Compendium

of

ASCAP Rules and Regulations, and

Policies Supplemental to the Articles of Association

Effective as of December 2012

TABLE OF CONTENTS

Page

1.0 MEMBERSHIP 1
1.1 Requirements for Membership 1
1.2 Effective Date of Membership 1
1.3 Dual Affiliation Generally Prohibited 1
1.3.1 Dual Affiliation by Writers with a Foreign Society 2
1.3.2 Dual Affiliation by Publishers 2
1.4 Changes to Member Information 2
1.4.1 Parties Authorized to Request Member Information Changes 2
1.4.2 Changes to Correspondence and Royalty Address Information 2
1.4.3 Changes to Writer Members' Pseudonyms 3
1.4.4 Writer Members: Legal Name Change 3
1.5 Disclosure of Member Information 3
1.5.1 Member Contact Information 3
1.5.2 Financial Information 4
1.5.3 Membership Status 4
1.5.4 Catalog Information 4
1.5.5 Royalty Information 4
1.6 Member Financial and Estate Planning 5
1.7 Appointment of Successor Members for Deceased Members 5
1.8 Election to Membership Posthumously 5
1.9 Use of ASCAP Name and Logo by Members. 5
1.9.1 General Requirements 5
1.9.2 Musical Compositions 6
1.9.3 Misuse 6
1.10 Professional Recommendations 6
1.11 Resignation and Withdrawal from Membership 6
1.12 Modification of a Member's Grant of Licensing Rights For Certain New Media Transmissions 7
1.13 Jurisdiction and Forum Selection for Proceedings Involving ASCAP 12
1.14 Notice to Members 12
1.15 Administrative Fees and Service Charges 12
1.16 Annual Statement 12
1.16.1 Annual Distribution Period 12
1.16.2 Claims Regarding Annual Statements 13
2.0 ASCAP REPERTORY 13
2.1 ASCAP Repertory Defined 13
2.2 Title Registration 13
2.2.1 Registration in Required Form 13
2.2.2 Registration of Multiple Works 14
2.2.3 Copyright Registration 14
2.3 Registration of Collaborative Works 14

2.4 Catalog Administration Agreements 14
2.4.1 General Requirements 14
2.4.2 Complete Catalogs 14
2.4.3 Partial Catalogs 14
2.5 Sub-publishing Agreements 15
2.5.1 General Requirements 15
2.5.2 Complete Catalogs 15
2.5.3 Partial Catalogs 15
2.6 Works in the Renewal and Extended Term 15
2.7 Licensing Works 15
2.7.1 ASCAP's Non-Exclusive License 15
2.7.2 Direct Licenses Issued To Music Users By Members 16
2.8 Claims Against ASCAP Members' Works 16
2.8.1 Disputed Claims Between ASCAP Members 16
2.8.2 Renewal and Post-Termination Claims Between ASCAP Members Over a Work 17
2.8.3 Adverse Claims Against an ASCAP Member's Work 17
2.8.4 Claims Involving Publisher Administrations 17
2.8.5 Indemnification 18
2.9 Removal of Works from the ASCAP Repertory 18
2.9.1 Removal Generally; Effective Date 18
2.9.2 Continuing Publisher Member Removal 18
2.9.3 Rights of Resigned Writer Members 19
2.10 Removal of Foreign Originated Works from the ASCAP Repertory 19
2.10.1 Removal Generally 19
2.10.2 Special Need Exception 19
2.10.3 Reporting Method 19
3.0 DISTRIBUTION OF ROYALTIES 20
3.1 Distributions Generally 20
3.1.1 Distribution System 20
3.2 Ombudsmen 20
3.3 Distributions for Works Made For Hire 20
3.4 Distributions Concerning Collaborative Works 20
3.4.1 Distributions Proportionate to a Member's Shares in a Collaborative Work 20
3.4.2 Distributions to Unaffiliated, Non-Member Writers 21
3.4.3 No Distributions for Directly Licensed Works 21
3.5 Crediting Works of Foreign Origination 21
3.5.1 Definition of a Work of Foreign Origination 21
3.5.2 Crediting Generally 21
3.5.3 Crediting for Symphonic, Recital and Educational Performances 21

3.6 Financial Matters and Dues 22
3.6.1 Taxes 22
3.6.1.1 Tax and Other Levies 22
3.6.2 ASCAP Financial Statements 22
3.6.3 Revocable Direction to Authorize Payment 22
3.7 Member Expenses 23
3.8 Application of Royalties to Repay Amounts Due ASCAP 23
4.0 ASSIGNMENT OF ROYALTIES 23
4.1 Board Approved Exceptions to General Prohibition Against Assignments 23
4.1.1 Forms and Inquiries 24
4.2 General Assignment Conditions 24
4.3 Assignment to Corporation 95% Owned by One or More Writer Members 25
4.4 Irrevocable Assignment of Deceased Writer's Royalties 25
4.5 Irrevocable and Revocable Assignment of Living Writer's Royalties 25
4.6 Assignment Related to Repayment of Line of Credit, Loan or Advance 26
4.7 Assignment to Provide Security Interest to a Financial Institution 26
4.8 Other Assignments 27
5.0 CONTACT INFORMATION 27
5.1 ASCAP Departments 27
5.2 Membership Offices 27
5.3 Other ASCAP Offices 27
6.0 DEFINITIONS 28
6.1 Defined Terms in the Compendium 28

Purpose of this Compendium

- ASCAP is a voluntary, unincorporated membership association, composed of Writers and Publishers of musical compositions. The text of ASCAP's Articles of Association is available on the ASCAP web site.
- This Compendium contains the rules and regulations adopted by the Board of Directors pursuant to the Articles of Association, as well as certain administrative policies and practices of ASCAP which supplement the Articles of Association (collectively, the "Policies"). It is intended to assist ASCAP Members in understanding the Policies applicable to their Membership, and, above all, to enable Members to take full advantage of the benefits of Membership.
- These Policies are subject to ongoing review and may be amended from time to time.
- In the case of any conflict between these Policies and the Articles of Association, the Articles of Association govern.
- Unless expressly defined in this Compendium, terms used in this Compendium have the meaning given to them in the Articles of Association or the Second Amended Final Judgment in United States v. ASCAP, Civ. Action No. 41-1395 (S.D.N.Y. June 11, 2001).

1.0 MEMBERSHIP.

1.1 Requirements for Membership.

1.1.1 The eligibility requirements for ASCAP Membership are set forth in Article III of ASCAP's Articles of Association, the text of which is available on the ASCAP web site. Writers (and their successors) and publishers who want to join ASCAP may do so by contacting ASCAP's Membership Services Department. Writers may also join ASCAP by applying online on the ASCAP web site.

1.1.2 For ASCAP to pay both Writer and Publisher royalties in connection with the non-dramatic public performance of a work in the ASCAP Repertory, in addition to the requirements set forth in the Articles of Association and the rules and regulations of ASCAP, the work must have an ASCAP Writer and Publisher as Members-in-interest. Writer Members may also become Publisher Members and may choose to have their works administered by another ASCAP Publisher Member.

1.3 **Effective Date of Membership.** When a Writer or Publisher first joins ASCAP, the Member is immediately eligible to begin receiving royalty distributions. New Members may receive royalties in the distribution made in the calendar quarter in which they are elected to Membership based on performances, appearing in ASCAP's survey of performances, that occurred prior to election.

(a) **Dual Affiliation Generally Prohibited.** As a general rule, a Writer may not, simultaneously, be a Member of ASCAP and an affiliate of another United States performing rights licensing organization, or, simultaneously, license performances in any territory through more than one performing rights licensing organization. (Members are always free to license their works directly anywhere in the world.)

1.3.1 **Dual Affiliation by Writers with a Foreign Society.** Subject to Section 1.3, Writer Members, who are otherwise eligible to join one or more foreign societies directly, may do so in any territories outside the United States and may also maintain or establish an ASCAP Membership.

1.3.2 **Dual Affiliation by Publishers.** Individuals or other entities, who own and operate a publishing company affiliated with another United States performing rights licensing organization and doing business under a fictitious name, may join ASCAP as a Publisher Member without establishing a separate corporate entity subject to all of the following conditions:

(a) The ASCAP Publisher Member must be doing business under a fictitious name different from that of the publisher affiliated with another United States performing rights licensing organization. The difference in names must be such that, in ASCAP's sole judgment, there is no likelihood of confusion between the names.

(b) The ASCAP Publisher Member must maintain a separate and distinct catalog from the Publisher affiliated with another performing rights licensing organization. ASCAP, in its sole discretion, may reject the application for ASCAP Membership of any such Publisher on the ground that it and the Publisher affiliated with another performing rights licensing organization do not appear to maintain separate and distinct catalogs.

(c) The owner of the ASCAP Publisher Member must warrant and represent to ASCAP that none of the rights granted to ASCAP by the ASCAP Publisher have been or will be granted to another United States performing rights licensing organization and must execute a letter agreement to that effect, or such other form of agreement as ASCAP may require.

1.4 Changes to Member Information.

1.4.1 Parties Authorized to Request Member Information Changes.

(a) A Writer Member may act on behalf of himself or herself or through a "Designated Representative," such as a person to whom the Writer Member has given a power of attorney, a legal guardian or trustee, or other person authorized under applicable law to represent the Writer Member.

