

4796526

DATED 1 August 2003

CERTIFIED TO BE A TRUE  
COPY OF THE ORIGINAL

16 October 2003  
BAKER & MCKENZIE

SOLICITORS

100 NEW BRIDGE STREET

LONDON

EC4V 6JA

(1) MUZE UK LIMITED

(2) NEW ENTERTAINMENT DATA LIMITED

(3) MUZE INC

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**BUSINESS PURCHASE DEED**

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Baker & McKenzie  
100 New Bridge Street  
London  
EC4V 6JA  
Tel: 020 7919 1000  
Fax: 020 7919 1999  
Ref: CJC/NJE



ED8 0042  
COMPANIES HOUSE 13/11/03  
ED8 0055  
COMPANIES HOUSE 01/11/03  
ED8 0034  
COMPANIES HOUSE 17/10/03

DATE: 1 August 2003



**PARTIES:**

- (1) **MUZE UK LIMITED**, a company incorporated in England and Wales with registration number 02451479 and whose registered office is at 10 Orange Street, London WC2H 7DQ (the "Seller");
- (2) **NEW ENTERTAINMENT DATA LIMITED**, a company incorporated in England and Wales with registration number 4790556 and whose registered office is at 100 New Bridge Street, London EC4V 6JA (the "Buyer"); and
- (3) **MUZE INC.**, a New York corporation having its principal place of business at 304 Hudson Street, New York, NY ("Muze" and together with the Seller the "Sellers").

**TERMS AGREED:**

**1. Definitions and Interpretation**

- 1.1 In this Agreement where the context so admits the following words and expressions shall have the following meanings:

"Accounts Receivable"

the book debts, notes receivable and other rights to payment arising from the operation of the Business before the Transfer Date (including the right to receive payment for services rendered before the Transfer Date whether or not invoiced before such date) which in each case at the Transfer Date are less than 180 days old;

"Assets"

the assets and rights agreed to be sold and purchased as more particularly described in clause 2 but excluding any asset or right forming part of the Excluded Assets;

"Assumed Liabilities"

the monies owed by and claimed against, and the liabilities and obligations incurred by, the Seller exclusively in relation to the operation of the Business before the Transfer Date as listed in the Schedule of Liabilities attached to Appendix 1 and any changes to such list between 30 June 2003 and the Transfer Date as shall be agreed between the Seller and the Buyer;

"Business"

the business of the provision of entertainment product data for music, DVDs, and the provision of streaming audio sample services as carried on by the Seller immediately prior to the Transfer Date but excluding the Encyclopaedia of Popular Music Business;

"Business Day"

any day which is not a Saturday, a Sunday or a bank or public holiday in England and Wales;

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"Business IP"

the Intellectual Property identified in Schedule 8;

"Cash Float"

subject to adjustment in accordance with Clause 4.4, the amount of £22,215 being the amount of cash in hand held by the Seller as at 30 June 2003 for the purposes of the Business to be transferred to the Buyer;

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CD Journal Contract"

the agreement between Muze and Ongaku Shappan-Sha Co. Ltd dated 7 September 2001 as amended by an agreement dated 16 April 2003 (a copy of which is attached to the Appendix to the Disclosure Letter;

"CD Library"

the library of compact discs held by the Seller for use in the Business;

"Completion"

completion of the sale and purchase of the Business and the Assets pursuant to clause 4;

"Completion Date"

the date of this Agreement;

"Confidential  
Information"

know-how, trade secrets and other information of a confidential nature (including proprietary technical, industrial and commercial information and techniques in whatever form held, such as paper, electronically stored data, magnetic media, film and microfilm);

"Consideration"

the amount specified in Clause 4.1;

"Consideration Shares"

9,990 B ordinary shares of 10p each in the capital of the Buyer;

