

## **ACX Audiobook License and Distribution Agreement**

### **Version 1.0 (05.12.11)**

This **ACX Audiobook License and Distribution Agreement** ("Agreement") is a binding agreement between you, or the company or entity you represent, if you are entering into this Agreement on behalf of a company or entity ("you"), and Audible, Inc. ("Audible", "we" or "us") and is effective as of the date of Audible's signature on the signature page to this Agreement ("Effective Date"). It sets forth the terms you agree to when you (a) produce an audiobook based on a book for which you own or control audio rights (any book such, a "Book"), and (b) grant Audible distribution rights to that audiobook through the audiobook production service and rights marketplace available at [www.acx.com](http://www.acx.com) ("ACX").

Among other things, in this Agreement, you grant to us distribution rights in any nondramatic audio recording of the Book that you produce (an "Audiobook") in the territory or territories you indicate in Exhibit A, attached to this Agreement (the "Territory"), and the language you indicate in Exhibit A (the "Language"). Our distribution rights to the Audiobook are either exclusive or are non-exclusive, as provided below and as indicated by you in Exhibit A.

**1. Authority to Enter Into this Agreement.** You represent and warrant that you are legally entitled to produce an audiobook based on the Book and grant Audible the rights and licenses granted to it in this Agreement because you are either:

- a.** The author of the Book, and have not transferred the audiobook production and distribution rights to the Book to any third party or, if you have transferred the rights, have regained the rights because they have reverted to you (an "Author");
- b.** A person or entity to whom the author of the Book has, directly or indirectly, transferred the audiobook production and distribution rights to the Book, including a publisher of the Book (a "Rights Recipient"); and
- c.** An agent or other authorized representative of an Author or a Rights Recipient to whom the Author or Rights Recipient has granted full power and authority to enter into this Agreement on behalf of the Author or Rights Recipient.

**2. Rights.** You represent and warrant that:

- a.** You have the full right, power and authority to enter into and fully perform this Agreement;
- b.** You have reviewed and accepted the terms of the ACX Account Holder Agreement and are an authorized account holder of a current user account on ACX;
- c.** The Book is eligible for distribution through ACX per the terms set forth in Section 7 of the ACX Account Holder Agreement;
- d.** You have obtained all rights necessary for Audible to exercise the rights granted under this Agreement;
- e.** Neither the Book itself nor the materials embodied in it, nor the production and distribution of the Audiobook as permitted hereunder nor the exercise of the rights granted under this Agreement will violate any applicable law or infringe upon or otherwise violate the intellectual property, proprietary or other rights of

any person or entity, including contractual rights, copyrights, trademarks, common law rights, rights of publicity or privacy or moral rights;

- f. The Book does not contain any defamatory material;
- g. The Book is not in the public domain and does not fall within any other category of books that are not eligible for production on ACX; and
- h. You will be solely responsible for, and will pay, any third parties any royalties that they are owed with respect to the exercise of the rights granted under this Agreement.

### **3. Distribution By Audible.**

#### **a. IF YOU ELECT TO GRANT AUDIBLE EXCLUSIVE DISTRIBUTION RIGHTS IN THE AUDIOBOOK, THE FOLLOWING TERMS APPLY:**

You grant to Audible the exclusive right to distribute the Audiobook throughout the Territory from the date the Audiobook is completed until the date that is 7 years from the date you deliver the completed Audiobook to Audible in accordance with Section 7(a) (such 7 year period, the "Initial Term"). As full consideration for the exclusive distribution rights granted by you to Audible, Audible will pay you royalties on its sales of the Audiobook based on the Audible Exclusive Royalty Escalator Model set forth in Audible's standard ACX Royalty Payment Terms and Procedures for Audible Exclusive Distribution Rights, attached to this Agreement as Exhibit B. After the Initial Term, this Agreement will renew automatically for additional 1 year terms (each, a "Renewal Term") unless either party provides written notice of termination to the other party at least 60 days prior to the end of the Initial Term or then-current Renewal Term. During the Distribution Period (as defined below) you will not, and will not permit any third party to, directly or indirectly, advertise, distribute, sell, or offer for sale an audio recording of the Book, or any portion thereof, in the Language for distribution in the Territory in any format.

