



## **MEMBERSHIP RULES**

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## 1. Introduction

### 1.1 Definitions

For the purposes of this Membership Rules document;

- 1.1.1 **“Author”** means an author as defined in the Copyright Act 98 of 1978, and shall include Composer, being the author of a musical composition;
- 1.1.2 **“Board”** means the Board of Directors of the Company;
- 1.1.3 **“Company”** means Composers Authors and Publishers Association NPC, or by whatever other name it may be known from time to time, a non-profit company incorporated in accordance with the laws of the Republic and governed in terms of this MOI;
- 1.1.4 **“Commissioned Music”** means any Work of Music that is authored by a Member in terms of an Exclusive Use Agreement and which Work of Music does not constitute Production Music;
- 1.1.5 **“Mandate”** means the instruction from a Member to licence and collect Mechanical Right royalties;
- 1.1.6 **“Mandating Rightsholder”** means a Person, other than a Person holding membership in the Company, who owns or holds a Mechanical Right and who mandates the Company to administer such Mechanical Right as agent, and is subject to the Company’s Rules to the extent and in the manner described in the Company’s Rules;
- 1.1.7 **“Mechanical Right”** means the right to reproduce a Work of Music, and shall include digital reproduction, phonomechanical reproduction and reproduction for broadcast purposes;



- 1.1.8 **“Member”** means a Person who holds membership in the Company;
- 1.1.9 **“Membership Agreement”** means the Membership Rules, the Membership Application Form, Mandate Agreement and any other written agreement the Company may have in place with a Member;
- 1.1.10 **“Musical Work”** means a musical work as defined in the Copyright Act
- 1.1.11 **“Publisher”** means a person who in terms of a publishing agreement with an Author holds the Mechanical Right in a Work of Music;
- 1.1.12 **“Work of Music”** means the whole or a part of a Musical Work or of a Musical Work in combination with lyrics, words or any other literary work written for the purpose of being associated with the Musical Work, such as a song

For purposes of convenience and limited to the Membership Rules ONLY, any reference to term “Member” shall be read to also include “Mandating Rightholders” unless the context indicates otherwise .

- 1.2 The Composers, Authors and Publishers Association (CAPASSO) is a mechanical rights licensing agency, which collects and distributes royalties to its members: music Publishers, Authors and Composers.
- 1.3 This document and its annexures constitute CAPASSO’s Membership Rules, as may be changed from time to time by the Board of CAPASSO.
- 1.4 CAPASSO strives to adhere to industry best practice standards and corporate governance principles by doing the following:



- Ensuring access to information about CAPASSO activities and processes, subject to legal and confidentiality restrictions, as well as the reasonableness of requests to such access.
- Setting and adhering to standards of service and conduct when dealing with members and users
- Committing to the principles of accountability and responsiveness

1.5 CAPASSO is an agency, operating on Mandate from its Members and does not take assignment of its Members' copyright. The objects of CAPASSO are as follows:

- 1.5.1 Unless otherwise agreed in writing by CAPASSO and its Member, administer on a non-exclusive basis, the Mechanical Right in Works of Music. This excludes the Mechanical Rights included in blanket broadcast and digital licences, which shall be administered on an exclusive basis;
- 1.5.2 enter into licence agreements in respect of these Mechanical Rights;
- 1.5.3 act as a licensing body for Mechanical Rights in the music industry;
- 1.5.4 act as a licensing body for Master Rights accompanying Mechanical Rights in Production Music works in the music industry;
- 1.5.5 collect royalties in respect of Mechanical Rights;
- 1.5.6 collect royalties in respect of Master Rights accompanying Mechanical Rights in Production Music works;
- 1.5.7 operate internationally as contemplated in section 37 of the Copyright Act and any regulations promulgated by the Minister thereunder;
- 1.5.8 authorise the reproduction of Works of Music in any manner or form in terms of sections 1(1) and 6(a) of the Copyright Act;

