

For good and valuable consideration, including the consideration exchanged between Google and Publisher (the "**Parties**" and, individually, a "**Party**") in their voluntary license agreement concerning Google's YouTube services in the United States (such agreement, the "**YouTube US Agreement**", and such services, the "**YouTube US Services**"), the sufficiency which is hereby acknowledged, the Parties hereby agree as follows (the "**Letter Agreement**"):

1. Solely with respect to payments made by Google to the MLC under 17 U.S.C. 115 ("**Section 115**") during the Relevant Period (as defined below), Publisher shall not bring any suit (or assist any third party in bringing a suit) against Google directly arising from Google's practice, as conducted by Google as of the date hereof, of calculating royalties by allocating as between (i) the content on the current YouTube US service that is eligible for statutory licensing under Section 115 and (ii) the content on the current YouTube US Services that is not eligible for licensing under Section 115, based upon a ratio of activity and in a manner to avoid the double payment of royalties. The Parties agree to discuss in good faith an amendment to the YouTube US Agreement to more comprehensively address the accounting methodology referred to by this Paragraph 1. For clarity, nothing herein will be deemed to prevent Publisher's compliance with any legally binding subpoena or legal process, provided that prior written notice of the same is furnished by Publisher to Google (to the extent not prohibited) in order to afford Google a reasonable opportunity to seek a protective order (it being agreed that if Google is unable to obtain or does not seek a protective order, such compliance may be made without being deemed a breach hereof). This Letter Agreement shall not be deemed to prevent the implementation of any prospective changes in operative law regarding uses of musical works pursuant to Section 115 that are promulgated following the adoption of the settlement of the proceeding currently before the Copyright Royalty Judges captioned In re Determination of Royalty Rates and Terms for Making and Distributing Phonorecords (Phonorecords IV), Docket No. 21-CBR-0001-PR (2023-2027) as the rates and term for the Phonorecords rate period.
2. Nothing in this Letter Agreement is or shall be deemed to be a statement or an agreement regarding the law or an agreement with respect to Google's obligations under the law or under any relevant regulations. Nothing herein constitutes an admission by Publisher as to what may or may not be permitted under Section 115 or its implementing regulations. All other rights and objections are expressly reserved. Further, nothing in this Letter Agreement shall prevent Publisher from asserting, challenging, supporting, or encouraging, financially or otherwise, any claim, allegation, action, demand, proceeding or suit against Google for any reason other than specifically set forth above.
3. The Parties acknowledge and agree that this Letter Agreement shall be confidential and non-precedential, and shall not be used, offered, produced or testified about (including by any fact or expert witness) in any legal proceeding, including without limitation any Copyright Royalty Board or other rate proceeding, or used or offered as a precedent or benchmark in any claim, allegation, action, demand, proceeding or suit at any time. Notwithstanding the foregoing, either Party may disclose this Letter Agreement (i) to assert or defend its rights under this Letter Agreement, or to enforce the Letter Agreement's terms, (ii) if either Party is compelled pursuant to legal process to produce this Letter Agreement to any third party, including the Copyright Royalty Board, provided that the producing Party shall promptly notify the other Party of such production and the Parties will cooperate to object to such production, or (iii) if the terms of this Letter Agreement become publicly available through no breach by the disclosing Party. For clarity, but



subject to the foregoing, nothing shall prevent either Party from making any argument, proposal or submission in a rate proceeding before the Copyright Royalty Board.

- 4. **“Relevant Period”** means the period commencing on January 1, 2021 and ending on December 31, 2027.
- 5. This Letter Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument. This letter agreement shall be binding on the Parties and their respective personal and legal representatives, successors, and permitted assigns.

Entered and agreed to by and between the Parties on August 31, 2022.

“Google”

“Publisher”

Google LLC

Kobalt Music Publishing America, Inc.

BY: _____

BY: _____ 

NAME: _____

NAME: James Arnay

TITLE: _____

TITLE: Head of Business Affairs

DATE: _____

DATE: August 31, 2022