(b) A Publisher Member must act through its designated "Publisher Representative," which for: (i) sole proprietorships must be the owner; (ii) partnerships must be one of the partners; and, (iii) corporations must be an officer.

1.4.2 **Changes to Correspondence and Royalty Address Information.** Members may maintain two addresses in ASCAP's records: one for general correspondence and another for royalty checks. A request to change any Member's address information (including street addresses, apartment numbers and zip codes), telephone numbers, or e-mail addresses must be made by following the instructions for "Changing Correspondence Royalty Address" in the "Member Access" portal, available at members.ascap.com. If a Member does not have internet access, they can make such a request either by fax or mail to ASCAP's Member Services Department (Attn: Address Change). If a Member does wish to change address information via fax or mail, such a request must:

(a) Be in written, hardcopy form;

(b) Be signed, as applicable, by: (i) the Writer Member personally or his or her Designated Representative, or (ii) the Publisher Member's Publisher Representative on the Publisher Member's letterhead; and,

(c) Include the Member's Social Security Number, Tax Identification Number, and Member Code (also known as "Member Number" or "Member ID").

Address change requests that do not meet the above requirements will be returned with an explanation as to why the change could not be accepted. Change requests to street addresses, apartment numbers, "c/o" and the like are also subject to the above requirements. Corrections/additions to telephone numbers, zip codes, etc. may be made over the telephone. A request to change a royalty address must be received sufficiently prior to the processing deadline to be effective for the next scheduled distribution.

1.4.3 **Changes to Writer Members' Pseudonyms.** Except for Writer Members who registered their works under more than four pseudonyms prior to August 8, 1965, Writer Members are limited to four pseudonyms in addition to their legal names. Notification regarding a Writer Member's new pseudonym, or a pseudonym change must be made by following the instructions for submitting the appropriate "Member Services Inquiry" in the "Member Access" portal, available at members.ascap.com. If a Member does not have internet access, they can make such a request either by fax or mail to ASCAP's Member Services Department (Attn: Pseudonym Change). If a Member does wish to change pseudonym information via fax or mail, such a request must conform to the requirements set forth for written requests in 1.4.2 (a) – (c) above.

1.4.4 **Writer Members: Legal Name Change.** Notification regarding a Writer Member's legal name change must be made by following the instructions for submitting the appropriate "Member Services Inquiry" in the "Member Access" portal, available at members.ascap.com. If a Member does not have internet access, they can make such a request either by fax or mail to ASCAP's Member Services Department (Attn: Legal Name Change). If a Member does wish to change the legal name information via fax or mail, such a request must conform to the requirements set forth for written requests in 1.4.2 (a)–(c) above and also include a copy of the legal document evidencing the new legal name.

1.5 Disclosure of Member Information.

1.5.1 Member Contact Information.

(a) Unless a Publisher Member specifically requests in writing that its address information not be made available to the public, all Publisher Member address information will be provided to anyone who requests it from ASCAP's Member Services Department.

(b) Writer Member addresses (including those of successors, resigned and terminated Members) are considered proprietary information and will only be disclosed as provided in this Section 1.5.1.

(c) ASCAP will provide to Members who request the names and addresses of all Members only the information that is available to the public on the

public electronic list as that term is defined in Section II(O)(2), and in the manner specified in Section X(B)(2), of the Second Amended Final Judgment in United States v. ASCAP, Civ. Action No. 41-1395 (S.D.N.Y. June 11, 2001).

(d) ASCAP will forward to any Member, unopened, any mail addressed to that Member in care of ASCAP's Member Service Department; provided, however, that ASCAP, in its discretion, reserves the right to charge the senders for the cost of postage.

1.5.2 **Financial Information.** ASCAP will keep detailed records of the credits earned and royalties distributed to each Member for the five previous fiscal survey years. Any Member (or the Member's authorized agent) may inspect such records with respect to the Member's own distributions. No Member may inspect such records with respect to the distributions made to any other Member; provided, however, that upon request made in good faith and for good cause, and subject to suitable assurances of confidentiality, a Member may inspect such records with respect to the distributions made to any other Member which relate to performances of: (i) compositions the requesting Member has written or published, (ii) co-written or co-published compositions, or (iii) similar compositions on the same program(s) on which the requesting Member's compositions were performed. In the case of a pending Board of Review protest, the Board of Review will determine if such request is made in good faith and for good cause; in all other cases, ASCAP will make that determination.

1.5.3 **Membership Status.** Information as to a Member's status, that is, whether the Member is an active, terminated or resigned ASCAP Member, will be provided to the public on request to ASCAP's Member Services Department.

1.5.4 **Catalog Information.** Members' catalog information is available to Members and to the general public. The ASCAP Clearance Express ("ACE") provides "on line" information through the ASCAP web site about entitled parties, administrators and Sub-publishers for works that have appeared in ASCAP's survey of performances since 1978, or which have been registered with ASCAP since January 1, 1991. In addition, all Members can receive more comprehensive information about their own works either electronically or in paper form. Such information includes works performed in ASCAP's surveys, works that have been registered but may not have generated royalties, and share information for all parties-in-interest for all works in their catalog. Requests for this information must be sent, by fax or mail, to ASCAP's Member Services Department, and must:

(a) Be in written hardcopy form (e-mail/Internet requests are not acceptable);

(b) Be signed, as applicable, by (i) the Writer Member personally or his or her Designated Representative, or (ii) the Publisher Member's Publisher Representative; and,

(c) Include the Member's Social Security Number, Tax Identification Number or Member Code, as applicable.

1.5.5 **Royalty Information.** Except as expressly provided in this Section 1.5, ASCAP will not disclose any proprietary financial information about a Member to a third party absent a subpoena or a specific written authorization, signed, as applicable, by: **(i)** the Writer Member personally or his or her Designated Representative, or **(ii)** the Publisher Member's Publisher's Representative.

1.6 Member Financial and Estate Planning.

1.6.1 Writer Members are permitted to transfer their right, title and interest in any musical works, including the right of public performance and right to receive royalties under their ASCAP Membership, to such heirs, legatees or other persons as they may designate in their wills or other instruments by which they seek to dispose of their estates. Writer Members are cautioned that the U.S. Copyright Law may determine who receives the Writer Members' renewal or termination rights, notwithstanding any instruction to the contrary in the Writers' wills or other written directions; accordingly, care should be taken with both financial and estate planning.

1.6.2 Certain assignments of royalties by living Writer Members and/or the trusts or estates of Writer Members may be employed for purposes of financial and estate planning purposes. The terms and conditions for royalty assignments that are permissible for ASCAP Writer Members are set forth in Section 4.0.

1.7 Appointment of Successor Members for Deceased Members.

1.7.1 Successor Members may be appointed to succeed deceased Writer Members as well as Publisher Members. If a deceased Writer Member held an interest in a Publisher Member, for example, as a sole proprietor, partnership or closely held corporation, depending on whether a Successor Member or a Successor to a Successor Member is being appointed, the same application may be used. The relevant applications are entitled: "Application for Successor Appointment for a Deceased Member" and "Application for Successor Appointment to Successor Member of a Deceased Member," respectively.

1.7.2 If a deceased Publisher Member was not an ASCAP Writer Member, an application may be made to transfer the Publisher Membership using the application entitled: "Application to Transfer Publisher Membership of a Deceased Owner."

1.7.3 Applications for these purposes are available on the ASCAP web site or may be obtained from ASCAP's Estates & Claims Department.

1.8 **Election to Membership Posthumously.** A deceased writer may be elected to Writer Membership posthumously, provided that the deceased would have qualified for ASCAP Writer Membership during his or her lifetime. The application for such Membership is entitled: "Application for Posthumous Election to Membership and Application for a Successor for a Deceased Writer." This application must be submitted simultaneously with an ASCAP Writer Membership Application made in the name of the deceased. These applications are available on the ASCAP web site or may be obtained from ASCAP's Estates & Claims Department. To facilitate proper handling, both Applications must be submitted to ASCAP's Estates & Claims Department.

1.9 Use of ASCAP Name and Logo by Members.

1.9.1 **General Requirements.** Subject to Sections 1.9.2 and 1.9.3, every Member in good standing is permitted to use ASCAP's trademarked logos on any materials,

documents, or communications that the Member uses to advise the public, in a factual way, that the Member is a Member of ASCAP. Members may only use true and correct copies of ASCAP's logo and such use must not imply or indicate that ASCAP has approved of, sponsored, or is otherwise responsible for the content of the documents or materials disseminated by the Member. Members are not permitted to use ASCAP's logos on products and services, such as clothing and accessories, without the express written consent of ASCAP. ASCAP expressly reserves the right to withdraw this permission and to request that a Member cease from using the logos for any reason. (Copies of ASCAP's logos are available on the ASCAP web site or can be obtained through an e-mail request to ASCAP's webmaster submitted through the ASCAP web site.)

1.9.2 **Musical Compositions.** If a Member places ASCAP's logos on publications relating to recordings of musical compositions, such as CD covers, jewel cases and liner notes, such use may only be for the limited purpose of designating such materials as including musical compositions written and published by Members and applied in such a manner that the use does not imply or indicate that ASCAP has approved of, sponsored, or is otherwise responsible for the content.

