

PRODUCTION AIDS

MUSIC LICENSING SOCIETIES

THE AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS (ASCAP)

Gross ASCAP 1939 and 1938 Receipts:

	1939	1938
Radio (total)	\$4,142,024.44	\$3,845,206.34
{ Advertising fee	\$3,277,836.47 }	
{ Sustaining fee	864,187.97 }	
Motion Pictures.....	1,166,232.77	1,139,682.38
Restaurants	673,787.57	531,127.11
Hotels	226,890.03	214,240.07
Dance Halls.....	143,845.45	135,497.28
Miscellaneous	158,973.33	221,597.41
Total Gross Receipts.....	\$6,511,753.59	\$6,087,350.59

ASCAP history and purpose: Founded in 1914 to protect the legal rights of its publisher and composer-author members against infringement by unlawful public performance of music for profit. ASCAP is a voluntary, unincorporated and non-profit association.

Scope: ASCAP membership includes some 1,450 authors and composers, about 130 publishing firms controlling 155 subsidiaries, plus 50,000 composers, authors, and publishers in 20 foreign nations (via affiliated societies in those nations). The complete repertoire of ASCAP music, while difficult to total at any one time, may be said to include about 2,000,000 separate compositions.

ASCAP licenses: Only "small" (i. e., strictly non-dramatic) performing rights are licensed by ASCAP. The license is issued in blanket—as distinguished from per-piece—form; hence frequency or infrequency of use has no bearing on rates charged. Radio licenses now in effect were negotiated between ASCAP and the National Association of Broadcasters on a basis which runs to Dec. 31, 1940. The

license contract stipulates the following: (1) that the station pay a sustaining program fee; (2) that the station pay ASCAP 5% of its net receipts—"net" being defined as the full amount of the station's receipts from the sale of broadcast time less 15% advertising agency commission if actually paid; (3) that ASCAP will protect the station against litigation resulting from law-suits against domestic ASCAP music. In the case of newspaper-owned stations (51% or more owned by a newspaper) the fee is a straight 5% of net receipts from time sold for programs containing ASCAP music; but the station must agree that in no event shall the total payment to ASCAP fall below a certain minimum.

As of Jan. 1, 1941, it is proposed to effect a new licensing arrangement with the radio industry. Under this new plan the major networks are, for the first time, asked to pay a license fee on the music issued over their chains. Revisions in station payments have meantime been made. Facsimiles of future contracts for both single stations and chains are appended to this article.

ASCAP—Continued

Availability of music: Licensees may play any and all ASCAP compositions, except certain numbers from musical comedies and/or films which are temporarily placed on a restricted list to protect their popularity and life. To play restricted numbers requires a "special permission," but no charge is made if such permission is granted.

Division of ASCAP royalties: ASCAP's annual gross receipts are disbursed as follows:

Total gross receipts.....	100%
Deduct for operating expenses.....	21%
Deduct for foreign affiliates.....	10%
Net distributable royalties.....	69%

Of the net distributable royalties 50% (or 34.5% of the total net receipts) goes to publishers, and 50% (or the other 34.5% of net receipts) goes to composers-authors. The composers-authors have a committee which apportions the money among nine classes (AA down to D) and also awards four quarterly bonuses of \$12,500 each to young writers in the lower brackets as encouragement money attached to the best songs.

Publishers divide their money 20% on a seniority basis, 30% according to value of catalogue, and 50% according to number of performances accredited compositions published under each respective aegis. Provisions are made in all instances for protests or disagreements over payments.

ASCAP headquarters: The main office is located at 30 Rockefeller Plaza, New York City. The phone is COLUMBUS 5-7464.

ASCAP officers: Gene Buck, president; Louis Bernstein and Otto A. Harbach, vice-presidents; George W. Meyer, secretary; Gustave Schirmer, treasurer; J. J. Bregman, assistant secretary; Irving Caesar, assistant treasurer; E. C. Mills, chairman administrative committee; John G. Paine, general manager; Schwartz & Frohlich, general counsel.

ASCAP board of directors: Fred E. Ahlert, Louis Bernstein, Saul Bornstein, J. J. Bregman, Gene Buck, Irving Caesar, Max Dreyfus, George Fischer, Walter Fischer, Otto A. Harbach, Raymond Hubbell, Jerome Kern, Edgar Leslie, George W. Meyer, Jack Mills, Herman Starr, John O'Connor, J. J. Robbins, Gustave Schirmer, Oley Speaks, Deems Taylor, Will Von Tilzer, Oscar Hammerstein II.

ASCAP SINGLE STATION LICENSE

AGREEMENT made between the AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS (hereinafter referred to as "SOCIETY") and (hereinafter referred to as "LICENSEE") as follows:

1. SOCIETY grants to LICENSEE and LICENSEE accepts for a period of five years from a license to publicly perform by non-visual broadcasting from Radio Station located at (hereinafter referred to as "LICENSEE'S Station"), non-dramatic renditions of the separate musical compositions heretofore or hereafter during the term hereof copyrighted or composed by members of SOCIETY, or of which SOCIETY shall have the right to license such performing rights.

2. The within license does not extend to or include the public performance by broadcasting or otherwise of any rendition or performance of any opera, operetta, musical comedy, play or like production, as such, in whole or in part.

3. Nothing herein contained shall be con-

strued as authorizing LICENSEE to grant to others any right to reproduce or perform publicly for profit by any means, method or process whatsoever, any of the musical compositions coming within the purview of the within license performed pursuant hereto or as authorizing any receiver of any such broadcast rendition to publicly perform or reproduce the same for profit by any means, method or process whatsoever.

4. The within license is limited to the separate musical compositions heretofore or hereafter during the term hereof copyrighted or composed by members of SOCIETY or of which SOCIETY shall have the right to license the performing rights hereinbefore granted in programs rendered at or from LICENSEE'S Station, or at or from any hotel, cabaret, night club, dance hall or similar place of entertainment, duly licensed by SOCIETY to perform such works (unless the performance originates at a place or from a source which SOCIETY does not customarily license), from

ASCAP STATION LICENSE—Continued

which place rendition of such works is transmitted directly to such radio station for the purpose of being broadcast therefrom.

LICENSEE shall be guilty of a breach under this article "4" only in case it continues to broadcast a program rendered at such places other than said station, after LICENSEE shall have received notice from SOCIETY that such places are not licensed by SOCIETY to perform.

5. (a) The license herein granted by SOCIETY to LICENSEE shall apply solely to broadcast performances which originate at a place or source described in Paragraph "4" hereof and which performances are broadcast only by LICENSEE'S station and by no other station.

(b) No license is hereby granted to perform by means of broadcasting, any programs originating in any other broadcasting station or in any studio other than the one maintained by LICENSEE at which LICENSEE represents is wholly owned, operated, controlled and supervised by it.

(c) Notwithstanding the foregoing, LICENSEE shall have the right to broadcast through its station, programs containing musical compositions in the repertory of SOCIETY, as part of a chain hook-up (i.e., the simultaneous broadcast of a program over two or more stations), provided such chain hook-up shall have been duly licensed under SOCIETY'S Chain Broadcast License.

Should LICENSEE'S Station broadcast any program containing any musical compositions in the repertory of SOCIETY, originating in any other broadcasting station or studio, not in accordance with the provisions of the preceding paragraph, LICENSEE agrees to pay SOCIETY and SOCIETY agrees to accept in lieu of any damages a sum equal to 10% of the highest card rate (as published by the station or by any party in any way representing or dealing on behalf of the station or by the chain broadcaster) for the period consumed by the entire program of which the composition is a part, LICENSEE to be given credit against such 10% for any amounts allocated and paid to SOCIETY for the use of LICENSEE'S broadcasting facilities for such program under Article "8" hereof.

(d) No license is hereby granted to LICENSEE to broadcast or permit the broadcasting of programs originating in LICENSEE'S Station over or through or by any other broadcasting station.

Should LICENSEE desire to have pro-

grams originating in LICENSEE'S Station broadcast over or through or by any other broadcasting station, SOCIETY and LICENSEE agree to execute a separate and independent license agreement therefor, such license agreement to be the regular Chain Broadcast License of SOCIETY.