#### **b. IF YOU ELECT TO GRANT AUDIBLE NON-EXCLUSIVE DISTRIBUTION RIGHTS IN THE AUDIOBOOK, THE FOLLOWING TERM APPLIES:**

You grant to Audible the non-exclusive right to distribute the Audiobook throughout the Territory from the date the Audiobook is completed until the date that is 7 years from the date you deliver the completed Audiobook to Audible in accordance with Section 7(a) (such 7 year period, the "Initial Term"). As full consideration for the non-exclusive distribution rights granted by you to Audible, Audible will pay you royalties on its sales of the Audiobook based on the Audible Non-Exclusive Royalty Escalator Model set forth in Audible's standard ACX Royalty Payment Terms and Procedures for Audible Non-Exclusive Distribution Rights, attached to this Agreement as Exhibit B. After the Initial Term, this Agreement will renew automatically for additional 1 year terms (each, a "Renewal Term") unless either party provides written notice of termination to the other party at least 60 days prior to the end of the Initial Term or then-current Renewal Term.

The 7 year period during which Audible has distribution rights and each Renewal Term (if any), in either of the above cases, is the "Distribution Period."

#### 4. Other Rights Granted to Audible.

- a. Additional Territories.** You can expand the Territory at any time to add additional countries (each, an "Additional Territory"). If you want to grant Audible distribution rights in an Additional Territory, you may notify Audible by emailing Audible at [info@acx.com](mailto:info@acx.com) or using such other means as Audible may provide for provision of notice of Additional Territories. The "Territory" will be deemed to include the Additional Territory as of the date of your email to Audible and Audible's distribution rights under this Agreement will automatically extend to include the Additional Territory.
- b. Excerpts.** During the Distribution Period, Audible will have the right to make, use and distribute excerpts from the Audiobook in the Territory in any media now known or hereafter invented for purposes of advertising and promoting the Audiobook. Such excerpts will be created by Audible and will not exceed 5 minutes in length or 10% of the total duration of the finished Audiobook, whichever is longer, and will be a verbatim excerpt from the Audiobook (each, an "Audible Excerpt"). Audible grants you a non-exclusive, non-transferrable, non-sublicensable license to use any Audible Excerpt solely online on a website for purposes of promoting the Audiobook. You may not email an Audible Excerpt to third parties or otherwise provide an Audible Excerpt to third parties in any format without the prior written consent of Audible. If you want to use an Audible Excerpt you may request that Audible send you an Audible Excerpt by emailing [info@acx.com](mailto:info@acx.com). Title to the digital file containing an Audible Excerpt will pass to you upon transmission by Audible. You may use any Audible Excerpt and any excerpts you create from the Audiobook to promote the Audiobook, but you may not promote Audible, ACX or the Audible service without the prior written consent of Audible.
- c. Cover Art.** During the Distribution Period, Audible will have the right to use and distribute any cover art, graphics, images, or other artwork related to the Book that you provide to Audible ("Artwork") and the title of the Book in the Territory in any media now known or hereafter invented for purposes of advertising and promoting the Audiobook. Audible will not alter or edit the Artwork, provided that Audible may modify and reformat the Artwork as necessary to facilitate Audible's use of the Artwork. You will provide the Artwork to Audible in accordance with the terms set forth in Section 7(a). The Artwork will be the same cover art, graphics, images, or other artwork used for the print version of the Book, unless you don't have the right to make this artwork available for use for the Audiobook, in which case you will use best efforts to provide Audible with other suitable artwork. If you don't have the right to make the artwork used for the print version of the Book available for use with the Audiobook and you don't have other artwork to provide Audible, you will notify Audible by emailing [info@acx.com](mailto:info@acx.com). If you notify Audible that you don't have artwork to provide for use with the Audiobook or you do not submit any Artwork in the package you mail to Audible pursuant to Section 7(a), you agree that Audible may use the title of the Book against a plain background color selected by Audible or other covert art design prepared or selected by Audible in its sole discretion as the cover art design for the Audiobook and in connection with Audible's advertisement and sale of the Audiobook.
- d. Right of Publicity Grant.** During the Distribution Period, Audible will have the

right to use your name, approved likeness, and approved biographical information in the Territory in any media now known or hereafter invented for purposes of advertising and promoting the Audiobook. You will, promptly, on request, provide Audible an image and brief written biography suitable for use by Audible in the marketing of the Audiobook. Any image or biographical information you provide will be deemed approved by you upon submission to Audible. Additionally, if you are not the author of the Book, you agree to obtain for Audible the right to use, during the Distribution Period, the author's name, likeness, and biographical information in the Territory in any media now known or hereafter invented for purposes of advertising and promoting the Audiobook.