1.9.3 **Misuse.** Members may not use the ASCAP logos or refer to their Membership in any letter, advertisement or otherwise, in connection with the solicitation of funds from songwriters for the purpose of revising, adapting, publishing or exploiting a songwriter's works. ASCAP deplores the practice of soliciting works from amateur songwriters on the condition that such amateurs pay a sum of money in the hope of having their works published. For this reason, ASCAP prohibits the use of ASCAP logos or reference to one's ASCAP Membership in the context of communications for such a purpose.

1.10 **Professional Recommendations.** ASCAP provides information to Members, such as making introductions, providing recommendations and advice, encouraging participation in showcases and workshops, and posting on the ASCAP web site information about working in the music industry, to assist Members in their career development. Notwithstanding ASCAP's assistance in this regard, Members are responsible for making their own career decisions. Accordingly, no Member may make any claim for damages or losses of any kind against ASCAP, either directly or indirectly through another Member or third party, based on the receipt of, or reliance on, any such information or assistance from ASCAP.

1.11 Resignation and Withdrawal from Membership.

1.11.1 Any Member may, subject to the terms of the Membership Agreement and Articles of Association, withdraw from Membership in ASCAP annually, effective on the first day following the calendar quarter in which the anniversary date of the Member's election to Membership falls, (i) upon giving no more than nine months' nor less than six months' advance written notice to ASCAP; (ii) upon agreeing that the resignation may be subject to any rights or obligations existing between ASCAP and its licensees under then-existing licenses ("Licenses-in-Effect") and to the rights of the withdrawing Member accruing under such licenses; and (iii) subject to the provisions of Sections 1.11.2, 1.11.3, 1.11.4 and 1.11.5.

1.11.2 Notice of resignation must be completed by following the instructions available under "Member Status" in the online "Member Access" portal and available at members.ascap.com. If a Member does not have internet access, Member resignation must be delivered by first class United States mail only, to such address as ASCAP specifies on its "Writer Resignation Notification Form" and "Publisher Resignation Notification Form," both available on the "Governing Documents" page of www.ascap.com, and must be received at that address by the date specified in Section 1.11.1, subsection (i). Any such notice must be personally signed by the resigning Writer Member or the designated Publisher's Representative of the resigning Publisher Member, and must be submitted on a form to be made available by ASCAP, which form must be complete, accurate, and timely. For the avoidance of doubt, there shall be no exceptions to the requirements of this Section 1.11.

1.11.3 Any Writer or Publisher Member, who resigns from ASCAP and whose works continue to be licensed by ASCAP by reason of the continued Membership of a Writer, Co-Writer, Publisher or Co-Publisher of any such works, may elect to continue receiving distributions for such works, on the same basis and with the same elections as a current Member, so long as the resigning Member (or Members) does not license the works to any other performing rights licensing organization for performance in the United States. ASCAP may require a written acknowledgment from resigning Members confirming that the works have not been so licensed. In any event, a resigning Member shall receive distribution from ASCAP on the basis of performances made under Licenses-in-Effect at the time of the Member's resignation. For the avoidance of doubt, the right of ASCAP to continue to license works of a resigned Member when the Corresponding Member-in-Interest (i.e., the corresponding Publisher in the case of a Writer or the corresponding Writer in the case of a Publisher) remains an ASCAP Member shall be governed by the holding of Marks v. Taylor, 10 Misc. 2d 9, 55 N.Y.S.2d 94 (N.Y. S.Ct. 1945). A Publisher Member whose catalog includes works of more than one Writer Member may, upon compliance with all other requirements of Section 1.11, transfer the works in a resigning Writer Member's catalog to a non-ASCAP publisher, effective on the Publisher Member's resignation date, without resigning from ASCAP Publisher Membership.

1.11.4 ASCAP may, at its option, deny resigning Members the right to receive payment on any basis other than a current performance basis, provided that such option is exercised as to all resigning Members alike.

1.11.5 A Member who requests and receives an advance from ASCAP shall not be entitled to exercise the right to resign until the advance has been fully recouped except that if an advance has not been fully recouped within five years, the Member may thereafter repay the unrecouped balance and exercise the right to resign.

1.12 Modification of a Member's Grant of Licensing Rights For Certain New Media Transmissions.

1.12.1 **(a)** Any ASCAP Member may modify the grant of rights made to ASCAP under such Member's Membership Agreement by withdrawing, in whole or in part (as

specified in 1.12.2(b) below), from ASCAP the right to license the right of public performance of certain "New Media Transmissions" (defined in 1.12.9 below) of works (to the extent of such ASCAP Member's rights in such works) in which the Member has an interest and any corresponding interests of Writer Member(s) and/or other Publisher Member(s) in such works that such ASCAP Member has the right to withdraw (each such Writer Member and/or other Publisher Member, hereafter, an ASCAP "Corresponding Member-in-Interest") pursuant to a publishing and/or administration agreement between the withdrawing Member and the Corresponding Member-in-Interest, subject to the terms and conditions set forth herein. Such rights are referred to herein as "New Media Transmission Licensing Rights."

(b) Any ASCAP Member seeking to withdraw rights in a work in which a writer or publisher affiliated with a foreign performing right organization ("PRO") has an interest in that work may not withdraw that Member's or the member of the foreign PRO's rights in that work for New Media Transmissions, unless and until the foreign PRO member has complied with the rules of the foreign PRO applicable to its members to give effect to such a withdrawal.

1.12.2 Any Member seeking to make such a modification of its grant of rights to ASCAP must execute and submit a modification to the Member's Membership Agreement, in a form that is consistent with these provisions (each, a "Membership Modification"). Each Membership Modification shall require that:

(a) The Member warrants and represents that:

(i) the Member has the right to license the public performance rights in its interest in the works on the Member's List of Works (defined in 1.12.4 below);

(ii) the Member is not prevented by any contractual, legal or other obligations from executing the Membership Modification and otherwise has the authority to enter into the Membership Modification; and, the Member accepts and acknowledges its responsibility to pay royalties to Corresponding Members-in-Interest that are collected from New Media Transmission licenses that the Member enters pursuant to its exercise of New Media Transmission Licensing Rights.

(b) The Member submitting a Membership Modification, must indicate in its submission whether the withdrawal of its grant of rights is in whole or in part. If in part, the Member's New Media Transmission Licensing Rights will continue to be licensed and administered by ASCAP for only those "New Media Services" (defined in 1.12.9 below) that: (i) qualify for and are licensed by way of any of ASCAP's form new media license agreements, or, (ii) qualify for and are licensed by an ASCAP "affiliate" or "multi-site" license agreement (collectively, "Standard Services").

(c) ASCAP warrants and represents that:

(i) on and after the Effective Date (defined in 1.12.3 below) of such Membership Modification, it shall not license the New Media Transmission Licensing Right in such Member's and Corresponding Member-In-Interest's interest in any works on the Member's List of Works (defined in 1.12.4 below), subject to Licenses-In-Effect (as set forth in 1.12.5 below), through the termination date of such licenses;

(ii) it will continue to pay royalties to each such Member, and the Member's Corresponding Members-in-Interest, in respect of any New Media Transmissions subject to Licenses-In-Effect (as set forth in 1.12.5 below), made through the termination date of such licenses, as well as continue to pay such royalties as may be due to each such Member and the Member's Corresponding Members-in-Interest, in respect of all other public performing right licenses for non-New Media Transmissions which ASCAP collects royalties;

(iii) no Member shall lose, forfeit, or cease to have any interest, right or claim in, to or under ASCAP, or the property thereof, or any royalties due and payable, in accordance with this Section 1.12, any Membership Modification, and/or any withdrawal or modification of New Media Transmission Licensing Rights provided for herein or therein; and,

(iv) it will notify any New Media Services (defined in 1.12.9 below), subject to such Licenses-In-Effect (as set forth in 1.12.5 below), and any other New Media Services with which ASCAP may be negotiating or which have not entered a final license with ASCAP, that as of the Effective Date of the Membership Modification, the Member's and Corresponding-Member-in-Interest's interest in any of the works on the List of Works covered by the Membership Modification will no longer be included in ASCAP's Repertory for purposes of any new or final license with such New Media Services.

1.12.3 **(a)** A Membership Modification executed by an eligible Member will be effective on the first day following the last day of the calendar quarter in which the anniversary date of the Member's election falls (the "Effective Date"), upon submission of an executed copy of such Membership Modification to ASCAP no more than nine months nor less than six months from the Effective Date.

(b) If a Member owns, controls or administers more than one catalog of musical works by reason of a legal relationship with another Member ("Related Members"), and these Related Members have different Effective Dates, and all such Related Members wish to make a modification of their grant of rights, to facilitate the administration of their modification of their grant of rights these Related Members will be allowed to use the earliest Effective Date of any of the Related Members' grant of rights, provided all such Related Members submit executed Member Modification Agreements during the earliest eligible withdrawal period for any Related Member; such withdrawal period being defined in Section 1.12.3 (a), above.

(c) Submission of an executed Membership Modification by a Member eligible to execute such a Membership Modification shall be made by hand delivery, courier service or first class United States mail only to such address as ASCAP shall specify in the Membership Modification and executed by the Member personally, or its Designated Representative (as named in ASCAP's records).

