives the Lender the power and right, on behalf of the Borrower, without notice to or assent by the Borrower, to do the following: (i) to create, perfect and establish the priority of the liens granted by this Agreement in any and all the Collateral, to preserve the validity, perfection or priority of the liens granted by this Agreement in any and all of the Collateral or to enable the Lender to exercise its remedies, rights, powers and privileges under this Agreement; (ii) upon the occurrence and continuance of any Default or Event of Default, to ask, demand, collect, receive and give acquittances and receipts for any and all moneys due and to become due under any contract or account that is a part of the Collateral and, in the name of the Borrower or its own name or otherwise, to take possession of and endorse and collect any checks, drafts, notes, acceptances or other instruments for the payment of moneys due under any contract or account that is a part of the Collateral and to file any claim or to take any other action or proceeding in any court of law or equity or otherwise deemed appropriate by the Lender for the purpose of collecting any and all such moneys due under any such contract or account whenever payable; (iii) to pay or discharge taxes, liens, security interests or other encumbrances levied or placed on or threatened against the Collateral; and (iv) upon the occurrence and continuance of any Event of Default, (A) to direct any party liable for any payment under any of the contracts or accounts that are a part of the Collateral to make payment of any and all moneys due and to become due there under directly to the Lender or as the Lender shall direct; (B) to receive payment of and receipt for any and all moneys, claims and other amounts due and to become due at any time in respect of or arising out of any Collateral; (C) to commence and prosecute any suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect the Collateral or any part thereof and to enforce any other right in respect of any Collateral; (D) to defend any suit, action or proceeding brought against the Borrower with respect to any Collateral; (E) to settle, compromise or adjust any suit, action or proceeding described above and, in connection therewith, to give such discharges or releases as the Lender may deem appropriate; and (F) generally to sell, transfer, pledge, make any agreement with respect to or otherwise deal with any of the Collateral as fully and completely as though the Lender were the absolute owner thereof for all purposes, and to do, at the Lender's option and the Borrower's expense, at any time, or from time to time, all acts and things which the Lender deems necessary to protect, preserve or realize upon the Collateral and the Lender's security interest therein, in order to effect the intent of this Agreement, including the preparation, execution and recordation of patent, trademark or other forms of assignment, all as fully and effectively as the Borrower might do. The Borrower hereby ratifies all that said attorneys-in-fact shall lawfully do or cause to be done by virtue hereof. This power of attorney is a power coupled with an interest and is irrevocable. The powers conferred on the Lender hereunder are solely to protect its interests in the Collateral and shall not impose any duty upon it to exercise any such powers. The Lender shall be accountable only for amounts that it actually receives as a result of the exercise of such powers and neither it nor

any of its officers, directors, employees or agents shall be responsible to the Borrower for any act or failure to act, except for its own willful misconduct.

(g) Remedies, Rights Upon An Event of Default.

(i) If an Event of Default shall occur and be continuing, any and all such payments so received by the Lender (whether from the Borrower or otherwise) may, in the sole discretion of the Lender and notwithstanding clause (iv) of Section 1.4, be held by the Lender as collateral security for, and then or at any time thereafter applied in whole or in part by the Lender, against all or any part of the Obligations. Any balance of such payments so paid to or held by the Lender and remaining after payment in full of all the Obligations shall be paid over to the Borrower or to whomsoever may be lawfully entitled to receive the same.