- 5. Geo-Filtering.** Audible will use geographic filtering technology or other territory-to-customer matching system designed to limit the distribution of the Audiobook to the Territory ("Geographic Filtering System"). You acknowledge that any such Geographic Filtering System will not be able to fully prevent the delivery of the Audiobook outside the Territory and agree that Audible will be deemed to have delivered the Audiobook within the Territory as long as Audible has used the Geographic Filtering System in connection with such distribution.
- 6. Audiobook Production and Quality.** You will produce the Audiobook in accordance with the ACX Rules for Audiobook Production posted on the ACX website as of the Effective Date. The current version of the ACX Rules for Audiobook Production is located at [www.acx.com/rules-for-audiobook-production/200485520](http://www.acx.com/rules-for-audiobook-production/200485520). You agree to be responsible for the final production of the Audiobook, including adherence to the ACX Rules for Audiobook Production, even if you hire one or more third parties to assist in the production of the Audiobook.
- 7. Delivery and Audible Review of Audiobook.**
  - a. Delivery.** You will deliver the completed Audiobook in physical CD format, together with any Artwork you're submitting pursuant to Section 4c (also in physical CD format), and two original signed copies of this Agreement to Audible together by sending both via regular mail or courier to Audible at: 1 Washington Park, 16th floor, Newark NJ 07102, Attention: ACX Manager. Title to the physical CD(s) containing the recording of the Audiobook and any Artwork will pass to Audible when Audible receives the CD(s).
  - b. Audible Review of Audiobook.** Upon receipt, Audible will review the completed Audiobook for compliance with the ACX Rules for Audiobook Production and general consistency with industry standard high quality audiobooks. Audible will have the right to accept or reject the Audiobook in its discretion. If Audible accepts the Audiobook, Audible will countersign this Agreement and send you back one original copy for your records to the address you provide on the signature page to this Agreement. If Audible does not accept the Audiobook, Audible will send you written notice (email is acceptable) advising you that Audible has not accepted the Audiobook. In this case, this Agreement will be null and void.
- 8. Withholding and Offset of Royalty Payments.** If you are in breach of any of your obligations to Audible ("Breach") or if a third party has asserted that you did not have all rights required to grant the rights that you grant to Audible in this Agreement ("Third Party Claim"), royalties due to you on the Audiobook will continue to accrue, but Audible is entitled to withhold the royalty payments until you cure the Breach or

fully resolve the Third Party Claim. Each party will notify the other in writing of any Breach or Third Party Claim of which it is aware within 5 days after it learns of the Breach or Third Party Claim. Audible will recommence sending you royalty payments 30 days after you send Audible documentation evidencing that you have cured the Breach or fully resolved the Third Party Claim. Further, Audible is entitled to offset any indemnity or other payment that you owe Audible related to an Audiobook against royalty payments Audible owes you on the applicable Audiobook.

