



**BIEM-IFPI STANDARD CONTRACT  
FOR THE PHONOGRAPHIC INDUSTRY 1975  
(DISCS, TAPES AND CASSETTES)**

**Doc. N° 1390 - English**

**1 January 2014**

The text hereafter includes the following amendments:

- Amendment No. 1 signed on 9 October 1980 with effect from 1st July 1980
- Amendment No. 2 signed on 28 February 1985 with effect from 1st January 1985
- Amendment No. 3 signed on 14 September 1988 with effect from 1st January 1988
- Amendment No. 4 signed on 19 June 1989 with effect from 1st January 1989
- Amendment No. 5 signed on 31 December 1989 with effect from 1st January 1990
- Amendment No. 6 signed on 12 December 1992 with effect from 1st October 1992
- Amendment No. 7 signed on 30 June 1998 with effect from 1st July 1997 until 30 June 2000
- *From 1st July 2000 to 31st December 2013 – Contract less period during which BIEM Member societies' repertoire remained at the disposal of the record producers under the terms and conditions in force as of 1st July 1997*
- Amendment No. 8 signed on 12 November 2013 with effect from 1st January 2014

## Table of contents

		Pages
<b>ARTICLE I -</b>	<b>REPertoire OF THE SOCIETY</b>	<b>5</b>
<b>ARTICLE II -</b>	<b>OBJECT OF THE CONTRACT</b>	<b>5</b>
	Rights granted	5
	Special uses	6
	Exceptions	6
	Previous authorizations	7
	Most favoured party clause	7
<b>ARTICLE III -</b>	<b>MORAL RIGHT</b>	<b>8</b>
<b>ARTICLE IV -</b>	<b>MARKS EXPLOITED</b>	<b>8</b>
<b>ARTICLE V -</b>	<b>BASIS OF ROYALTY</b>	<b>9</b>
	Protection	9
	Arrangements or adaptations	9
	Calculation of royalty	9
	Exports	10
	Mixed Copies	11
	Returns	12
	Bargain sales	12
	Taxes	13
	Deductions	13
	Exempt copies	13
	TV Advertising	14
<b>ARTICLE VI -</b>	<b>ROYALTIES</b>	<b>14</b>
	Minimum royalties	14
	Number of works and fragments	15
<b>ARTICLE VII -</b>	<b>OBLIGATIONS OF THE PRODUCER</b>	<b>16</b>
	Compulsory notices	16
	Catalogues and supplements - List of prices - Labels	17
<b>ARTICLE VIII -</b>	<b>PRODUCER ACTING AS A MANUFACTURER FOR THIRD PARTIES</b>	<b>17</b>
<b>ARTICLE IX -</b>	<b>CO-EXPLOITANTS OF THE PRODUCER</b>	<b>17</b>
<b>ARTICLE X -</b>	<b>STATEMENTS OF RECORDINGS</b>	<b>18</b>
<b>ARTICLE XI -</b>	<b>STATEMENTS OF OUTGOINGS</b>	<b>19</b>
<b>ARTICLE XII -</b>	<b>FINANCIAL OBLIGATIONS OF THE PRODUCER</b>	<b>19</b>
	Accounting period and settlements	19
	Permanent Deposit	19
	Monthly advances	20
	Changes in information	20
	Adjustments	20
	Claims by third parties	20
<b>ARTICLE XIII -</b>	<b>CONTROL BY THE SOCIETY</b>	<b>21</b>
<b>ARTICLE XIV -</b>	<b>CIRCULATION OF RECORDING MATRICES</b>	<b>21</b>
	Supply of matrices of the Producer to third parties	21
	Use by the Producer of recordings produced by third parties	22

<b>ARTICLE XV -</b>	<b>SANCTIONS AND CANCELLATION OF THE CONTRACT</b>	<b>23</b>
	Other cases of cancellation	24
<b>ARTICLE XVI -</b>	<b>FINAL CLAUSES</b>	<b>24</b>
	Duration	24
	Termination of contract - New recordings	25
	Termination of contract - Exploitation of matrices	25
	Jurisdiction	25
	Costs	25

\* \* \*  
\* \*

**Annexes:**

N° I	: List of Member Societies of BIEM	26
N° II	: Rights of management entrusted to the Society in the field of mechanical reproduction	30
N° III	: National Agreements	35
N° IV	: Royalties	36
N° V	: Statements of Recordings	37
N° VI	: Statements of Outgoings	38
N° VII	: Conciliation Commission	39

BETWEEN THE UNDERSIGNED

(1) (The Society)

.....  
whose registered office is at .....  
hereinafter called "the Society", represented by Mr .....  
.....

of the one part

AND

(2)

hereinafter called "the Producer", represented by Mr .....  
.....  
.....  
.....

of the other part

IT HAS BEEN AGREED AS FOLLOWS:

**ARTICLE I -            REPERTOIRE OF THE SOCIETY**

(1) The repertoire of the Society consists of those works in which the management of the right of phonographic reproduction has been handed over or will be handed over to it, in its capacity as a member Society of BIEM (see Annex I), to the extent that such management is entrusted to the Society.

(2) The definition of the rights of management entrusted to the Society in the field of phonographic reproduction is annexed to the present contract (see Annex II) and the Society undertakes to keep it up to date.

(3) If an owner of phonographic reproduction rights has a current contract with the Producer at the moment he comes to be represented by the Society within the meaning of paragraph (1) above, such contract shall be replaced by the present contract, it being understood that the Society shall bind the said owner vis-a-vis the Producer for a period equal to that of the duration of the present contract. The same provision applies in the case of a Society managing the rights of phonographic reproduction for all members of such Society. At the request of the Producer, the Society shall supply to the latter proof of the adherence of the owner concerned to the conditions of the present contract. If the contracts referred to above have a duration longer than that of the present contract, they shall be suspended only for the duration of the latter.

**ARTICLE II -            OBJECT OF THE CONTRACT**

**Rights granted**

(1) The Society grants to the Producer, under the terms and within the limits fixed by the present contract, the non-exclusive right to proceed to the making of sound recordings of the works of the Society's repertoire, to make copies of these recordings by way of discs, tapes and cassettes produced and presented for aural use only, and to put such discs, tapes and cassettes in circulation under his mark or marks with a view to their sale to the public for private use.

(1bis) The rights granted to the Producer under the terms of the present contract do not include the right to rent, but it is understood, however, that whenever the Society or the Producer is aware of a third party's intention to use legally produced sound carriers for the purposes of rental, notice of this must be given to the other party which is not in possession of this information. **Av. N° 4**

The Producer may give his consent to the rental of legally produced recordings, provided that this authorization does not affect the financial interests of the right-owners represented by the Society and allows them to collect the appropriate remuneration.

In the event that the Producer forbids rental, the Society undertakes not to issue a rental licence for those sound carriers.

This paragraph (1bis) shall be considered null and void in territories where national legislation or any other regulations applicable in the said country prevents its application.

(2) The object of the present contract is expressly limited to discs, tapes and cassettes listed in the Producer's catalogues, supplements to catalogues and lists of new issues which are made available to the public in accordance with the usual practice of the retail trade.

(3) Agreements to be concluded between the Society and the National Group of IFPI in application of Annex III of the present contract shall be considered as forming an integral part of this contract one month after being submitted to BIEM and IFPI for examination.

(4) The present contract applies exclusively to the following discs, tapes and cassettes as known and exploited on 1 July 1997:

- Vinyl discs (45 rpm-33 rpm)
- Compact Discs singles of 3 or 5 inches
- Normal Compact Discs of 5 inches only
- Analogue cassettes
- Digital Compact Cassettes (DCC)
- Mini Discs (MD)

**Av. N° 7**

DAT and DVD are excluded from this Contract. Every other form of mechanical reproduction shall be subject to a separate contract.

### **Special uses**

(5) In the case of the secondary use of discs, tapes and cassettes either directly (for broadcasting and public performance) or indirectly (by way of re-recording), the Society shall not raise any obstacle to the absolute freedom of the Producer to exercise his rights in regard to the artistic and/or technical recorded performance, it being understood that the copyright owners preserve intact their rights in the work recorded.

### **Exceptions**

(6) In exceptional cases and for well founded reasons, the Society reserves the right to forbid or defer the phonographic exploitation of one or more specified works of its repertoire as defined in Article I (1) throughout the territory controlled by the member societies of BIEM, such works not having been already reproduced in phonographic recordings lawfully made in or imported to the said territory.

However, where it is a question of the full reproduction of a work originally created for theatrical representation or of large extracts giving a complete idea of such a work, the prohibition may be limited to one part of the said territory. These measures shall be applied to all producers having a contract similar to the present contract with a member Society of BIEM and they shall be withdrawn under the same conditions. The Society shall inform the Producer of the lifting of the prohibition fifteen days before the date on which it is to take effect. As soon as the Society shall be advised of such measures by its members, it shall inform the National Group of IFPI.

In the case of geographically limited prohibitions, the Society shall also make known to the broadcasting organisations in its territory that any disc, tape or cassette reproducing the work in question shall constitute an infringement.

#### **Previous authorizations**

(7) Recording matrices and discs, tapes and cassettes lawfully exploited by the Producer by virtue of authorizations previously granted by the Society or by BIEM shall be subject to the provisions of the present contract.