(ii) If any Event of Default shall occur and be continuing, the Lender may exercise in addition to all other rights and remedies granted to it in this Agreement and in any other instrument or agreement securing, evidencing or relating to the Obligations, all rights and remedies of a secured party under the Code. Without limiting the generality of the foregoing, the Borrower expressly agrees that in any such event the Lender, without demand of performance or other demand, advertisement or notice of any kind (except the notice specified below of time and place of public or private sale) to or upon the Borrower or any other person (all and each of which demands, advertisements and/or notices are hereby expressly waived), may forthwith collect, receive appropriate and realize upon the Collateral, or any part thereof, and/or may forthwith sell, lease, assign, give option or options to purchase, or sell or otherwise dispose of and deliver said Collateral (or contract to do so), or any part thereof, at public or private sale or sales at any of the Lender's offices or elsewhere at such prices as it may deem best, for cash or on credit or for future delivery without assumption of any credit risk. The Lender shall have the right upon any such public sale or sales, and, to the extent permitted by law, upon any such private sale or sales, to purchase the whole or any part of said Collateral so sold, free of any right or equity of redemption in the Borrower, which right or equity is hereby expressly released. The Borrower further agrees, at the Lender's request, to assemble the Collateral, make it available to the Lender at places which the Lender reasonably shall select, whether at the Borrower's premises or elsewhere. The Lender shall apply the net proceeds of any such collection, recovery, receipt, appropriation, realization or sale, after deducting all reasonable costs and expenses of every kind incurred therein or incidental to the care, safe keeping or otherwise of any or all of the Collateral or in any way relating to the rights of the Lender hereunder, including reasonable attorneys' fees and legal expenses, to the payment in whole or in part of the Obligations, in such order as the Lender may elect, the Borrower remaining liable for any deficiency remaining unpaid after such application, and only after so paying over such net proceeds and after the payment by the Lender of any other amount required by any provision of law, need the Lender account for the surplus, if any, to the Borrower. To the extent permitted by applicable law, the Borrower waives all claims, damages, and demands against the Lender arising out of the repossession, retention or sale of the Collateral. The Borrower agrees that the Lender need not give more than 10 days' notice (which notification shall be deemed given when mailed, postage prepaid, addressed to the Borrower at the address set forth on the signature page hereto, as such address may be modified from time to time in accordance with Section 9.8) of the time and place of any public sale or of the time after which a private sale may take place and that such notice is reasonable notification of such matters. The Borrower shall remain liable for any deficiency if the proceeds of any sale or disposition of the Collateral are insufficient to pay all amounts to which the Lender is entitled, the Borrower also being liable for the fees of any attorneys employed by the Lender to collect such deficiency. Without limiting any other provision of this Agreement, the Borrower also agrees to pay all costs of the Lender, including attorneys' fees, incurred with respect to the collection of any of the Obligations and the enforcement of any of their respective rights hereunder.

3.2. Termination of Security Interest. The liens and security interests in the Collateral that are set forth in this Article 3 shall terminate and be of no force or effect when, but only when, (i) Borrower has at its election paid all outstanding Obligations in full in cash and agreed with Lender that Borrower shall have no further right to request advances under this Agreement and that the Commitment has been reduced to zero or (ii) on or following the Availability Termination Date, all outstanding Obligations have been paid in full in cash. Upon the occurrence of the termination of this lien and security interest, Lender shall, upon request of Borrower and at Borrower's expense, take all steps necessary to terminate all public filings in respect of such liens and security interests and will cooperate in the redirection of payments made on account of the Collateral as instructed by Borrower.

**ARTICLE 4. DISBURSEMENTS, PAYMENTS AND COSTS**

4.1. Disbursements and Payments. Each payment by the Borrower will be made in U.S. Dollars and immediately available funds by mail to the address shown on the Borrower's statement or at one of the Lender's offices in the United States as Borrower may be directed by Lender. Each disbursement by the Lender and each payment by the Borrower will be evidenced by records kept by the Lender. In addition, the Lender may, at its discretion, require the Borrower to sign one or more promissory notes.

4.2. Requests for Advances; Equal Access by all Borrowers.

(a) Borrower (or a person or persons authorized by the Borrower) can borrow up to the full amount of credit provided under this Agreement, provided that at the time of any advance, the aggregate outstanding Obligations do not exceed the Commitment.

(b) The Lender may honor telephone or facsimile instructions for advances or repayments, by any one of the individuals authorized to sign loan agreements on behalf of the Borrower, or any other individual designated by any one of such authorized signers.

(c) Advances will be, at the election of the Lender, either (i) deposited in the deposit account owned by the Borrower and set forth on the Borrower's signature page hereto, or such other of the Borrower's accounts as designated in a written notice delivered by the Borrower to the Lender, which account shall be effective for all purposes of this Agreement five Business Days following the Lender's receipt of such notice, or (ii) check mailed to Borrower at the address for notices set forth on the Borrower's signature page hereto or such other address for notices as designated in a written notice delivered by the Borrower to the Lender, which address shall be effective for all purposes of this Agreement five Business Days following the Lender's receipt of such notice.

(d) The Borrower will indemnify and hold the Lender harmless from all liability, loss, and costs in connection with any act resulting from telephone or facsimile instructions the Lender reasonably believes are made by any individual authorized by the Borrower to give such instructions. This paragraph will survive this Agreement's termination, and will benefit the Lender and its members, equity holders, managers, directors, officers, employees, and agents.