1.12.4 **(a)** No later than ninety days before the Effective Date of the Membership Modification, ASCAP shall send Member a list of the Member's works that ASCAP believes are subject to this Section 1.12 and the applicable Membership Modification and as to which the Member has exercised its withdrawal rights under this Section, including the titles of such works, alternate titles and the names of any ASCAP Corresponding Members-in-Interest in such works, and including the

percentages of those parties' respective interests as writers and/or as publishers in such works, as reflected in ASCAP's records ("List of Works"). Member shall notify ASCAP, in writing, of any errors or omissions on this List of Works, or of any work that should not be on this List of Works, within ten days of receipt of the List of Works. In the event that there is any dispute regarding whether any particular work should be on the List of Works, the party who believes a work should not be included shall provide written notice to the other party and the parties shall cooperate to promptly resolve any such dispute and/or to correct any other errors, provided, however, that the List of Works shall be deemed accurate and complete as to all works on the List of Works as to which neither party has provided any such notice. Subject to the preceding sentence, any works as to which the parties cannot agree are properly reflected on the List of Works, shall not be part of the List of Works until agreement has been reached, provided, however, that neither party shall withhold its agreement unreasonably or in bad faith, or to frustrate the purposes of this Section or any Membership Modification. Any titles to works registered with ASCAP on or after the Effective Date shall be presumed to be included in the List of Works under the Membership Modification, unless and until the Member advises ASCAP to the contrary in writing.

(b) As soon as is practicable upon receipt of the Membership Modification, but not later than the date ASCAP sends Member the list of Member's works in accordance with 1.12.4(a) above, ASCAP shall notify all Corresponding Members-in-Interest of Member's intent to withdraw rights as set forth in the Membership Modification, including whether such withdrawal includes or excludes Standard Services (as defined above in Sec. 1.12.2(b).

1.12.5 Upon the Effective Date of a Membership Modification, ASCAP will no longer have the right to license the works subject to the Membership Modification to New Media Services, including whether such withdrawal includes or excludes Standard Services (as defined above in Sec. 1.12.2(b); provided, however, that ASCAP shall continue to have the right to license such works only to those New Media Services which are licensed under Licenses-in-Effect on the Effective Date of the Membership Modification, and only for the duration of such Licenses-in-Effect.

1.12.6 Any Member may terminate its Membership Modification at any time upon written notice to ASCAP, and thereby grant back to ASCAP the rights previously withdrawn, provided, however, (i) the Member shall notify ASCAP promptly in writing of the term of any public performance licenses entered into by the Member during the period in which the Membership Modification was in effect and the name of any such licensees (collectively, "New Media Services Direct Licenses"), and (ii) the works previously licensed directly by the Member pursuant to the Membership Modification will only be included under ASCAP licenses upon the expiration of the Member's New Media Services Direct Licenses.

1.12.7 Notwithstanding the rule prohibiting any Member with an outstanding advance from resigning as set forth in Section 1.11.5 above, ASCAP will notify the Member submitting the Membership Modification of any Corresponding Members-in-Interest who are Writer Members ("Corresponding Writer Members-in-Interest") who have outstanding advances, and as to those Corresponding Writer Members-in-Interest, the Member submitting the Membership Modification shall pay over to ASCAP any royalties collected for any share of public performances of works of the Corresponding Writer Members-in-Interest until such time as the advance to the

Corresponding Writer Members-in-Interest has been recouped; if the royalties collected for public performances of the works are combined with other royalties, then the portion reasonably attributable to the writer's share of public performances of the works shall be paid over to ASCAP until such time as the advance to the Corresponding Writer Members-in-Interest has been recouped.

1.12.8 Notwithstanding the provision in Section 2.7.2(a) below, a Member who has executed a Membership Modification shall not be required to provide notice to ASCAP of its direct licenses with any New Media Services.

1.12.9 **<u>New Media Transmission Definitions.</u>**

(a) A "New Media Transmission" shall mean:

(i) a digital audio transmission that, in addition to requiring a public performance license, also requires the Music User to comply with the license requirements of 17 U.S.C. §114, §115 and/or §106(1); or

(ii) a digital transmission of a music video or a user-uploaded video (i.e., a video uploaded to the Service by the end-user) that, in addition to requiring a public performance license, also requires that the Music User, in order to offer the music video or user-uploaded video on or via the Service, obtain a license directly from the owner or administrator of the rights in the musical composition(s) embodied therein for rights other than the right of public performance (e.g., synchronization or mechanical rights); or

(iii) a digital transmission made from a digital music file either (a) uploaded by an end-user to the server and/or (b) matched from a file on the end-user's computer or device to a digital music file on the Service's server (such server, in either case, often referred to as either the "cloud" or a "locker").

(b) A "New Media Service" shall mean any standalone offering by a "Music User" (including, without limitation, by any "On-line Music User") by which a New Media Transmission of musical compositions is made available or accessible **(i)** exclusively by means of the Internet, a wireless mobile telecommunications network, and/or a computer network and **(ii)** to the public, whether or not, in exchange for a subscription fee, other fee or charge; and whether or not such offering includes exposure to advertisements before, during and/or after the transmission of such compositions. The term "New Media Service" shall specifically exclude transmissions made by any "Broadcaster" (as defined in ASCAP's Second Amended Final Judgment entered in United States v. ASCAP ("AFJ2"), and available at www.ascap.com/members/governingDocuments/), and as it existed on the date of entry of AFJ2) who is transmitting Works in ASCAP's repertory (including by any "Through-to-the Audience License") both **(x)** by means of the Internet, a wireless mobile telecommunications network, and/or a computer network, and **(y)** over the air, or via cable television or direct broadcast satellite, or via other existing or yet-to-be developed transmission technologies to audiences using radios, television sets, computers, or other receiving or playing devices. For the avoidance of doubt, subject to Licenses-in-Effect and the limitations on licensing set forth in this subparagraph, any service that, at any time, makes New Media Transmissions with respect to only a portion of its offerings shall at such time be considered a New Media Service, and only with respect to such portion(s) of its offerings.

(c) Additional Defined Terms. Any capitalized or other terms not specifically defined herein shall have the meaning set forth in AFJ2.

1.13 Jurisdiction and Forum Selection for Proceedings Involving ASCAP.

1.13.1 Any grievance, complaint, claim or action any member may have against ASCAP concerning his or her membership or any action of ASCAP, and any grievance, complaint, claim or action ASCAP may have against any member, whether pursuant to the Articles of Association, the application for membership, the membership agreement, or otherwise, other than a protest to the Board of Review made in accordance with the Articles of Association or a claim arising under the Second Amended Final Judgment in United States v. ASCAP, Civ. Action No. 41-1395 (S.D.N.Y. June 11, 2001), and whether accrued before or after the adoption of this regulation, shall be construed and interpreted under the laws of the State of New York, and shall be subject to the exclusive jurisdiction of the courts of the State of New York located in the County of New York (including the Federal courts so located, should Federal jurisdictional requirements exist).

1.13.2 In any proceeding to enforce a decision of a Panel made in accordance with the provisions of the Articles of Association governing protests to the Board of Review, the Panel's decision shall be governed by, and construed and interpreted under, the laws of the State of New York, and such proceeding shall be subject to the exclusive jurisdiction of the courts of the State of New York located in the County of New York.

1.14 **Notice to Members.** Pursuant to Article XIX of the Articles of Association, notice to the general membership may be given by any of the following methods, singly or in combination: (1) United States mail, (2) e-mail, (3) posting on the ASCAP website, and (4) publication in Playback or other ASCAP publications intended for the general membership.

1.15 **Administrative Fees and Service Charges.** ASCAP's Board may authorize the imposition of fees, from time to time, to be paid by all members, including successor members, in an amount intended to reflect and offset commonly incurred expenses that benefit the membership, as a whole, unless any such members' royalty earnings are in such amounts, as to be determined by the Board, that they already offset such common expenses. ASCAP reserves the right to charge for administrative services provided in response to authorized requests for member information, including, but not limited to, production of documents in response to such requests, and other, similar services.

1.16 Annual Statement

All statements issued by ASCAP during the "Annual Distribution Period" (defined below) comprise the "annual statement" to a member, as referenced in Article XIV of the Articles of Association. Please note that annual statements reflect all credited performances for an Annual Distribution Period and such statements are deemed received upon ASCAP's issuance.

1.16.1 Annual Distribution Period

The Annual Distribution Period shall be defined as all distributions issued by ASCAP for a specific twelve (12) month period as follows: prior to and including March 31 of a calendar year for publisher-members and prior to and including April 30 for writer-members (i.e., for publisher-members, the Annual Distribution Period will start on April 1 of a certain year and will end on March 31 of the following calendar year – for writer members, the Annual Distribution Period will start on May 1 of a certain year and will end on April 30 of the following calendar year).

1.16.2 Claims Regarding Annual Statements

Pursuant to Article XIV of the Articles of Association, any claims concerning writer-member or publisher-member distributions during any Annual Distribution Period must be made within nine (9) months from the end of that Annual Distribution Period.

Accordingly, for publisher-members, the deadline for claims is December 31 of a given year (i.e., nine (9) months following the March royalty distribution). As an example, for publisher-members to make a claim for the Annual Distribution Period beginning April 1, 2008 and ending March 31, 2009, ASCAP must receive such claim no later than December 31, 2009. For writer-members, the deadline is January 31 of a given year (i.e., nine (9) months after the April royalty distribution). As an example, for writer-members to make a claim for the Annual Distribution Period beginning May 1, 2008 and ending April 30, 2009, ASCAP must receive such claim no later than January 31, 2010.