"Creditors"

the aggregate amount owing by the Seller in connection with the Business to, or in respect of, trade, intra-group and other creditors at or prior to the Transfer Date but excluding any monies owed by the Seller at the Transfer Date in respect of the Assumed Liabilities;

"Databases"

the Database of Music and the Database of DVDs;

"Database of DVDs"

the database of UK released DVD titles (including, inter alia, review excerpts, descriptions for every title, street and pre-order dates and sound, colour and running information and cover art images) on all media, owned by, or licenced to, either of the Sellers and used in the Business at the Transfer Date marketed under names including but not limited to the name "Muze UK DVD";

"Database Licence"

the data licensing and sales agreement of that description in the approved terms to be entered into between Muze and the

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3.1.11 the Property and any licence or lease or tenancy of the same and all rights or obligations thereunder (save as provided in Clause 7); and

3.1.12 save as provided in the Trade Marks Licence, the right to use the name or mark "Muze".

3.2 Nothing in this agreement shall pass to the Buyer, or be construed as acceptance by the Buyer, of any liability, debt or other obligation of, or incurred, owed or assumed by, the Seller and/or Muze whatsoever (including, without limitation, in relation to the Business or any of the Assets) other than as expressly set out in, or expressly assumed by the Buyer under, this Agreement.

#### 4. Consideration

4.1 The consideration for the sale and purchase of the Assets shall be £290,935 to be satisfied by the issue and allotment by the Buyer to the Seller of the Consideration Shares credited as fully paid.

4.2 The Consideration shall be apportioned among the Assets in accordance with Schedule 9.

4.3 The Buyer and the Seller have agreed that the value of the Tangible Current Assets as at ~~the Transfer Date~~ <sup>31 JULY 2003</sup> should exceed the value of the Assumed Liabilities as at the Transfer Date by an amount equal to £1,000 (the "Required Net Asset Value").

4.4 The Seller shall by no later than 20 Business Days after the Completion Date prepare and deliver to the Buyer a draft statement of the Tangible Current Assets and Assumed Liabilities as at ~~the Transfer Date~~ <sup>30 JULY 2003</sup> (supported by schedules of the Accounts Receivable, the Cash Float, the Pre-payments and Equipment as at ~~the Transfer Date~~ <sup>30 JULY 2003</sup>) ("the Completion Statement") which shall be prepared on the same basis as, and in accordance with the format of, the pro forma statement of the Tangible Current Assets and the Assumed Liabilities as at 30 June 2003 (supported by schedules as aforesaid as at 30 June 2003) (copies of which are annexed to this Agreement at Appendix 1). Subject to Clause 4.5, if the difference between the aggregate value of the Tangible Current Assets shown on the Completion Statement and the aggregate value of the Assumed Liabilities shown on the Completion Statement (the "Actual Net Asset Value") is less than the Required Net Asset Value, there shall be due from the Seller to the Buyer (by way of adjustment of the amount of the Cash Float) a sum equal to the difference between the Required Net Asset Value and the Actual Net Asset Value. If the Actual Net Asset Value exceeds the Required Net Asset Value, there shall be due from the Buyer to the Seller (by way of adjustment of the amount of the Cash Float) a sum equal to the difference between the Actual Net Asset Value and the Required Net Asset Value.

4.5 It is agreed that in the event that:

4.5.1 the Cash Float is increased pursuant to Clause 4.4, the amount of such increase shall not exceed £100,000; and

4.5.2 the Cash Float is decreased pursuant to Clause 4.4, the amount of such decrease shall not exceed £22,215.

4.6 The Seller and the Buyer shall use their respective reasonable endeavours to agree the Completion Statement within 20 Business Days after its delivery by the Seller to the Buyer. The Seller shall give the Buyer (and its employees, agents, representatives and advisers) all access to its books and records relating to the Business as the Buyer may reasonably request in order to review and/or verify the Completion Statement (and the information included therein) and the amounts stated thereon in respect of the Tangible Current Assets and the Assumed Liabilities of the Business.