4.3. **Business Days.** Unless otherwise provided in this Agreement, a "Business Day" is a day other than a Saturday, Sunday or other day on which commercial banks are authorized to close, or are in fact closed, in New York, New Jersey or California. All payments and disbursements which would be due on a day which is not a Business Day will be due on the next Business Day. All payments received on a day which is not a Business Day will be applied to the credit on the next Business Day.

4.4. **Default Rate.** Upon the occurrence of any Event of Default or after judgment has been rendered on any obligation under this Agreement, all Obligations will, at the option of the Lender bear interest at a rate which is 2% higher than the rate of interest otherwise provided under this Agreement. This will not constitute a waiver of any such Event of Default.

## ARTICLE 5. CONDITIONS

Before the Lender is required to extend any credit to the Borrower under this Agreement, it must receive any documents and other items it may reasonably require, in form and content acceptable to the Lender, including any items specifically listed below.

5.1. **Authorizations.** If the Borrower is anything other than a natural person, evidence that the execution, delivery and performance by the Borrower of this Agreement and any instrument or agreement required under this Agreement have been duly authorized.

5.2. **Governing Documents.** If required by the Lender, a copy of the Borrower's organizational documents.

5.3. **Perfection and Evidence of Priority.** Evidence that the security interests and liens in favor of the Lender are valid, enforceable, properly perfected in a manner acceptable to the Lender and prior to all others' rights and interests, except those the Lender consents to in writing.

5.4. **Redirection of Proceeds of Royalty Collateral.** Lender shall have confirmed that all instructions for payment of proceeds of Royalty Collateral shall have been redirected to the Collateral Account pursuant to an irrevocable instruction of the Borrower acknowledged in a writing satisfactory in all respects to the Lender by the entity that is delivering such proceeds of Royalty Collateral.

## ARTICLE 6. REPRESENTATIONS AND WARRANTIES

When the Borrower signs this Agreement, and until the Lender is repaid in full, the Borrower makes the following representations and warranties. Each request for an extension of credit constitutes a renewal of these representations and warranties as of the date of the request: (a) if the Borrower is anything other than a natural person, it is duly formed and existing under the laws of the state or other jurisdiction where organized and in each state in which the Borrower does business, it is properly licensed, in good standing, and, where required, in compliance with fictitious name statutes; (b) this Agreement, and any instrument or agreement required hereunder, are within the Borrower's powers, have been duly authorized, and do not conflict with any of its organizational papers; (c) this Agreement is a legal, valid and binding agreement of the Borrower, enforceable against the Borrower in accordance with its terms, and any instrument or agreement required hereunder, when executed and delivered, will be similarly legal, valid, binding and enforceable; (d) this Agreement does not conflict with any law, agreement, or obligation by which the Borrower is bound; (e) all financial and other information that has been or will be supplied to the Lender by Borrower or any other person is true and correct in all respects and is sufficiently complete to give the Lender accurate knowledge of the financial condition of the Royalty Collateral; (f) there is no lawsuit, tax claim or other dispute pending or threatened against the Borrower which, if lost, would have an adverse effect on the Royalty Collateral; (g) any agreement of Borrower or any business entity of Borrower under which Royalty Collateral is earned, paid or generated and any agreement providing that any Royalty Collateral be directed or paid to Lender shall remain in full force and effect and Borrower waives any right to terminate such agreement until all amounts due under this Agreement are paid in full; and (h) all Collateral required in this Agreement is owned by the Borrower free of any liens or interests of others, except those which have been approved by the Lender in writing.

6.1. **Other Obligations.** The Borrower is not in default on any obligation for borrowed money, any purchase money obligation or any other material lease, commitment, contract, instrument or obligation, except as have been disclosed in writing to the Lender prior to the date of this Agreement.

- 6.2. Tax Matters. The Borrower has no knowledge of any pending assessments or adjustments of its income tax for any year and all taxes due have been paid, except as have been disclosed in writing to the Lender.
- 6.3. No Event of Default. There is no event which is, or with notice or lapse of time or both would be, an Event of Default under this Agreement.
- 6.4. Location of Borrower. Borrower (or, if the Borrower is a business and has more than one place of business, its chief executive office) is located at the address listed on the signature page of this Agreement.