6. LICENSEE agrees upon request to furnish to SOCIETY during the term of the within license a list of all musical compositions (or, at the option of LICENSEE, a list of all musical compositions heretofore or hereafter during the term hereof copyrighted or composed by members of SOCIETY or of which SOCIETY shall have the right to license the performing rights hereinbefore granted) broadcast from or through LICENSEE'S Station, showing the title of each composition and the composer and author thereof; provided that LICENSEE shall not be obligated under this article "6" to furnish such a list covering a period or periods in the aggregate during any one calendar year in excess of three (3) months. The lists so furnished by LICENSEE to SOCIETY shall be strictly confidential and SOCIETY covenants that it will make no disclosure thereof or of the contents thereof.

7. SOCIETY reserves the right, at any time, and from time to time, to withdraw from its repertory and the operation of this license, any musical composition or compositions, provided, however, that if more than one thousand (1,000) compositions contained in SOCIETY'S repertory heretofore or hereafter during the term hereof copyrighted or composed by members of SOCIETY, shall be withdrawn or placed on the restricted list at any given time, LICENSEE may terminate this license by giving immediate written notice to SOCIETY of its election so to do, which notice shall become effective sixty (60) days after receipt thereof, unless at any time during such sixty-day period SOCIETY shall reduce the number of compositions on the restricted list to one thousand (1,000) or less, in which event the notice shall become inoperative and this agreement shall continue with the same full force and effect as if such notice had not been given. The right of termination under the conditions heretofore mentioned in this paragraph shall be the sole and exclusive remedy of LICENSEE.

In the event of any such termination of this license, SOCIETY shall refund to LICENSEE pro rata license fees, if any, paid for a period beyond the effective date of such termination.

Musical compositions contained in SOCIETY'S repertory but not heretofore or hereafter during the term hereof copy-

ASCAP STATION LICENSE—Continued

righted or composed by members of SOCIETY, are embraced within this license to the extent only that SOCIETY may have the right, from time to time, to license the performing rights hereinabove granted and the withdrawal of any of such musical compositions from SOCIETY'S repertory and from the operation of this license, shall not affect this license or the compensation payable hereunder.

8. In consideration of the license herein granted, LICENSEE agrees to pay to SOCIETY the sums specified in Subdivision of Schedule "A" hereto attached and made part hereof and to make the accountings therein specified, all at the times and in the manner therein set forth, and all the definitions, provisions and agreements contained in Subdivision "V" of said Schedule "A" shall apply and be binding upon the parties hereto.

In case there shall be any reclassification, from time to time, of LICENSEE, as provided in and in accordance with the provisions of Subdivision "IV" of said "Schedule A," then in any and all such cases, LICENSEE agrees to pay to SOCIETY for the period as fixed in such Subdivision "IV" the sums therein specified in lieu and in place of those provided in the preceding paragraph of this article, and LICENSEE shall make accountings all as hereinabove provided, based upon such reclassification.

9. SOCIETY shall have the right, by its duly authorized representative, at any time during customary business hours, to examine the books and records of account of LICENSEE only to such extent as may be necessary to verify any such monthly statement of accounting as may be rendered pursuant hereto. SOCIETY shall consider all data and information coming to its attention as a result of any such examination of books and records as completely and entirely confidential.

10. Upon any breach or default of any terms herein contained, SOCIETY may give LICENSEE thirty (30) days' notice in writing to cure such breach or default, and in the event that such breach or default has not been cured within said thirty (30) days, SOCIETY may then forthwith terminate said license.

11. In case the State or any subdivision thereof, in which LICENSEE'S Station is located should enact any laws which, in the opinion of SOCIETY, impede or prevent the full performance of this agreement in such State, or impose discriminatory or confiscatory taxes upon SOCIETY, SOCIETY reserves the right to terminate this agreement.

12. SOCIETY agrees to indemnify, save

and hold LICENSEE harmless, and defend LICENSEE from and against any claim, demand or suit that may be made or brought against LICENSEE with respect to renditions given during the term hereof in accordance with this license of musical compositions contained in SOCIETY'S repertory heretofore or hereafter during the term hereof copyrighted or composed by members of SOCIETY.

In the event of the service upon LICENSEE of any notice, process, paper or pleading, under which a claim, demand or action is made or begun against LICENSEE on account of any such matter as is hereinabove referred to, LICENSEE shall forthwith give SOCIETY written notice thereof and simultaneously therewith deliver to SOCIETY any such notice, process, paper or pleading, or a copy thereof, and SOCIETY shall have the sole and complete charge of the defense of any action or proceeding in which any such notice, process, paper or pleading is served. LICENSEE, however, shall have the right to engage counsel of its own, at its own expense, who may participate in the defense of any such action or proceeding and with whom counsel for SOCIETY shall cooperate. LICENSEE shall cooperate with SOCIETY in every way in the defense of any such action or proceeding, and in any appeals that may be taken from any judgments or orders entered therein, and shall execute all pleading, bonds or other instruments but at the sole expense of SOCIETY, that may be required in order properly to defend and resist any such action or proceeding, and properly to prosecute any appeals taken therein.

In the event of the service upon LICENSEE of any notice, process, paper or pleading under which a claim, demand or action is made, or begun against LICENSEE on account of the rendition of any musical composition contained in SOCIETY'S repertory but not heretofore or hereafter during the term hereof copyrighted or composed by members of SOCIETY, SOCIETY agrees at the request of LICENSEE to cooperate with and assist LICENSEE in the defense of any such action or proceeding, and in any appeals that may be taken from any judgment or orders entered therein.

13. All notices required or permitted to be given by either of the parties to the other hereunder shall be duly and properly given if mailed to such other party by registered United States mail addressed to such other party at its main office for the transaction of business.

14. This agreement shall enure to the benefit of and shall be binding upon the

ASCAP STATION LICENSE—Continued

parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, this agreement has been duly signed by SOCIETY and LICENSEE and their respective seals hereto attached, this day of, 194..

AMERICAN SOCIETY OF COMPOSERS,
AUTHORS AND PUBLISHERS

SCHEDULE "A"

SUBDIVISION I.

GROUP "1" STATION

The Group "1" Station shall pay a sustaining fee of Twelve (\$12.00) Dollars per year during the term hereof, plus a sum equal to three (3%) percent of the gross amount paid for the use of its broadcasting facilities, during the term hereof, subject to no deduction of any character other than those hereinafter specifically permitted under Subdivision "V".

SUBDIVISION II.

GROUP "2" STATION

LICENSEE'S Station shall be regarded as a group "2" station. LICENSEE shall pay a sustaining fee of (\$.....) Dollars per year during the term hereof, plus a sum equal to four (4%) percent of the gross amount paid for the use of its broadcasting facilities, during the term hereof, subject to no deduction of any character other than those hereinafter specifically permitted under SUBDIVISION "V".

When the total amount paid by LICENSEE to SOCIETY (exclusive of the sustaining fee) shall be (\$.....) Dollars in any year of the term hereof, no further payments shall be made by LICENSEE to SOCIETY in such year, on the next (\$.....) Dollars of payments for use of LICENSEE'S broadcasting facilities. The said sum of four (4%) percent, however, shall be paid by LICENSEE to SOCIETY in such year on all sums over and above (\$.....) Dollars.

SUBDIVISION III.

GROUP "3" STATION

LICENSEE'S Station shall be regarded as a group "3" station. LICENSEE shall pay a sustaining fee of (\$.....) Dollars per year during the term hereof, plus a sum equal to five (5%) percent of the gross amount paid for the use of its broadcasting facilities, during the term hereof, subject to no deduction of any character other than those hereinafter specifically permitted under SUBDIVISION "V".

When the total amount paid by LICENSEE to SOCIETY (exclusive of the

sustaining fee) shall be (\$.....) Dollars in any year of the term hereof, no further payments shall be made by LICENSEE to SOCIETY in such year on the next (\$.....) Dollars of payments for use of LICENSEE'S broadcasting facilities. The said sum of five (5%) percent, however, shall be paid by LICENSEE to SOCIETY in such year on all sums over and above (\$.....) Dollars.

