

Schedule 'H.2': Audiovisual Post-Synchronization Reproduction

Terms & Conditions –Audiovisual Post-Synchronization Reproduction

1. The Terms and Conditions in this Schedule 'H.2' form an Appendix to the General Terms and Conditions in Part II of the Publisher Affiliation Agreement, and together with those General Terms and Conditions form a single executed document.
2. **Definitions:** In this Schedule 'H.2', the following terms have the meanings set out below:
 - a. "Affiliation Selection Checklist" means the *Affiliation Selection Checklist* that forms Part I of the Publisher Affiliation Agreement, as amended by the *Affiliation Selection Checklist – Addendum*, if applicable;
 - b. "Assignment Date" means, in relation to each Elected Purpose, the date on which Publisher assigns to CMRRA the exclusive right to authorize Post-Synchronization Reproduction pursuant to paragraph 3(a) of this Schedule 'H.2';
 - c. "Audiovisual Content" means any combination of sounds and visual images that are intended to inform, enlighten, or entertain, irrespective of its duration, initial intended use, or manner of distribution;
 - d. "Audiovisual Repertoire" means the Repertoire or such portion thereof as Publisher owns or has the right to administer for the purpose of Post-Synchronization Reproduction;
 - e. "Elected Purpose" means any purpose for which Publisher has authorized CMRRA to grant licenses pursuant to section 3 of this Schedule 'H.2', as indicated by Publisher on the Affiliation Selection Checklist as amended from time to time;
 - f. "Music Video" means a video clip, short film, or other similar Audiovisual Content of short duration, other than User Generated Content, in which the combination of sounds and visual images that are predominantly intended to feature and represent one or more Works;
 - g. "Post-Synchronization Reproduction" means the reproduction of a Work as embodied in existing Audiovisual Content, by any person or entity, in any material form and by any process now known or hereafter devised, but excludes the right to reproduce that Work (i) in synchronization or timed relation with visual images, with any other musical work, or with any sound recording or performer's performance, other than as expressly authorized herein, or (ii) in any advertisement or other promotional material, whether or not related to the Audiovisual Content in which the Work is embodied, unless Publisher has authorized the initial reproduction of that Work in the advertisement or other promotional material;
 - h. "Service" means any service that transmits Audiovisual Content to end users by any means of telecommunication now known or later devised, including via the Internet or other similar computer network;
 - i. "Simulcast" means, in relation to a broadcast signal transmitted by a Service through Traditional Broadcasting, the simultaneous, unaltered, real-time streaming of that broadcast signal by the same Service via the Internet or other similar computer network;
 - j. "Stream" means an electronic digital transmission of a musical work, which transmission is designed so as not to result in the creation of a copy of the musical work on a user's local storage device (including but not limited to the hard disk of the user's computer, whether in RAM, read-only memory, or otherwise, and any recordable medium, whether or not embedded in a portable device), which copy could be available for listening other than at substantially the same time as the original transmission, and includes, for greater certainty: (i) a stream of one or more musical works selected by the user, which stream may be listened to at a time chosen by the user; (ii) a stream of a series of musical works selected by the transmitter of the stream, which stream can be listened to only at a time chosen by the transmitter; and (iii) the streaming of original audio programming, which programming: (1) consists in whole or in part of musical works; (2) may be themed by genre or otherwise; and (3) is not subject to advance knowledge of or control by the user as to the sequence or timing of transmission of the musical works included in the program;
 - k. "Traditional Broadcasting" means the transmission of Audiovisual Content to end users by means of broadcasting (as that term is defined in section 2 of the *Broadcasting Act*, S.C. 1991, c. 11), excluding any video-on-demand, any dissemination of Audiovisual Content via the Internet for a fee, and any podcasting of Audiovisual Content, but including any Simulcast; and
 - l. "User Generated Content" means any Audiovisual Content that includes one or more musical works and that is created by anyone other than the creator or creators of the underlying musical work(s) or a person authorized by the creator or creators.

3. **Engagement of CMRRA:**

(a) Publisher hereby:

- (i) assigns to CMRRA, for the remainder of the Term of the Publisher Affiliation Agreement, the exclusive right to authorize, in Canada, the Post-Synchronization Reproduction of any and all Works in the Audiovisual Repertoire, for the Elected Purposes, at any time on or after the Assignment Date (including but not limited to the exclusive right to bring legal action and seek any and all available remedies for any unauthorized Post-Synchronization Reproduction, whether or not occurring after the Assignment Date);
- (ii) authorizes CMRRA to act as its exclusive agent for the purpose of granting licenses and taking any other steps that CMRRA, in its discretion, deems necessary or desirable in order to secure royalties or other compensation for Post-Synchronization Reproduction of Works in the Audiovisual Repertoire, for the Elected Purposes, at any time prior to the Assignment Date; and
- (iii) with respect to TikTok, assigns CMRRA the exclusive right to authorize all reproduction of Works made prior to the Assignment Date.