- 9. Designation of Exclusive or Non-Exclusive Distribution Rights to Audible and Change of Designation.** If you elect to grant Audible exclusive distribution rights, you can change your grant to non-exclusive at any time after the one year anniversary of the date that Audible first makes the Audiobook available for sale by emailing [info@acx.com](mailto:info@acx.com) with a request for the change. After the initial one-year period, if you make this request, Audible will change its distribution right to non-exclusive with respect to the Audiobook effective within 60 days from the date of its receipt of your request. Audible will notify you when the change is made and the date of Audible's notification will be the effective date of the change. Until the effective date of the change, the applicable Audiobook remains exclusive to Audible and you cannot distribute the Audiobook to other retail outlets or through other distribution channels. From and after the effective date of the change, you will be entitled to royalties on sales of the Audiobook by Audible in accordance with the Audible standard ACX Royalty Payment Terms and Procedures For Audible Non-Exclusive Distribution Rights in effect as of the date Audible receives your notice requesting the change.
- 10. Audible Controls its Distribution Decisions.** Audible will have sole discretion over all decisions related to its marketing, distribution, and sale of the Audiobook, regardless of whether the distribution rights you grant to Audible in this Agreement are exclusive or non-exclusive. You understand that Audible is under no obligation to sell the Audiobook or, if Audible commences sale of the Audiobook, to continue to sell the Audiobook and that Audible makes no assurance to you that Audible will sell any minimum number of units of an Audiobook. Notwithstanding the foregoing, if you grant Audible exclusive distribution rights to the Audiobook and if, within 6 months after the finished Audiobook is delivered to Audible, Audible has not started selling the Audiobook, you may send Audible written notice requesting that Audible commence sale of the Audiobook. If Audible does not commence selling the Audiobook within 3 months after its receipt of your written notice, this Agreement will automatically terminate and all rights in the Book and the Audiobook granted to Audible in this Agreement will revert to you.
- 11. Ownership.** As between you and Audible, except for the distribution rights you grant to Audible in this Agreement, you retain all right, title, and interest in and to the Book and the Audiobook, including the copyright in the Book and the copyright in the sound recording for the Audiobook. All rights in the Book not granted in this Agreement to Audible are expressly reserved by you.
- 12. Execution of Further Agreements and Documents.** Protection of rights sometimes requires formal filings of paper documents and it may be helpful to us to have physical signed versions of this Agreement or other documents. You agree to sign and deliver to us any further documents that we may reasonably request to confirm your grant of rights to Audible under this Agreement, following all instructions we provide for signature and return ("Additional Documents"). If you do not complete and return Additional Documents within 30 days after we request them, you agree that we can sign the Additional Documents on your behalf and, to make your agreement legally

enforceable, you hereby irrevocably appoint us as your attorney-in-fact with full power to execute, acknowledge and deliver the Additional Documents as required to confirm our rights. In legal terms, your appointment is a power coupled with an interest.

- 13. Indemnification.** You will indemnify and protect Audible, its affiliates, and its subdistributors from any losses, costs, or liabilities incurred by any of them (a) because you did not have, or a claim is brought alleging you did not have, all rights required to grant the rights you grant to Audible in this Agreement, (b) as a result of a breach by you of any of your representations or warranties in this Agreement, or (c) as a result of your failure to meet any of your other obligations set forth in this Agreement or with respect to ACX generally. When this indemnity obligation applies, you will be required to pay all applicable costs and damages, including all costs of counsel to defend Audible, its affiliates and subdistributors and other ACX participants, and all damages awarded in a court of law against Audible, its affiliates and subdistributors and other ACX participants or in any settlement entered into by Audible, its affiliates and subdistributors and other ACX participants, including any costs associated with the resolution of any claim or proceeding. You will also be required to reimburse Audible for any royalty or other payments made by Audible to the Producer you engaged to produce the Audiobook that is the subject of your indemnity obligation.
- 14. Account Holder Agreement.** The ACX Account Holder Agreement is expressly incorporated into and made a part of this Agreement.
- 15. Entire Agreement; Enforceability.** This Agreement constitutes the entire agreement between you and us regarding the matters covered in it and supersedes any and all prior or contemporaneous understanding, agreement, or communication between you and us, whether written or oral, regarding the matters covered in it and may not be modified or amended except by a writing agreed to by you and us. If any provision of this Agreement is found to be invalid, void, or for any reason unenforceable, that provision will be deemed severable and will not affect the validity and enforceability of any other provision.
- 16. Notices.** Any notice provided for in this Agreement will be in writing addressed to the other party at the address set forth on the signature page to this Agreement, or to such other address as either party may designate by written notice. All notices will be given in writing via messenger, overnight courier, confirmed facsimile transmission with follow-up letter via first class mail, or by first class mail, certified, return receipt requested. All notices will be deemed given on the date of receipt.
- 17. Governing Law and Disputes.** Notwithstanding any other provisions regarding governing law and disputes that may be applicable, this Agreement is governed by the laws of the State of New York. Except as may otherwise be specifically provided for in the ACX Dispute Resolution Procedures set forth in the ACX Account Holder Agreement, effective as of the Effective Date, all disputes with respect to this Agreement will be subject to the exclusive jurisdiction of courts sitting in the County of New York, New York in accordance with the rules and procedures of such courts.

The parties have executed this Agreement as of the Effective Date.