#### **Most favoured party clause**

(8) The Society may claim with immediate effect the benefit of any provision contained in contracts or agreements which the Producer may have concluded with authors or copyright owners, non-members of the Society, for the phonographic exploitation of their works, if it considers that such provision is more advantageous for itself than the corresponding provision of the present contract or if the said provision constitutes for the non-member authors or copyright owners of the Society an advantage not provided for in the present contract.

(9) Reciprocally, the Producer may claim with immediate effect the benefit of any provision in contracts or agreements which the Society may conclude with other producers for the phonographic exploitation of works of its repertoire if he considers that such provision is more advantageous to him than the corresponding provision in the present contract or if the same provision constitutes for these other producers an advantage not provided for in the present contract.

(10) In the application of the two preceding paragraphs, it is understood that any provision considered as more advantageous will be considered in conjunction with any compensating provision.

(10 bis) If national legislation stands in the way of the application of the three preceding paragraphs, the Society and the National Group of IFPI may agree on provisions to be substituted for them to conform with such legislation.

(11) The Producer undertakes to bring to the notice of the National Group of IFPI any more advantageous terms which he may agree with copyright owners, non-members of the Society, it being the responsibility of the National Group of IFPI to inform the Society. Reciprocally, the Society shall inform the National Group of IFPI of any more advantageous terms which it may agree with other phonographic producers.

(11bis) If national legislation and/or the regulations of the European Union prevent the application of paragraphs (8), (9), (10) and (11), these provisions shall be deemed null and void.

**Av. N° 3**

**ARTICLE III - MORAL RIGHT**

(1) Any modifications to a work which the Producer considers necessary to apply in order to satisfy the requirements of recording shall not have the effect of altering the character of the work and the Society expressly reserves the moral right of the authors. In particular, no alteration shall be made to the musical or literary text of literary, dramatic, dramatico-musical and symphonic works.

(2) The Producer who, at the time of recording, shall have modified a work as mentioned in the preceding paragraph, shall not be entitled to participate in the mechanical rights or performing rights derived from the exploitation of the work recorded.

**ARTICLE IV - MARKS EXPLOITED**

(1) The right defined in Article II is granted only for the marks declared by the Producer, namely:

.....

(2) The same right shall be extended to any new marks which the Producer may issue or exploit, provided he informs the Society in advance of his intention in this regard. If the mark in question has already been declared by a national producer who is signatory to a contract similar to the present contract, the Society shall inform the latter producer of this.

(3) If the Producer declares any existing marks, the same right shall only be extended to them following the fulfilment of any obligations to the Society, or to another member Society of BIEM, which might arise as a result of the previous exploitation of these marks, it being understood that this provision shall not apply where the Producer acquires the mark only and not the catalogue.

(4) The declarations referred to in paragraphs (1), (2) and (3) above are made on the sole responsibility of the Producer who guarantees the Society against all claims relating to the marks declared by him.

(5) In cases where one or more of the Producer's marks, as declared above, are exploited by another producer, each producer shall only be responsible to the Society in respect of that mark or marks for his own production on condition that such production is easily identifiable.

(6) In so far as it has knowledge thereof, the Society shall be bound to inform the Producer of the importation of discs, tapes and cassettes bearing the marks that he has declared, such discs, tapes and cassettes having been supplied to third parties.



**ARTICLE V - BASIS OF ROYALTY****Protection**

(1) The royalty shall apply to every work graphically protected in its country of origin, the country of origin for unpublished works being the country of nationality of the author and for published works either the country of nationality of the author or the country of first publication of the work according to the legislation which affords the longer period of protection. The relevant period of protection is that accorded by the law of the country of sale of the disc, tape and cassette provided always, and subject to bilateral or multilateral conventions between the countries, that such protection shall not exceed the period of protection accorded by the law of the country of origin of the work. Where the law of the country of sale of the disc, tape and cassette does not protect literary and musical works, the law of the country of manufacture of the disc, tape and cassette shall apply.

**Arrangements or adaptations**

(2) Where the Society claims from the Producer payment of a royalty for an arrangement or adaptation under the control of the Society, the original and lawful character of such arrangement or adaptation shall be sufficiently established by the fact of its publication as such in print, showing the name of the arranger. In the case of an unpublished arrangement or an unpublished adaptation, its original and lawful character shall be presumed, unless proved to the contrary, by the fact of its deposit or declaration, depending on the competent Authors' Society's rules, prior to the date of recording provided that such deposit or declaration shall have been accepted.

**Calculation of royalty**

(3) The Producer shall pay to the Society for each disc, tape and cassette reproducing one or more works of the repertoire of the Society a royalty the rate of which and the domain of application of which are fixed in Annex IV of the present contract.

(4) Subject to paragraph (5) below, the royalty shall be calculated on the highest price appropriate to the copy in question as published by the Producer (PPD) with a view to retail sale on the day of outgoing from the depot in the list mentioned in Article VII (4)c). The price defined above (PPD) shall be subject to a flat rate adjustment of 12% warranted by invoiced discounts which are usually applied.

Av. N° 8

(5) If the Producer has fixed or suggested retail prices in the national territory and such prices are generally paid by the public, the corresponding royalty shall be calculated on those prices as they appear on the list mentioned in Article VII (4)c) on the day of outgoing from the depot.

(6) If the Producer is not in a position to furnish the Society with any of the lists mentioned in Article VII (4)c), the royalty shall be fixed by the Society on the basis of the price most generally practised by other national producers for each type of disc (rotation speed, diameter and configuration), similarly for each configuration of tape and cassette.

Av. N° 2

**Exports**

(7) In respect of exports to non-European countries, other than U.S.A. and Canada, the royalties shall be calculated and paid in accordance with the prices applicable and all the terms agreed in the country of destination, including in particular those relating to minimum royalties.

(7 bis) Nevertheless, the National Group of IFPI and the Society may agree to apply to such exports a royalty calculated and paid in accordance with the prices applicable and all the terms agreed in the country of origin.

(8) In respect of exports to European countries, except shipments within the EU, where the Producer supplies an importer who is not a licensee nor an affiliate, the royalties shall be calculated and paid in accordance with the prices applicable and all the terms agreed in the country of destination, including in particular those relating to minimum royalties.

In respect of shipments within the European Union, where the Producer supplies a distributor who is not a licensee or an affiliate, the royalties shall be calculated and paid in accordance with the prices applicable and all the terms agreed in the country of origin, including in particular those relating to minimum royalties.

(9) In the case of exports to European countries not belonging to the European Union, where the Producer is supplying an importer who is a licensee or an affiliate, statements of outgoings relating to such exports may, unless the Producer chooses to exercise the option provided for in Article V(10), be made by the Producer by deducting from the number of discs, tapes and cassettes issued from his depot, the number of discs, tapes and cassettes remaining in stock in the depot of the importer at the end of each accounting period, it being understood that the outgoings of the importer shall be treated in accordance with the prices applicable and all the terms agreed in the country of destination between the National Group of IFPI and the national collecting Society.

Av. N° 7

In the case of exports from European countries outside the European Union to countries belonging to the European Union, where the Producer is supplying an importer who is a licensee or an affiliate, statements of outgoings relating to such shipments may, unless the Producer chooses to exercise the option provided for in Article V(10), be made in the manner described above.

In the case of shipments within the European Union, where the Producer is supplying an importer who is a licensee or an affiliate, statements of outgoings relating to such shipments may, unless the Producer chooses to exercise the option provided for in Article V(10), be made in the manner described above, but the outgoings shall be treated in accordance with all the terms agreed in the country of origin, except that the prices applicable shall be those of the licensee or affiliate in the country of destination, as defined in Article V(4).

In order to benefit from the provisions of the present paragraph (9) the Producer must be able to show that the consignee is a signatory of a contract with a member Society of BIEM similar to the present contract and these shipments will be subject to the right of control by the two societies concerned.

(9bis) The National Group of IFPI and the Society may agree to substitute a flat rate deduction for the above-mentioned system of deductions and for exports under paragraph (7) above, it being understood that national provisions for returns will not apply to outgoings for which a flat rate deduction has already been applied.

Av. N° 5

(10) Nevertheless, subject to prior notice having been given by the Producer to the two societies concerned and in the absence of a joint objection being made for well-founded reasons by those societies notified within four weeks of such notice, the statements of outgoings and the corresponding royalties which relate to shipments coming within paragraph (9) above shall be rendered and paid by the consignee to the Society and/or the copyright owner or the copyright owner's authorised representative in the country of destination, provided that the consignee is a signatory of a contract similar to the present contract with that Society and/or the copyright owner or the copyright owner's authorised representative, in accordance with the prices applicable and all the terms in force in the country of destination.

The Society in the country of destination is entitled to exercise control, as provided for in Article XIII of the present contract, with respect to such shipments of imported discs, tapes or cassettes.

Av. N° 7

(10 bis) The application of the preceding paragraph may be terminated at the end of any accounting period if the societies in both countries jointly raise objection for well-founded reasons by giving at least four weeks' advance notice to the Producer.

(10 ter) The dispositions of Article V(10) and V (10 bis) may also apply to exports into non-European countries, where the phonographical right in the repertoire is not exclusively represented by a BIEM member Society. If the Producer is unable to provide reasonable evidence that the correct royalty has been paid to the copyright owner or the copyright owner's authorised representative, then the Producer shall pay the royalty calculated in accordance with the current export provisions, to the Society.