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- 1.5.9 authorise the reproduction of Works of Music in terms of sections 1(1) and 6(a) of the Copyright Act;
- 1.5.10 set tariffs or fees in terms of the regulations promulgated by the Minister under section 39 of the Copyright Act, and to collect and administer such fees;
- 1.5.11 refer tariffs, license schemes and other appropriate matters to the copyright tribunal in terms of chapter 3 of the Copyright Act;
- 1.5.12 receive and administer royalties received for compulsory licenses in terms of section 14(d) of the Copyright Act;
- 1.5.13 carry out the functions of a licensing body as generally understood in the music industry and/or within the context of the Copyright Act;
- 1.5.14 negotiate and conclude “schemes” as defined in the Copyright Act;
- 1.5.15 administer on an agency basis, the copyrights in Works of Music as defined in section 6(a) of the Copyright Act;
- 1.5.16 act as a collecting society; and
- 1.5.17 represent international rights, whether through reciprocal agreements with collecting societies outside the Republic, including reciprocal agreements with BIEM members, or directly through the international rights owners.



## **2. Membership: Eligibility and Criteria**

### **2.1 Membership Eligibility**

Membership of CAPASSO is open to any Person, being a Composer, Author or Publisher, or their successors in title, who owns or controls the mechanical right in a musical work.

### **2.2 Membership Criteria**

The criteria for admission and continued membership are prescribed by the CAPASSO Board, from time to time. The following criteria must be met for any Author (including Composer) or Publisher to be a Member of CAPASSO:

2.2.1 Acceptance and ratification of this Membership Rules document by way of signature of Declaration on the Membership Application Form.

2.2.2 Payment of Annual Membership Subscription Fee

2.2.2.1 All Members will be liable to pay an initial joining fee, prescribed by the Board, as follows:

**Author/Composer Member: R 100**

**Publisher Member: R 250**



2.2.2.2 Membership shall only commence once, together with the signed Membership Agreement, the initial joining fee is received.

2.2.2.3 All Members, other than Mandating Rightsholders, will be liable to pay an annual membership subscription fee, prescribed by the Board, as follows:

**Author/Composer Member: R 100**

**Publisher Member: R 250**

2.2.2.4 Where a Member fails to pay his/her/its Annual Membership Subscription fee, the outstanding fee/s shall be set-off against future royalties when such royalties become due and payable to the member.

2.2.2.5 Should the Annual Membership Subscription remain unpaid for a period of six months following the date on which it fell due, the Member's status will be amended automatically to Mandating Rightsholder

### 2.2.3 **Acceptance of CAPASSO's Commission Rates**

Commission rates are determined by the CAPASSO Board and are published in clause 7 this document, and are included in the distribution statements sent to Members.





The commission deducted by CAPASSO from all royalty payments is for the purpose of funding the administration and licensing and distribution operations of CAPASSO. Commission rates may only be changed on six months' notice to members.



#### **2.2.4 Adherence to Codes of Conduct**

Acceding and adhering to the Codes of Conduct contained in this Membership Rules document is a requirement for commencement and continued membership of CAPASSO.

#### **2.2.5 Acceptance of Membership Termination Notice Period**

Members may terminate their membership at any time on three months' written notice, provided that, in the event of a commission rate increase or introduction of a major code, scheme or licence which would affect a member's business, such notice is served within 28 days of notification.

CAPASSO members who terminate membership shall be bound to any licence agreements that were in place before the decision to terminate, and any commission owed for the processing of royalty monies for those licences. For clarity, in respect of rights exclusively mandated to CAPASSO (i.e. broadcast mechanical rights and digital mechanical rights), termination shall only be effective on expiration of the various blanket broadcast and digital licences.

CAPASSO reserves the right to terminate membership of any member under their respective membership agreements, including cases where the member has



breached the provisions of the Membership Rules relating to the conduct expected of Members.