SUBDIVISION IV.

SECTION A.

For all purposes of this subdivision, the following shall apply:

A Group "1" Station shall be deemed to be a station to which the gross amount paid for the use of its broadcasting facilities in a year shall amount to \$50,000 or less.

A Group "2" Station shall be deemed to be a station to which the gross amount paid for the use of its broadcasting facilities in a year shall amount to more than \$50,000 but shall not exceed \$150,000.

A Group "3" Station shall be deemed to be a station to which the gross amount paid for the use of its broadcasting facilities in a year shall amount to more than \$150,000.

There shall also be included in the "gross amount" mentioned in each of the above named groups all sums paid for the use of LICENSEE'S station facilities in rebroadcasting programs originating in other stations.

In case in any year during the term hereof, the gross amount paid for the use of its broadcasting facilities shall in accordance with the foregoing definitions, place LICENSEE in a Group other than that in which LICENSEE shall be during such current year, then for the ensuing year, LICENSEE shall be deemed to be automatically reclassified and placed in a Group in accordance with such definitions and shall pay the percentage rate allocable to such Group in accordance with subdivisions "I", "II", or "III" hereof, as the case may be.

The foregoing provision shall apply to each and every year of the term of this agreement.

SECTION B.

Upon any change in the classification of a LICENSEE as above provided, then the sustaining fee shall be likewise changed for the same period as follows:

If as a result of such change, LICENSEE shall be re-classified from Group "2" or Group "3" to Group "1" then LICENSEE shall pay a sustaining fee of \$12.00 per year.

ASCAP STATION LICENSE—Continued

If as a result of such change, LICENSEE shall be re-classified from Group "1" to Group "2", then LICENSEE shall pay a sustaining fee of \$..... If such re-classification shall be from Group "3" to Group "2", there shall be a decrease of 25% in the sustaining fee theretofore paid.

If as a result of such change, LICENSEE shall be re-classified from Group "1" to Group "3", then LICENSEE shall pay a sustaining fee of \$..... If such re-classification shall be from Group "2" to Group "3", there shall be an increase of 33 $\frac{1}{3}$ % in the sustaining fee theretofore paid.

In case of re-classification of LICENSEE into Group "2" or Group "3", when the gross amount paid to LICENSEE for the use of its broadcasting facilities (on which LICENSEE has made the percentage payments to SOCIETY) shall equal the sums paid to LICENSEE during the year immediately preceding such re-classification, no further payments shall be made by LICENSEE to SOCIETY on so much of the next gross sums, the re-classified percentage on which shall equal the sustaining fee required to be paid under such re-classification. However, on all sums in excess thereof the percentage payable by LICENSEE shall be paid to SOCIETY.

SECTION C.

Anything in the foregoing notwithstanding and in addition thereto whether or not there has been any change in classification from one Group to another, if in any year there shall be a material increase or decrease in LICENSEE'S operating power, number of hours per day, coverage, or a material change in the time when the broadcast take place or in frequency, then LICENSEE'S sustaining fee shall be changed to conform to that of stations in the same classification, that shall generally be comparable to LICENSEE in operating power, number of hours per day, time when broadcasts take place, location, frequency and coverage, such change to be effective upon the commencement of the next year of the term of this agreement.

SUBDIVISION V.

(a) "Broadcasting," as used in this agreement, does not include transmission by means of television or any other method of transmitting sound in synchronized relationship or simultaneously with visual images or for the purpose of being received or reproduced in connection with visual images.

(b) "Broadcasting facilities," as used in this agreement, shall include all personnel

regularly employed in the operation of the station and all services of any nature whatsoever contracted for and used by the station in the conduct of its business.

"Personnel" shall include, in addition to all persons associated in any manner with the operation of the station, all artists such as dramatic actors, actresses, singers and musicians, whether separate or in group or in orchestra or band form.

"Station" shall include the studio described in Article 5, subdivision (b).

"Services" shall include service of every nature, and without limiting the generality of the foregoing, the same shall include wire service and electrical transcriptions.

The cost of all personnel and services shall not be deductible from the gross amounts paid for the use of the station's broadcasting facilities. The foregoing shall apply whether any such personnel or services are employed or furnished directly by LICENSEE'S Station or where the same are furnished to LICENSEE'S Station by any party, person, firm or corporation directly or indirectly controlled by or a subsidiary of or affiliated with the station or LICENSEE.

However, if any dramatic actors, actresses, singers and other artists or musicians, whether separate or in group or in orchestra or band form, are furnished by the station to a sponsor (i.e., the advertiser) pursuant to an express written contract therefor, and any such person or group is not regularly employed in the operation of the station but is actually engaged by the station for any such sponsor or for a specific program and is actually paid separately therefor and provision for the charge for furnishing the same has been separately added to and included in the charge made to the sponsor by the station, then and in such event LICENSEE shall have the right to deduct the actual bona fide direct cost thereof to it from the gross amount paid for the use of its broadcasting facilities provided that in no event shall the amount allocated as the payment for broadcasting facilities be less than the highest rate charged for a similar given period of time over LICENSEE'S Station.

(c) "Gross amount paid for the use of its broadcasting facilities," as used in this agreement, shall include all payments made (whether in money or in any other form) by the sponsor of each program (i.e. the advertiser) for the privilege of using LICENSEE'S broadcasting facilities.

All gross payments by each such sponsor shall be applicable to the above per-

ASCAP STATION LICENSE—Continued

centage payment whether such payment shall have been made directly to the station or to any other persons, firms or corporations.

The percentage shall be applicable to the gross amount paid by the sponsor although the party to whom or which such payment has been made shall pay a lesser sum to the station for the use of its broadcasting facilities, and this shall also apply if there shall be more than one intervening party between the sponsor and the station.

The foregoing is subject solely to a deduction for commission hereinafter provided for in Subdivision (d) and for amounts received for rebroadcasting such programs as are exempt from payments under Subdivision (e).

Where payment is made in any form other than money or negotiable instrument, then the fair value of the commodity or other property involved or service furnished shall be included in the gross amount to which the percentage is applicable, provided, that, in no case shall such amount be less than the highest rate charged for a similar use of LICENSEE'S broadcasting facilities.

(d) In the event that advertising commissions are paid to an independent agency not employed or owned in whole or in part by LICENSEE, and in which LICENSEE has no stock or other interest, directly or indirectly, the amount of such actual payments not exceeding fifteen (15%) percent may be deducted from the gross amount paid for the use of LICENSEE'S broadcasting facilities in computing the percentage payments hereinabove specified. This deduction shall be permitted whether the advertising commission is paid directly by the sponsor or by LICENSEE. But in no event shall such deductions, regardless of by whom paid, exceed in the aggregate the sum of fifteen (15%) percent.

(e) LICENSEE shall not be required to account for any sums received for the use of LICENSEE'S Station facilities in rebroadcasting programs originating in other stations having a Chain Broadcast License from SOCIETY authorizing the rebroadcasting of such programs.

(f) LICENSEE shall not be required to account for any sums received from political broadcasts, nor shall it be required to account for sums received from religious broadcasts where the amount paid is solely in reimbursement for the costs of lines, wire charges, and technical personnel.

(g) LICENSEE shall have the right to charge against the gross amount paid for the use of its broadcasting facilities by the

sponsor of any news program the actual cost of such news program to the station, provided that if the cost to the station of such news program covers programs for which there are no sponsors, LICENSEE shall have the right to charge against the gross amounts paid by the sponsor of such news program only such proportion thereof as such sponsored news program bears to all the news programs contracted for by the station, and provided further that in no event shall the amount allocated as the payment for broadcasting facilities be less than the highest rate charged for a similar given period of time over LICENSEE'S Station. If, however, the gross amount paid for the use of its broadcasting facilities by the sponsor shall be less than the highest rate charged as aforesaid, then the percentage payable by LICENSEE shall be computed upon such gross amount paid for the use of its broadcasting facilities.