(11) The Producer is authorized to bring together in a single statement outgoings not exceeding a number which shall be fixed by mutual agreement between the Society and the National Group of IFPI, it being understood that such outgoings shall be assimilated to sales in the national territory. The number of copies thus agreed shall not be less than thirty nor more than one hundred per country, per catalogue number and for each accounting period.

#### **Mixed Copies**

(12) Where a disc, tape or cassette reproduces works of the Society's repertoire together with works not belonging to the Society's repertoire, the Society agrees to accept, when such works are of roughly equal playing time, a share of the royalty in the proportion which the number of works of its repertoire bears to the total number of works reproduced on that disc, tape or cassette.

(13) Where the works reproduced are of appreciably different playing times, the Society's share of the royalty shall be in the proportion which the playing time of each of the works of its repertoire, rounded off to the minute above, bears to the total playing time of the disc, tape or cassette in question. Where fragments of works of the Society's repertoire are involved, if the playing time is less than one minute it shall be rounded off to one minute and if the playing time is more than one minute but less than one minute forty-five seconds, it shall be rounded off to one minute forty-five seconds.

(14) The share of royalty thus attributed to a work or to a fragment of a work of the Society's repertoire shall never be less than the fraction corresponding to the number of works or fragments of works indicated in Article VI (5) and VI (5 bis) of the present contract.

(15) Where in a protected work comprising music and words, the words only or the music only belong to right-owners represented by the Society, the share administered by the Society shall be determined in accordance with agreements made by the Society and/or by the right-owners which it represents with the other right-owners. In the absence of such agreements the share administered by the Society shall not be less than one-half of the full royalty.

**Returns**

(16) The royalty is due at the moment of the despatch of the disc, tape or cassette from the depot or depots of the Producer. Nevertheless, the royalty shall not be paid if the disc, tape or cassette is returned to such depots and entered as a return in the relevant accounting documents, it being understood that the present provision applies only to discs, tapes and cassettes returned as part of transactions which do not involve any kind of payment to the Producer for such discs, tapes and cassettes.

(17) The total returns for one accounting period should never exceed the total outgoings for the same period for the same disc, tapes and cassettes involving the same copyright owners. In applying this provision, the excess of returns over outgoings may be carried forward to succeeding accounting periods.

(18) Royalties on new issues, that is to say discs, tapes and cassettes put into circulation under a new catalogue number and appearing as such in the Producer's publications, if any, shall be discharged in accordance with the following conditions:

a) at the end of each accounting period falling within a period of twelve months from the commencement of the accounting period in which the original outgoings were made, the Producer is entitled to account for 90% of the outgoings, determined in accordance with paragraphs (16) and (17) above;

b) at the end of the accounting period coinciding with the expiration of a period of six months following the twelve months referred to in the preceding paragraph, the Producer shall, if necessary, account for the balance of 10% taking into account any returns not hitherto deducted;

c) the provisions of the present paragraph shall not apply if the Producer's system of distribution does not take account of returns either for national sales or for exports.

(18 bis) The Society and the National Group of IFPI may by agreement substitute for the provisions of paragraph (18) above a system of fixed percentage deduction or any other appropriate system of deduction.

**Bargain sales**

(19) Notwithstanding the provision of paragraph (4) above, the royalty for discs, tapes and cassettes of symphonic, dramatico-lyric and chamber music deleted from the Producer's catalogue and sold in bargain sales not less than two years after the date of first release and offered to the public expressly as a bargain, shall be calculated at 10% (ten per cent) of the Producer's gross invoice price with no deduction other than that of the duties and taxes provided for in paragraph (20) below.

For pop LP discs, compact discs and cassettes, the above period shall be reduced to six months and for pop singles to three months.

The number of phonograms which may benefit from the application of this provision must not exceed:

for 45rpm, CD singles of 7 or 12 cm and single cassettes	10%
for all other configurations referred to in Article VI (5) and VI (5 bis)	5%

of the number of phonograms sold by the Producer and regulated by the Society during the preceding year.

For phonograms falling lawfully within the application of the provision concerning bargain sales, minimum royalties are applicable amounting to 20% of the normal minimum royalty.

Av. N° 4

Deductions for returns in the case of bargain sales are not permitted.

It is stipulated that the Producer is not authorized to manufacture solely for the purpose of benefiting from the present provisions concerning bargain sales.

### Taxes

(20) In the calculation of royalties, VAT, purchase tax, sales tax, luxury tax and any other identical or similar tax shall be deductible.

(21) The deduction of any other tax which may be established in the country of the Producer during the term of the present contract shall be subject of an agreement between the Society and the National Group of IFPI.

(22) If the national law requires that the Producer shall pay, through the intermediary of the Society, a tax on the total of royalties payable under the present contract, the said tax shall be paid over to the Society over and above such royalties.

### Deductions

(23) The royalty shall be calculated on the dealer price (PPD) as adjusted according to Article V(4) and after deduction of a flat rate of 10% in the case of the highest price resulting from Article V(4). A flat rate deduction of 7.5% shall apply to the retail price referred to in Article V(5). These deductions are granted in consideration of the superior quality of the covers designed individually for the record which they enclose (packaging). **Av. N° 3**

The royalty rate is calculated on the PPD as follows:

11% (Royalty Basis – Annex 4)  
 minus 12% [adjustment – Art V (4)] =  
 9.68% minus 10% [deduction – Art V (23)] =  
 8.712% - Net royalty rate **Av. N° 8**

(23 bis) In the case of cassettes, the royalty shall be calculated on the dealer price (PPD) after deduction of the adjustment referred to in Article V(4) and of the flat rate deduction referred to in Article V(23). No other deduction is applicable by reason of this clause to other tapes.

(23 ter) Complementary to the deductions referred to in Article V(4) and V(23) here-above, a transitory deduction will apply to Digital Compact Cassettes and Mini Discs for the duration of the standard agreement, subject to review on 30 June 2000. The deduction will be 25% and is allowed taking into consideration the evolution of DCC and MD in terms of their respective market penetration and other circumstances. The royalty rate resulting from this transitory deduction will be 6.757% on the PPD or 5.55% in case the royalties are calculated on the Retail Price. **Av. N° 7**

### Exempt copies

(24) First pressings of new issues as defined in Article V(18) shall be exempt from royalty payments up to ..... copies intended by the Producer for national and international promotion purposes and for submission to critics. Such copies, which must not be distributed commercially and must be free of charge, shall appear in the statements of outgoings of the Producer for audit purposes. On each copy there shall be non-removable and non-erasable notice carrying words agreed between the Society and the National Group of IFPI indicating that they are not for sale. **Av. N° 5**

**TV Advertising**

(25) Discs, tapes and cassettes which are subject to TV advertising campaigns may benefit from special terms and conditions to be fixed by mutual agreement between the Society and the National Group of IFPI. **Av. N° 6**

**ARTICLE VI - ROYALTIES****Minimum royalties**

(1) In Continental Europe, including Turkey, the minimum royalty shall be equal to two-thirds of the royalty fixed by the first paragraph of Annex IV of the present Contract and calculated on the PPD or the retail price, as the case may be, most generally practised by the members of IFPI in each country for each type of sound carrier (rotation speed, diameter or configuration). **Av. N° 3**

(1 bis) In the case of discs, tapes and cassettes which have been re-released not less than 1 year after the original date of release and which are priced at 35% below the original price or less, the minimum royalty shall be equal to 57% of 66.66% of the royalty fixed in accordance with the present Contract and calculated on the PPD or the retail price, as the case may be, most generally practised by the members of IFPI in each country for each type of sound carrier. **Av. N° 8**

However, no royalty payment shall be less than 8.712% of the PPD, or as the case may be 7.4% of the retail price, applicable to the re-released disc, tape or cassette recording to which it relates. In the case of discs, tapes or cassettes which qualify for a transitory deduction under Article V (23 ter) no royalty rate shall be less than the net rate resulting from application of this clause.

(2) The prices serving as the basis of calculation of the minimum as provided above shall be fixed by mutual agreement between the Society and the National Group of IFPI with the right of revision each year commencing from the date of entry into force of the present contract, such revision to be requested at the latest two months after the date on which it is to take effect.

(3) In case of disagreement, the minimum royalty provided for above shall be equal to two-thirds of the average royalty paid for the type of sound carriers in question by the two national producers who shall have paid to the Society or to other societies of BIEM directly or indirectly the highest amount of royalties in respect of the previous year's exploitation. This average royalty shall be arrived at by dividing the total amount of royalties paid for the type of sound carrier in question (rotation speed, diameter or configuration) by the number of copies reproducing protected works issued in that same type of sound carrier. Where there is only one national producer, the average royalty mentioned above shall be calculated on that producer's exploitation. **Av. N° 3**

(4) The minimum royalty provided for above shall not apply if by virtue of a reduction in prices imposed by governmental or other authority, such minimum results in a figure higher than the normal royalty calculated on the new prices. **Av. N° 2**

**Number of works and fragments**

(5) The number of complete protected works or fragments of protected works which may be reproduced on the same disc having regard to its playing time and its type is as follows:

I	45 rpm 17 cm Single	(up to 8mins)	2 works	or	6 fragments
II	45 rpm 17 cm EP	(up to 16mins)	4 works	or	12 fragments
III	45 rpm Maxi-single	(up to 16mins)	4 works	or	12 fragments
IV	33 rpm 17 cm EP	(up to 20mins)	6 works	or	18 fragments
V	33 rpm 25 cm LP	(up to 30mins)	10 works	or	24 fragments
VI	33 rpm 30 cm LP	(up to 60mins)	16 works	or	28 fragments
VII	CD Single of 3 or 5 inches	(up to 23mins)	5 works	or	12 fragments
VIII	Normal CD of only 5 inches	(up to 80mins)	20 works	or	40 fragments

(5 bis) The number of complete protected works or fragments of protected works which may be reproduced on the same tape or cassette having regard to its playing time and its type is as follows:

I	Single cassette	(up to 8mins)	2 works	or	6 fragments
II	Maxi cassette	(up to 16mins)	4 works	or	12 fragments
III		(up to 16mins)	4 works	or	12 fragments
IV		(up to 30mins)	10 works	or	24 fragments
V		(up to 60mins)	16 works	or	28 fragments
VI		(up to 120mins)	32 works	or	56 fragments

**Av. N° 7**

(5 ter) 24 protected works or 48 fragments of protected works may be reproduced in a compilation album on CD, DCC or MD provided its contents comprise at least 50% re-released recordings of protected works.

