

# GEMA

GESELLSCHAFT FÜR MUSIKALISCHE AUFFÜHRUNGS-  
UND MECHANISCHE VERVIELFÄLTIGUNGSRECHTE  
INTERNATIONAL DEPARTMENT

81667 München, 28 Nov 2006  
Rosenheimer Straße 11

GEMA, Postfach 80 07 67, D-81607 München

**S O C I N P R O**  
Avenida Beira Mar 406 - GR. 1205  
Centro Castelo -  
Republica Rio de Janeiro - RJ  
CEP.: 20.021-060

Please quote in all  
correspondence:

Ausl JS

BRAZIL

## Reciprocal Agreement GEMA - SOCINPRO

Dear Ms Diaz,

We are pleased to return one copy of our agreement of unilateral representation for Performing- and Broadcasting Rights now signed by our Prof. Dr. Jürgen Becker for GEMA.

The agreement will come into force on 1 January 2005 retroactively.

We look forward to a cordial and fruitful relationship.

Kind Regards

  
Jochen Servatius  
International Department

Encl.

**Telephone**

(++ 49 89)4 80 03-6 67

**Fax**

(++ 49 89)4 80 03-3 92

**E-Mail-address**

jservatius@gema.de

**Bank details**

Dresdner Bank München (BLZ 70080000) Kto. 381309500

## CONTRACT OF UNILATERAL REPRESENTATION

Between the undersigned:

- **Sociedade Brasileira de Administração e Proteção de Direitos Intelectuais**, hereinafter designated „SOCINPRO“, whose registered office is at Avenida Beira Mar 406 - GR. 1205 – Centro Castelo, Republica Rio de Janeiro -RJ, CEP 20021-060, Brazil represented by its Director General Jorge de Souza Costa

on the one part;

and

- **Gesellschaft für musikalische Aufführungs- und Mechanische Vervielfältigungsrechte**, hereinafter designated „GEMA“, whose registered office is at Bayreuther Str. 37, D-10787, Federal Republic of Germany, represented by its Spokesman of the Executive Board, Prof Dr. Jürgen Becker,

on the other part;

### Article 1 – (I)

By virtue of the present contract, SOCINPRO confers on GEMA the exclusive right in the territory in which this latter Society operates (as defined and delimited in Article 6 (I) hereafter) to grant the necessary authorisations for all public performances (as defined in paragraph II of this Article) of musical works, with or without lyrics, which are protected under the terms of national laws, bilateral treaties and multilateral international conventions relating to the author's right (copyright, intellectual property, etc.) now in existence or which may come into existence and enter into effect while the present contract is in force.

The exclusive right referred to in the preceding paragraph is conferred in so far as the public performance right in the works concerned has been, or shall be, during the period when the present contract is in force, assigned, transferred or granted by whatever means, for the purpose of its administration, to SOCINPRO by its members, in accordance with its Articles of Association and Rules; the said works collectively constituting „the repertoire of SOCINPRO“.

### (II)

Under the terms of the present contract, the expression „public performances“ includes all auditions or performances rendered audible to the public in any place whatever within the territory in which GEMA operates, by any means and in any way whatever, whether the said means be already known and put to use or whether hereafter discovered and put to use during the period when this contract is in force. „Public performances“ include in particular performances provided by live means, instrumental or vocal; by mechanical means such as phonographic records, wires, tapes and sound tracks (magnetic and otherwise); by processes of projection (sound film), of diffusion and transmission (such as radio and television broadcasts, whether made directly or relayed, retransmitted, etc.) as well as by



any process of wireless reception (radio and television receiving apparatus, telephonic reception, etc. and similar means and devices, etc.).

**Article 2 – (I)**

The exclusive right to authorise performances as referred to in Article 1, entitles GEMA, within the limits of the powers pertaining to it by virtue of the present contract, and of its own Articles of Association and Rules, and of the national legislation of the country or countries in which it operates;

- a) to permit or prohibit, whether in its own name or that of the copyright owner concerned, public performances of works in the repertoire of SOCINPRO and to grant the necessary authorisations for such performances;
- b) to collect all royalties required in return for the authorisations granted by it (as provided in a) above);
  - to receive all sums due as indemnification or damages for unauthorised performances of the works in question;
  - to give due and valid receipt for the aforementioned collections;
- c) to commence and pursue, either in its own name or that of the copyright owner concerned, any legal action against any person or corporate body and any administrative or other authority responsible for illegal performances of the works in question;
  - to transact, compromise, submit to arbitration, refer to any Court of Law, special or administrative tribunal;
- d) to take other action for the purpose of ensuring the protection of the public performance right in the works covered by the present contract.