**Licensors**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Address for Notices:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Email: \_\_\_\_\_

Fax: \_\_\_\_\_

**Audible, Inc.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date signed: \_\_\_\_\_

Address for Notices:

Audible, Inc.  
1 Washington Park, 16<sup>th</sup> Floor  
Newark, NJ 07102  
Attn: ACX Manager  
Email: [info@acx.com](mailto:info@acx.com)  
Fax: 973.820.0505

With a copy to:

Director, Legal Affairs  
Audible, Inc.  
1 Washington Park, 16<sup>th</sup> Floor  
Newark, NJ 07102  
Fax: 973.820.0505

**Exhibit A  
to  
ACX Audiobook License and Distribution Agreement**

Please fill out the following section with the general information about the Book.

**Title of Book:**

**ISBN (optional):**

**Author's First Name:**

**Author's Last Name:**

**ACX Email Address:**

**Exclusive/Non-Exclusive distribution:** Choose only **one**. (To learn more, type this into your browser: <http://bit.ly/gJqggp>)

- Exclusive distribution through Amazon.com, Audible.com and its affiliates.
- Non-Exclusive distribution through Amazon.com, Audible.com, and its affiliates.

**Territory Rights:** Choose only **one**. (To learn more, type this into your browser: <http://bit.ly/fhfvYf>)

- Worldwide
- World excluding British Commonwealth
- World excluding UK
- US
- US and Canada
- US, Canada, Philippines
- US, Canada, UK
- US, Open Market
- US, Canada, Open Market
- US, Canada, British Commonwealth
- US, Canada and the rest of the world – excluding the British Commonwealth



**Exhibit B**  
**to**  
**ACX Audiobook License and Distribution Agreement**

**Royalty Terms**

**A. IF YOU ELECT TO GRANT AUDIBLE EXCLUSIVE DISTRIBUTION RIGHTS IN THE AUDIOBOOK, THE FOLLOWING ROYALTY TERMS APPLY:**

**ACX Royalty Payment Terms and Procedures  
For Audible Exclusive Distribution Rights**

These **ACX Royalty Payment Terms and Procedures for Audible Exclusive Distribution Rights** ("Royalty Terms") set forth the terms by which Audible will calculate and pay royalty payments owed to you in connection with Audible's distribution of the Audiobook ("Royalties"). These Royalty Terms form a part of your ACX Audiobook License and Distribution Agreement with Audible ("Agreement"). Capitalized terms used in these Royalty Terms but not defined have the meaning assigned to such terms in the Agreement.

Audible will pay Royalties to you only on Audible Net Sales Receipts (as defined below) it receives from sales of the Audiobook. Audible will calculate Royalties using the variable Royalty Rate below.

**Royalty Rates**

The percentage royalty rate that Audible will use to calculate Royalties ("Royalty Rate") will depend on the number of units of the Audiobook sold by Audible and Audible's sub-distributors ("Units"). The Royalty Rate will vary, by Unit, based on the cumulative number of Units sold as of the date a Unit is sold, as provided in the following chart, and will escalate as more Units are sold.

	Royalty Rate
From 0 to 500 Units	50.0%
From 501 to 1000 Units	51.0%
From 1001 to 1500 Units	52.0%
From 1501 to 2000 Units	53.0%
From 2001 to 2500 Units	54.0%
From 2501 to 3000 Units	55.0%
From 3001 to 3500 Units	56.0%
From 3501 to 4000 Units	57.0%
From 4001 to 4500 Units	58.0%

From 4501 to 5000 Units	59.0%
From 5001 to 5500 Units	60.0%
From 5501 to 6000 Units	61.0%
From 6001 to 6500 Units	62.0%
From 6501 to 7000 Units	63.0%
From 7001 to 7500 Units	64.0%
From 7501 to 8000 Units	65.0%
From 8001 to 8500 Units	66.0%
From 8501 to 9000 Units	67.0%
From 9001 to 9500 Units	68.0%
From 9501 to 10000 Units	69.0%
From 10010 to 10500 Units	70.0%
From 10501 to 11000 Units	71.0%
From 11001 to 11500 Units	72.0%
From 11501 to 12000 Units	73.0%
From 12001 to 12500 Units	74.0%
From 12501 to 13000 Units	75.0%
From 13001 to 13500 Units	76.0%
From 13501 to 14000 Units	77.0%
From 14001 to 14500 Units	78.0%
From 14501 to 15000 Units	79.0%
From 15001 to 15500 Units	80.0%
From 15501 to 16000 Units	81.0%
From 16001 to 16500 Units	82.0%
From 16501 to 17000 Units	83.0%
From 17001 to 17500 Units	84.0%
From 17501 to 18000 Units	85.0%
From 18001 to 18500 Units	86.0%
From 18501 to 19000 Units	87.0%