(5quater) The number of protected works and/or fragments that may be reproduced on an analogue cassette when this cassette contains the same recordings as a CD, DCC or MD album or compilation album referred to in Article VI (5 or 5ter), shall be the same as the number of protected works and/or fragments, that may be reproduced on the equivalent digital carrier. The same limitations as to the maximum playing time will apply to the cassette as to the digital equivalent in this case.

(6) If the Producer wishes to reproduce on the same disc, tape or cassette a number of protected works or protected fragments exceeding that mentioned above, the total royalty due for the disc, tape or cassette in question shall be increased in the same proportion, except in the case of repeated reproduction of the same work, involving the same copyright-owners, or fragments involving the same copyright owners on the same sound carrier, which shall be regarded as one fragment or work as the case may be. In addition, original works of short duration, with the exception of songs known as popular, may be reproduced without limitations as to number on a 45 rpm 17 cm single or on a tape cassette of category I, if such disc, tape or cassette contains exclusively works of this type.

**Av. N° 7**

(7) If the playing time of a disc, tape or cassette exceeds the playing time fixed above by more than sixty seconds, the total royalty due for the disc, tape or cassette shall be increased in the same proportion.

(8) Where the same disc, tape or cassette reproduces complete protected works and protected fragments, each work shall count as two points and each fragment one point. The total number of points permitted is equal to the number of fragments indicated in paragraph (5) and (5bis) above. Graphically published pots-pourris shall be regarded as complete works. Reproductions of fragments involving the same right-owners, and repeated reproduction of the same work involving the same right-owners as meant in paragraph (6) above will equally be regarded as one complete work or fragment as the case may be.

**Av. N° 7**

(9) Any reproduction not exceeding one minute forty-five seconds shall be considered as a fragment of a work, as long as the whole work has not thus been reproduced.

(10) Any fragmentary reproduction of a work of the Society's repertoire shall only take place with the prior authorization of the latter after consultation with the owner of the mechanical rights in the said work. If, within a period of three months following the date of receipt by the Society of a request from the Producer of authority for fragmentary reproduction the Society shall not have informed him that the owner of the right of mechanical reproduction in the work in question has refused his consent, such consent shall be deemed to have been given.

## ARTICLE VII - OBLIGATIONS OF THE PRODUCER

### Compulsory notices

(1) All recorded discs, tapes, and cassettes reproducing a work or fragments of a work in the Society's repertoire must bear:

- for normal pressings the facsimile of the Society granting the licence;
- for group pressings (under a "central licence") the facsimile of BIEM followed by that of the Society granting the licence;
- for pressing and duplication carried out by producers by way of centralised manufacture for the benefit of their affiliated companies, the facsimile of BIEM followed by that of the Society which collected the highest amount of royalties in comparison with other authors' societies from the national affiliate of this group in the course of the preceding year. The facsimile of this Society may be used for all subsequent manufacture of relevant sound carriers.

Av. N° 4

The facsimile must not be used for the purpose of preventing or restricting the free circulation of sound carriers from one country to another in Europe, nor to demand the collection of a royalty or payment in addition to the sums already paid.

(2) The following notice shall appear on the label of each side of the disc, tape or cassette in the language of the country of manufacture or sale:

**"ALL RIGHTS OF THE PRODUCER AND OF THE OWNER OF THE WORK REPRODUCED RESERVED. UNAUTHORIZED COPYING, HIRING, LENDING, PUBLIC PERFORMANCE AND BROADCASTING OF THIS DISC (TAPE OR CASSETTE) PROHIBITED".**

(2 bis) If national legislation stands in the way of the application of the preceding provision, the Society and the National Group of IFPI shall agree on a notice to be substituted for it to conform with such legislation.

(3) Labels of discs, tapes and cassettes shall mention, in addition to the title of the work or works reproduced, the name of the composer, that of the author, that of the arranger of the words and/or music where appropriate, and that of the publisher who owns the phonographic reproduction rights in the country of manufacture at the time of the first issue of the disc, tape or cassette; where this is duly established to be technically impossible and subject to the legal provisions in force, such details shall be placed on the covers or boxes where these are individual to the sound carriers concerned. If the Producer does not know the name of the above-mentioned publisher at the moment of the first issue of the disc, tape or cassette, he shall include it on the next re-printing of the labels or, where applicable, of the covers or boxes.



(3 bis) The Society and the National Group of IFPI may agree that the details provided for in paragraph (3) above should also appear in the Producer's catalogues, supplements to catalogues and lists of new issues where such documents are intended for issue to the public.

#### **Catalogues and supplements - List of prices - Labels**

(4) The Producer is bound to send to the Society free of charge within the shortest possible time:

- a) ..... copies of labels of all his discs, tapes and cassettes;
- b) ..... copies of all his catalogues, supplements to catalogues and lists of new issues;
- c) ..... copies of the list of retail prices, whether fixed or suggested, of discs, tapes and cassettes bearing his various marks or, in the absence of such list, a list of (PPD) prices, kept up to date per mark and per country.

(5) At the request of the Society, the Producer shall furnish it free of charge with one copy, which shall be exempt from royalty payment, of one or more particular discs, tapes or cassettes and also the cover of one or more particular EP or LP discs, or the box of one or more particular tapes or cassettes.

(6) The Producer is bound to notify the Society immediately of the discs, tapes and cassettes which he deletes from his catalogue.

#### **ARTICLE VIII – PRODUCER ACTING AS A MANUFACTURER FOR THIRD PARTIES**

(1) If the Producer custom manufactures discs, tapes or cassettes for other producers, whether these producers are third parties, licensees or affiliates, he shall be bound in all cases to inform the Society thereof and provided he does so he shall not be responsible for the payment of royalties with respect to such discs, tapes or cassettes.

Av. N° 2

(2) With regard to the exploitation of the Society's works, the Producer shall not act as a custom manufacturer for a third party who has no contract with the Society, unless the Society has given him in each case express authorization with the consent, where appropriate, of the BIEM Society in the country of the third party. Such authorization shall not be withheld without sufficient justification. The Producer acknowledges that he is jointly responsible with the third party in question for any manufacture made in contravention of the preceding provision.

(3) In all cases the Producer shall ensure that the Society has every facility for checking manufacture carried out for the third parties and where the works reproduced form part of the repertoire of the Society, shall send to it a copy of his delivery or despatch notes indicating by catalogue number the quantities delivered.

#### **ARTICLE IX – CO-EXPLOITANTS OF THE PRODUCER**

(1) For the purposes of the present contract, the co-exploitants of the Producer are those firms or persons who take part in any way in the manufacture (recording, pressing or duplication) of discs, tapes or cassettes bearing the Producer's mark, and the exclusive distributors of such discs, tapes or cassettes.

(2) The Producer contracts with the Society not only in his own name but also in the name and on behalf of his co-exploitants. At the request of the Society he shall be bound to submit to the Society a declaration by his co-exploitants confirming that they undertake for their part to respect the provisions of Article XIII of the present contract.

(3) The undertaking made by the Producer extends to the manufacture of discs, tapes or cassettes of his mark or marks made by a third party unless the latter is a producer having signed a contract with the Society similar to the present contract in respect of his own marks.

(4) If the Producer engages the services of a third party, a licensee or an affiliate, for custom manufacture on his behalf, he shall in all cases be bound to inform the Society thereof and he shall be responsible for payment of royalties with respect to such records, tapes or cassettes in accordance with the terms of the present contract.

(5) The Producer shall not be permitted to engage as a custom manufacturer where exploitation of the Society's works is concerned, a third party not having a contract with the Society unless the Society shall have given him express authorization with the consent, where appropriate, of the BIEM Society in the country of the manufacturer.

(6) The Producer undertakes, at the request of the Society, to bring to the knowledge of his wholesalers and retailers the geographical extent of the authorization granted in respect of the discs, tapes or cassettes he supplies to them. The detailed application of the present provision shall be fixed by mutual agreement between the Society and the National Group of IFPI.

(6 bis) As the rules of the European Union do not permit the application of the preceding paragraph, it shall be null and void in the countries of the European Union.

(7) At the written request of the Society, the Producer is bound to provide, in respect of all recordings produced either in his own studios or in independent studios or in any other place whatsoever, all necessary information, in default of which the present contract shall be immediately terminated; if the contract shall have expired, the Producer shall forfeit the benefit of the provision of Article XVI (2) (d).

