

**MANAGEMENT  
MANDATE**

**MEMBER  
COMPANIES**



ENTIDAD DE GESTIÓN DE DERECHOS DE PROPIEDAD INTELECTUAL

## MANAGEMENT MANDATE

In Madrid, ..... 20 .....

### BETWEEN

On the one hand, *Antonio Guisasola González del Rey*, as President and acting on behalf of Entidad de Gestión de Derechos de Propiedad Intelectual, hereinafter referred to as AGEDI, with registered office in Madrid, María de Molina, 39, 6ª planta and tax ID number G79070520

and on the other hand, ..... as .....  
and acting on behalf of ..... with registered address in .....  
address .....  
e-mail address ..... and tax ID number ....., hereinafter referred to as RIGHTS HOLDER.

### DECLARE

- I. AGEDI, that has been approved as collecting society of intellectual property rights which belong to phonographic producers regarding their phonograms and music videos, by virtue of Ministerial Decree of 15 February 1989 (as published in Official Gazette of 11 March 89), and consequently is entitled to manage those rights in the terms provided for in its statutory rules.
- II. RIGHTS HOLDER, that is a phonographic producer and/or assignee of phonographic producer's rights and wishes AGEDI to manage the relevant rights, in the terms hereby established.
- III. AGEDI, that the mandate hereby granted constitutes a contract with pre-formulated terms that AGEDI generally applies to all rights holders that wish to entrust it with the management of their rights.
- IV. RIGHTS HOLDER, that has had the opportunity to know the general terms of the mandate hereby granted through the publication online of the text on AGEDI website, and accepts that this shall be the means where the future text will be available, in case of amendments.

Both parties, mutually recognising each other the necessary legal capacity and faculties, agree to enter into this agreement subject to the following

### CLAUSES

#### One

A. RIGHTS HOLDER grants AGEDI an exclusive mandate to manage the following rights in the Spanish territory:

Regarding phonograms:

- 1] The public communication right, that covers radio or television broadcasting, including satellite broadcasting; wireless retransmission and public dissemination of phonograms broadcast on radio or television; cable broadcasting of the referred phonograms and their use in commercial premises, public transport or other analogous places and simulcasting and non-interactive webcasting, in the terms established in ANNEX 1.
- 2] The reproduction right exclusively for, direct or indirect, public communication only in the modalities previously mentioned, regardless of the method used for sending copies of phonograms, being excluded, in any case, interactive services.
- 3] The private copying equitable remuneration, envisaged by article 25 Intellectual Property Law.

Regarding music videos, and without prejudice of that established in this agreement's special terms:

- 1] The public communication right, that covers television broadcasting, including satellite broadcasting; wireless retransmission and public dissemination of music videos broadcast on television; cable transmission of the referred music videos and their use in commercial premises, public transport or other analogous places and simulcasting.
- 2] The reproduction right exclusively for, direct or indirect, public communication only in the modalities previously mentioned, regardless of the method used for sending copies of music videos.
- 3] The private copying equitable remuneration, envisaged by article 25 Intellectual Property Law.

B. RIGHTS HOLDER confers to AGEDI a non-exclusive mandate to manage the following rights, without prejudice of that established by the special terms of this agreement:

Regarding phonograms:

- 1] Simulcasting and non-interactive webcasting in the signatory countries of the multilateral reciprocal agreements entered into by AGEDI for that purpose, and in the terms established in ANNEX 1.
- 2] The making available to the public right in the modalities of webcasting, podcasting and background music for websites, in the Spanish territory as well as in the rest of signatory countries of the multilateral reciprocal agreements entered into by AGEDI for that purpose, and in the terms established in ANNEXES 2, 3 and 4, respectively.
- 3] The reproduction right exclusively for, directly or indirectly, carrying out the activities referred to in previous paragraphs.

It is expressly excluded any other form of exploitation of phonograms via the Internet, mobile phone or other telematics networks.

Regarding music videos:

- 1] The public communication and reproduction for public communication rights carried out through music and audiovisual channels on a multi-territory basis.

Any other form of exploitation not expressly mentioned in this mandate shall be understood excluded, and in particular, the following operations shall in any case require the express authorisation of their rights holders:

- a) The synchronisation or first fixation of phonograms or music videos:
  - . In sound or audiovisual carriers for advertising purposes.
  - . In cinematographic works.
  - . In soap operas, television films, serials, documentaries and other analogous audiovisual works conceived, written and produced for television exploitation purposes.
- b) The use for advertising of phonograms or music videos, as well as their direct or indirect association with brands, products or services.