#### **2.2.6 Compliance with CAPASSO's Works Registration standards**

To facilitate accurate distributions, all Members must register their works with CAPASSO in one of the following ways:

- Completing the Works Notification form available on request or for download on [www.capasso.co.za](http://www.capasso.co.za) ; or
- By way of the standard international file format CWR (Common Works Registration).



### **3. Extract: Clauses 1.1.30, 1.1.32 and 6 of CAPASSO Memorandum of Incorporation**

#### *“1. INTERPRETATION*

...

*1.1.30. “Mandating Rightsholder” means a Person, other than a Member, who owns or holds a Mechanical Right and who mandates the Company to administer such Mechanical Right as agent, and is subject to the Company’s Rules to the extent and in the manner described in the Company’s Rules;*

...

*1.1.32. “ Member” means a Person who holds membership in the Company;*

...

#### *6. MEMBERSHIP*

*6.1. The Company shall have two classes of Members, namely voting and non-voting Members. Only Members whose annual membership subscription fee, as determined by the Board, is fully paid up in the Financial Year in question shall be eligible to exercise Voting Rights in that Financial Year. .*

*6.2. The Voting Rights of each Member in each Financial Year shall depend on the South African Rand value, expressed as a percentage, of such Member’s pro rata royalty earnings for the previous Financial Year in terms of the Company’s Rules, but subject always to a maximum of 10% of the Voting Rights. By way of example, should a Member receive 3% (three percent) of the royalty earnings of the previous Financial Year, such Member shall*



*have 3% (three percent) of the Voting Rights. If a Member receives more than 10% (ten percent) of the royalty earnings his Voting Rights shall be limited to 10% (ten percent) of the Voting Rights.*

*6.3. Application for membership of the Company shall be submitted on the application form prescribed, from time to time, by the Board.*

*6.3.1. Subject to clause 6.5 any person who makes a written application, in terms of this clause 6.3, to become a Member of the Company and whose application is accepted by the Board shall be and become a Member of the Company, subject to clause 6.3.2.*

*6.3.2. Despite anything to the contrary in this MOI, the Company's Rules, if any, or any agreement between the Company and a prospective Member, or between any Members and a prospective Member, no Member shall be admitted unless he agrees to be bound by this MOI and any agreement in force between the Company and its Members and/or between the Members governing their relationship as Members in the Company.*

*6.3.3. Taking into consideration the Company's Rules, admission to membership of the Company shall be at the sole discretion of the Board, which may either admit or refuse to admit any applicant, and in the event of its refusing to admit any applicant, this shall be done in accordance with the procedure set out in the Company's Rules. The Board shall be entitled to impose the payment of an entrance fee upon any Person applying for membership, which amount shall be determined by the Board.*



6.3.4. *The Board shall fix the annual subscriptions, levies or other charges payable to the Company by the Members.*

6.3.5. *Any Member whose subscription or levy remains unpaid for 60 (sixty) days after the due date for payment, shall, unless otherwise determined by the Board, forthwith cease to enjoy any of the rights, benefits, privileges and advantages of membership until such time as the arrear subscriptions or levies have been paid.*

6.3.6. *Every Person who becomes a Member of the Company shall be bound by all the terms and conditions of this MOI.*

6.4. *The Company shall not restrict or regulate, or provide for any restriction or regulation of membership in any manner that amounts to unfair discrimination in terms of section 9 of the Constitution of the Republic.*

6.5. *Only natural persons being Authors or Publishers, or their successors in title, who own or hold the Mechanical Right in a Work of Music shall be eligible for membership in the Company.*

6.6. *Membership may be suspended for violation of any provision of this MOI or the Company's Rules. Such suspension shall be carried out by a vote of at least 75% (seventy five percent) of the members of the Board subject to the following conditions:*

6.6.1. *If the Board proposes to suspend any Member a statement of the alleged offences, together with a notice of the time and place of the Board meeting at which the alleged offences are to be considered shall first be sent by registered mail to the address of the Member appearing on the Members Register at least 15 (fifteen) days before the date of the Board meeting.*