(h) With respect to athletic events, such as baseball, football, hockey, boxing, racing and other athletic events, LICENSEE shall have the right to deduct from the gross amount paid for the use of its broadcasting facilities such extraordinary expenses as shall be necessarily incurred for such special broadcasts, such as special line charges, special announcers and extra engineers, but no part of the cost of the general and regular operation of the station shall be deductible, and in no event shall the amount allocated as the payment for broadcasting facilities hereunder be less than the highest rate charged for a similar given period of time over LICENSEE'S Station. If, however, the gross amount paid for the use of its broadcasting facilities by the sponsor shall be less than the highest rate charged as aforesaid, then the percentage payable by LICENSEE shall be computed upon such gross amount paid for the use of its broadcasting facilities.

(i) LICENSEE shall pay the sustaining fee in equal monthly installments on or before the tenth day of each month during the term hereof.

(j) LICENSEE shall render monthly statements to SOCIETY on or before the tenth of each month covering the period of the preceding calendar month, on forms supplied gratis by SOCIETY with respect to all gross amounts paid for the use of its broadcasting facilities as hereinabove defined, without exception, and the percentage thereof payable to SOCIETY, which said statement shall be rendered under oath and accompanied by the remittances due SOCIETY under the terms hereof.

ASCAP CHAIN BROADCAST LICENSE

AGREEMENT made between the AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS (hereinafter referred to as "SOCIETY"), and (hereinafter referred to as "LICENSEE") as follows:

1. SOCIETY grants to LICENSEE and LICENSEE accepts for a period of five years from a license to publicly perform by non-visual broadcasting on a chain hook-up from or through the radio stations listed on Schedule "A" hereto annexed and made part hereof, non-dramatic renditions of the separate musical compositions heretofore or hereafter during the term hereof, copyrighted or composed by members of SOCIETY or of which SOCIETY shall have the right to license such performing rights.

2. The within license does not extend to or include the public performance by broadcasting or otherwise of any rendition or performance of any opera, operetta, musical comedy, play or like production, as such, in whole or in part.

3. Nothing herein contained shall be construed as authorizing LICENSEE to grant to others than the radio stations mentioned and described in Schedule "A," any right to reproduce or perform publicly for profit by any means, method or process whatsoever, any of the musical compositions coming within the purview of the within license performed pursuant here to, or as authorizing any receiver of any such broadcast rendition to publicly perform or reproduce the same for profit by any means, method or process whatsoever.

Should LICENSEE own, control or operate any broadcasting station, directly or indirectly, (and regardless of whether such Station is included in Schedule "A") LICENSEE and SOCIETY agree to execute or cause to be executed simultaneously herewith a separate and independent license agreement therefor, such license agreement to be the regular "Single Station License." The foregoing shall also apply in case, during the term hereof, LICENSEE shall become the owner, take control of or become the operator of any other broadcasting stations.

4. The within license is limited to the separate musical compositions heretofore or hereafter during the term hereof, copyrighted or composed by members of SOCIETY or of which SOCIETY shall have the right to license the performing rights

hereinbefore granted, in programs transmitted on a chain hook-up rendered at or from any of the radio stations or studios described in Schedule "A," or at or from any hotel, cabaret, night club, dance hall or similar place of entertainment duly licensed by SOCIETY to perform such works (unless the performance originates at a place or from a source which SOCIETY does not customarily license), from which place rendition of such works is transmitted directly to such radio station or stations for the purpose of being broadcast therefrom.

LICENSEE shall be guilty of a breach under this article "4" only in case it continues to broadcast a program rendered at such places other than the said stations or studios described in Schedule "A" after LICENSEE shall have received notice from SOCIETY that such other places are not licensed by SOCIETY to perform.

5. No license is hereby granted to LICENSEE to broadcast or permit the broadcasting of programs over a single station unless such broadcast is given on such station as part of a chain hook-up.

No license is hereby granted to LICENSEE to broadcast or permit the broadcasting of programs over or through or by any broadcasting station except those listed on Schedule "A" without SOCIETY'S written consent thereto.

6. LICENSEE agrees to furnish SOCIETY during the term of the within license with a list of each and every station participating in each program on a chain hook-up together with a list of all musical compositions (or, at the option of LICENSEE, a list of all musical compositions heretofore or hereafter during the term hereof copyrighted or composed by members of SOCIETY or of which SOCIETY shall have the right to license the performing rights hereinbefore granted) broadcast over or through each of said stations on such chain hook-up, showing the title of each composition and the composer and author thereof. The lists so furnished by LICENSEE to SOCIETY shall be strictly confidential and SOCIETY covenants that it will make no disclosure thereof or of the contents thereof.

7. SOCIETY reserves the right, at any time, and from time to time, to withdraw from its repertory and the operation of this license, any musical composition or

ASCAP CHAIN LICENSE—Continued

compositions, provided, however, that if more than one thousand (1,000) compositions contained in SOCIETY'S repertory heretofore or hereafter during the term hereof copyrighted or composed by members of SOCIETY, shall be withdrawn or placed on the restricted list at any given time, LICENSEE may terminate this license by giving immediate written notice to SOCIETY of its election so to do, which notice shall become effective sixty (60) days after receipt thereof, unless at any time during such sixty-day period SOCIETY shall reduce the number of compositions on the restricted list to one thousand (1,000) or less, in which event the notice shall become inoperative and this agreement shall continue with the same full force and effect as if such notice had not been given. The right of termination under the conditions heretofore mentioned in this paragraph shall be the sole and exclusive remedy of LICENSEE.

In the event of any such termination of this license, SOCIETY shall refund to LICENSEE pro rata license fees, if any, paid for a period beyond the effective date of such termination.

Musical compositions contained in SOCIETY'S repertory but not heretofore or hereafter during the term hereof copyrighted or composed by members of SOCIETY, are embraced within this license to the extent only that SOCIETY may have the right, from time to time, to license the performing rights hereinabove granted and the withdrawal of any of such musical compositions from SOCIETY'S repertory and from the operation of this license, shall not affect this license or the compensation payable hereunder.

8. In consideration of the license herein granted, LICENSEE agrees to pay to SOCIETY as compensation for the within license, a sum equal to seven and one-half percent (7½%) of the gross amount paid for the use of broadcasting facilities of the stations listed on Schedule "A" (including the station or stations added pursuant to Article "5"), during the term hereof, on a chain hook-up and to make the accountings specified in Schedule "B" hereto attached and made part hereof, all the times and in the manner therein set forth, and all the definitions, provisions and agreements contained in Schedule "B" shall apply and be binding upon the parties hereto.

If Schedule "A" includes any station (other than a station owned, controlled or operated by LICENSEE, directly or indirectly, which is required in any event to hold such license under Article 3) not holding the regular Single Station License

from SOCIETY, LICENSEE shall pay to SOCIETY (in addition to the sums provided in the preceding paragraph), the sum of \$2,500 per station per year during each year of the term hereof for each such station over which LICENSEE shall broadcast or permit the broadcasting of any sustaining programs, containing musical compositions in SOCIETY'S repertory, as part of a chain hook-up. By "sustaining program" is meant a program for which no sponsor pays any gross amount for the use of broadcasting facilities.

9. SOCIETY shall have the right by its duly authorized representative at any time during customary business hours, to examine the books and records of account of LICENSEE only to such extent as may be necessary to verify any such monthly statement of accounting as may be rendered pursuant hereto. SOCIETY shall consider all data and information coming to its attention as a result of any such examination of books and records as completely and entirely confidential.

10. Upon any breach or default of any terms herein contained, SOCIETY may give LICENSEE thirty (30) days' notice in writing to cure such breach or default, and in the event that such breach or default has not been cured within said thirty (30) days, SOCIETY may then forthwith terminate said license.