2.0 ASCAP REPERTORY.

2.1 ASCAP Repertory Defined. ASCAP licenses to Music Users, on a non-exclusive basis, the right to publicly perform, non-dramatically, all of the works in the ASCAP Repertory. The ASCAP Repertory includes all of the copyrighted musical compositions for which ASCAP holds the right of non-dramatic, public performance, at the relevant point in time, including works: (i) written or published by Members during the term of their Membership; (ii) specifically registered with ASCAP for the purpose of being licensed by ASCAP; and (iii) written or published by members of affiliated foreign performing rights organizations who have elected to license their works through ASCAP in the United States or elsewhere.

2.2 Title Registration. A work must be registered with ASCAP before a Member, or a member of an affiliated foreign performing rights organization, will be paid for public performances, even though the work may be included in the ASCAP Repertory for purposes of licensing.

2.2.1 Registration in Required Form. ASCAP requires that Members use specific forms when registering the titles of their works ("Title Registration"). These forms may be found on the ASCAP web site or by contacting ASCAP's Repertory Department. A Title Registration must include the following data: (i) title (as well as alternative titles and English translations of foreign titles if the original title is in a foreign language), (ii) the copyright date, if known (i.e., the date the work was

first written, published, or registered for copyright), (iii) Composer/Author, or Arranger (public domain works only), (iv) Publisher, (v) duration and instrumentation (symphonic and concert works only), (vi) identity of the submitter, and (vii) shares of the Writer and Publisher Members' interests in the work, if there are multiple Writer and Publisher Members-in-interest.

2.2.2 **Registration of Multiple Works.** Members seeking to register multiple titles are encouraged to file electronically and should contact ASCAP's Repertory Department to obtain assistance with their filings.

2.2.3 **Copyright Registration.** A Member's Title Registration with ASCAP is not a substitute for registration with the U.S. Copyright Office. ASCAP does not submit copyright registrations for its Members, nor does it handle renewal registrations or termination right notices. For complete information relating to these matters, Members are encouraged to review the information made publicly available by The Register of Copyrights, Library of Congress, Washington, D.C. at www.loc.gov/copyright.

2.3 **Registration of Collaborative Works.** Regardless of whether a work is the product of a collaboration with other ASCAP Members or with non-ASCAP members, the apportionment of shares of both the ASCAP Writer and Publisher Members' interests in collaborative works must be indicated at the time of Title Registration. Questions about the registration of collaborative works should be directed to ASCAP's Repertory Department.

2.4 **Catalog Administration Agreements.** Any ASCAP Publisher Member may administer the works of any other ASCAP Publisher Member.

2.4.1 **General Requirements.** A catalog administration is an agreement between two ASCAP Publisher Members under which one ASCAP Publisher, that is, the administrator, handles all administrative duties and collects Publisher royalties for performances of works in the catalog of another Publisher Member. To implement an administration, ASCAP must receive either a copy of the pertinent provisions of the administration agreement signed by an authorized representative of the administered Publisher and the administrator Publisher, indicating the effective date of the agreement, the territory(ies), share(s) if appropriate, and the term of the agreement; or written notice of the agreement together with the pertinent information. ASCAP will confirm the pertinent provisions of the administration agreement with the parties thereto and note its records accordingly. ASCAP does not accept full or partial administrations of ASCAP Publisher Member interests by non-members.

2.4.2 **Complete Catalogs.** A complete catalog administration permits the administrator to collect royalties for all works in the administered Publisher's catalog.

2.4.3 **Partial Catalogs.** A partial catalog administration permits the administrator to collect royalties only for specific works in the administered Publisher's catalog. In addition to the general requirements described in Section 2.4.1, administrators of partial catalogs must register with ASCAP all unregistered titles of their administered works. Registrations must be submitted with all relevant

administration information. Registrations of future works must also contain administration information.

2.5 **Sub-publishing agreements.** Any ASCAP Publisher Member may Sub-publish the works of a publisher member of an affiliated foreign performing rights organization that has elected to license its works through ASCAP in the United States ("Foreign Publisher").

2.5.1 **General Requirements.** A catalog Sub-publishing agreement is an agreement between a Foreign Publisher and an ASCAP Publisher Member under which the Sub-publisher (i.e., the ASCAP Publisher Member) handles all administrative duties and collects all Publisher royalties for works in the Foreign Publisher's catalog in the United States and/or for Canada. To implement a complete catalog Sub-publishing agreement, ASCAP must receive either a copy of the pertinent provisions of the Sub-publishing agreement signed by an authorized representative of the Foreign Publisher and the ASCAP Publisher Member acting as Sub-publisher, indicating the effective date of the agreement, the territory(ies), share(s) if appropriate, and the term of the agreement; or written notice of the agreement together with the pertinent information. ASCAP will confirm the pertinent provisions of the Sub-publishing agreement with the parties thereto and note its records accordingly.

2.5.2 **Complete Catalogs.** A complete catalog Sub-publisher administration permits the ASCAP Publisher Member acting as Sub-publisher to collect royalties for all works in the Foreign Publisher's catalog.

2.5.3 **Partial Catalogs.** A partial catalog Sub-publisher administration permits the ASCAP Publisher Member acting as Sub-publisher to collect royalties for only specific works in the Foreign Publisher's catalog. In addition to the general requirements described in Section 2.5.1, administrators of partial catalogs must register with ASCAP all unregistered titles of their administered works. Registrations must be submitted with all relevant administration information. Registrations of future works must also contain administration information.

2.6 **Works in the Renewal and Extended Term.** All notifications to ASCAP regarding changes of interest in works entering the renewal or extended terms of copyright must be timely received in accordance with applicable copyright statutes. With respect to works entering the copyright renewal term, ASCAP must receive written notification of the change from the new claimant and/or the original term Publisher. In addition, with respect to works which have been subject to termination in the extended term of copyright, ASCAP must have received a copy of the termination notice timely served on the original term Publisher. The original term Publisher must specifically claim any derivative work rights so that ASCAP may update its records accordingly.

2.7 **Licensing Works.**

2.7.1 **ASCAP's Non-Exclusive License.** Pursuant to the ASCAP Membership Agreement, a Member grants to ASCAP the non-exclusive right to license the non-dramatic public performance of that Member's musical compositions.

2.7.2 **Direct Licenses Issued To Music Users[1] By Members.** Members may license directly the non-dramatic public performance of one or more of their works to Music Users independently of ASCAP, provided that:

(a) Each Member of ASCAP issuing such a license must promptly notify ASCAP of the license in writing. Such notification must state the title of the composition, the names of the Writer and Publisher, the name and address of the licensee, the territory, medium and venue covered, and the period for which the license shall have been given. If the work was previously known under another title, all pertinent information relating to the work must be furnished.

(b) No Member of ASCAP may issue exclusive licenses of the right of non-dramatic public performance to Music Users.

(c) No Member of ASCAP may directly or indirectly grant, assign, or issue to anyone other than a Music User, a license to perform publicly any composition written, composed, published, owned or controlled by such Member (or authorize others to do so).

2.8 Claims Against ASCAP Members' Works.

2.8.1 **Disputed Claims Between ASCAP Members.** Where one Member of ASCAP claims entitlement to all or part of the credits and/or royalties (in the case of International performances) for a work theretofore allocated to another Member (whether such claim is based on alleged infringement, disputes as to ownership or otherwise), and ASCAP concludes, in its sole discretion, that there is a reasonable basis for such claim, ASCAP will hold the disputed portion of credits and/or royalties for such work for at least two full quarterly periods thereafter, unless the Member making the claim files suit in the interim.

(a) In the case of such a disputed claim, ASCAP will notify both the Member making the claim and the Member against whom the claim is made that the disputed portion of credits and/or royalties will be held for at least two quarters. Upon notification of the resolution of the dispute, ASCAP will, as part of its next regularly scheduled applicable distribution, release held credits and/or royalties, and thereafter will pay future distributions of royalties attributable to such disputed work as directed by the Members, in accordance with ASCAP's rules and regulations.

(b) If no such suit is filed with respect to such a disputed claim within the initial two quarters during which the disputed portion of credits and/or royalties are being held, ASCAP may thereafter, at its sole discretion, (i) as part of its next regularly scheduled applicable distribution, release the disputed portion of credits and/or royalties that have been held to the Member who received the disputed credits and/or royalties prior to the making of such claim; and/or (ii) pay future distributions of royalties attributable to such disputed

[1] A "music user" means any person that (i) owns or operates an establishment or enterprise where copyrighted musical compositions are performed publicly, or (ii) is otherwise engaged in giving public performances of copyrighted musical compositions.

work to that Member, in either case provided that the Member being paid furnishes an appropriate agreement indemnifying ASCAP, or bond, as applicable, against claims by the Member who asserted such claim.

(c) If suit is filed with respect to such a disputed claim but the claim remains unresolved at the end of one year after the hold is placed on credits and/or royalties, ASCAP may thereafter, at its sole discretion, (i) as part of its next regularly scheduled applicable distribution, release the disputed portion of credits and/or royalties that have been held to the Member who received the disputed credits and/or royalties prior to the making of such claim; and/or (ii) pay future distributions of royalties attributable to such disputed work to that Member, in either case provided that the Member being paid furnishes an appropriate agreement indemnifying ASCAP, or bond, as applicable, against claims by the Member who asserted such claim.