- 6.6.2. *The Member shall have the right to appear at the Board meeting in person and may be represented there-at by a representative of his choice, and present a defence against the alleged offences before a vote on whether to suspend the Member is taken by the Board.*
- 6.6.3. *A decision to suspend a Member and the duration of such suspension shall be at the sole discretion of the Board. In the event of a decision to suspend a Member being taken the Board shall not be obliged to furnish reasons for its decision.*
- 6.7. *Subject to the laws relating to the administration of the estates of insolvent persons, deceased persons and persons under disability –*
- 6.7.1. *the trustee of an insolvent Member;*
- 6.7.2. *the liquidator of a body corporate or other juristic person which is a Member;*
- 6.7.3. *the tutor or curator of a Member under disability;*
- 6.7.4. *the executor or administrator of the estate of a deceased Member; or*
- 6.7.5. *any other Person becoming entitled by any lawful means to exercise the Voting Rights held by a Member,*
- shall, upon production of such evidence as may be required by the Board, have the right to exercise the same rights and to receive the same royalties and other advantages to which he would be entitled if he were a Member; provided always that any Person becoming entitled to any rights in terms of this clause 6.6 shall not at any time be eligible to be appointed or elected as a Director of the Company.*
- 6.8. *A Member shall ipso facto cease to be a Member of the Company :*



6.8.1. *in the case of a natural person, if such:-*

6.8.1.1. *Member dies;*

6.8.1.2. *Member tenders 3 (three) month's Written notice of his resignation as a Member, to the Board; or*

6.8.1.3. *Member becomes a lunatic or of unsound mind; or*

6.8.1.4. *Member's estate is surrendered or sequestrated, whether voluntarily or compulsorily; or*

6.8.1.5. *Member commits any act of insolvency; or*

6.8.1.6. *Member is removed by Special Resolution of the Members; or*

6.8.1.7. *Member is removed by a vote of at least 75% (seventy five percent) of the members of the Board; or*

6.8.1.8. *Member is determined by the Board pursuant, mutatis mutandis, to the procedure contemplated in clause 6.5, to have been party to an act or omission despite knowing that the act or omission was calculated to defraud the Company, or had another fraudulent purpose; or*

6.8.1.9. *Member is convicted of a criminal offence by a court of law and is sentenced to imprisonment for a period longer than 12 (twelve) months without the option of a fine; or*





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6.8.1.10. *Member, in the view of the Board, brings the Company into disrepute or is found guilty of misconduct or contravening the Company's code of conduct.*

6.8.2. *in the case of a Member which is not a natural person, if such Member:*

6.8.2.1. *tenders 3 (three) month's Written notice of resignation as a Member, to the Board; or*

6.8.2.2. *is liquidated, wound up or placed under judicial management, whether provisionally or finally and whether compulsorily or voluntarily; or*

6.8.2.3. *is removed as a Member by Special Resolution of the Members; or*

6.8.2.4. *is removed by a vote of at least 75% (seventy five percent) of the members of the Board; or*

6.8.2.5. *is determined by the Board pursuant, mutatis mutandis, to the procedure contemplated in clause 6.5 to have been party to an act or omission despite knowing that the act or omission was calculated to defraud the Company, or had another fraudulent purpose; or*

6.8.2.6. *in the view of the Board, brings the Company into disrepute or is guilty of misconduct or contravening the Company's code of conduct.*



*6.9. Any Member whose membership in the Company comes to an end during the course of a Financial Year shall not be entitled to the return of any portion of his membership fees, subscriptions, levies or other charges payable to the Company by the Members”.*