11. In case the State or any subdivision thereof, in which LICENSEE'S principal place of business or domicile is located should enact any laws, which, in the opinion of SOCIETY impede or prevent the full performance therein of this agreement or impose discriminatory or confiscatory taxes upon SOCIETY, SOCIETY reserves the right to terminate this license agreement; and if any State, Territory or the District of Columbia should enact such laws, SOCIETY reserves the right to withdraw the license herein granted with respect to any station located in such State, Territory or District. In the event of such withdrawal there shall be deducted from the sum allocable to percentage payments hereunder an amount equal to the pro-rata portion fairly allocable to the station or stations with respect to which this license shall have been withdrawn.

12. SOCIETY agrees to indemnify, save and hold LICENSEE harmless, and defend LICENSEE from and against any claim, demand or suit that may be made or brought against LICENSEE with respect to renditions given during the term hereof in accordance with this license of musical compositions contained in SOCIETY'S repertory heretofore or hereafter during the

ASCAP CHAIN LICENSE—Continued

term hereof copyrighted or composed by members of SOCIETY.

In the event of the service upon LICENSEE of any notice, process, paper or pleading, under which a claim, demand or action is made or begun against LICENSEE on account of any such matter as is hereinabove referred to, LICENSEE shall forthwith give SOCIETY written notice thereof and simultaneously therewith deliver to SOCIETY any such notice, process, paper or pleading, or a copy thereof, and SOCIETY shall have sole and complete charge of the defense of any action or proceeding in which any such notice, process, paper or pleading is served. LICENSEE, however, shall have the right to engage counsel of its own, at its own expense, who may participate in the defense of any such action or proceeding and with whom counsel for SOCIETY shall cooperate. LICENSEE shall cooperate with SOCIETY in every way in the defense of any such action or proceeding, and in any appeals that may be taken from any judgements or orders entered therein, and shall execute all pleadings, bonds or other instruments but at the sole expense of SOCIETY, that may be required in order properly to defend and resist any such action or proceeding, and properly to prosecute any appeals taken therein.

In the event of the service upon LICENSEE of any notice, process, paper or pleading under which a claim, demand or action is made, or begun against LICENSEE on account of the rendition of any musical composition contained in SOCIETY'S repertory but not heretofore or hereafter during the term hereof copyrighted or composed by members of SOCIETY, SOCIETY agrees at the request of LICENSEE to cooperate with and assist LICENSEE in the defense of any such action or proceeding, and in any appeals that may be taken from any judgments or orders entered therein.

13. All notices required or permitted to be given by either of the parties to the other hereunder shall be duly and properly given if mailed to such other party by registered United States mail addressed to such other party at its main office for the transaction of business.

14. This agreement shall enure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, this agreement has been duly signed by SOCIETY and LICENSEE and their respective seals hereto affixed this day of, 194..

SCHEDULE "A"

Broadcasts as part of LICENSEE'S chain hook-up on the following stations and which emanate from any of said stations or from one of the studios hereinafter described, shall come within the purview of this agreement under the terms and conditions hereinbefore set forth:

SCHEDULE "B"

(A) "Broadcasting," as used in this agreement, does not include transmission by means of television or any other method of transmitting sound in synchronized relationship or simultaneously with visual images or for the purpose of being received or reproduced in connection with visual images.

(B) "Chain hook-up," as used in this agreement, shall include two or more stations described in Schedule "A," over or through or by which programs shall be transmitted simultaneously, furnished by or through or by arrangement with LICENSEE or the arrangements for the transmission of which shall be made by or through or by arrangement with LICENSEE. "LICENSEE" shall include the LICENSEE hereunder and also any person, firm or corporation, directly or indirectly controlled by or associated with LICENSEE, or which is a subsidiary of or affiliated with LICENSEE, or of which LICENSEE is a subsidiary.

(C) "Broadcasting facilities," as used in this agreement, shall include all personnel regularly employed by LICENSEE, as well as all personnel regularly employed in the operation of the stations in the chain hook-up, and all services of any nature whatsoever contracted for and used by LICENSEE, as well as by the stations in the conduct of their business.

"Personnel" shall include, in addition to all persons associated in any manner with the operation of the stations, all artists such as dramatic actors, actresses, singers and musicians, whether separate or in group or in orchestra or band form.

"Station" shall include the studios used in chain broadcasting by and for LICENSEE or in the operation of such respective stations.

"Services" shall include service of every nature and without limiting the generality of the foregoing the same shall include wire service and electrical transcriptions.

The cost of all personnel and services shall not be deductible from the gross amounts paid for the use of the station's broadcasting facilities. The foregoing shall apply whether any such personnel or ser-

ASCAP CHAIN LICENSE—Continued

VICES are employed or furnished directly by LICENSEE or by the stations involved or where the same are furnished to LICENSEE or the station by any party, person, firm or corporation, directly or indirectly controlled by or a subsidiary of or affiliated with the station or LICENSEE.

However, if any dramatic actors, actresses, singers and other artists, musicians, whether separate or in group or in orchestra or band form, are furnished by LICENSEE or the station to a sponsor (i.e., the advertiser) pursuant to an express written contract therefor, and any such person or group is not regularly employed in the operation of the station but is actually engaged by LICENSEE or the station for any such sponsor for a specific program and is actually paid separately therefor, and provision for the charge for furnishing the same has been separately added to and included in the charge made to the sponsor by LICENSEE or the station, then and in such event, LICENSEE shall have the right to deduct the actual bona fide direct cost thereof to it from the gross amount paid for the use of broadcasting facilities, provided that in no event shall the amount allocated as the payment for broadcasting facilities be less than the highest rate charged for a similar given period of time over the chain hook-up involved.

(D) "Gross amount paid for the use of broadcasting facilities," as used in this agreement, shall include all payments made (whether in money or in any other form) by the sponsor of each program (i.e., the advertiser) for the privilege of using the broadcasting facilities of two or more stations on a chain hook-up; and all gross payments by each sponsor, whether made directly to LICENSEE or to any other person, firm or corporation, shall be applicable to the above percentage payment.

The percentage shall be applicable to the gross amount paid by the sponsor, although the party to whom or which such payment has been made shall pay a lesser sum to LICENSEE for the use of the broadcasting facilities of the stations involved, and this shall also apply if there shall be more than one intervening party between the sponsor and LICENSEE.

The foregoing is subject solely to a deduction for commission hereinafter provided for in subdivision (E).

Where payment is made in any form other than money or negotiable instrument, then the fair value of the commodity or other property involved or service furnished shall be included in the gross

amount to which the percentage is applicable; provided that in no case shall such amount be less than the highest rate charged for a similar given period of time over the chain hook-up involved.

(E) In the event that advertising commissions are paid to an independent agency not employed or owned in whole or in part by LICENSEE, and in which LICENSEE has no stock or other interest, directly or indirectly, the amount of such actual payments not exceeding fifteen percent (15%) may be deducted from the gross amount paid for the use of the broadcasting facilities of the chain hook-up in computing the percentage payments hereinabove specified. This deduction shall be permitted whether the advertising commission is paid directly by the sponsor or by LICENSEE. But in no event shall such deductions, regardless of by whom paid, exceed in the aggregate the sum of fifteen percent (15%).

(F) LICENSEE shall not be required to account for any sums received from political broadcasts, nor shall it be required to account for sums received from religious broadcasts where the amount paid is solely in reimbursement for the costs of lines, wire charges, and technical personnel.

(G) LICENSEE shall have the right to charge against the gross amount paid for the use of broadcasting facilities of the chain hook-up by the sponsor of any news program, the actual cost of such news programs to LICENSEE; provided that if the cost to LICENSEE of such news program covers programs for which there are no sponsors, LICENSEE shall have the right to charge against the gross amounts paid by the sponsor of such news programs only such proportion thereof as such sponsored news program bears to all news programs contracted for by the station, and provided further that in no event shall the amount allocated as the payment for broadcasting facilities be less than the highest rate charged for a similar given period of time over the chain hook-up involved. If however, the gross amount paid for the use of its broadcasting facilities by the sponsor shall be less than the highest rate charged as aforesaid, then the percentage payable by LICENSEE shall be computed upon such gross amount paid for the use of its broadcasting facilities.