(d) The provisions of this Regulation with respect to Disputed Claims between ASCAP Members shall apply as well in the case of a disputed claim as to multiple works of a Member, or an entire catalog of a Member.

2.8.2 **Renewal and Post-Termination Claims Between ASCAP Members Over a Work.** In disputes between Publisher Members regarding changes of interest in works entering the renewal term of copyright or for the post-termination period, if a new claimant Publisher furnishes to ASCAP a copy of a written agreement (or appropriate excerpts therefrom) that supports its claim for rights to the renewal term or post-termination period, credits to be paid for performance of the disputed work will not be released to the original term Publisher unless and until such Publisher furnishes to ASCAP: (i) a copy of a written agreement (or appropriate excerpts therefrom) that supports its claim to royalties for the renewal term or post-termination period, and (ii) an appropriate agreement indemnifying ASCAP, or bond, as applicable, against claims by the new claimant Member(s).

2.8.3 **Adverse Claims Against an ASCAP Member's Work.** If an adverse claim is made by a non-member against a Writer or Publisher Member with respect to the Member's interest in compositions in the ASCAP Repertory, and ASCAP concludes, in its sole discretion, that there is a reasonable basis for such claim, ASCAP will hold credits and/or royalties for the disputed interest unless the Member furnishes to ASCAP an appropriate agreement indemnifying ASCAP, or bond, as applicable, against claims by the claimant non-member(s). Upon notification of the resolution of the adverse claim, if appropriate, ASCAP will, as part of its next regularly scheduled applicable distribution, release any held credits and/or royalties, and thereafter, pay future distributions of royalties which were the subject of the adverse claim in accordance with such resolution, subject to and in accordance with ASCAP's rules and regulations.

2.8.4 **Claims Involving Publisher Administrations.** In the event of a dispute concerning royalties between an administered Publisher Member and its administrator Publisher Member, the following shall apply:

(a) If ASCAP, in its sole discretion, concludes that the administered Publisher has demonstrated that, under the administration agreement, it had the right to and did terminate the administration, royalties will be paid to it promptly.

(b) If the administered Publisher cannot so demonstrate that it had the right to and did terminate the administration, ASCAP will notify both the administered Publisher and the administrator Publisher that the royalties for the administered catalog will be held for at least two quarters.

(c) If the dispute is then resolved, upon notification of that resolution, ASCAP will, as part of its next regularly scheduled applicable distribution, release held royalties, and thereafter will pay future distributions as directed by the Members in accordance with ASCAP's rules and regulations.

(d) If the dispute is not resolved and no suit is filed with respect to that dispute within the initial two quarters during which the disputed royalties are being held, ASCAP may thereafter, at its sole discretion, (i) as part of its next regularly scheduled applicable distribution, release the disputed royalties to the administered Publisher and/or (ii) pay future distributions of royalties to the administered Publisher, in either case provided that the administered Publisher furnishes an appropriate agreement indemnifying ASCAP, or bond, as applicable, against claims by the administrator Publisher.

If suit is filed with respect to that dispute but the issue remains unresolved at the end of one year after royalties are held, ASCAP may, thereafter, at its sole discretion, (i) as part of its next regularly scheduled applicable distribution, release the disputed royalties that have been held to the administered Publisher; and/or (ii) pay future distribution of royalties to the administered Publisher, in either case provided that the administered Publisher furnishes an appropriate agreement indemnifying ASCAP, or bond, as applicable, against claims by the administrator Publisher.

2.8.5 **Indemnification.** The indemnification required pursuant to Sections 2.8.1, 2.8.2, 2.8.3 or 2.8.4 shall (i) encompass any and all claims, demands, actions and suits that may be made against ASCAP and that require payment and/or defense, or against any third party that ASCAP may be called upon to defend, and (ii) provide for reimbursement to ASCAP for any and all damages, costs and expenses, including attorneys' fees, that ASCAP may necessarily incur by reason of the release and payment of credits and/or royalties attributable to the disputed claim.

2.9 Removal of Works from the ASCAP Repertory.

2.9.1 **Removal Generally; Effective Date.** Resigned Writer and Publisher Members may elect to remove works which have remained in the ASCAP Repertory, subject to Licenses-in-Effect and provided that both the Writer and corresponding Publisher interests are removed, by complying with the provisions of and following the schedule set forth in Sections 1.11.1 and 1.11.2 (with the necessary conforming changes), such removal to be effective upon the later of the Writer or Publisher Member's resignation date (or corresponding anniversaries thereof).

2.9.2 **Continuing Publisher Member Removal.** A continuing Publisher Member may elect to remove any of the works in its catalog written by a resigned Writer in accordance with Section 1.11.3, subject to Licenses-in-Effect and provided that both the Writer and corresponding Publisher interests are removed, by complying with the provisions of and following the schedule set forth in Sections 1.11.1 and

1.11.2 (with the necessary conforming changes), such removal to be effective upon the later of the Writer or Publisher Member's resignation date (or corresponding anniversaries thereof).

2.9.3 Rights of Resigned Writer Member. A resigned Writer Member may elect to continue to license works created during his or her ASCAP Membership through ASCAP if at least one co-party to the work is a current ASCAP Member. The resigned Writer Member must advise ASCAP in writing that the Member wishes ASCAP to continue licensing the work, and represent that the works are not licensed by another performing rights organization. ASCAP will then continue to pay royalties to the resigned Member for surveyed performances of those works.

2.10 <u>Removal of Foreign Originated Works from the ASCAP Repertory.</u> ASCAP will respond to requests made to the attention of ASCAP's Repertory Department, to remove any foreign originated composition from the ASCAP Repertory, as set forth in Sections 2.10.1, 2.10.2 and 2.10.3 when submitted as follows:

(a) by written request from the affiliated foreign performing rights society that originally placed the copyrighted composition in the ASCAP repertory or;

(b) by form (as made available by ASCAP and completed in its entirety), from the ASCAP Publisher Member acting as the United States representative (or United States Sub-publisher, as applicable).

2.10.1 Removal Generally. ASCAP will permit removal of any foreign originated work, or an interest therein, from the ASCAP Repertory, and subject to the following:

(a) If the original registration was submitted to ASCAP in error and only if written notice thereof is received within six (6) months from ASCAP's receipt of such original registration;

(b) Upon the expiration or termination of an existing Sub-publishing agreement with an ASCAP Publisher Member pertaining to the work, and the commencement of a Sub-publishing agreement with a Publisher that is not affiliated or in any other way related to the ASCAP Publisher Member; or,

(c) Upon a demonstration that such removal is required by court order or otherwise is essential to the implementation of a bona fide dispute or legal settlement.

2.10.2 Special Need Exception. Any foreign originated work, or any interest therein, not qualified for removal from the ASCAP Repertory under the foregoing provision nevertheless may be removed from the ASCAP Repertory upon a showing of special need to ASCAP's Repertory Department, and subject to the following:

(a) The Articles of Association; and

(b) The term of all ASCAP license agreements in effect on the date of such request.

2.10.3 Reporting Method. Any decision to grant or deny the removal of any foreign originated work, or any interest therein, from the ASCAP Repertory, shall be communicated in writing to:

(a) The appropriate affiliated foreign society;

(b) The ASCAP Publisher Member acting as the United States representative (or United States Sub-publisher as may be applicable) for the foreign originated composition; and,

(c) The Managers of Repertory, Index or Research Departments, as applicable or as those Departments may be entitled, at the appropriate other performing rights licensing organization.

3.0 DISTRIBUTION OF ROYALTIES.

3.1 Distributions Generally.

3.1.1 **Distribution System.** ASCAP's royalty distributions are made in accordance with the rules and formulas adopted by the Board of Directors. A copy of these rules and formulas is available on the ASCAP web site or by request. The ASCAP web site also contains numerous articles explaining ASCAP's distribution rules.

3.2 **Ombudsmen.** ASCAP's Board of Directors has appointed two individuals to fill the positions of Ombudsmen, responsible for periodically examining the design and conduct of the survey and distribution system and reporting thereon to the Board. The Ombudsmen are available for consultation with Members and give the Board their independent advice based on such consultations. The current Ombudsmen are Morton David Goldberg, Esq. and Seth Hufstedler Esq. They may be reached as follows:

Seth Hufstedler, Esq.
Morrison & Foerster
555 West Fifth Street
Suite 3500
Los Angeles, CA 90013-1024
Tel. 213-892-5803

Morton David Goldberg, Esq.
Cowan, Liebowitz & Latman
1133 Avenue of the Americas
New York, NY 10036
Tel. 212-790-9253

3.3 **Distributions for Works Made For Hire.** As a condition of ASCAP Membership, all ASCAP Writer and Publisher Members agree that ASCAP shall pay Writer royalties to Writer Members for "Works Made for Hire," as that term is defined in 17 U.S.C. § 101 of the U.S. Copyright Act.