#### **4. Code of Conduct: General**

- 4.1 Subject to clause 6, every Member warrants that it is entitled to receive the mechanical rights income from any revenues licensed and collected by CAPASSO. For the avoidance of any doubt, Authors of Commissioned Music warrant that their commissioning agreement does not amount to a buy-out, by the commissioner, of the Author's mechanical rights.
- 4.2 Every Member shall accept and adhere to the contents of this Membership Rules document.
- 4.3 Every Member shall recognise and uphold the principles of copyright, in general, and mechanical rights, in particular, in all licensing arrangements with end-users.
- 4.4 Every Member shall refrain from any conduct likely to prejudice CAPASSO and/or any other CAPASSO member, either by commission or omission.
- 4.5 Every Member shall cooperate with CAPASSO and its employees in enforcing these Membership Rules and furthering the interests of CAPASSO and its Members.
- 4.6 Every Member accepts that CAPASSO has the right to inspect any documentation relating to the mandated mechanical rights, including but not limited to, publishing and commissioning agreements, and shall present a copy of such document upon reasonable request.



- 4.7 Whereas CAPASSO has entered into blanket licence agreements with the national broadcaster and/or other pay and free-to-air television and radio stations and whereas CAPASSO has, within those agreements, indemnified the broadcasters against all and any claims from non-Members/ Mandating Rightsholders for the broadcast use of their repertoire, the Member/ Mandating Rightsholder warrants and represents that the repertoire it has registered with CAPASSO extends to all musical works forming part of any such catalogues owned and/or controlled by the Member/ Mandating Rightsholder.
- 4.8 A Member found to be in breach of the contents of this Membership Rules document shall be requested to remedy the breach within 7 (seven) days written notice. Failure to remedy such breach may result in the Member's membership and/or mandate being suspended.



## 5 Code of Conduct: Production Music Publishers

**“Production Music”** means a Work of Music intended for use in synchronization with third party productions, whether such productions are in visual or audio format, provided that the Work of Music is not subject to an Exclusive Use Agreement with any third party, and that the Work of Music has been catalogued and made generally available in the territory for such use. Subject to the discretion of the Board, for any purpose related to membership of the Company, a Work of Music cannot simultaneously exist as Production Music and Commercial Music and/or Commissioned Music.

**“Production Music Member”** means a Person who has been admitted to membership of the Company on the basis that he is an owner, licensee, assignee and/or successor in interest, of a Production Music work, provided that such Members shall exclusively mandate to the Company 100% (one hundred percent) of the broadcast Mechanical Right in the Production Music work (including the Work of Music and Sound Recording that embodies such work) in order to qualify as Production Music Members. For the purposes of this section 5, “Production Music Member” shall include a Mandating Rightsholder whose musical works constitute Production Music.

5.1 The Production Music Member undertakes and agrees:

5.1.1 to register all new titles and recordings, that are designated as Production Music and that it wishes CAPASSO to administer, with CAPASSO;



5.1.2 The Production Music Member hereby agrees to waive its moral rights in respect of work designated as Production Music;

5.1.3 in the case of Production Music produced in South Africa, to provide one copy of each CD, DVD or audio file including acceptable album metadata to CAPASSO for registration, search engine compatibility and cue sheet tracking;

5.1.4 that unique catalogue numbers are allocated to each released Album series/collection or audio file folders, and that the music is clearly packaged as being available for licensing as Production or Library music;

The onus shall rest with the Member to ensure that CAPASSO is in possession of a copy of its latest files and metadata.

5.1.5 to provide the following metadata, as a minimum:

- Album Date of release
- Album / Label catalogue number
- Album Title
- PM Catalogue Label name
- Composers names
- Track numbers
- Track filenames
- Track Keywords / descriptions / search terms

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- Album Genre
- Album Artwork
- BPM
- ISWC / ISRC Codes / works identifier
- IPI / CAE Numbers of composers and publisher / PM Label

5.2 The Production Music works and recordings have been, or will promptly be made **Generally Available** (i.e. released in sufficient quantities, “actively” available to users, and not supplied in response to an individual request for music) to broadcasters, production houses and recording studios in South Africa, and that the works/recordings are not subject to exclusive, or commissioning exclusive, licensing agreements, or “buyout” arrangements.