4.7 If the Seller and the Buyer are unable to agree the Completion Statement within 20 Business Days after its delivery by the Seller to the Buyer, the agreement of the Completion Statement may be referred by either the Seller or the Buyer for determination by an independent chartered accountant in accordance with Clause 13.

4.8 Forthwith upon the Completion Statement being agreed, or determined in accordance with Clause 13, the Seller or (as the case may be) the Buyer will pay to the other the sum due in accordance with clause 4.4 by a cheque drawn on a London clearing bank.

4.9 Save as provided in Clause 3.1, the Deferred Revenue and all receipts and profits of the Business after the Transfer Date shall belong to the Buyer.

4.10 The Consideration and any other sums payable pursuant to this Agreement shall be exclusive of VAT (if any).

## 5. VAT

5.1 The Seller and the Buyer intend that the provisions of section 49 of the Value Added Tax Act 1994 ("Section 49") and article 5 of the Value Added Tax Act (Special Provisions) Order 1995 ("Article 5") apply to the sale and purchase of the Assets under this Agreement so that the sale is treated as neither a supply of goods nor a supply of services.

5.2 The Seller and the Buyer shall each use its reasonable endeavours to procure that the sale of the Assets is treated as neither a supply of goods nor a supply of services under Section 49 or Article 5.

5.3 In the event that HM Commissioners of Customs & Excise ("Customs") determine that any VAT is payable on the sale of the Assets, following receipt of a valid VAT invoice, the Buyer shall pay to the Seller an amount equal to the VAT payable either five Business Days prior to the date on which the Seller is due to account for the same to Customs or, if later, 10 Business Days following receipt of the tax invoice.

5.4 The Seller and the Buyer intend Section 49 shall apply to the sale and purchase of the Assets under this Agreement but intend that the Seller should retain the records referred to in Section 49 and accordingly:

5.4.1 notwithstanding anything in this Agreement, the Seller shall not be required to deliver to the Buyer the records referred to in Section 49;

**SCHEDULE 9**  
**APPORTIONMENT OF CONSIDERATION**

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<u>Asset</u>	<u>Consideration (£)</u>
Accounts Receivable	45,236
Business IP	150,000
Cash Float	22,215
CD Library	1
Confidential Information	1
Databases	1
Equipment	65,434
Goodwill	1
Pre-payments	9,043
Purchased Contracts	1
Records	1
Sales Documentation	1

IN WITNESS WHEREOF the parties hereto have executed this deed on the date appearing at the head hereof.

Executed and delivered as a DEED )  
by MUZE UK LIMITED )  
acting by its attorney Tom )  
Goldsworthy )

Muze UK Limited  
by its Attorney

*[Signature]*

in the presence of:

*N. S. Edwards*

Witness name

*NICK EDWARDS*

Address

*100 NEW BRIDGE ST.*

*LONDON*

*EC4V 6JA*

Occupation

*SOLICITOR*

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*16/10/03*  
BARKER & MCKENZIE

SOLICITORS

100 NEW BRIDGE STREET

LONDON

EC4V 6JA

Executed and delivered as a DEED )  
by NEW ENTERTAINMENT )  
DATA LIMITED acting by its )  
attorney Tom Goldsworthy )

New Entertainment Data Limited  
by its Attorney

*[Signature]*

in the presence of:

*N. S. Edwards*

Witness name

*NICK EDWARDS*

Address

*100 NEW BRIDGE ST*

*LONDON*

*EC4V 6JA*

Occupation

*SOLICITOR*

Executed and delivered as a DEED )  
by MUZE INC acting by its )  
duly authorised representative )

*[Signature]*

in the presence of:

*N. S. E...*

Witness name

*NICK EDWARDS*

Address

*100 NEW BRIDGE ST*

*LONDON*

*EC4V 6JA*

Occupation

*SOLICITOR*

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*16/1/03*  
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