Pursuant to the rights and authorizations hereby granted, CMRRA may grant licenses to Services accessible from within Canada, on such terms as may be approved from time to time by the Canadian Publishers Committee (CPC), either by private agreement or pursuant to tariffs filed by CMRRA with the Copyright Board of Canada, and, notwithstanding anything else in the Publisher Affiliation agreement, may name Publisher as a party to any legal action commenced against any third party in relation to Post-Synchronization Reproduction.

(b) Notwithstanding **Part II, section 2** of the Publisher Affiliation Agreement, the rights and authorizations granted by Publisher pursuant to this Schedule 'H.2' are exclusive. Publisher may elect on the Affiliation Selection Checklist to grant these rights and authorizations to CMRRA for any or all of the following purposes:

C) Music Videos – Online, Video-on-Demand, and Other Non-Traditional Dissemination –

The authorization of Post-Synchronization Reproduction of Works embodied in Music Videos, by Services other than YouTube, other than in the course of Traditional Broadcasting.

D) YouTube – The authorization of Post-Synchronization Reproduction of Works embodied in any type of Audiovisual Content by YouTube, including, as necessary, the right to authorize the reproduction of the music and lyrics, lyrics alone, or music alone of any Work.

E) Facebook Services – With respect to the Facebook, Instagram, Messenger, and Oculus platforms (the "Facebook Services"), the authorization of:

1. Post-Synchronization Reproduction of Works embodied in any type of Audiovisual Content by Facebook (other than Music Videos), including, as necessary, the right to authorize the reproduction of (i) the music and lyrics, (ii) lyrics alone, or (iii) music alone of any Work; and
2. Reproduction of Works by Facebook for the express purpose of providing end users of the service a platform to generate non-commercial User Generated Content.

F) TikTok – The authorization of:

1. Post-Synchronization Reproduction of Works embodied in any type of Audiovisual Content by TikTok (other than Music Videos); and
2. Reproduction of Works by TikTok for the express purpose of providing end users of the service a platform to generate non-commercial User Generated Content.

4. **Administration Fee:** In consideration of the services provided by CMRRA to Publisher pursuant to this Schedule 'H.2', CMRRA shall be entitled to retain a commission equal to eight percent (8%) of any and all monies received by CMRRA in relation to the Post-Synchronization Reproduction of Works in the Audiovisual Repertoire. The amount of such commission may be changed from time to time by CMRRA's Board of Directors, but CMRRA shall provide Publisher with no less than ninety (90) days' written notice of any such change.

5. **Termination:** Notwithstanding **Part II, section 13** of the Publisher Affiliation Agreement, Publisher may terminate this agreement at any time, generally or in relation to any one or more Elected Purpose(s), upon six (6) months' written notice to CMRRA at the above address. However, if one or more CMRRA tariffs have been certified by the Copyright Board in relation to any Elected Purpose, termination will take effect in relation to that Elected Purpose only as of the first day after the end of the term of the longest applicable tariff that is in effect on the date CMRRA receives Publisher's notice of termination. CMRRA may terminate this agreement, generally or in relation to any one or more Elected Purpose(s), upon six (6) months' written notice to Publisher, if it elects to cease carrying on business with respect to the collection of royalties for Post-Synchronization Reproduction and/or any Elected Purpose.

AFFILIATION SELECTION CHECKLIST – ADDENDUM (TIKTOK)

Publisher Information

Name of Publisher: _____

IPI Number: _____

Address: _____

Phone: _____ Fax: _____

Email: _____

*** Publisher must initial and date the corresponding boxes. CMRRA shall only act on behalf of Publisher for those Affiliations so initialled and dated.**

AUDIOVISUAL POST-SYNCHRONIZATION REPRODUCTION AFFILIATIONS	INITIAL HERE	DATE OF SIGNATURE (MM/DD/YYYY)	ASSIGNMENT DATE (MM/DD/YYYY)
F) TikTok <i>As defined by the Terms and Conditions outlined in Part II, Schedule ‘H.2’</i>			05/01/2019

Publisher and CMRRA hereby

- a) amend the Publisher Affiliation Agreement, as defined in Part II, section 1 of the General Terms and Conditions, to include all applicable Terms and Conditions as outlined in Part II, Schedule ‘H.2’, in relation to the licensing of the type of use indicated in this *Affiliation Selection Checklist – Addendum*, in addition to any heretofore applicable Terms and Conditions as outlined in Part II, Schedules ‘A’ through ‘I’; and
- b) amend Schedule ‘H.2’ of the Publisher Affiliation Agreement with the addition of s.3(b) F), as follows:

F) TikTok – The authorization of:

- 1. Post-Synchronization Reproduction of Works embodied in any type of Audiovisual Content by TikTok (other than Music Videos), and
- 2. Reproduction of Works by TikTok for the express purpose of providing end users of the service a platform to generate non-commercial User Generated Content.

 Publisher’s Signature

 Name and Title (Please Print)

 Date

 CMRRA Ltd.

Paul Shaver, President
 Name and Title

 Date