5.3 The Production Music Member agrees that its Production Music works will be licensed, on a transactional basis, at standard fees as per the CAPASSO Production Music Rate Card.

5.4 Where a Production Music Member and a Licensee are “related” as contemplated in section 2 of the Companies Act 2008, the standard of usage reporting afforded to that Production Music Member by the related broadcaster shall be the minimum standard of reporting acceptable for use of other Members works.

5.5 A Production Music Member shall not:



- 5.5.1 prohibit, cause the prohibition of, or allow the prohibition by, a Licensee, the Licensee's staff or the Licensee's content suppliers from using repertoire from any and all CAPASSO Members.
- 5.5.2 in relation to a fellow Member, conduct itself or involve itself with conduct which is deemed to constitute unlawful competitive practice as envisaged in South African Competition Law.
- 5.5.3 Where a Production Music Member alleges that another Production Music Member (the offending Member) is in contravention of this clause (5.5), such Member may refer the offending Member to the Copyright Tribunal.
- 5.5.4 CAPASSO shall take the relevant steps to uphold the ruling, or anticipated ruling, of the Copyright Tribunal in a referral anticipated in 5.5.3 above.
- 5.6 Save as authorised by the Code of Conduct laid down by the Board of CAPASSO from time to time, the Member will not directly or indirectly agree to pay back to any user licensed by CAPASSO any proportion of any royalties/ fees generated from that user under the relevant licence or sum or other valuable consideration equivalent to such proportion where a primary object or effect of the payment to the user is to persuade or influence the user on the basis of the payment to favour Works in the repertoire of the Member in preference to Works in the repertoire of other Members.
- 5.7 The Production Music Member warrants that it is entitled to receive the full 100% of mechanical and synchronisation income from any revenues licensed and collected by CAPASSO with regards to both local and international library repertoire. For the





avoidance of any doubt, the Member warrants that counter claims from any of other composers, publishers or other collecting societies, of which those composers may be members, will not be contemplated and the Production Music Member hereby indemnifies CAPASSO from any and all claims in this regard.

- 5.8 The Production Music Member warrants that it has not and will not enter into any overlapping arrangements whereby the Member directly or indirectly receives any fees royalties or sums (other than performing rights royalties, needletime royalties and genuine payments for services rendered such as use of recording studios or editing facilities or services).
- 5.9 Where the Production Music Member wishes to enter into a sub-publishing agreement with respect to certain of its Production Music catalogues, and where the sub-publisher chooses not to be a CAPASSO member but is not ineligible for membership, and where such sub-publisher shall enter the catalogues into licensing arrangements with CAPASSO's blanket licensees, such catalogues shall be excluded from CAPASSO's blanket licensing arrangements.
- 5.10 Where the Production Music Member wishes to enter into sub-publishing agreement with respect to certain of its Production Music catalogues, and where the sub-publisher is ineligible for CAPASSO membership, such catalogues shall be excluded from all CAPASSO licensing arrangements.



## 6. Distribution Rules

### 6.1 Distributions

- 6.1.1 Royalty distributions are allocated to the rights owner (Member) of the mechanical right in the musical work.
- 6.1.2 In the case of Works of Music subject to a publishing agreement, royalties relating to those Works of Music shall be paid to the Publisher Member. Statements reflecting payments made in respect of such Works of Music will be sent to both the Author and Publisher Members who are mechanical rights owners in such works.
- 6.1.3 In the case of works not subject to a publishing agreement, royalties will be paid to the Author Member.

### 6.2 Computation of Distributable Royalties

**Calculation if Distributable Royalties:**

**Gross Licence Revenue**

*Less*

**CAPASSO Agent's administration fee (12.5% of Gross Licence Revenue excl. phonomechanical reproductions )**

*Less*

VAT on commission

### 6.3 Distribution Timetable

DISTRIBUTION	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Transactional												
Blanket License												
Digital Service Providers												

### 6.4 Blanket Broadcast Licence Fees: Calculation of Distributable Usage Units

Usage data from Broadcast Licensees is divided into 30 second units or part thereof of reproduced works/music (i.e. Usage Units).