3.4 Distributions Concerning Collaborative Works.

3.4.1 **Distributions Proportionate to a Member's Shares in a Collaborative Work.** ASCAP Writer Members may chose to collaborate with each other, or with non-ASCAP members, in the creation of musical compositions. ASCAP Members are free to apportion shares in such compositions among entitled parties as they may agree among themselves. Distributions will be made to ASCAP Members in respect of the performance of a particular collaborative work in accordance with the shares indicated by the ASCAP Member(s) in the ASCAP Title Registration for the particular work, regardless of whether the collaboration was with another ASCAP Member or a non-ASCAP member, except that for a collaborative work, ASCAP will not distribute to ASCAP Publisher Members proportionate credits for shares

that exceed the shares in that particular work controlled by the ASCAP Writer Members**.**

3.4.2 **Distributions to Unaffiliated, Non-Member Writers.** ASCAP will make distributions on a current performance basis to a writer, who is not an ASCAP Member or affiliated with any other performing rights organization, subject to all of the following criteria:

(a) No performing rights licensing organization anywhere has been granted the performing rights in the work at issue, or, if granted, the rights have been released;

(b) The work at issue was published by an ASCAP Publisher Member after January 1, 1966; and,

(c) The work appears in ASCAP's survey of performances; provided, however, that if the work was previously licensed by another performing rights organization, distributions for processed performances will made only from and after the effective date of the release, or the date on which ASCAP received notice of the release, whichever is later.

3.4.3 **No Distributions for Directly Licensed Works.** If a directly licensed performance of a work enters ASCAP's survey of performances, no royalties will be paid for that performance.

3.5 Crediting Works of Foreign Origination.

3.5.1 **Definition of a Work of Foreign Origination.** A work which has a "Foreign Origination" shall mean any work in which:

(a) The writers and publishers are all members of foreign affiliated societies who have elected to license their works through ASCAP in the United States; or,

(b) A writer is a member of a foreign affiliated society, and that writer's publisher is a Member of ASCAP and is the publisher of the work in the United States in accordance with the provisions of a Sub-publisher agreement with a publisher who is a member of a foreign affiliated society; or,

(c) A Writer is a Member of ASCAP, and that Writer's publisher is a member of an affiliated foreign performing rights organization.

3.5.2 **Crediting Generally.** The Writer and Publisher performance credit values are identical for performances in the United States of works of both domestic and Foreign Origination. Members of affiliated foreign performing rights societies are paid the same credit value as ASCAP Members for works performed in the United States, except as specifically provided for symphonic, recital and educational ("SRE") performances.

3.5.3 **Crediting for Symphonic, Recital and Educational Performances.** With respect to SRE Performances, Writer and Publisher point values are used. Any point values based on the performance of a work of Foreign Origination shall be excluded from the computation of sums payable in domestic distributions, and instead, shall be included in the computation of sums payable in foreign

distributions in accordance with the terms of agreements between ASCAP and affiliated foreign performing rights organizations.

3.6 Financial Matters and Dues.

3.6.1 **Taxes.** ASCAP complies with all Internal Revenue Service reporting regulations (for more information about the IRS, please visit: www.irs.gov).

3.6.1.1 **Tax and Other Levies.** Upon receipt of a levy on a Member's royalties from a governmental authority (e.g., for unpaid taxes or child support), ASCAP will make payment of royalty distributions coming due to the Member, as directed by the governmental authority, from the time the levy is received until the total obligation indicated on the levy is satisfied. ASCAP will honor a levy from a non-governmental judgment creditor only to the extent that ASCAP is holding a declared but undistributed royalty distribution at the time the levy is received. In either case, ASCAP will notify the Member and, in the event the Member brings suit challenging the levy, ASCAP will interplead or otherwise appear in the action and request permission to deposit the relevant royalty distributions with the court. In the event that any levy is received after a distribution is declared but before it is made, such that a royalty distribution check is in process and would have to be stopped to honor the levy, ASCAP will make its best efforts to stop the issuance of the royalty distribution check to satisfy the levy, but only if the levy is for a total liability of more than the cost of stopping the check; should ASCAP be charged any such cost, it shall recoup that amount from the Member's future royalty distributions.

3.6.2 **ASCAP Financial Statements.** ASCAP's annual audited financial statements are made public and available to Members upon request to ASCAP's Member Services Department.

3.6.3 **Revocable Direction to Authorize Payment.** A Member may direct that a third party, other than a performing rights licensing organization, be paid that Member's royalties; provided, that the Member's direction is revocable at all times, and:

(a) The Member acknowledges that the Member's ASCAP royalties may be deemed to be taxable income earned by the Member by government taxation authorities, including but not limited to the United States Internal Revenue Service, even if paid to a third party;

(b) The Member accepts full responsibility for such income tax liability, if any;

(c) The Member agrees to warrant that the Member will make no claim against ASCAP either directly or through any other Member, and hold ASCAP harmless from claims by any third party, in connection with ASCAP's following the Member's direction to pay;

(d) The writing is signed (e-mail/Internet requests are not acceptable), as applicable, by (i) the Writer Member personally or by his or her Designated Representative, or (ii) by the Publisher Member's Publisher Representative on the Publisher Member's letterhead; and,

(e) The writing includes the Member's Social Security Number, Tax Identification Number or Member Code, as applicable.

Notwithstanding the foregoing, ASCAP reserves the right to decline a Member's third party payment directions, for reasons such as, but not limited to, the following: (i) the Member is indebted to ASCAP, (ii) the Member has outstanding assignments to third parties, other than the proposed third party payee, (iii) creditors have filed a petition for relief under the United States Bankruptcy Code or the Member has filed such a petition for relief, (iv) tax and/or judgment liens have been served on ASCAP against the Member, or, (v) the transaction appears to be grossly unreasonable.

3.7 **Member Expenses.** ASCAP will not reimburse member for expenses incurred by the member in researching or pursuing a claim against ASCAP for royalties, unless reimbursement of those expenses is specifically awarded through a Board of Review proceeding.

2.9 Application of Royalties to Repay Amounts Due ASCAP.

(a) To the extent that a writer or publisher member receives royalties to which the member was not entitled, or otherwise owes any debt to ASCAP, ASCAP has the right to recoup such royalties or debt from all royalties earned by that membership, and ASCAP's exercise of that right shall not constitute a waiver of any other remedies ASCAP may have to obtain such recoupment. ASCAP shall give all members affected by the application of this regulation advance written notification of such application, provided, however, that ASCAP may deduct from any royalties due any amounts owed to ASCAP, including for a debt, fees or services.

(b) Where a member maintains several memberships (e.g., a writer and/or successor who also has a publisher membership) ("related memberships"), and the related memberships report income under the same federal tax identification number, ASCAP shall have the right to apply all royalties earned by the related memberships in recoupment of royalties to which any of the related memberships was not entitled, or any other debt of any of the related memberships. ASCAP shall give all members affected by the application of this regulation advance written notification of such application, provided, however, that ASCAP may deduct from any royalties due any amounts owed to ASCAP, including for a debt, fees or services.

4.0 ASSIGNMENT OF ROYALTIES.

4.1 **Board Approved Exceptions to General Prohibition Against Assignments.** ASCAP's Articles of Association generally prohibit the assignment of royalties except as the Board of Directors may provide by regulation. ASCAP's Board of Directors has approved certain forms of assignments, both revocable and irrevocable, set forth below, subject to ASCAP's review and approval of the specific assignment proposed. Members who propose to make one of the approved assignments ("Assignors"), may apply to ASCAP to assign their royalties to a particular person or entity ("Assignee") only in those instances which satisfy the general conditions ("General Assignment Conditions") set forth in Section 4.2, and the specific conditions, as applicable, set forth in Sections 4.3 through 4.7.

4.1.1 **Forms and Inquiries.** Application forms for approved types of Assignments, set forth in Sections 4.3, 4.4 and 4.5, may be obtained from, and must be submitted to, ASCAP's Estates & Claims Department. Members are cautioned that an Application must be approved by ASCAP before it will become effective. For more temporary forms of Assignments, see also Section 3.6.3, entitled "Revocable Directions to Authorize Payment." For questions about the other forms of assignment set forth in Sections 4.6 and 4.7, please contact ASCAP's Member Services Department.

4.2 **General Assignment Conditions.** For all proposed assignments, ASCAP requires that the Assignor acknowledge in writing that:

(a) The Assignor, that is, the Member, or as may be applicable, the Member's heir, successor or assign, whose royalties are proposed to be assigned is a Member in good standing, and after the assignment intends to continue to be a Member in good standing;

(b) The assignment is limited to the right to receive royalties only, and does not extend to any other right of Membership in ASCAP, including but not limited to, the right to vote;

(c) The assignment is subject to all obligations, rules and regulations which bind Members, including but not limited to, ASCAP's distribution rules at the time of the assignment and as such rules may be modified thereafter;

(d) The ASCAP royalties, proposed to be assigned, may be deemed to be taxable income earned by the Assignor by government taxation authorities, including but not limited to the United States Internal Revenue Service, even if assigned and paid to a third party, and Assignor accepts full responsibility for such income tax liability, if any;

(e) The Assignor warrants that neither Assignor, nor any of the non-ASCAP Member parties to the assignment will make any claim against ASCAP either directly or through any Member as to the rights not assigned, or as to any obligations, rules or regulations which bind Members (including, but not limited to, ASCAP's distribution rules), or to the modification of any such obligations, rules or regulations, and further agree to indemnify ASCAP in the event any such claim is made;

(f) The proposed assignment will not be effective, or its payment directions given effect, unless and until ASCAP has approved the proposed assignment of royalties; and,

(g) ASCAP reserves the right, in its sole discretion, to withhold its approval of the proposed assignment for reasons such as, but not limited to, the following: (i) the Assignor is indebted to ASCAP, (ii) the Member has another outstanding assignment, (iii) creditors have filed a petition for relief under the United States Bankruptcy Code or the Member has filed such a petition for relief, (iv) tax and/or judgment liens have been served on ASCAP against the Member, or, (v) the transaction appears to be grossly unreasonable.