**(II)**

The present contract being personal to the contracting Societies, and concluded on that basis, it is formally agreed that, without the express written authorisation of SOCINPRO, GEMA may not in any circumstances assign or transfer to a third party all or part of the exercise of the prerogatives, faculties or otherwise to which it is entitled under the said contract and in particular under Article 2. Any transfer effected in despite to this clause shall be null and void.

**Article 3 – (I)**

By virtue of the powers conferred by Article 1, GEMA undertakes to enforce within the territory in which it operates the rights of the members of SOCINPRO in the same way and to the same extent as it does for its own members. Moreover, GEMA undertakes to uphold to the greatest possible extent, by way of the appropriate measures and rules, applied in the field of royalty distribution, the principle of solidarity as between the members of both Societies, even where by the effect of local law foreign works are subject to discrimination.

In particular, GEMA shall apply to works in the repertoire of SOCINPRO the same tariffs, methods and means of collection and distribution of royalties (subject to the provisions of Article 7 below) as those which it applies to works in its own repertoire.

**(II)**

GEMA undertakes to send to SOCINPRO any information for which it may be asked concerning the tariffs it applies to different kinds of public performances in its own territory.

**Article 4**

SOCINPRO shall place at the disposal of GEMA all documents enabling the latter to justify the royalties it is responsible for collecting under the present contract and to take any legal or other action, as mentioned in Article 2 (I) above.

**Article 5 – (I)**

SOCINPRO shall place at the disposal of GEMA all documents, records and information enabling the latter to exercise effective and thorough control over its interests, in particular as regards notification of works, collection and distribution of royalties, and obtaining and verifying performance programmes.

In particular, GEMA shall inform SOCINPRO of any discrepancy which it notes between the documentation received from the other Society and its own documentation or that furnished by another Society.

**(II)**

In addition, SOCINPRO shall have the right to consult all the other records of GEMA and to obtain all information from it relating to the collection and distribution of royalties to enable it to verify the administration of its repertoire by GEMA.

**TERRITORY****Article 6 – (I)**

The territory in which GEMA operates is the Federal Republic of Germany.

**(II)**

For the duration of the present contract, SOCINPRO shall refrain from any intervention within the territory of GEMA in the latter's exercise of the mandate conferred by the present contract.

**DISTRIBUTION OF ROYALTIES****Article 7 – (I)**

GEMA undertakes to do its utmost to obtain programmes of public performances which take place in its territory and to use these programmes as the effective basis for the distribution of the total net royalties collected for these performances.

**(II)**

The allocation of sums collected in respect of works performed in the territory of GEMA shall be made in accordance with Article 3 and the distribution rules of GEMA, having regard, nevertheless, to the following paragraphs:

- a) Where all the interested parties in a work are members of SOCINPRO, the total fees (100 %) accruing to the work in question shall be distributed to SOCINPRO.
- b) In the case of a work of which the interested parties are not all members of SOCINPRO but where none is a member of GEMA, the fees shall be distributed in accordance with International Index Cards (i.e. the index cards or equivalent declarations sent and accepted by the Societies of which the interested parties are members).

In the case of contradictory index cards or declarations, GEMA may distribute the royalties in accordance with its Rules, except where different interested parties claim the same share, when such share may be put into suspense until agreement has been reached between the societies concerned.

- c) In the case of a work where at least one of the interested parties is a member of GEMA, this Society may distribute the royalties in accordance with its own rules.
- d) The publisher's share of the royalties accruing to a work, or the total shares of all the publishers and sub-publishers of a work, no matter how many, shall in no case exceed half (50 %) of the total fees accruing to the work.
- e) Where a work, in the absence of an International Index Card or equivalent documentation, is identified solely by the name of its composer, being a member of SOCINPRO, the total of the royalties accruing to that work shall be distributed to SOCINPRO; in the case of an arrangement of a non-copyright work, the royalties shall be distributed to the Society of the arranger in so far as he is known; in the case of lyrics adapted to a non-copyright work, the royalties are to be distributed to the Society of the lyric writer.