## Two

This agreement covers all phonograms previously commercialised by the RIGHTS HOLDER and music videos over which the RIGHTS HOLDER holds any of the original or derivative, or representation, rights mentioned in previous clause at the time of joining AGEDI. Regarding phonograms and music videos over which any of the rights mentioned the RIGHTS HOLDER may hold in the future, they shall be understood included in this agreement insofar as it is in force, unless the RIGHTS HOLDER expressly states otherwise, without prejudice of the rights which management must be carried out exclusively through collecting societies, according to that provided for by law.

### Three

Under this agreement, AGEDI is hereby empowered to exercise on behalf of the RIGHTS HOLDER the rights mentioned in clause one, according to that provided for in its Articles of Association. Statutory changes with an impact on the content of the management mandate shall have to be adequately reflected in its terms, and they shall have no effect for the RIGHTS HOLDER until they are incorporated to the terms of the agreement and it can be understood that the RIGHTS HOLDER has been able to know them and accept them according to that provided in next paragraph.

In case AGEDI makes amendments to the terms of this agreement, the RIGHTS HOLDER shall be notified that the new drafting of the terms is available on AGEDI website. New terms shall be understood as accepted by the RIGHTS HOLDER should it not state otherwise following thirty days from such communication, which shall have to be sent to the electronic mail address provided by RIGHTS HOLDER in the heading of this Agreement. Any change in such electronic mail address must be duly notified to AGEDI, and RIGHTS HOLDER shall face the negative consequences arising from having failed to notify a change of address.

If the RIGHTS HOLDER wishes to introduce in the agreement a change affecting the modalities of rights, or the type of provisions which management has been entrusted to AGEDI, it must state it expressly in writing.

In particular, the agreement hereby empowers AGEDI to:

- a) Conclude contracts on a non-exclusive basis for the use of phonograms and music videos which rights, as recognised in clause one, are held by RIGHTS HOLDER, subject to remuneration quantified according to the general tariffs or according to that agreed in contracts made to the purpose;
- b) Collect, perceive and charge for the rights revenues arising from the mentioned contracts or from the legal provisions according to which the rights of RIGHTS HOLDER have to be made effective;
- c) Determine the part to be perceived by RIGHTS HOLDER regarding the collected revenues, subject to the rights' distribution rules established by AGEDI according to the provisions of its Articles of Association;
- d) Exercise the actions that may proceed, both judicial and non-judicial, to safeguard the rights of RIGHTS HOLDER, which procedural actions AGEDI shall be able to settle and dismiss; and
- e) Exercise the rights entrusted to it and perform the management granted to it in any country through other analogous societies with which AGEDI would have signed reciprocal or unilateral representation agreements, in the terms agreed thereby and within the limits established in this mandate.

### Four

RIGHTS HOLDER is obliged to provide AGEDI with the necessary information to fulfil this agreement, as well as to refrain from performing actions that may harm AGEDI or do a disservice before others' consideration. If, besides, RIGHTS HOLDER is a member of AGEDI, it shall have to attend on time the payment of fees and other economic contributions that may be required, as well as to comply with that provided by the Articles of Association and with decisions adopted by AGEDI corporate governance bodies.

### Five

The term of this agreement shall be three years, from the date of signature, regardless of the date of the RIGHTS HOLDER admission in AGEDI; and on expiration it shall be extended tacitly on successive annual terms. At any time, the RIGHTS HOLDER shall be able to terminate the mandate prior notice of at least six months.

However, in the specific case of management of webcasting, podcasting and background music for websites, and because of the novelty of such services, the mandate shall be for one year, with extensions on a yearly basis, unless termination by the RIGHTS HOLDER, in writing with prior notice of at least two months before the expiration date. Termination under this clause shall only affect the mandate to manage those forms of exploitation.

Without prejudice of that provided in previous paragraph regarding webcasting, podcasting and background music for websites, the RIGHTS HOLDER shall be able to terminate partially the agreement, with prior notice of six months in respect of the end of the current calendar year, withdrawing from the mandate rights or forms of rights not configured by law as mandatory collective management, be that for all or part of the repertoire entrusted to the society, and for all or part of the territories covered by this agreement.

In all cases, full or partial termination of the contract shall take effect from 1st January the year following termination notice.