4.3 **Assignment to Corporation 95% Owned by One or More Writer Members.** Assuming satisfaction of the General Assignment Conditions set forth in Section 4.2, ASCAP will permit a Writer Member who owns, or Writer Members who together own, 95% of the stock in a corporation, limited liability company, or similar entity, to assign all of their Writer royalties to such corporation, limited liability company or similar entity; provided, however, that any such assignment shall be automatically terminated by:

(a) The death of any of the individual Writer Members involved;

(b) The resignation from or termination of Membership of any of the individual Writer Members involved; or,

(c) The termination of the ownership interest in the corporation, the limited liability company or similar entity of any of the individual Writer Members involved.

In any such event of termination, subsequent royalty distributions shall be made to the individual Writer Members involved, as appropriate.

4.4 **Irrevocable Assignment of Deceased Writer's Royalties.** Assuming satisfaction of the General Assignment Conditions set forth in Section 4.2, ASCAP will permit the irrevocable assignment of a deceased Writer's royalties upon satisfaction of the following additional conditions:

(a) All successors to the deceased Writer's Membership (including executors) consent to the assignment in writing and grant ASCAP a power of attorney to continue the Membership, in such form as ASCAP may require (as noted in Section 4.1, such forms are on request to ASCAP's Estates & Claims Department); and,

(b) A copy of the proposed written assignment and all supporting documentation shall be furnished to ASCAP prior to the execution thereof, together with a statement, in such form as ASCAP may require, summarizing the terms of the assignment.

4.5 **Irrevocable and Revocable Assignment of Living Writer's Royalties.** Assuming satisfaction of the General Assignment Conditions set forth in Section 4.2, ASCAP will permit Writer Members to assign their Writer royalties, in whole or in part:

(a) Irrevocably to their spouse, children, parents or siblings;

(b) Irrevocably to a family limited partnership, in which the partnership interests are and continue to be held by the Writer or Members of the Writer's family;

(c) Irrevocably to a not-for-profit entity, recognized as such under federal tax law, including but not limited to entities qualifying for such status under 26 U.S.C. § 501(c)(3); or,

(d) Revocably or irrevocably to a living trust, provided, however, that the terms of the underlying trust permit revocation if a revocable assignment is sought.

4.6 **Assignment Related to Repayment of Line of Credit, Loan or Advance.** Assuming satisfaction of the General Assignment Conditions set forth in Section 4.2 (which includes ASCAP's prior written approval of the proposed assignment), ASCAP will permit a Member to assign royalties so as to provide for the repayment of an advance, loan or line of credit, on the following conditions:

(a) Either the assignment is for: (i) a specified amount of money, not to exceed the amount of the loan or advance given the Member; or (ii) an unspecified amount to secure a line of credit with a state or federally regulated financial institution in good standing.

(b) The Assignee is ASCAP, another Member of ASCAP, or a state or federally regulated financial institution in good standing. that may not further assign except to another Member or another state or federally regulated financial institution in good standing, respectively.

(c) A copy of the proposed assignment or loan agreement shall be furnished to ASCAP prior to the execution of the document, together with a statement, on a form supplied by ASCAP: (i) summarizing the terms of the assignment, and (ii) waiving the Member's right to resign from Membership until the full amount of the loan or advance covered by the assignment has been recouped or otherwise repaid, or until the line of credit has been terminated and all outstanding amounts due by virtue of the exercise of the line of credit repaid.

(d) In the case of advance by ASCAP in connection with the assignment, the Member will acknowledge that the Member shall not be entitled to exercise the right to resign until the advance has been fully recouped except that if an advance has not been fully recouped within five years, the Member may thereafter repay the unrecouped balance and exercise the right to resign.

(e) If the proposed assignment provides for recoupment or repayment from sources in addition to ASCAP, such assignment shall provide in writing that the Assignee shall promptly furnish ASCAP, upon receipt of a written request from the Assignor or ASCAP, with a certified statement showing all amounts recouped or repaid and the current balance owed.

4.7 **Assignment to Provide Security Interest to a Financial Institution.** Assuming satisfaction of the General Assignment Conditions set forth in Section 4.2, ASCAP will permit one or more Writer Members to irrevocably assign all or part of all future royalties directly, or to a corporation, limited liability company or similar entity in which the Writer Member owns 95% or more of the stock, in whole or in part, for purposes of providing a security interest in future royalties to a financial institution (which does not own, and is not owned by, or affiliated with, a Member) as collateral for a loan, and such assignment may provide that, until such time as ASCAP receives written notice from the financial institution that the Member's obligations to the financial institution have been paid in full, the Member may not terminate, modify or amend the assignment. The Member's right to make such irrevocable assignment, and the irrevocability of the assignment, shall be conditioned upon:

(a) The Member remaining a Member, or the Member's (or the Member's heirs, successors or assigns) retention of 95% of the stock in the corporation,

limited liability company or similar entity during the term of the loan, in the event that such an entity is being used to make the assignment; and,

(b) Each such financing vehicle having been individually presented for the approval of the Board of Directors (without disclosure to the Board of Directors of the identity of the Member(s) in interest) and so approved.

4.8 **Other Assignments.** Upon the recommendation of Management, the Board of Directors may, in its sole discretion, approve the irrevocable assignment of royalties by individual members.

5.0 CONTACT INFORMATION.

5.1 **ASCAP Departments.** Contact information for ASCAP Departments referenced in this Compendium.

3 **ASCAP Headquarters Office:** ASCAP, One Lincoln Plaza, New York, N.Y. 10023, Tel: (212) 621-6200.

4 **ASCAP Member Services Department:** ASCAP, One Lincoln Plaza, New York, N.Y. 10023, Tel: (800) 95-ASCAP or (800) 952-7227, Fax: (212) 595-3276.

5 **ASCAP Estates & Claims Department:** ASCAP, One Lincoln Plaza, New York, N. Y. 10023, Tel: (212) 621-6280, Fax: (212) 621-6481.

6 **ASCAP Repertory Department:** ASCAP, One Lincoln Plaza, New York, N.Y. 10023, Tel: (212) 621-6159, Fax: (212) 595-3261.

5.2 **Membership Offices.**

(a) **Los Angeles (West Coast Rep.):** 7920 West Sunset Boulevard Suite 300 Los Angeles, CA 90046, Tel: (323) 883-1000, Fax: (323) 883-1049.

(b) **Miami:** 420 Lincoln Rd. Suite 385, Miami Beach, Florida 33139, Tel: (305) 673-2446, Fax: (305) 673-3446.

(c) **Nashville (Southern Rep.):** Two Music Square West, Nashville, TN 37203, Tel: (615) 742-5000, Fax: (615) 742-5020.

(d) **New York:** One Lincoln Plaza, New York, NY 10023, Tel: (212) 621-6000, Fax: (212) 724-9064.

5.3 **Other ASCAP Offices.**

(a) **London:** 8 Cork Street, London, W1S 3LJ, Tel: 011-44-207-439-0909, Fax: 011-44-207-434-0073.

(b) **Puerto Rico:** Ave. Martinez Nadal, 623 Hillside, Puerto Rico 00920, Tel: (787) 707-0782, Fax: (787) 707-0783.

For additional phone numbers, facsimile numbers and e-mail addresses of ASCAP, please refer to the ASCAP web site at: www.ascap.com/contact/membership_offices.html.

6.0 DEFINITIONS.

6.1 Defined Terms in the Compendium. As used in this Compendium, the following terms have been defined as noted below:

(a) The term "Assignee" shall have the meaning given to it in Section 4.1.

(b) The term "Assignors" is defined in Section 4.1.

(c) The term "Corresponding Member-In-Interest" is defined in Section 1.12.1.

(d) The term "Corresponding Writer Members-In-Interest" is defined in Section 1.12.7.

(e) The term "Designated Representative" is defined in Section 1.4.1(a).

(f) The term "Effective Date" is defined in Section 1.12.3.

(g) The term "Foreign Origination" is defined in Section 3.5.1.

(h) The term "Foreign Publisher" is defined in Section 2.5.

(i) The term "General Assignment Conditions" is defined in Section 4.2.

(j) The term "Licenses-in-Effect" is defined in Section 1.11.1.

(k) The term "List of Works" is defined in Section 1.12.4.

(l) The term "Membership Modification" is defined in Section 1.12.2.

(m) The term "Music User" is defined in the footnote to Section 2.7.2.

(n) The term "New Media Service" is defined in Section 1.12.9.

(o) The term "New Media Services Direct Licenses" is defined in Section 1.12.6.

(p) The term "New Media Transmission" is defined in Section 1.12.9.

(q) The term "New Media Transmission Licensing Rights" is defined in Section 1.12.1.

(r) The term "On-line Music User" is defined in Section 1.12.9(b).

(s) The term "Publisher Representative" is defined in Section 1.4.1(b).

(t) The term "SRE Performances" is defined in Section 3.5.2.

(u) The term "Sub-publisher" is defined in Section 3.5.1(b).

(v) The term "Title Registration" is defined in Section 2.2.1.

(w) The term "Works Made for Hire" is defined in Section 3.3.