(8) In the application of the provision of paragraph (7) above, the Society's notification must reproduce the terms of that paragraph and indicate its desire to avail itself of such terms.

## **ARTICLE X - STATEMENTS OF RECORDINGS**

(1) The Producer is bound to submit, within as short a time as possible and in any case, except for a duly justified reason, before the outgoing of the discs, tapes or cassettes, lists of works which he is recording or which he proposes to exploit by means of matrices legally furnished to him by third parties. He must also furnish such lists in respect of recordings already authorized which he wishes to exploit under a new catalogue number. The Society shall indicate to the Producer as soon as possible the works of its repertoire which appear in such lists. The authorization granted under Article II (1) of the present contract is confirmed to the Producer when the Society on the strength of the information contained in these lists has indicated to him that the works declared form part of its repertoire and the Producer has accepted this indication. It is to be understood that the annotations PM (Non-member), SAI (Status not known at present) and PAI (Owner not known at present) do not in any sense constitute an authorization by the Society.

(2) The form of presentation of statements of recordings shall be established by mutual agreement between the Producer and the Society. In default of agreement, five copies of the statements shall be submitted in the form set out in Annex V of the present contract.

(3) The Producer shall indicate to the Society the catalogue number of each recordings as soon as he knows it in addition to the corresponding matrix number. In no case may discs, tapes or cassettes or recordings of different content bear the same numbers.

**ARTICLE XI - STATEMENTS OF OUTGOINGS**

(1) A statement of the quantities of discs, tapes or cassettes reproducing works subject to royalty payment and issued from the depot or depots of the Producer shall be submitted to the Society by the Producer within one month of the end of the accounting period for sales in the national territory and within two months of the end of the said period for export sales. The Producer shall nevertheless have the right, after agreement with the Society, to submit to it the whole of his statements of outgoings within the two months following the end of the accounting period.

(2) The Society may require the submission of separate statements for discs, tapes or cassettes imported by the Producer which have not been authorized at their source in accordance with the provisions of the present contract.

(3) The form of presentation of the statements referred to above shall be established by mutual agreement between the Producer and the Society. In default of agreement, three copies of the statements shall be prepared in the form set out in Annex VI of the present contract.

(4) In cases where the Producer authorizes a distributor to export or re-export discs, tapes or cassettes he must take account of such exports or re-exports in preparing his statements of outgoings or inform the Society of them within the shortest possible time.

**ARTICLE XII - FINANCIAL OBLIGATIONS OF THE PRODUCER****Accounting period and settlements**

(1) The period of account is six months, unless otherwise agreed between the Producer and the Society.

(2) Payments relating to each accounting period, or the balance due for the period where applicable, shall be made in the month following the submission to the Producer by the Society of an account prepared on the basis of the statement of outgoings relating to the said period.

(3) Nevertheless, the Society may agree that payments relative to each accounting period or the balance due, where applicable, shall be made on the basis of an account prepared by the Producer himself and sent to the Society with the statement of outgoings relating to the said period.

**Permanent Deposit**

(4) The Producer shall pay into the funds of the Society by way of a permanent deposit against the payment of royalties and the performance of all clauses of the present contract, a sum the amount of which shall be fixed by the Society and which shall not be more than the approximate total royalties due for one quarter's exploitation. The amount of this deposit shall be reviewed every six months with the object of maintaining it from half year to half year at a fixed amount. If on a half-yearly review it is revealed that the amount of the deposit is too low, the Producer shall be required to make up the difference due within three days from the receipt by him of a notification from the Society by registered letter and acknowledgement of receipt. If on a half-yearly review it is revealed that the amount of the deposit is too high, the excess shall be placed to the credit of the Producer's account in the Society's books. The permanent deposit shall amount initially to not less than the equivalent of one thousand US dollars.

(5) The Society shall pay interest to the Producer on the amount of the permanent deposit provided for above calculated at the rate fixed by the national Bank in the country of the Producer's domicile for one-year deposits.

**Monthly advances**

(6) Before the tenth day of each month the Producer shall pay a sum on account equal to the monthly average of royalties for the same accounting period of the preceding year.

**Changes in information**

(7) In the relations between the Society and the Producer, changes in information shall operate from the beginning of the accounting period during which such changes were notified.

**Adjustments**

(8) The period with respect to which applications for adjustment by the Society, and application for reimbursement by the Producer, shall be admitted, shall be limited to three years preceding the beginning of the accounting period during which such applications have been presented where such application are the result of an error by the party making the application. Application for adjustment, however, involving a new member and relating to a period prior to his membership shall not be subject to any time limit other than that prescribed by law. Such applications for adjustment shall be subject to the terms of the present contract including those provided in Article I (3). In all cases the Society shall indicate to the Producer the changes in information or other facts which give rise to the applications for adjustment.

(9) If within a period of three months from the date of despatch by registered letter of an application for an adjustment by the Society, the Producer shall not have expressly challenged the application, it shall be considered to have been accepted.

**Claims by third parties**

(10) If the Society and a third party not being a member of the Society claim from the Producer all or part of the rights in the same work, the Producer shall pay the Society royalties relating to the work if the Society submits to the Producer a title prior to that of the third party, the Society guaranteeing the Producer in such a case against all claims which might be brought against him by the third party.

(11) Where the third party claims rights in a work which has previously been annotated SAI (Status not known at present) or PAI (Owner not known at present) by the Society, the Producer may notify the Society of this claim and the latter will be bound to provide a definitive annotation within three months commencing from the date of reception of the Producer's notification in default of which the work shall be deemed PM (Non-Member). When such a work shall have been annotated or deemed to have been annotated PM and the Producer shall have paid the third party, the Society shall renounce the right to make any later claim on the Producer if he confirms that the third party had a good title to the rights.

**ARTICLE XIII - CONTROL BY THE SOCIETY**

(1) The Producer is bound to make known to the Society the situations of his manufacturing facilities and stocks of discs, tapes or cassettes. If the warehouse is situated apart from the place of manufacture, agreed arrangements shall be made between the Producer and the Society to enable the latter to carry out checks without inconvenience or extra expense.

(2) If the Producer has several depots, he shall be responsible for centralising the documents required to account for incomings and outgoings in a form which will enable the Society to carry out accurate and convenient checking operations.

(3) The Society shall have the right of fullest control over all the operations of the Producer affected by the present contract, including the date of recording and the date of first manufacture. Consequently, the Society's inspectors shall have the right of access to the factories, depots and offices of the Producer and this right of access shall not be refused or delayed on any pretext by the Producer. The latter shall be bound to provide them with all documents enabling them to check the information relating to the recording and to verify by cross-checking the manufacture, incomings and outgoings, and stocks of discs, tapes or cassettes. Further, the Producer shall grant the Society all facilities for checking the operations of his co-exploitants, especially custom manufacturers.

(4) The Producer shall maintain a clear and precise accounting system which will permit the preparation of accurate statements to the Society and allow the latter to check such statements. The functioning of the control and the maintenance of documents necessary for its exercise shall be regulated by agreement between the Producer and the Society.

(5) The agents of the Society concerned with control work in the factories, depots and offices of the Producer shall have no interest directly or indirectly in any phonographic business or trade. Moreover, it is understood that neither the Society nor its staff, its agents or inspectors shall impart any information to third parties relating to the business or trade of the Producer which they may acquire in the course of their operations connected with the performance of the present contract.

(6) If inspection by the Society gives rise to a supplementary result of at least 5% in comparison with the accounts presented by the Producer during or for the period in question as they existed at the date of the announcement of the control, the costs of the control are payable by the Producer, provided that the adjustments is the result of mistake by the Producer.

Av. N° 4

**ARTICLE XIV - CIRCULATION OF RECORDING MATRICES**

(1) By recording matrix shall be understood any contrivance from which discs, tapes or cassettes may be manufactured or from which a re-recording can be made.

**Supply of matrices of the Producer to third parties**

(2) The Producer shall not by whatever means or for any reason place at the disposal of a third party any matrix of a recording of a work belonging to the Society's repertoire in the country of destination, unless the prior written consent of the Society has been received.

(3) However, the matrix may be freely placed at the disposal of the third party:

a) if the work is not protected in the country of destination and if that country is member of the Bern Convention or of the Universal Copyright Convention;

b) if the matrix is addressed to a producer, not being domiciled in the U.S.A. or Canada having a general contract with a member Society of BIEM similar to the present contract;

c) if the matrix is addressed to a producer domiciled in the U.S.A. or Canada who has agreed to pay to the Society or its representative the royalty provided for in paragraph (2) of Annex No. IV.

(4) Apart from cases covered by paragraph (3) above, the matrix may be delivered without restriction where the recipient is domiciled in a country where there is a member Society of BIEM on condition that the Producer is bound by a prior agreement to pay the said Society royalties due on the discs/tapes and cassettes pressed from such matrix in default of payment by the recipient. Such royalties shall be calculated in accordance with the provisions laid down in Article V (7) and (8) of the present contract on the basis of statements of manufacture furnished to the Producer by the recipient of the matrix, the Society reserving the right to verify the accuracy of such statements.

(5) If the work is protected in the country of destination but does not belong to the Society's repertoire, the despatch of the matrix may only be undertaken on the Producer's own responsibility.