(H) With respect to athletic events, such as baseball, football, hockey, boxing, racing, and other athletic events, LICENSEE shall have the right to deduct from the gross amount paid for the use of broadcasting facilities such extraordinary ex-

ASCAP CHAIN LICENSE—Continued

penses as shall be necessarily incurred for such special broadcasts, such as special line charges, special announcers and extra engineers, but no part of the cost of the general and regular operation of LICENSEE's business or of the stations on the chain hook-up shall be deductible, and in no event shall the amount allocated as the payment for broadcasting facilities be less than the highest rate charged for a similar given period of time over the chain hook-up involved. If, however, the gross amount paid for the use of its broadcasting facilities by the sponsor shall be less than the highest rate charged as aforesaid, then the percentage payable by LICENSEE shall be computed upon such gross amount paid for the use of its broadcasting facilities.

(I) LICENSEE shall pay the sustaining fees, if any, of \$2,500 per station per year provided for in article "8," as follows: The full amount shall become payable as to each station on or before the tenth day of the calendar month following the date of

the broadcast of the first sustaining program broadcast over such station. The year embraced by such payment shall be computed from the date of broadcast of such first sustaining program. If any such year shall run beyond the date of this license, then such year period shall terminate upon the date of the termination of this license, and there shall be a pro rata refund to LICENSEE of any such payment.

(J) LICENSEE shall render monthly statements to SOCIETY on or before the tenth day of each month covering the period of the preceding calendar month on forms supplied gratis by SOCIETY, with respect to all gross amounts paid for the use of broadcasting facilities of the chain hook-up as hereinabove defined, without exception, and the percentage thereof payable to SOCIETY, which said statement shall be rendered under oath and accompanied by the remittances due SOCIETY under the terms hereof.

ASSOCIATED MUSIC PUBLISHERS, INC. (AMP)

Founding of AMP: Associated Music Publishers, Inc., was founded as a private corporation in the State of New York on Dec. 22, 1926. Radio licenses have been issued since August, 1928. The corporation conducts a wholesale and retail music business, including the rental of music, and is engaged in the manufacture of transcriptions for library service and commercial purposes.

Scope: Represented in the AMP repertoire are 18 U. S. and European music houses and their 19 subsidiaries. Virtually all of these houses have assigned to the AMP their U. S. copyrights. The AMP catalogues contain over 500,000 entries of which approximately 15,000 are copyrights.

AMP licenses: Licenses cover performing and mechanical rights, "small" (i. e., strictly musical) and "grand" (i. e., musical-dramatic). AMP's radio license is

unique in that it is the only radio license which covers "small" and "grand" rights simultaneously under a single fee. The radio license stipulates that: (1) the annual fee shall be equal to the sum of a station's 12 highest quarter-hour rate charges; (2) that AMP will sell the license any music (covered by the license) which is for sale, and rent such music as is not for sale; (3) that AMP will defend the licensee against claims arising out of the use of music covered by the license; (4) that both "small" and "grand" rights are fully covered.

AMP headquarters: Located at 25 W. 45th Street, New York City. The phone is Bryant 9-0847.

AMP officers: Waddill Catchings, chairman of the board; C. M. Finney, president; Anna M. Kerner, secretary; John R. Andrus, treasurer.

BROADCAST MUSIC, INC. (BMI)

BMI history and purpose: Organized Oct. 14, 1939, under the laws of the State of New York, pursuant to a resolution to carry out the building of an alternate

source of music suitable for broadcasting, and to make such music available to broadcasters and others, adopted at a convention of the National Assn. of Broadcasters

BROADCAST MUSIC, INC.—Continued

in Chicago, Sept. 15, 1939. BMI is authorized to issue 100,000 shares of capital stock, all of one class, par value \$1. Broadcasters have been offered 80,000 shares of such stock at \$5 per share. The stock is not offered for sale to the general public.

Scope: BMI is owned and operated by more than 310 broadcasting stations to which it supplies music. It has leased the musical catalogues of M. M. Cole and subsidiaries of Chicago for a 10-year period, beginning Jan. 1, 1941, and has purchased all music and musical rights of Hinds, Hayden & Eldredge, Inc. Plans presently pending will bring other catalogues into BMI's possession.

BMI licenses: BMI grants its subscribers a non-exclusive license to perform all music controlled by it. Stockholder-licensees purchase BMI stock in the amount of 10% of their 1937 payments to ASCAP, and in return for all BMI music for the period from April 1, 1940, to April 1, 1941, pay a sum equalling 40% of their 1937 ASCAP payments. These fees are to be paid upon demand, not in excess of 15% of the total within any 30-day period.

BMI transcription licenses: These licenses concern "small" (strictly musical) rights only, for which the transcription company pays BMI 2c for each transcription side. (See appended facsimile of license).

BMI offices: The main offices are located at 580 Fifth Avenue, New York City (L.A. 4-8011). The West Coast offices are at 1438 Ridgley Drive, Los Angeles, Calif.

BMI officers: Neville Miller, president; Sydney M. Kaye, vice-president; M. E. Tompkins, general manager and secretary; and C. E. Lawrence, treasurer.

BMI directors: Walter J. Damm (WTMJ, Milwaukee, Wis.); John Elmer (WCBM, Baltimore, Md.); Edward Klauber (CBS); Lenox R. Lohr (NBC*); Paul W. Morency (WTIC, Hartford); John Shepard, III (Yankee-Colonial Networks).

* Mr. Lohr has subsequently resigned as president of NBC, and will be replaced on the BMI board by an election at the next board meeting.

BMI PERFORMING RIGHTS LICENSE

AGREEMENT made this day of, 19.., between BROADCAST MUSIC, INC., a corporation organized under the laws of the State of New York (hereinafter called MUSIC) with principal offices in New York, New York, and (hereinafter called BROADCASTER) with offices located at City of, State of

WITNESSETH:

I. MUSIC hereby grants to BROADCASTER a non-exclusive license to perform by radio broadcasting over Station all musical works the copyrights or rights to grant broadcasting performing licenses of which MUSIC may, during the term hereof, own. MUSIC agrees to deliver to Broadcasters from time to time during the term hereof lists of musical works covered by this license. The rights granted hereby shall include the right to broadcast dramatic performances of such musical works as MUSIC at any time shall have given notice to BROADCASTER that it owns the dramatic performing rights thereof.

II. BROADCASTER agrees to pay to

MUSIC, as a licensee fee hereunder, such sum, not in excess of \$....., as MUSIC may require BROADCASTER to pay, payment to be made in instalments as and when required by MUSIC, within ten days after written demand therefor, provided that no demand shall be made for the payment of any instalment or instalments aggregating in excess of 15% of the foregoing maximum total license fee during any consecutive thirty-day period. In the event that BROADCASTER shall fail to make any payment when and as due, MUSIC may, in addition to any and all other remedies which it has at law or in equity, terminate this license upon ten day's notice in writing.

III. MUSIC agrees to indemnify, save and hold harmless and to defend BROADCASTER, its advertisers and advertising agencies, from and against all claims, demands and suits that may be made or brought against BROADCASTER, its advertisers and advertising agencies, with respect to the performance under this license agreement of any material licensed hereunder, provided that this indemnity shall not apply to broadcasts of any com-

BMI STATION LICENSE—Continued

position performed by BROADCASTER after written request from MUSIC to BROADCASTER that BROADCASTER refrain from performance thereof. BROADCASTER agrees to give MUSIC immediate notice of any such claim, demand or suit, and agrees immediately to deliver to MUSIC all papers pertaining thereto. MUSIC shall have full charge of the defense of any such claim, demand or suit, and BROADCASTER shall cooperate fully with MUSIC therein.

IV. The term of this license shall commence on the date of the receipt by BROADCASTER of an executed copy hereof and shall continue for such period of time as may be designated in writing by MUSIC, provided, however, that the term of this license shall expire not earlier than March 31st, 1941. This license shall be non-assignable, except to the person, firm or corporation legally acquiring the Federal Communications Commission license of the broadcasting station designated in Article I hereof.