## ARTICLE 7. COVENANTS

The Borrower agrees, so long as credit is available under this Agreement and until the Lender is repaid in full:

- 7.1. Financial Information. To provide the financial information and statements in form and content acceptable to the Lender, and such additional information as requested by the Lender from time to time.
- 7.2. Other Liens. Not to create, assume, or allow any security interest or lien (including judicial liens) on the Collateral except (a) liens and security interests in favor of the Lender, (b) liens for taxes not yet due and (c) liens outstanding on the date of this Agreement disclosed in writing to the Lender prior to the date of this Agreement.
- 7.3. Maintenance of Assets.
- (a) Not to sell, assign, lease, transfer or otherwise dispose of any part of the Collateral, or enter into any agreement to do so.
  - (b) Not to enter into any sale and leaseback agreement covering any part of the Collateral.
  - (c) To maintain and preserve all rights, privileges, and franchises the Borrower now has with respect to the Collateral.
- 7.4. Notices to Lender. To promptly notify the Lender in writing of: (a) any lawsuit or other dispute of or relating to the Collateral; (b) any Event of Default, or any event which, with notice or lapse of time or both, would constitute an Event of Default; and (c) any change in the Borrower's name, legal structure, location, place of business, or chief executive office if the Borrower has more than one place of business.
- 7.5. Compliance with Laws. To comply with the laws (including any fictitious or trade name statute), regulations, and orders of any government body with authority over the Borrower or Borrower's business. The Lender shall have no obligation to make any advance to the Borrower except in compliance with all applicable laws and regulations and the Borrower shall fully cooperate with the Lender in complying with all such applicable laws and regulations.
- 7.6. Cooperation. To take any action reasonably requested by the Lender to carry out the intent of this Agreement.

## ARTICLE 8. DEFAULT AND REMEDIES

If any of the following events (each, an "Event of Default") occurs, the Lender may do one or more of the following: declare the Borrower in default, stop making any additional credit available to the Borrower and apply all terms applicable after the Availability Termination Date, require the Borrower to repay its entire debt immediately and without prior notice and exercise its rights and remedies as a secured creditor in respect of the Collateral. If an event which, with notice or the passage of time, will constitute an Event of Default has occurred and is continuing, the Lender has no obligation to make advances or extend additional credit under this Agreement. In addition, if any Event of Default occurs, the Lender shall have all rights, powers and remedies available under any instruments and agreements required by or executed in connection with this Agreement, as well as all rights and remedies available at law or in equity. If an Event of Default occurs under the paragraph entitled "Bankruptcy," below, with respect to the Borrower, then the entire debt outstanding under this Agreement will automatically be due immediately.

- 8.1. False Information. The Borrower or any Obligor has given the Lender materially false or misleading information or representations.
- 8.2. Bankruptcy. The Borrower files a Bankruptcy petition, a bankruptcy petition is filed against any of the foregoing parties, or the Borrower makes a general assignment for the benefit of creditors. The default will be deemed cured if any bankruptcy petition filed against the Borrower is dismissed within a period of 60 days after the filing; provided, however, that such cure opportunity will be terminated upon the entry of an order for relief in any bankruptcy case arising from such a petition.
- 8.3. Receivers. A receiver or similar official is appointed for a substantial portion of the Borrower's or any Obligor's business, or the business is terminated, or, if any Obligor is anything other than a natural person, such Obligor is liquidated or dissolved.
- 8.4. Revocation or Termination. If the Borrower is comprised of the trustee(s) of a trust, the trust is revoked or otherwise terminated or all or a substantial part of the Borrower's assets are distributed or otherwise disposed of.
- 8.5. Lien Priority. The Lender fails to have an enforceable first lien (except for any prior liens to which the Lender has consented in writing) on or security interest in any property given as security for this Agreement (or any guaranty).
- 8.6. Lawsuits. Any lawsuit or other action or proceeding relating to any of the Collateral is filed against the Borrower.

8.7. Default of the Borrower. The Borrower is otherwise in material breach of its obligations under this Agreement including a representation, warranty or covenant or the agreements constituting the Royalty Collateral or any agreement with respect to the Royalty Collateral or Lenders right to receive the Royalty Collateral ceases to be in full force and effect.

## **ARTICLE 9. ENFORCING THIS AGREEMENT; MISCELLANEOUS**

9.1. Law. This Agreement is governed by the substantive law of the state of \_\_\_\_\_ without regard to principles of conflicts of law.