(6) Every despatch of a recording matrix of a work belonging to the Society's repertoire in the country of destination shall be notified to the Society by the Producer at the same time as the despatch is made.

(7) The Society reserves the right to forbid the Producer to send matrices to any producer domiciled in the U.S.A. or Canada who might pass on any matrix received by him under the terms of the present contract to a third party not having a contract similar to the present contract with a member Society of BIEM.

(8) For the purpose of this Article, a work is considered protected in the U.S.A. if unpublished or if published on or after 1st July 1909 in the form required for protection under U.S. law.

(9) The export of a matrix to a country where the authorization of the copyright owner is required by law only for first reproduction of a work shall in no case confer on the importer authorization for the first recording where this is necessary, and if the matrix is used without authorization reproductions from the matrix shall be unlawful.

#### **Use by the Producer of recordings produced by third parties**

(10) The right defined in Article II above extends to discs, tapes and cassettes which the Producer manufactured under his mark and which are derived from recordings made by third parties on condition that the manufacture and, where applicable, the importation of the recordings have been authorized by the Society. Such recordings shall be treated in all respects in the same way as recordings made by the Producer himself and their exploitation shall be subject to the provisions of the present contract.

(11) Upon signature of the present contract, the Producer shall send to the Society a complete and detailed list of the firms from which he habitually receives and those to which he sends matrices under the above provisions. The Producer undertakes to keep this list up to date.

**ARTICLE XV - SANCTIONS AND CANCELLATION OF THE CONTRACT**

(1) Where the Producer:

- 1° - fails to comply with any one of the financial obligations contained in the present contract, without prejudice to the contents of paragraph (3) below;
- 2° - fails to comply with any one of the conditions of the present contract relating to custom manufacture for third parties;
- 3° - fails to comply with any one of the provisions of the present contract relating to the use of matrices made by third parties and/or the provision of his own matrices to third parties;
- 4° - does not offer the Society the facilities for exercising its control in conformity with the provisions of the present contract;
- 5° - fails repeatedly, in spite of warning from the Society, to comply with any of the other requirements of the present contract, and in particular:

- does not indicate on the statements of recordings all works which ought to be listed or does not give complete and correct information as required by the contract,

- does not take account, upon receipt, of alterations to previous annotations duly notified to him,

- does not state the title of works and the names of right owners on labels, covers or boxes as provided in the contract;

- 6° - provides statements admitting serious gaps or delay with regard to the agreed time limits:

the Society shall have the right, fifteen clear days after the receipt by the Producer of a formal notice in the form of a registered letter addressed to him by the Society and duly acknowledged and upon which no action is taken:

- a) either to demand payment of royalties on discs, tapes or cassettes on their entry into the depot or depots of the Producer;
- b) or to submit the Producer to the prepaid adhesive royalty stamp system and the system of authorization work by work;
- c) or to cancel the present contract without such cancellation giving rise to any compensation to the Producer and without prejudice to any damages arising in favour of the Society.

(2) The Society may, as from the date of the coming into operation of the above formal notice, deduct from the total of the permanent deposit provided for in Article XII (4) the amount required to make up the royalties due. Further, on termination of the contract, royalties shall become due on the total copies in stock.

(3) Where the Producer fails to fulfil any of the following obligations, he shall pay to the Society daily interest the rate of which shall be fixed by mutual agreement between the Society and the National Group of IFPI and which shall not in any case be less than the rate provided in Article XII (5):

- a) for non-observance of the time limit agreed under Article XI (1) interest shall be chargeable on the total royalties included in the statements or accounts not submitted within the prescribed time limit;

- b) for omissions of titles or copies from statements of outgoings or accounts, interest shall be chargeable on the royalties relating to the titles or copies omitted;
- c) in the case of delay or underpayment of the monthly advances provided for in Article XII (6) interest shall be chargeable on the total advances remaining due;
- d) any sum not paid within the time prescribed in Article XII (2) shall give rise to payment of the same daily rate of interest.

(4) Furthermore, if at the end of fifteen days following the expiration of the time limits laid down in paragraph (3) above, the Producer has not regularised the position and paid the interest due, the Society shall have the right to terminate the present contract in accordance with the provisions of paragraph (1) above, except where it is the first case of proven underpayment of monthly advances.

#### **Other cases of cancellation**

(5) If any of the conditions of the present contract are modified by governmental authority in such a way that the law expressly forbids contracting out of legislation, the present contract shall be terminated automatically.

(6) By reason of the general right of exploitation of its entire repertoire which the Society grants to the Producer, the present contract shall be cancelled automatically:

- a) if the Producer, being the owner or assignee of exclusive rights of phonographic reproduction seeks to exercise such rights by way of a monopoly as against any other producer who is a signatory of the Standard Contract for the Phonographic Industry 1975 (Discs, Tapes and Cassettes), as amended by amendments N° 1 to 7.
- b) if the Producer exploits works the phonographic reproduction of which is denied to any other signatory of the Standard Contract for the Phonographic Industry 1975 (Discs, Tapes and Cassettes), as amended by amendments N°1 to 7.

(7) In the case of bankruptcy or similar judicial process, the Society is entitled, notwithstanding the preceding clauses, to cancel the contract immediately without notice and to demand payment of all royalties due under the present Contract.

.....  
**Av. N° 4**

The means of application of these procedures and the conditions under which the Society may assert its rights as regards collecting royalties due shall be determined by the laws in force at national level.

#### **ARTICLE XVI - FINAL CLAUSES**

##### **Duration**

(1) The present Contract shall come into effect on 1 January 2014 and it can be terminated by either party to end at the earliest on 31 December 2016 by giving the other Party a written notice to that effect no later than 30 June 2016. Unless so terminated this Contract continues to be in force after 31 December 2016 one calendar year at a time until it is terminated by either Party with 6 (six) months notice period.

.....  
**Av. N° 8**



**Termination of contract - New recordings**

(2) After the date of termination of the contract:

a) No recording shall be made of works belonging wholly or in part to the Society's repertoire in the country of the Producer.

**Termination of contract - Exploitation of matrices**

b) No matrices shall be placed at the disposal of a third party if the work reproduced belongs wholly or in part to the Society's repertoire in the country of destination, unless the Producer has received the authorization of the Society in this regard.

c) Nevertheless, the Producer may place recordings legally made and exploited during the course of the three months preceding the expiration of the present contract at the disposal of another producer signatory of a contract similar to the present contract with a member Society of BIEM and which has also expired, on condition that such other producer agrees to submit the said recordings to the terms of the said contract.

d) The Producer shall have the right, during the two years following the date of expiration of the present contract, to exploit matrices he has legally produced during the period of the contract under the terms of contract.

e) The Producer shall not take advantage of the provisions of Article XIV (10) above in order to exploit matrices made by third parties unless such matrices were received and exploited before the date of expiration of the present contract, or unless such matrices were received in accordance with paragraph (c) above.

f) In accordance with the meaning of Article XIV (1), the preceding paragraphs (b), (c), (d) and (e) shall apply not only to matrices properly so called but also to any contrivance from which discs, tapes or cassettes may be manufactured or a re-recording made.

g) The provisions which are the subject of paragraphs (c), (d) and (e) above shall not be applicable where the present contract shall have been terminated under the provisions of Article XV (1).

**Jurisdiction**

(3) Disagreements as to the interpretation or performance of the present contract shall be brought before the Courts in the place of domicile of the defendant.

(4) However, disagreements relating to the interpretation of the present contract or of agreements made between the Society and the National Group of IFPI within the framework of this contract shall be submitted to the conciliation procedure laid down in Annex VII of the present contract before proceeding to any legal action.

**Costs**

(5) Costs of stamping and registration of the present contract shall be borne by the Producer.

Signed in .....

on .....

**List of Member Societies of BIEM**

1) Voting Societies:

AEPI	Société Anonyme Hellénique pour la Protection de la Propriété Intellectuelle Rue Fragoklissias & Samou 51, 151 25 Athènes
ARTISJUS	Bureau Hongrois pour la Protection des Droits d'Auteur Mészáros u. 15-17, P.O.B. 593, H-1016 Budapest
AUSTRO-MECHANA	Gesellschaft zur Wahrnehmung mechanisch-musikalischer Urheberrechte GmbH Baumannstrasse 10, A-1031 Vienne
CASH	Composers and Authors Society of Hong Kong Ltd. 18/F Universal Trade Centre 3 Arbuthnot Road Central Hong Kong
GEMA	Gesellschaft für musikalische Aufführungs- und mechanische Vervielfältigungsrechte Rosenheimer Strasse 11, D-81667 Munich
HDS	Hrvatsko Društvo Skladatelja/Croatian Composers' Society Rendiceva 28b-c 1000 Zagreb
JASRAC	Japanese Society for Rights of Authors, Composers and Publishers 3-6-12, Uehara, Shibuya-ku, Tokyo 151
MCPS	Mechanical-Copyright Protection Society Ltd. Copyright House, 29-33 Berners Street, London, W1
NCB	Nordisk Copyright Bureau Hammerichsgade 14, 1611 Copenhagen V
OSA	Ochranný Svaz Autorský Trida Čs. Armády 20, 160 56 Prague 6
SABAM	Société Belge des Auteurs, Compositeurs et Editeurs Rue d'Arlon 75-77, B-1040 Bruxelles
SACEM	Société des Auteurs, Compositeurs et Editeurs de Musique 225, avenue Charles-de-Gaulle, F-92521 Neuilly-sur-Seine
SACERAU	Société des Auteurs, Compositeurs et Editeurs de la République Arabe d'Égypte 10, rue Elfi Bey, 111 111 Le Caire
SADAIC	Sociedad Argentina de Autores y Compositores de Música Lavalle 1547, 1048 Buenos Aires