V. BROADCASTER, on written request made on no less than one week's notice, agrees to furnish to MUSIC weekly lists of BROADCASTER'S performances of musical compositions under this license, indicating the compositions performed by title and composer or by such other convenient method as may be designated by MUSIC.

VI. In the event that the Federal Communications Commission revokes or fails to renew the broadcasting license of BROADCASTER, or in the event that the Governmental rules and regulations applicable to the station referred to in Article I hereof are suspended or amended so as to forbid the broadcasting of commercial programs by BROADCASTER, BROADCASTER may notify MUSIC thereof, and MUSIC, within ten days of the receipt of such notice, shall, by written notice to BROADCASTER, at MUSIC'S option, either terminate this license, or shall suspend this license and all payments and service hereunder for the period that such condition continues. In the event that MUSIC elects to suspend this license, such suspension shall not continue for longer than six months, and this license shall automatically terminate at the end of six months' suspension. In the event that the condition giving rise to the suspension shall continue for less than six months, MUSIC, at its option, and on written notice to BROADCASTER, may reinstate this license at any time within thirty days after the cessation of such condition.

VII. MUSIC agrees, (a) that all of the

initial performing right license agreements between MUSIC and its stockholders shall terminate simultaneously, (b) that no demand will be made by MUSIC for any instalment payment in accordance with the provisions of ARTICLE II hereof unless MUSIC simultaneously demands instalment payments in the same percentage from all other stockholders, and (c) that the initial performing right license agreements between MUSIC and its stockholders shall each provide for the payment to MUSIC of such sum as MUSIC shall demand, not, however, in the aggregate in excess of a sum equal to 40% of the total sums paid or payable to the American Society of Composers, Authors and Publishers as performing right fees for the entire calendar year, 1937, for or with respect to the radio broadcasting station named in such agreement with MUSIC (except that a different maximum amount may be specified in the initial license agreement of any stockholder if performing right fees were not paid or payable to the American Society of Composers, Authors and Publishers for the entire calendar year 1937, for or with respect to the radio broadcasting station named in such license agreement, or if there has been a material change in the power or hours of operation of the radio broadcasting station named in such license agreement).

VIII. The term "stockholder-licensee" as hereinafter used shall include only such stockholders as have uninterruptedly held performing right licenses from MUSIC during all periods that performing right licenses of MUSIC shall have been available. For the purposes of this paragraph, "stockholder-licensees" are hereby divided into the following categories: (1) stockholder-licensees whose radio stations have no network affiliations; (2) stockholder-licensees operating both radio stations and national networks; and (3) stockholder-licensees operating radio stations affiliated with, but not operated by, national networks. In the event that MUSIC, with respect to performing right license agreements for any period subsequent to the expiration of this license, shall propose, (a) the alteration of material terms of licenses or the method of fixing or allocating performing right license fees, so as to effect a change discriminatory against any of the foregoing categories of stockholder-licensees, or (b) the denial of licenses to stockholder-licensees, or (c) the omission from future performing right license agreements with MUSIC'S stockholders of provisions to the same effect as any of those contained in this Article VIII, then, MUSIC shall give notice of such proposal to all stockholder-licensees in any category

BMI STATION LICENSE—Continued

which contains adversely affected stockholder-licensees, and, in the event that notice of objection to such proposal shall not, within thirty days, be given to MUSIC by stockholder-licensees to whom such notice was given, and whose annual license payments to MUSIC under the license agreements with stockholders in effect at the time of such proposal shall aggregate one-third or more of the annual license payments made by all stockholder-licensees in the same category, such proposal may be put into effect.

IX. This agreement shall become effective as a license agreement upon the execution and delivery of a copy hereof by MUSIC. In consideration of MUSIC using its best efforts to obtain the signature of agreements similar to this by other broadcasters, and in consideration of the signature of agreements similar to this by other broadcasters, BROADCASTER agrees that this instrument shall constitute a continuing offer which cannot be revoked by BROADCASTER for twenty (20) days from the date of the receipt of this agreement by MUSIC.

X. All notices required or permitted to be given hereunder shall be duly and properly given if mailed to the party to whom such notice is required or permitted to be given, by United States mail, postage prepaid, addressed to said party at its main office for the transaction of business. This agreement constitutes the entire under-

standing between the parties and shall be construed in accordance with the laws of the State of New York.

BROADCAST MUSIC, INC.

[The National Broadcasting Company and the Columbia Broadcasting System have declared their approval of the principle of clearance at the source when an economically and legally feasible method of so clearing can be devised which is not unduly burdensome to the said networks in comparison with their present method of operation and payment, and they have declared that at an appropriate time the said networks will make an earnest cooperative effort with the network affiliates to work out such a feasible plan of clearance at the source.

The National Broadcasting Company and the Columbia Broadcasting System also have declared their willingness, at an appropriate time, to consider any proposals by their affiliates for a new method of distributing the cost of music, which is not unduly burdensome to the said networks in comparison with their present method of operation and payment, and that nothing in this license agreement shall be construed as working against an earnest cooperative effort by the various elements of the industry to such end, such effort to involve consideration not only of future payments of license fees to Broadcast Music, Inc., but also of payments to other organizations.]

BMI TRANSCRIPTION LICENSE

AGREEMENT made 194.., between BROADCAST MUSIC, INC., of 580 Fifth Avenue, New York City (herein called "BMI") and (herein called "Licensee").

1. BMI hereby grants to Licensee, its distributors and affiliated companies, the non-exclusive right, privilege and authority to arrange and to use in the manufacture (in the United States of America, its territories and possessions) of parts of instruments serving to reproduce mechanically musical works, the words or music or both of a certain musical work (herein referred to as "work") of which BMI is the copyright owner, entitled ".....," written by, identified by certificate of United States copyright registration in Class E, in such instrumentation or form as will adapt the work for use upon records, such parts of instruments being limited to electrical transcriptions, which may be sold or marketed in any part of the world.

2. Licensee, in consideration of the license aforesaid, hereby agrees to pay therefor to BMI a royalty of two cents for each and every electrical transcription (or side thereof if the work is contained on more than one side), manufactured by it, serving to reproduce the said work, its words or music or both; in no event are double royalties to be paid by Licensee on electrical transcriptions shipped to any foreign country. Licensee hereby agrees to render to BMI quarterly statements of all of said electrical transcriptions manufactured by it as aforesaid in the following manner, to wit: On the 1st of February, for the quarter ending the 31st of the preceding December; on the 1st of May, for the quarter ending the 31st of the preceding March; on the 1st of August, for the quarter ending the 30th of the preceding June; and on the 1st of November, for the quarter ending the 30th of the preceding September.

BMI TRANSCRIPTION LICENSE—Continued

Licensee agrees to keep accurate books showing all electrical transcriptions manufactured by it in accordance with this agreement; and further agrees that BMI may from time to time during reasonable business hours examine such books at BMI'S expense in so far as said books pertain to said work.

3. Licensee agrees to place on the catalog cards of the electrical transcriptions reproducing the said work, the title of the composition, the last name of the composer and lyricist, and the name "BMI," and to place on the labels of said transcriptions the title of the composition, the name "BMI" and such other language as may be mutually agreed upon.

4. In consideration of the covenant of

Licensee to pay the royalty aforesaid, BMI covenants and agrees that it has good and lawful right to the aforesaid copyright and to the aforementioned work, both as to words and music and good and lawful right to give and grant the license hereby given; and does hereby indemnify and covenant to hold harmless Licensee against loss or damage by reason of any adverse claims by others in and to the subject matter thereof or by reason of any adjudication invalidating said mechanical reproduction right and/or copyright privileges under which this license is granted.

5. This agreement shall be binding upon the successors and assigns of both parties hereto.

BROADCAST MUSIC, INC.

MUSIC PUBLISHERS' PROTECTIVE ASSN. (MPPA)

History: The MPPA came into existence as an unincorporated voluntary association in April, 1917, to correct certain existing evils in the music publishing industry and encourage music and music writing. The Association in subsequent years brought about agreements to discontinue payments to actors for singing songs, established facilities for the registration of titles, provided regulations for mechanical recording (and later for sound pictures), installed a credit and collection bureau, inveighed against piracies and the unlawful manufacture and sale of song sheets, supported favorable copyright legislation, and at times acted on behalf of its members in the settlement of claims against licensees. In 1935 the MPPA was reorganized and incorporated, but its aims and functions have remained virtually the same as prior to reorganization.