9.2. Successors and Assigns. This Agreement is binding on the Borrower's and the Lender's successors and assignees. The Borrower agrees that it may not assign this Agreement without the Lender's prior consent. The Lender may sell participations in or assign this loan, and may exchange information about the Borrower (including, without limitation, any information regarding any hazardous substances) with actual or potential participants or assignees. If a participation is sold or the loan is assigned, the purchaser will have the right of set-off against the Borrower.

9.3. Arbitration and Waiver of Jury Trial. This paragraph concerns the resolution of any controversies or claims between the parties, whether arising in contract, tort or by statute, including but not limited to controversies or claims that arise out of or relate to: (i) this agreement (including any renewals, extensions or modifications); or (ii) any document related to this agreement (collectively a "Claim"). For the purposes of this arbitration provision only, the term "parties" shall include any parent corporation, subsidiary or affiliate of the Lender involved in the servicing, management or administration of any obligation described or evidenced by this agreement.

(a) At the request of any party to this agreement, any Claim shall be resolved by binding arbitration in accordance with the Federal Arbitration Act (Title 9, U.S. Code) (the "Act"). The Act will apply even though this agreement provides that it is governed by the law of a specified state. The arbitration will take place on an individual basis without resort to any form of class action.

(b) Arbitration proceedings will be determined in accordance with the Act, the then-current rules and procedures for the arbitration of financial services disputes of the American Arbitration Association or any successor thereof ("AAA"), and the terms of this paragraph. In the event of any inconsistency, the terms of this paragraph shall control. If AAA is unwilling or unable to (i) serve as the provider of arbitration or (ii) enforce any provision of this arbitration clause, the Lender may designate another arbitration organization with similar procedures to serve as the provider of arbitration.

(c) The arbitration shall be administered by AAA and conducted, unless otherwise required by law, in any U.S. state where real or tangible personal property collateral for this credit is located or if there is no such collateral, in the state specified in the governing law section of this agreement. All Claims shall be determined by one arbitrator; however, if Claims exceed \$5,000,000, upon the request of any party, the Claims shall be decided by three arbitrators. All arbitration hearings shall commence within 90 days of the demand for arbitration and close within ninety 90 days of commencement and the award of the arbitrator(s) shall be issued within 30 days of the close of the hearing. However, the arbitrator(s), upon a showing of good cause, may extend the commencement of the hearing for up to an additional 60 days. The arbitrator(s) shall provide a concise written statement of reasons for the award. The arbitration award may be submitted to any court having jurisdiction to be confirmed, judgment entered and enforced.

(d) The arbitrator(s) will give effect to statutes of limitation in determining any Claim and may dismiss the arbitration on the basis that the Claim is barred. For purposes of the application of the statute of limitations, the service on AAA under applicable AAA rules of a notice of Claim is the equivalent of the filing of a lawsuit. Any dispute concerning this arbitration provision or whether a Claim is arbitrable shall be determined by the arbitrator(s). The arbitrator(s) shall have the power to award legal fees pursuant to the terms of this agreement.

(e) This paragraph does not limit the right of any party to: (i) exercise self-help remedies, such as but not limited to, setoff; (ii) initiate judicial or non-judicial foreclosure against any real or personal property collateral; (iii) exercise any judicial or power of sale rights, or (iv) act in a court of law to obtain an interim remedy, such as but not limited to, injunctive relief, writ of possession or appointment of a receiver, or additional or supplementary remedies.

(f) The procedure described above will not apply if the Claim, at the time of the proposed submission to arbitration, arises from or relates to an obligation to the Lender secured by real property. In this case, all of the parties to this agreement must consent to submission of the Claim to arbitration. If both parties do not consent to arbitration, the Claim will be resolved as follows: The parties will designate a referee (or a panel of referees) selected under the auspices of AAA in the same manner as arbitrators are selected in AAA administered proceedings. The designated referee(s) will be appointed by a court as provided in California Code of Civil Procedure Section 638 and the following related sections. The referee (or presiding referee of the panel) will be an active attorney or a retired judge. The award that results from the decision of the referee(s) will be entered as a judgment in the court that appointed the referee, in accordance with the provisions of California Code of Civil Procedure Sections 644 and 645.

(g) The filing of a court action is not intended to constitute a waiver of the right of any party, including the suing party, thereafter to require submittal of the Claim to arbitration.

(h) By agreeing to binding arbitration, the parties irrevocably and voluntarily waive any right they may have to a trial by jury in respect of any Claim. Furthermore, without intending in any way to limit this agreement to arbitrate, to the extent any Claim is

not arbitrated, the parties irrevocably and voluntarily waive any right they may have to a trial by jury in respect of such Claim. This provision is a material inducement for the parties entering into this agreement.