SCD	Sociedad Chilena del Derecho de Autor Condell 346, Providencia, Codigo Postal 6640791 Casilla 51270 Correo Central Santiago du Chili
SDRM	Société pour l'Administration du Droit de Reproduction Mécanique des Auteurs, Compositeurs et Editeurs Cité de la Musique - 16 Place de la Fontaine aux Lions BP 11593 - 75920 Paris Cedex 19
SGAE	Sociedad General de Autores de España Fernando VI-4, Apartado 484, 28004 Madrid
SIAE	Società Italiana degli Autori ed Editori Viale della Letteratura 30, 00144 Rome (EUR)
SODRAC	Société du Droit de Reproduction des Auteurs, Compositeurs et Editeurs au Canada Inc. 759 Victoria Square, Bureau 420, Montréal (Québec) H2Y 2J7
SOKOJ	Savez Organizacija Kompozitora Jugoslavije Misarska 12/14, 11000 Belgrade
SOZA	Slovensky Ochranny Zväz Autorsky Rastislavova 3, 821 08 Bratislava 2
SPA	Sociedade Portuguesa de Autores Av. Duque de Loulé 31, 1069-153 Lisbonne
STEMRA	Siriusdreef 22-28, 2132 WT Hoofddorp
SUISA	Coopérative des auteurs et éditeurs de musique Bellariastrasse 82, CH-8038 Zürich
UCMR-ADA	Uniunea Compozitorilor si Muzicologilor din Romania Ostasilor street nr 12, sector 1 - Bucharest
ZAIKS	Stowarzyszenie Autorow Ul. Hipoteczna 2, 00-092 Varsovie

## 2) Non-voting Societies:

ACUM	Société d'Auteurs, Compositeurs et Editeurs de Musique en Israël 9, Tuval Street, POB 1704 Ramat Gan 52117
AGADU	Asociacion General de Autores del Uruguay Canelones 1122 C.P. 11100 Montevideo

ALBAUTOR Société Albanaise des droits d'auteur et des droits voisins  
Andon Zako Calupi" STR, No.18,  
Appt. 5, CQ. No 5, Tirana 1019

AMCOS Australian Mechanical Copyright Owners Society Ltd.  
6-12 Atchinson Street  
St Leonards, N.S.W. 2065

AMRA American Mechanical Rights Agency, Inc.  
149 S. Barrington Avenue # 180  
Los Angeles, CA 90049

COMPASS Composers and Authors Society of Singapore  
37 Craig Road  
089675 Singapore

COSOMA Copyright society of Malawi  
Off Paul Kagame Road  
PO Box 30784  
Lilongwe 3, Malawi

COSON Copyright Society of Nigeria  
25, Omodara Street, Awuse Estate  
Opebi, Ikeja, Lagos

COTT The Copyright Organisation of Trinidad and Tobago Ltd  
45C Jeringham Ave.,  
Belmont

GCA Georgian Authors' Society  
63, Kostava str., Tbilisi 0171

KCI Yayasan Karya Cipta Indonesia  
Golden Plaza Fatmawati C12  
Jl. RS. Fatmawati 15  
Jakarta 12420

KOMCA Korea Music Copyright Association  
KOMCA bld, Naebalsan-dong 649 Kangseo-Gu  
Seoul

MASA Mauritius Society of Authors  
3<sup>rd</sup> Floor NPF Building, Douglas Sholte Street  
Beau Bassin

MCS Nig. Ltd Musical Copyright Society (Nig) Ltd  
1st Floor - 565 Ikorodu Road, Ketu  
P.O. Box 8043, Shomolu  
Lagos

MCSC Music Copyright Society of China  
5/F Jing Fang Building N°33  
Dong Dan San Tiao, Beijing 100005

MCPS Ireland Ltd  
Mechanical Copyright Protection Society  
Copyright House  
Pembroke row , Dublin 2

MCSK Music Copyright Society of Kenya  
Maua Close, Off Parklands Road, Westlands  
PO Box 14806  
00800 Nairobi

MESAM Turkiye Musiki Eseri Sahipleri Meslek Birligi  
Siracevizler Cad. Esen Sok.  
Saruhan Plaza N°6/6 Sisli  
34381 Istanbul

MSG Muzik Eseri Sahipleri Grubu  
Dr Orhan Birman Is Merkezi Bulvari  
Dikilitas Mahallesi n°121, Kat 1  
Besiktas

MUSICAUTOR  
Bulgarian Society of Authors and Composers for Performing and Mechanical Rights  
17, Budapest Sreet, 4th floor, 1000 Sofia

RPS Russian Phonographic Society  
Butyrskiy Val St, Block 68/70, Bld. 1  
Office 12  
Moscow 127055

SACEM Luxembourg  
Société des Auteurs, Compositeurs et Editeurs de Musique  
46 rue Goethe  
1637 Luxembourg

SACM Sociedad de Autores y Compositores de Musica  
Mayorazgo N°129, Col Xoco  
03330 Mexico, D.F

SAMRO Southern African Musical Rights Organisation  
SAMRO House, 73 Juta Street, Braamfontein  
Johannesburg 2001

SAYCO Sociedad de Autores y Compositores de Colombia  
Calle 95 N° 11-31  
Bogota

SAZAS Society of Composers, Authors and Publishers in Slovenia  
Trzaska cesta 34  
1000 Ljubljana

SINE QUA NON  
Bosnia and Herzegovina Copyright Agency  
Branilaca Sarejeva 21/III  
71100 Sarajevo

UBC União Brasileira de Compositores  
Rua Visconde de Inhauma 107  
Centro Rio de Janeiro RJ CEP Brazil

ZAMP Musical Copyrights Society of Macedonia  
ul. Mitropolit Teodosij Gologanov 28  
1000 Skopje

## Rights of management entrusted to the Society in the field of mechanical reproduction

The rights of management entrusted to the Society in the field of mechanical reproduction are defined as follows:

1) Voting Societies

Societies	Categories of works <sup>1</sup>	Reservations <sup>2</sup>
<b>AEPI</b>	Dramatico-musical works	None
	Musical works with or without words	None
<b>ARTISJUS</b>	Literary works	None
	Extract from dramatico-musical works	None
	Musical works with or without words	None
<b>AUSTRO-MECHANA</b>	Complete dramatico-musical works <sup>3</sup>	Prior authorisation of right-owners
	Musical works with or without words	None
<b>CASH</b>		
<b>GEMA</b>	Dramatico-musical works	None
	Musical works with or without words	None
<b>HDS</b>	Literary works	None
	Musical works with or without words	Based on right owners' Power of Attorney
<b>JASRAC</b>	Dramatico-musical works	None
	Musical works with or without words	None

<sup>1</sup> For categories of works not mentioned, the Producer should consult the right-owners direct.

<sup>2</sup> Notwithstanding the use of the words "prior authorisation of right-owners" such authorisation shall be compulsorily applied for and granted (if such be the case) through the intermediary of the Society.

<sup>3</sup> Idem for abridged version of complete dramatico-musical works, complete acts and extracts extending over more than one long-playing record or cassette.

Societies	Categories of works <sup>1</sup>	Reservations <sup>2</sup>
<b>MCPS</b>	Dramatico-musical works <sup>4</sup>	
	Musical works with or without words	) Prior authorisation of authors for ( unpublished works and prior ) authorisation of right-owners for the first (recording of published works.
<b>NCB</b>	Literary works	) Danish and Swedish works, subject to (prior permission from right owners
	Dramatico-musical works	(Danish, Finnish, Norwegian and )Swedish works subject to prior (permission from right owners
	Musical works with or without words	) The first recordings of works are (subject to prior permission from ) rights owners
<b>OSA</b>	Musical works with or without words	None
<b>SABAM</b>	Literary works	(1. The right owner can express
	Dramatic works	) reservation on some rights and/or for
	Dramatico-musical works	(certain territories.
	Musical works with or without words	)
	Audio-visual works	(2. The author's moral right
	Choreographic works	)
	Plastic arts works( Photograph and graphic works	)
<b>SDRM</b>	Literary works	)Prior authorisation of certain right- (owners
	Dramatic works	(Prior authorisation of right-owners for )reproduction of complete works or large (extracts
	Dramatico-musical works	)Prior authorisation of authors for (reproduction of complete works or large )extracts of unpublished works

<sup>4</sup> The following reservations apply in relation to any dramatico-musical work (which expression shall have the same meaning as is set out in the Articles of Association of the Performing Right Society Ltd) :-

(a) The Licence shall not apply where the Disc(s) reproduce the whole or substantially the whole dramatico-musical work unless :-

(i) The producer has specifically notified MCPS that it wishes to reproduce the whole or substantially the whole work, and

(ii) MCPS has notified the producer that all its relevant members consent to such reproduction.

(b) For these purposes, the expression « dramatico-musical work » shall include any version of such work (with or without cuts, additions, interpolations or the like) which has been publicly performed. Also, for the avoidance of doubt, substantially the whole work shall be deemed to be reproduced where all or nearly all the individual songs or other music included in the work are reproduced.