Units	
From 19001 to 19500 Units	88.0%
From 19501 to 20000 Units	89.0%
From 20010 to 20500 Units	90.0%
From 20501 to 21000 Units	90.0%
From 21001 to 21500 Units	90.0%
From 21501 to 22000 Units	90.0%
From 22001 to 22500 Units	90.0%
For 22501 and more units	90.0%

**Royalty Calculation.** During the Distribution Period, Royalties for each Unit will be calculated by multiplying the Royalty Rate for the Unit set forth in the chart above by "Audible's Net Sales Receipts," which consist of: (i) A La Carte Net Sales Receipts (as defined below) for all a la carte sales of the Audiobook, and (ii) Membership Net Sales Receipts (as defined below) for all sales of the Audiobook to customers who are members of one of Audible's membership programs, in each case, during the immediately preceding monthly period. No Royalty will be paid on the transmission or distribution of downloads or other copies of the Audiobook distributed for free for purposes of review, sample, advertising, publicity or promotion, provided that free copies distributed by Audible or its sub-distributors do not exceed the greater of 100 copies or five percent (5%) of the total number of Audiobooks sold by Audible or its sub-distributors during the applicable accounting period.

- **"A La Carte Net Sales Receipts"** means the monetary amount received by Audible from a la carte sales of each Unit, less any cash incentives, promotional discounts, sales or use taxes, excise taxes, value-added taxes, duties, and returns.
- **"Membership Net Sales Receipts"** means, for each Unit, the monetary amount obtained by multiplying the AudibleListener Allocation Factor (as defined below) by Audible's a la carte price for the Unit at the time the AudibleListener Allocation Factor is calculated.
- The **"AudibleListener Allocation Factor"** means the total of all membership sales receipts derived from sales of all content sold by Audible in the applicable accounting period, less any cash incentives, promotional discounts, device subsidies or rebates, sales or use taxes, excise taxes, value-added taxes, duties and returns, divided by the total a la carte value (as determined by Audible's applicable a la carte price for the Audiobook at the time the AudibleListener Allocation Factor is calculated) of the membership sales of all content sold by Audible in the applicable accounting period.

**Royalty Statements and Payments.** Audible will provide you a statement of Royalties, together with a check in the amount of any Royalty due, on a calendar monthly net 60 day basis, commencing with the first full month after the Audiobook is first offered for

sale by Audible. If the Royalties owed to you for any accounting period are less than \$50, Audible will have the right to withhold making a payment and carry such payment forward to the next monthly reporting period. Any ACX royalty statements Audible provides you will be considered final and incontestable 3 months from the date the statements are provided by Audible if you does not object to the statements within that period of time.

**B. IF YOU ELECT TO GRANT AUDIBLE NON-EXCLUSIVE DISTRIBUTION RIGHTS IN THE AUDIOBOOK, THE FOLLOWING ROYALTY TERMS APPLY:**

**ACX Royalty Payment Terms and Procedures For Audible Non-Exclusive Distribution Rights**

These **ACX Royalty Payment Terms and Procedures for Audible Non-Exclusive Distribution Rights** ("Royalty Terms") set forth the terms by which Audible will calculate and pay royalty payments owed to you in connection with Audible's distribution of the Audiobook ("Royalties"). These Royalty Terms form a part of your ACX Audiobook License and Distribution Agreement with Audible ("Agreement"). Capitalized terms used in these Royalty Terms but not defined have the meaning assigned to such terms in the Agreement.

Audible will pay Royalties to you only on Audible Net Sales Receipts (as defined below) it receives from sales of the Audiobook. Audible will calculate Royalties using the variable Royalty Rate below.

**Royalty Rates**

The percentage royalty rate that Audible will use to calculate Royalties ("Royalty Rate") will depend on the number of units of the Audiobook sold by Audible and Audible's sub-distributors ("Units"). The Royalty Rate will vary, by Unit, based on the cumulative number of Units sold as of the date a Unit is sold, as provided in the following chart, and will escalate as more Units are sold.