9.4. Severability; Waivers. If any part of this Agreement is not enforceable, the rest of the Agreement may be enforced. The Lender retains all rights, even if it makes a loan after default. If the Lender waives a default, it may enforce a later default. Any consent or waiver under this Agreement must be in writing.

9.5. Attorneys' Fees. The Borrower shall reimburse the Lender for any reasonable costs and attorneys' fees incurred by the Lender in connection with the enforcement or preservation of any rights or remedies under this Agreement and any other documents executed in connection with this Agreement, and in connection with any amendment, waiver, "workout" or restructuring under this Agreement. In the event of a lawsuit or arbitration proceeding, the prevailing party is entitled to recover costs and reasonable attorneys' fees incurred in connection with the lawsuit or arbitration proceeding, as determined by the court or arbitrator. In the event that any case is commenced by or against the Borrower under the Bankruptcy Code (Title 11, United States Code) or any similar or successor statute, the Lender is entitled to recover costs and reasonable attorneys' fees incurred by the Lender related to the preservation, protection, or enforcement of any rights of the Lender in such a case. As used in this paragraph, "attorneys' fees" includes the allocated costs of the Lender's in-house counsel.

9.6. One Agreement. This Agreement and any related security or other agreements required by this Agreement, collectively, (a) represent the sum of the understandings and agreements between the Lender and the Borrower concerning this credit, (b) replace any prior oral or written agreements between the Lender and the Borrower concerning this credit; and (c) are intended by the Lender and the Borrower as the final, complete and exclusive statement of the terms agreed to by them. In the event of any conflict between this Agreement and any other agreements required by this Agreement, this Agreement will prevail. Any reference in any related document to a "promissory note" or a "note" executed by the Borrower and dated as of the date of this Agreement shall be deemed to refer to this Agreement, as now in effect or as hereafter amended, renewed, or restated.

9.7. Indemnification. The Borrower will indemnify and hold the Lender harmless from any loss, liability, damages, judgments, and costs of any kind relating to or arising directly or indirectly out of (a) this Agreement or any document required hereunder, (b) any credit extended or committed by the Lender to the Borrower hereunder, (c) any litigation or proceeding related to or arising out of this Agreement, any such document, or any such credit and (d) any of the Collateral. This indemnity includes but is not limited to attorneys' fees (including the allocated cost of in-house counsel). This indemnity extends to the Lender, its parent, subsidiaries and all of their directors, officers, employees, agents, successors, attorneys, and assigns. This indemnity will survive repayment of the Borrower's obligations to the Lender. All sums due to the Lender hereunder shall be obligations of the Borrower, due and payable immediately without demand.

9.8. Notices. Unless otherwise provided in this Agreement or in another agreement between the Lender and the Borrower, all notices required under this Agreement shall be personally delivered or sent by first class mail, postage prepaid, or by overnight courier, to the addresses on the signature page of this Agreement, or sent by facsimile to the fax numbers listed on the signature page, or to such other addresses as the Lender and the Borrower may specify from time to time in writing. Notices and other communications shall be effective (i) if mailed, upon the earlier of receipt or five (5) days after deposit in the U.S. mail, first class, postage prepaid, (ii) if telecopied, when transmitted, or (iii) if hand-delivered, by courier or otherwise (including telegram, lettergram or mailgram), when delivered.

9.9. Headings. Article and paragraph headings are for reference only and shall not affect the interpretation or meaning of any provisions of this Agreement.

9.10. Counterparts. This Agreement may be executed in as many counterparts as necessary or convenient, and by the different parties on separate counterparts each of which, when so executed, shall be deemed an original but all such counterparts shall constitute but one and the same agreement.

This Agreement is executed as of the date stated at the top of the first page.

LENDER:

BORROWER:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Advanced Royalty Tracking, LLC  
By: Lauren Kutac, Authorized Person

By \_\_\_\_\_  
Typed Name \_\_\_\_\_  
Title \_\_\_\_\_

Address where notices to the Lender are to be sent:

Address where notices to the Borrower are to be sent:

Advanced Royalty Tracking, LLC  
3050 Post Oak Blvd, Ste 460  
Houston, Texas 77056

SAMPLE



**Schedule A**

**Part 1**

**Part 2**

**SAMPLE**