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## PROJECT YESTERDAY – DISCUSSION TOPICS

### Credit and Security Agreement

- 1) Discuss differences between Event of Default and Early Liquidation Event.
  - a) Any distinction intended other than interest not accruing at Default Rate?
  - b) How can we foreclose after Liquidation Period if Secured Obligations not accelerated?
  - c) Shouldn't the receipt of any Liquidation proceeds (including pursuant to an accepted Liquidation Offer) at least be a mandatory prepayment event?
- 2) Discuss timing of \$2MM Payment vis-à-vis trigger for Early Liquidation Event (same 8 BD period could be problematic; definition of ELE doesn't exactly match Term Sheet and differs slightly from required timing of \$2MM Payment (8 BDs after last day of month vs. 8 BDs after last BD of month).
- 3) Remedies section should include reference to "exercising" Liquidation Offer.
- 4) Any revenues to Borrower other than what will be paid directly to the Reserve Account pursuant to the Sony/ATV Consent and Agreement and the Warner/Chappel Consent and Agreement?
- 5) Assignments/Confidentiality.
  - a) SME should not have consent rights over assignments.
  - b) Need to expressly contemplate/permit securitization (including agreement of Borrower to cooperate, etc.).
  - c) Disclosures permitted in connection with any potential securitization/inclusion in CDO.
  - d) Eliminate "Initial Lender" concept and usage.
  - e) Objection to Borrower's consent rights re assignments to "other financial institutions generally engaged in the business of making loans"; why not treated the same as "Commercial Banks"?
- 6) Indemnification should expressly reference Prescient litigation and Branca matters.
- 7) Limitation on recourse against Lenders; no ability to file bankruptcy petition against a Lender or otherwise petition for winding-up, etc.
- 8) No recourse to officers, directors, etc. of Lenders.
- 9) Delete restriction on Lenders' ability to put Borrower into bankruptcy.

- 10) Excluded "Taxes" still under review; certain clauses may not be acceptable.
- 11) Clarify that SME's rights as a 3PB with respect to certain sections only relate to specific rights of SME thereunder.
- 12) Need ability to procure valuation of Music Assets at Borrower's expense.
- 13) Explain calculation of Minimum Reserve as well as reduction in the event the Sony Purchase Option is exercised. Also calculation of Target Reserve.
- 14) In MJ Tax Amount, MJ should be required to "use" any "tax assets" such as capital loss carryforwards.
- 15) What Permitted Liens will be on Schedule II?
- 16) Walk us through Section 2.11 (Use of Proceeds) and whether the full \$2MM will be available to fund the Contingent Account. Any excess contemplated to be left over for Beneficial Owners?
- 17) Loan proceeds to be disbursed directly to parties entitled to payment.
- 18) No MAE qualifier for material breaches of Transaction Documents.
- 19) Discuss clauses (ii) and (iii) of Debt covenant, especially (iii).
- 20) Collateral per Term Sheet is "all assets"; therefore should be expanded to include all general UCC categories; accordingly, Sales of Assets covenant shouldn't reference "all or any material portion of its property or assets".
- 21) Not all CSA covenant breaches should have a grace period (e.g., negative covenants like Debt, etc.)
- 22) 30 day grace period for breaches by other Transaction Parties probably not appropriate in all cases (same re MAE qualifier).
- 23) Sony/ATV Pledged Interest should specifically include all amounts payable in connection with Liquidation Offer.
- 24) Discuss minimum amounts for instruments/securities that need to be delivered to Collateral Agent. How will Borrower acquire these anyway?
- 25) Discuss minimum amounts re covenant 7.06(g) relating to Compositions.
- 26) Expenses should include those in connection with any amendments, etc.
- 27) Lenders typically don't consent to jurisdiction.
- 28) Why no references to "Services Agreement" per Term Sheet?