The Society receiving the royalties distributed under the above-mentioned rules is required, in the case of mixed works, to make any necessary transfers to the other Societies interested in the work and to inform the distributing Society by means of International Index Cards or equivalent documentation.

- f) Where a member of GEMA has acquired the right to adapt, arrange, republish or exploit a work in the repertoire of SOCINPRO, the royalties shall be distributed with due regard to the provisions of this Article.

#### **Article 8 – (I)**

GEMA shall be entitled to deduct from the sums it collects on behalf of SOCINPRO the percentage necessary to cover its effective administration expenses. This necessary percentage shall not exceed that which is deducted for this purpose from sums collected for members of GEMA, and the latter Society shall always endeavour in this respect to keep within reasonable limits, having regard to local conditions in the territory in which it operates.

#### **(II)**

When it does not make any supplementary collection for the purpose of supporting its members' pensions, benevolent or provident funds, or for the encouragement of the national arts, or in favour of any funds serving similar purposes, GEMA shall be entitled to deduct from the sums collected by it on behalf of SOCINPRO 10 % at the maximum, which shall be allocated to the said purposes.

#### **(III)**

Any other deductions, apart from taxes, that GEMA may make or be obliged to make from the net royalties accruing to SOCINPRO would give rise to special arrangements between the contracting parties.

#### **(IV)**

No part of the royalties collected by GEMA for the account of SOCINPRO in consideration of the authorisations which it grants solely for the copyright works which it is authorised to administer may be regarded as not distributable to SOCINPRO. With the exception,

therefore, only of the deduction mentioned in paragraph (1) of this Article, and subject to the provisions of paragraphs (II) and (III) of the said Article, the net total of the royalties collected by GEMA for the account of SOCINPRO shall be entirely and effectively distributed to the latter.

**Article 9 – (I)**

GEMA shall distribute to SOCINPRO the sums due under the terms of the present contract at least once a year.

**(II)**

Each payment shall be accompanied by a distribution statement in such form as to enable SOCINPRO to allocate to each interested party, whatever his membership or category as member, the royalties accruing to him.

**(III)**

Settlements shall be made by GEMA in the currency of its country.

**Article 10 – (I)**

SOCINPRO shall provide GEMA with a complete and detailed list of the real names and pseudonyms of its members, including dates of decease of those author and composer members who are deceased at the time this contract was signed, but whose rights it continues to represent. From time to time SOCINPRO shall furnish GEMA with supplementary lists of the same nature, showing additions, deletions or alterations which have occurred in the main list and, at least once a year, a list of its author and composer members who have died in the course of the year.

**(II)**

GEMA shall also provide SOCINPRO with a copy of its current Articles of Association and Rules, including its Distribution Plan, and shall inform it of any subsequent modifications made thereto while the present contract is in force.

**Article 11 – (I)**

The members of SOCINPRO shall be protected and represented by GEMA under the present contract without the said members being required by the Society representing them to comply with any formalities and without their being required to join GEMA.

**(II)**

While this contract is in force, GEMA may, without the consent of SOCINPRO, not accept as member any member of SOCINPRO.

**(III)**

GEMA undertakes not to communicate directly with members of SOCINPRO, but, if the occasion arises, to communicate with them through the intermediary of SOCINPRO.

**DURATION**

**Article 12**

The present contract shall come into force as from January 1, 2006 and shall continue in force from year to year by automatic extension if it has not been determined by registered letter with return receipt at least six months before the expiration of each period.



**LEGAL DISPUTES - JURISDICTION**

**Article 13**

In the case of any legal disputes arising, the Court of Justice will be that in which GEMA is domiciled.

Executed in good faith in two copies

in Rio de Janeiro, September, 29<sup>th</sup>. 2006

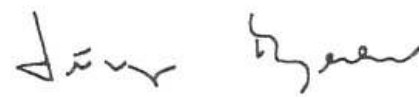
for and on behalf of SOCINPRO:



Jorge de Souza Costa  
Director General

in Munich on 22 November 2006

for and on behalf of GEMA:



Prof. Dr. Jürgen Becker  
Spokesman of the Executive Board