The Distributable Royalties for that Broadcaster are then divided by the number of Usage Units in order to determine the rate per Usage Unit.

The Distributable Royalties are then distributed at the calculated rate for each Usage Unit allocated to each participating Work of Music.



**6.5 Broadcast Blanket Licence Fees: *Distribution Rules between classes of Works of Music***

Subject to annual review, Blanket Broadcast Licence Fees shall be distributed in accordance with the following weighting:

- Production Work of Music: **1 point**
- Sound recording relating to a Production Work of Music: **1 point**
- Commercial Work of Music: **1 point**
- Commissioned Work of Music: **1 point**

**6.6 Transactional Licence Fees**

Transactional licence fees shall be distributed on a title-tied basis, in accordance with the published Rate Card.

**6.7 Digital Service Provider (DSP) Licence Fees**

DSP licence fees shall be distributed on a work-by-work basis. The Distributable Royalties are divided into the participating Works of Music, depending on usage (download or usage).

**6.8 In-Store Music Provider Licence Fees**

In-store Music Provider Distributable Royalties shall be distributed on a work-by-work basis. The Distributable Royalties are divided into the participating Works of Music, depending on usage (download or usage).



## **6.9 Undistributable Royalties**

### **6.9.1 Undistributable Digital Royalties: Rightsholder Unknown**

Unclaimed royalties, i.e. royalties received for the reproductions of works where the rights' owner is neither a Member nor Mandating Rightsholder, or cannot be identified after reasonable effort, shall be placed into a Suspense Account for a period of three (3) years. CAPASSO shall research the available information to identify the rights' owner and the unclaimed royalties would be released when the rights' owner is identified and located, at the same rate and rules applicable at the time when the royalties were first paid (the Primary Distribution).

Following the three year Suspense Account period, unclaimed royalties shall be used to increase distributions in the first possible distribution of the same class (i.e. for the same digital service provider [DSP] where possible or, if this is not possible, the same type of service) in the fourth year, in direct proportion to the Member earnings ratio in the Primary Distribution.

### **6.9.2 Undistributable Broadcast Royalties: Inadequate Usage Report Submission (effective from March 2016 broadcast distribution run)**

Where less than 100% of broadcaster usage reports (cue sheets) are received from a broadcaster for any distribution period, the distribution for that period



(the Primary Distribution) shall be pro-rated, with the licence fees/royalties distributable in that period capped to the percentage of cue sheet received.

The undistributed royalties shall be held in a Suspense Account and distributed as and when the outstanding cue sheets are submitted, at the same distribution rate as the Primary Distribution (these being the Secondary Distributions).

Where undistributed royalties remain at the end of the three-year Suspense Account period, the undistributed royalties shall be distributed to the participants of the Primary and Secondary Distributions in the same proportion as their participation.

## **7 Interest on Royalties Collected**

- 7.1 All royalties received by the Company shall be placed in a passive investment account pending distribution. Any and all interest accrued on monies so invested shall be allocated to the overall distributable royalties provision.
- 7.2 Such interest shall be distributed to rightsholders in accordance with their prorated share in the principal royalties invested. Only rightsholders whose works are identified as being reproduced in the period relating to the principle distribution shall be eligible to participate in the distribution of interest accruing from royalties so distributed.
- 7.3 Notwithstanding the foregoing, the Company shall be entitled to recover any and all reasonable operational costs which cannot be covered by the standard

Administration Fee from the interest so invested. In the event that the Company recovers such reasonable costs as envisioned above, the balance of the interest, if any, shall be distributed to rightsholders as per the provision detailed above.

7.4 For the avoidance of doubt the Company is only entitled to recover costs incurred in excess to the Administration Fee solely from the interest accruing from royalties invested and not from the actual royalties.

7.5 Distributions of all accrued interest shall be made annually following the end of each financial year.