- 29) Term Sheet has EoD for bankruptcy or dissolution of Borrower or Sony/ATV; latter not covered.
- 30) Covenant to enforce material obligations of each other party to the Transaction Documents (from Term Sheet) appears to be missing. Likewise covenant of Borrower not to cancel/terminate/amend any Transaction Document (5.02(g) only covers Loan Documents).
- 31) Term Sheet appeared to call for a Consent from Sony (defined as Sony Corporation of America); how was it determined that this isn't necessary?
- 32) Add rep as to the identity of all the Trustees.
- 33) Add "full disclosure" rep.
- 34) Certain representation regarding Mijac Catalog from old MJPT Security Agreement should be added back.
- 35) Add covenant to keep Borrower's books and records at a specified location and to notify of any change in location.
- 36) Repudiation by any Transaction Party of any material obligation under Transaction Documents should be an EoD.
- 37) Add covenant to defend Collateral against all adverse claims.
- 38) Add covenant to provide copies of any notices received by Borrower from other Transaction Parties.
- 39) Add release of any existing claims against Lenders.
- 40) Add Patriot Act provision.
- 41) Provide that Secured Obligations include post-petition interest, whether or not an allowed claim.
- 42) 60 days (not 90) to "cure" involuntary bankruptcy filing.
- 43) Discuss cap on Liens in favor of AFM, judgment Liens.
- 44) Was Hedge Agreement a Citi requirement or an MJ request? Does the Borrower want to hedge?
- 45) 120 days for annual financials seems too long; why need 45 days for quarterly?
- 46) Judgment default threshold should be \$2MM, not \$10MM; should be 60 days to "cure", not 90.
- 47) Termination upon payment in full should be "indefeasible payment in full, in cash" wherever used. Confirm preference clawback is included.

48)jSuccessor Agent threshold should be \$500MM, not \$1BB.

Sony Guaranty

- 1) Please explain the reason for the change from Sony Global Treasury Services plc to Sony Capital Corporation.
- 2) Discuss Sony Corporation (Japan) "Keep Well Agreement" ("availability" and timing).
- 3) Add (a) SMP's obligations in respect of any Liquidation Offer and (b) Sony/ATV's obligations under the Sony/ATV Consent and Agreement to the obligations that are guaranteed.
- 4) Clarify that benefits of Sony Guaranty can be assigned in connection with any assignment of Loans (i.e., no SME consent required).
- 5) Sony Guarantor can't delegate obligations to any other entity.
- 6) Statement in 3(c) that Beneficiary acknowledges that "the Liquidation Offer is only required to be made in respect of all, but not less than all, of the Music Assets" needs to be qualified to the extent the SPO has been exercised.

Sony Music Consent and Agreement

- 1) Acknowledge and consent to terms of all Transaction Documents, not just CSA.
- 2) Paragraph (b) should be each of the undersigned, not each of the acknowledging parties.
- 3) Please explain how the formulation of the "Guaranteed Advance Agreement" in paragraph (c) matches the "\$2MM Payment" concept of the Term Sheet and CSA (i.e., the \$17MM and \$21MM amounts, etc., etc.)
- 4) Last sentence of first paragraph of (e) should say the acknowledging parties won't consent to (as opposed to permit) the actions described. Also, in clause (ii) of that sentence, SME gets a copy of the Liquidation notice at the time it's sent to the Trustee, so the 5 BDs prior notice doesn't seem to work in the case of a commencement of a Liquidation per the Trust Agreement. Also, please explain SME's rights to "participate" in such a Liquidation.
- 5) Last sentence of second paragraph of (e) reduces Offer Price if Sony has exercised SPO and not revoked it; therefore Sony shouldn't be able to subsequently revoke or we don't get the full amount we're supposed to.
- 6) In the same sentence, how will we know how much will go into the Reserve Amount if the MJ Tax Amount has to be calculated first? Discuss timing issues re same.
- 7) Please explain last 5 lines of paragraph (g) ("other than amendments to or acts ...").
- 8) SME's right to consult re syndication not in Term Sheet. Also, it shouldn't have a say in who gets "agent titles", etc.

- 9) Clarify that benefits can be assigned in connection with any assignment of Loans (i.e., no Sony consent required).
- 10) Sony entities can't delegate obligations to any other entity.
- 11) Discuss April 30, 2008 deadline.
- 12) 90-day period should be extended if Lender reasonably extends Liquidation Period (per Term Sheet).
- 13) Lenders only required to deliver title free of Liens created by them (can't control Borrower; Sony probably has more control).
- 14) Restrictions on amendments of Loan Documents to be qualified "without the consent of SME".
- 15) Language in Form of Liquidation Offer regarding "all Music Assets initially received by New Horizon Trust" problematic to the extent that certain rights may lapse/expire/etc.
- 16) Include a representation as to due authorization, execution, delivery, enforceability, no conflict/consents, etc.

#### Sony/ATV Consent and Agreement

- 1) Many, if not most, of the points re Sony Music Consent and Agreement apply here as well.
- 2) The MAE qualifier in paragraph (i) seems like too high a threshold.

#### Amended and Restated Trust Agreement

- 1) MIJAC Catalog and Sony/ATV Pledged Interest should be defined here rather than just incorporating definitions from Credit and Security Agreement.
- 2) Requirement to retain recognized investment banker in connection with Liquidation Offer (per Term Sheet) should not be optional.
- 3) STILL UNDER REVIEW

#### Operating Agreement Amendments

- 1) STILL UNDER REVIEW