The MPPA actively entered the field of licensing mechanical rights in 1927 when an agreement was negotiated with Electrical Research Products, Inc. (ERPI), a Western Electric subsidiary, to cover reproduction of copyrighted musical compositions by devices serving to synchronize the same with the presentation of motion pictures.

In 1933 the MPPA through an agent and trustee took another step in the same direction by becoming the central licensing bureau for its members with reference to electrical transcriptions for radio broadcasting.

In 1938, the MPPA extended its activity in the mechanical field by acting as a central agency for the licensing of phonograph recording rights for 78 publishers. Phonograph licensing operations (previously conducted separately by the publishers) are effected through an agent and trustee connected with the MPPA.

Scope: Music available for radio transcription purposes comes from a reservoir to which 62 MPPA members among several other publishers contribute.*

MPPA transcription licenses: These licenses concern "small" (strictly musical) rights only. The scale of fees is as follows: *sponsored transcriptions* are billed at 25c per popular composition per broadcast, and if the composition is derived from a film or theatrical production, the fee is 50c; in this respect, each broadcast is considered a separate manufacture. *Sustaining transcriptions* are billed at \$15 per composition per year.

MPPA headquarters: Located at 45 Rockefeller Plaza, New York City. The phone is Circle 6-3084.

MPPA officers: Walter G. Douglas, chairman of the board; E. H. Morris, president; Lester Santly, vice-president; J. J. Bregman, treasurer; Jack Mills, secretary; Harry Fox, general manager.

* Note: MPPA membership includes only publishers.

NATIONAL ASSOCIATION OF PERFORMING ARTISTS (NAPA)

NAPA history and purpose: Founded in 1934 by Fred Waring, Meyer Davis, Paul Whiteman, Frank Crumit, Don Voorhees, Lewis James, Guy Lombardo, Walter O'Keefe, the late Josef Pasternack and Fritz Reiner. NAPA's purpose is described as "a mutual, voluntary, non-profit group engaged in protecting its members (performing artists) against unauthorized use of their artistic performances; unfair competition; and illegal exploitation of their names and personalities." Several years ago the NAPA inspired the famous case of Fred Waring vs. WDAS (Philadelphia) in which the Pennsylvania Supreme Court held that: (1) the unauthorized use by a radio station of an artist's phonograph records is unfair competition; (2) that such an act invades the artist's right of privacy; and 3) that it violates the artist's common law property right in the rendition.

The NAPA opposes "piratical off-the-air recordings" and has sponsored legislation to this effect. The Association has also advocated Congressional legislation giving artists Federal copyright in renditions, and is fighting for "equitable recording con-

tracts to give musicians rights in recorded renditions."

NAPA headquarters: The main office is located at 630 Fifth Avenue, New York City. The phone is Circle 7-8194.

NAPA officers: James J. Walker, president; Fred Waring, Meyer Davis, Al Jolson and Paul Whiteman, vice-presidents; Josef Hofmann, honorary president; Frank Crumit, secretary; Don Voorhees, treasurer; Fred Waring, chairman of the board; Maurice J. Speiser, general counsel

NAPA board of directors: Fred Waring (chairman), Connie Boswell, Noel Coward, Richard Crooks, Bing Crosby, Frank Crumit, Meyer Davis, Mary Garden, Benny Goodman, Jascha Heifetz, Lewis James, Al Jolson, Hal Kemp, Arthur W. Levy, Guy Lombardo, John McCormack, Grace Moore, Ray Noble, Walter O'Keefe, Dick Powell, Fritz Reiner, Fabien Sevitzky, Nathaniel Shilkret, Lawrence Tibbett, Rudy Vallee, Don Voorhees, Paul Whiteman, Victor Young, Efrem Zimbalist.

SOCIETY OF EUROPEAN STAGE AUTHORS AND COMPOSERS, INC. (SESAC)

Date of founding: SESAC, a private corporation, was founded in 1930.

Scope: The SESAC reservoir is comprised of approximately 125 separate catalogues of American and foreign publishers and organizations. The majority of its affiliates are American publishers. Radio station licensees thus have available some 40,000 compositions including operettas, symphonic works, plays, dramas, and radio sketches.

SESAC licenses: These licenses separately cover "small" (strictly musical) rights, "grand" (musical-dramatic) rights, and recording rights. The regular license in effect between SESAC and radio stations provides that: (1) the station pay a scheduled blanket license fee for use of SESAC's catalogue; (2) all SESAC musical compositions must be announced by title and composer, and, if taken from a musical production or sound film, the name of the production or film be mentioned;

(3) that SESAC may from time to time place certain compositions on a restricted list, but that the list cannot at any time exceed 10% of the total SESAC reservoir; (4) that the license extends only to "small" rights, "grand" rights requiring a special license and separate fees.

The license for recording electrical transcriptions states that: (1) only "small" rights are covered in the contract; (2) that the transcription manufacturer pay \$15 per year per SESAC composition; (3) that the transcriptions containing SESAC compositions may be broadcast only on sustaining or local commercial programs, and that they may be so performed for one year following issuance of the license, with a longer period requiring a special extension of license; (4) that the contract does not permit the existence of any artistic or interpretive rights arising from the participation of any party in the recorded rendition.

SESAC—Continued

Division of SESAC royalties: The annual intake is divided via a system based on five major points: (1) number of performances; (2) availability; (3) current activity; (4) seniority; and (5) diversity.

SESAC headquarters: Executive headquarters are at 113 West 42nd Street, New

York City. The phone is Bryant 9-3223. SESAC has field representatives visiting stations, and a program service department to assist stations in copyright clearance, etc.

SESAC officers: President of the corporation is Paul Heinecke.

G. RICORDI & CO. (MILAN)

History: G. Ricordi & Co. of Milan (not to be confused with G. Ricordi & Co., Inc., of New York) was established in Italy in 1808 as a music publishing house. Until 1933 its reservoir of compositions was available through ASCAP, but in that year Ricordi withdrew from the *Societa Italiana Degli Autori Ed Editori* (an ASCAP affiliate), and began to do its own licensing.

Scope: Ricordi's catalogue contains about 130,000 compositions. Some 500 of these are operas, while hundreds of others are symphonies.

Ricordi licenses: These licenses separately cover not only "small" (i.e., strictly musical), but also "grand" (i.e., musical-dramatic) rights. Ricordi further provides

licenses for mechanical and synchronization rights. The contract issued to radio stations states that: (1) payment for use of the music shall be in a pre-arranged lump sum; (2) the license shall cover only "small" rights, and shall not extend to symphonic works, operas, operettas, plays, revues, ballets, or arias and songs performed with full orchestra accompaniment. "Grand" rights licenses may be obtained on payment of a special fee.

Ricordi headquarters: The U. S. headquarters are located at 12 West 45th Street, New York City. The phone is Murray Hill 2-0300.

Ricordi officers: Dr. Renato Tasselli is managing director in the U. S.

THE SOCIETY OF JEWISH COMPOSERS, PUBLISHERS AND SONG WRITERS

Date of founding: The Jewish Society was founded on February 5, 1932.

Scope: The Jewish Society's reservoir includes approximately 2,500 separate compositions which are the property of its 23 member writers and publishers.

Jewish Society license: This license covers only "small" (strictly musical) rights. It stipulates that: (1) access to the Society's reservoir may be had on payment

of an annual pre-arranged sum; (2) that "grand rights" are not included.

Jewish Society headquarters: Located at 152 West 42nd Street, New York City.

Jewish Society officers: Sholom Secunda, president; Cantor Pincus Jassinowsky, vice-president; Henry Lefkowitz, secretary; Alexander Olshanetsky, treasurer; Salom J. Pearlmuter, general manager; A. Edward Moskowitz, counsel.