	Royalty Rate for Rights Holder
From 0 to 500 Units	25.0%
From 501 to 1000 Units	26.0%
From 1001 to 1500 Units	27.0%
From 1501 to 2000 Units	28.0%
From 2001 to 2500 Units	29.0%
From 2501 to 3000 Units	30.0%
From 3001 to 3500 Units	31.0%
From 3501 to 4000 Units	32.0%
From 4001 to 4500	33.0%

Units	
From 4501 to 5000 Units	34.0%
From 5001 to 5500 Units	35.0%
From 5501 to 6000 Units	36.0%
From 6001 to 6500 Units	37.0%
From 6501 to 7000 Units	38.0%
From 7001 to 7500 Units	39.0%
From 7501 to 8000 Units	40.0%
From 8001 to 8500 Units	41.0%
From 8501 to 9000 Units	42.0%
From 9001 to 9500 Units	43.0%
From 9501 to 10000 Units	44.0%
From 10010 to 10500 Units	45.0%
From 10501 to 11000 Units	46.0%
From 11001 to 11500 Units	47.0%
From 11501 to 12000 Units	48.0%
From 12001 to 12500 Units	49.0%
From 12501 to 13000 Units	50.0%
From 13001 to 13500 Units	51.0%
From 13501 to 14000 Units	52.0%
From 14001 to 14500 Units	53.0%
From 14501 to 15000 Units	54.0%
From 15001 to 15500 Units	55.0%
From 15501 to 16000 Units	56.0%
From 16001 to 16500 Units	57.0%
From 16501 to 17000 Units	58.0%
From 17001 to 17500 Units	59.0%
From 17501 to 18000 Units	60.0%
From 18001 to 18500 Units	61.0%

From 18501 to 19000 Units	62.0%
From 19001 to 19500 Units	63.0%
From 19501 to 20000 Units	64.0%
From 20010 to 20500 Units	65.0%
From 20501 to 21000 Units	66.0%
From 21001 to 21500 Units	67.0%
From 21501 to 22000 Units	68.0%
From 22001 to 22500 Units	69.0%
For 22501 and more units	70.0%

**Royalty Calculation.** During the Distribution Period, Royalties for each Unit will be calculated by multiplying the Royalty Rate for the Unit set forth in the chart above by "Audible's Net Sales Receipts," which consist of: (i) A La Carte Net Sales Receipts (as defined below) for all a la carte sales of the Audiobook, and (ii) Membership Net Sales Receipts (as defined below) for all sales of the Audiobook to customers who are members of one of Audible's membership programs, in each case, during the immediately preceding monthly period. No Royalty will be paid on the transmission or distribution of downloads or other copies of the Audiobook distributed for free for purposes of review, sample, advertising, publicity or promotion, provided that free copies distributed by Audible or its sub-distributors do not exceed the greater of 100 copies or five percent (5%) of the total number of Audiobooks sold by Audible or its sub-distributors during the applicable accounting period.

- **"A La Carte Net Sales Receipts"** means the monetary amount received by Audible from a la carte sales of each Unit, less any cash incentives, promotional discounts, sales or use taxes, excise taxes, value-added taxes, duties, and returns.
- **"Membership Net Sales Receipts"** means, for each Unit, the monetary amount obtained by multiplying the AudibleListener Allocation Factor (as defined below) by Audible's a la carte price for the Unit at the time the AudibleListener Allocation Factor is calculated.
- The **"AudibleListener Allocation Factor"** means the total of all membership sales receipts derived from sales of all content sold by Audible in the applicable accounting period, less any cash incentives, promotional discounts, device subsidies or rebates, sales or use taxes, excise taxes, value-added taxes, duties and returns, divided by the total a la carte value (as determined by Audible's applicable a la carte price for the Audiobook at the time the AudibleListener Allocation Factor is calculated) of the membership sales of all content sold by Audible in the applicable accounting period.

**Royalty Statements and Payments.** Audible will provide you a statement of Royalties, together with a check in the amount of any Royalty due, on a calendar monthly net 60 day basis, commencing with the first full month after the Audiobook is first offered for

sale by Audible. If the Royalties owed to you for any accounting period are less than \$50, Audible will have the right to withhold making a payment and carry such payment forward to the next monthly reporting period. Any ACX royalty statements Audible provides you will be considered final and incontestable 3 months from the date the statements are provided by Audible if you does not object to the statements within that period of time.