(c) Even where consent is granted under sub-clause (a) above, the consent shall only relate the relevant music and lyrics (or other words sung or spoken with the music) contained in the work. By way of example only, it shall not constitute a licence to reproduce the whole or any substantial part of any dramatic or literary work which forms part of the work or which the work is based on.

Societies	Categories of works <sup>1</sup>	Reservations <sup>2</sup>
	Musical works with or without words	None
<b>SACERAU</b>	Musical works with or without words	None
<b>SADAIC</b>	Musical works with or without words Literary works set to music	None None
<b>SARRAL</b>	Extracts from dramatico-musical works Musical works with or without words	)Prior authorisation of right-owners (through SARRAL for the first recording )of works
<b>SCD</b>	Musical works	None
<b>SGAE</b>	Literary works Dramatic works  Dramatico-musical works	(Prior authorisation of right-owners )  Prior authorisation of right-owners for complete reproduction and, in any event, for first recording
	Musical works with or without words	Prior authorisation of right-owners for first recording
<b>SIAE</b>	Literary works Dramatic works Dramatico-musical works	)Prior authorisation of right-owners
	Musical works with or without words	)Prior authorisation of right-owners (for the first recording and for )records made during the following (four months <sup>5</sup> .
<b>SODRAC</b>	Dramatico-musical works Musical works with or without words	(None, except when works are used for )promotional purposes, which require the )prior approval of right owners
<b>SOKOJ</b>	Literary works Dramatic works Dramatico-musical works Musical works with or without words	None None None None
<b>SOZA</b>	Musical works with or without words	None

<sup>5</sup> Reservation limited to entirely new works, that is to say the original version declared since 1<sup>st</sup> January 1970 and in respect 'of which right-owners have asked to be consulted.



<b>Societies</b>	<b>Categories of works<sup>1</sup></b>	<b>Reservations<sup>2</sup></b>
<b>SPA</b>	Literary works Dramatic works Dramatico-musical works	( ) Prior authorisation of right-owners (
	Musical works with or without words	None
<b>STEMRA</b>	Literary works Dramatic works Dramatico-musical works	) (Prior authorisation of right-owners )
	Musical works with or without words	None
<b>SUISA</b>	Musical non theatrical works with or without words	) (
<b>UCMR-ADA</b>		
<b>ZAIKS</b>	Literary works Dramatic works Dramatico-musical works Musical works with or without words	(Prior authorisation of right-owners for ) the first recording or the use of works in (advertising. )

2) Non voting Societies

<b>Societies</b>	<b>Categories of works<sup>1</sup></b>	<b>Reservations<sup>2</sup></b>
<b>ACUM</b>	Literary works Dramatic works	)From July 1989 prior authorisation of (right-owners for works of a duration of )more than 5 mins and for works of a ) single author when they exceed 20% (of the total duration of a disc.
	Dramatico-musical works Musical works with or without words	None None
<b>AGADU</b>		
<b>ALBAUTOR</b>		
<b>AMCOS</b>		
<b>AMRA</b>		
<b>COMPASS</b>		
<b>COSOMA</b>		
<b>COSON</b>		
<b>COTT</b>		

GCA

<b>Societies</b>	<b>Categories of works<sup>1</sup></b>	<b>Reservations<sup>2</sup></b>
<b>KCI</b>	Musical works with or without words ( the Harry fox Agency	) Repertoire of BIEM and Repertoire of
<b>KOMCA</b>		
<b>MASA</b>		
<b>MCPS IRLD LTD</b>		
<b>MCSC</b>		
<b>MCSK</b>		
<b>MCSN</b>		
<b>MUSICAUTOR</b>	Literary works Musical works with or without words	(Prior authorisation of right-owners for )the first recording and in case of use of (works for the purpose of adaptation, )synchronisation or advertising
<b>RPS</b>		
<b>SACEM Luxembourg</b>		
<b>SACM</b>		
<b>SAMRO</b>		
<b>SAZAS</b>		
<b>SINE QUA NON</b>		
<b>UBC</b>		
<b>ZAMP</b>		

-----

## ANNEX N° III

### **National Agreements**

In accordance with the terms of Article II (3), the following provisions of the contract may be the subject of special agreements between the Society and the National Group of IFPI:

Article II (10bis)	Modification of the provisions relating to the most favoured party clause if they do not conform with national legislation.
Article V (7 bis)	Application of the royalty in force for sales in the national territory to exports to non-European countries, other than the U.S.A. and Canada.
Article V (9 bis)	Substitution of a flat rate deduction for exports provided for in Article V (7) and exports and shipments provided for in Article V (9).
Article V (11)	Single statement of outgoings assimilated to sales in the national territory.
Article V (18 bis)	Substitution of a fixed percentage deduction or any other appropriate system of deduction for the system agreed for returns of new issues.
Article V (21)	Deduction of tax.
Article V (24)	Quantity of copies exempt from royalty for promotional needs and the notice indicating that they are not for sale.
Article V (25)	Mutual agreement on special terms and conditions which may benefit to TV advertised products.
Article VI (2)	Prices to form the basis for the calculation of minimum royalties.
Article VII (2 bis)	Modification of the notice appearing on labels if it does not conform with national legislation.
Article VII (3bis)	Details appearing on labels or covers to appear also on the Producer's documents intended for issue to the public.
Article IX (6)	Method of bringing to the notice of dealers the geographical extent of the authorisation granted.
Article XV (3)	Daily interest rate when Producer fails to fulfil certain obligations.

ANNEX N° IV

**Royalties**

The royalty provided for in Article V(3) is as follows:

(1) In Continental Europe, including Turkey, the rate of royalty per copy is 11% (eleven percent) of the price determined in accordance with Article V(4).

In the same territories, the rate of royalty per copy is 8% (eight percent) of the price determined in accordance with Article V(5).

(2) In countries where the royalty is fixed by law, works of the Society's repertoire shall enjoy in all respects the conditions which are or shall be accorded to works of the national repertoires by the producers in those countries.

Discs, tapes, cassettes and matrices manufactured in these countries but exported outside them shall be subject to the conditions laid down in paragraphs (1) and (3) of the present Annex.

(3) In Latin America, the rate of royalty shall be that which is agreed between the Society or its representative and the national producers in those countries.

(4) Discs, tapes, cassettes and matrices exported to countries not mentioned in the present Annex shall be subject to conditions agreed between the Society or its representative and the national producers in those countries; in countries where there is no national producers, the royalty applicable is that fixed by paragraph (1) of the present Annex.

---

## ANNEX N° V

### **Statements of Recordings**

In default of agreement between the Producer and the Society, five copies of statements of recordings shall be submitted by the Producer and must mention:

- the mark of the disc, tape or cassette;
  - the number of the matrix and the origin of the matrix, where the latter shall not have been manufactured by the Producer;
  - the original title of the work or, in respect of pots-pourris and discs, tapes or cassettes containing several titles, the titles of the works used;
  - the name of the composer, of the author, and in addition the name of the publisher if known to the Producer;
  - where applicable, the name of the adapter of the text and/or music, the title of the arrangement, version or fragment, and the name of the original composer;
  - the type of reproduction (song, with indication of language, orchestra, etc.);
  - the rotation speed and diameter of the discs, the category of tapes and cassettes and in addition the duration of the works reproduced whenever necessary for the application of the present contract.
-

### **Statements of Outgoings**

In the absence of agreement between the Producer and the Society, three copies of statements of outgoings shall be prepared by the Producer according to mark and series, the discs, tapes and cassettes being grouped according to the number of works subject to royalty reproduced per copy; they shall indicate for each copy and separately per category of disc, tape and cassette in numerical order:

- the catalogue number;
- the original title of the work and, if necessary, that of the version and, for discs, tapes and cassettes containing several titles, the titles of works or fragments of works of the repertoire of the Society used, indicating the percentage paid per work or per fragment;
- the composer, the lyric writer and, where applicable, the adapter of the text and/or music;
- the country of sale indicating the royalty paid per work or fragment of work, calculated in the currency of the country of manufacture;
- the number of copies for each work;
- where applicable, the percentage of royalty paid;
- where necessary, whether the outgoings are new issues as defined in paragraph (18) of Article V.

---

ANNEX N° VII

**Conciliation Commission**

1. The Society and the National Group of IFPI agree to form a Conciliation Commission composed as follows:

.....

2. If, within three months following the opening of negotiations relating to any provision of the present contract which provides for an agreement between the Society and the National Group of IFPI, the two parties have not reached such an agreement, the matter shall be referred to the Commission for decision on the initiative of either party.

3. If, three months after such reference, the Commission has not given a decision, or, if having given it the society and/or the National Group of IFPI refuse to conform to it, the matter shall be referred to the BIEM/IFPI Conciliation Committee for decision on the initiative of either party.

4. If, one month after such reference, the BIEM/IFPI Conciliation Committee has not given its decision or, if having given it the Society and/or the National Group of IFPI refuse to conform to it, they may resort to ordinary legal proceedings.

5. The above-mentioned procedure is equally applicable to differences arising from the interpretation of agreements concluded between the Society and the National Group of IFPI within the framework of the present contract.

6. Furthermore, any difference relating to the interpretation of any provision whatsoever in the present contract shall be referred to the Commission for decision, but in every such case its decision must be submitted for ratification to the BIEM/IFPI Conciliation Committee.

\_\_\_\_\_