## Six

Territorial scope of this agreement covers the territory of Spain and that of countries where AGEDI had signed unilateral or reciprocal representation agreements with the relevant collecting societies of those countries, in the terms thereby agreed.

In case the RIGHTS HOLDER wishes to exclude from the present mandate the management of its rights in any or in all of the territories with whose collecting society AGEDI has signed a representation agreement, it shall communicate it to AGEDI in writing. Likewise, the RIGHTS HOLDER may request in writing to AGEDI at any time the withdrawal of its repertoire in any of the collecting societies with which AGEDI has signed representation agreements. The list of representation agreements entered into by AGEDI is published and periodically updated on the Association's website.

## Seven

As a compensation for the management of rights hereby governed, AGEDI shall withhold from the RIGHTS HOLDER a percentage of the rights subject to the present mandate, which is annually established on the annual budget and approved by the Board of Directors according to that provided for in the Association's Articles of Association. The relevant percentage is annually published on AGEDI's website, within a fortnight from its approval, as well as the minimum discount amount that shall be charged when the result of the application of the mentioned percentage does not reach the abovementioned amount; this does not apply for the first year of membership as it is covered by the entry fee paid at the moment of being admitted as a member.

## Eight

In the case of dissolution or liquidation of RIGHTS HOLDER (legal entity), and in the case of a merger, takeover or global transfer, this agreement shall persist with the acquirers of the rights entrusted to AGEDI for management, as well as with the new society, with the acquiring company or with the transferee, as appropriate, for all the duration of the agreement. Those acquiring the mentioned rights shall have to provide AGEDI with the proving documents, and in case those rights had been assigned to several persons in community, they shall appoint a representative before AGEDI to whom the appropriate power shall be granted.

## Nine

There shall be causes to terminate this agreement by AGEDI:

- a) Repeated breach, by RIGHTS HOLDER, of any of its contractual obligations, after having AGEDI sent formal request to RIGHTS HOLDER expressly and in writing requiring the compliance and having warned it of its decision to terminate the Agreement in case it was neglected.

- b) Having RIGHTS HOLDER been sentenced or convicted by virtue of final administrative resolution or judgement, as a result of actions involving an infringement of a phonographic producer's intellectual or industrial property rights, fraud, deception or any other analogue acts that may undermine rights of other phonographic producer, without prejudice of RIGHTS HOLDER being able to sign a new management mandate once the relevant administrative or criminal liability is extinguished.

## Ten

Your personal data shall be subject to treatment by AGEDI, Entidad de Gestión de Derechos de Propiedad Intelectual, for the management of intellectual property rights of phonogram producers and to manage and maintain the contractual and professional relationships. To carry out such management it is necessary to transfer your personal data to bank entities and the Tax Agency.

With the purpose of managing the distribution of rights, in the case that you have entrusted us the international management of your rights, it is necessary that your personal data are communicated to other collective management organisations, also to those based outside the European Union. Thus, this international transfer of data is necessary for the execution of its contract with AGEDI and always in its own interest.

The treatment of your personal data is necessary for the execution of the contract herein, and they shall be maintained by AGEDI for as long as the current contractual relationship is in force and during the 6 following years or during the terms foreseen and required by tax legislation and until the actions derived from the contract have prescribed.

You may exercise the right of access, rectification, cancellation, opposition and individual automated decisions, portability and limitation with respect to personal data treatment by addressing AGEDI's Legal Department, in María de Molina 39, 6ª planta, 28006, Madrid or by email to [protecciondedatos@agedi.es](mailto:protecciondedatos@agedi.es), attaching a copy of your ID document as duly prove of identity. You have the right to file a claim before the Spanish data protection agency (Agencia Española de Protección de Datos, AEPD) should you consider your rights have been infringed.

## Eleven

The present agreement comes into force on the date of signature and overturns any other agreement that could have been signed between RIGHTS HOLDER and AGEDI for the management of its rights.

## Twelve

For whatever issues that may arise in relation with this agreement, the parties shall be subject to the jurisdiction of the courts of Madrid, with express waiving of the courts that may otherwise correspond.

For the purposes of notices and summons, RIGHTS HOLDER points as notification address that stated in the heading of this agreement. In case of change of address, it gets obliged to communicate it to AGEDI by registered letter with acknowledgement of receipt, and it will be understood that the address remains the same until this communication takes place.

In witness thereof, the parties sign this agreement in the place and date stated above.



AGEDI

RIGHTS HOLDER

## SPECIAL TERMS

IN CASE THE RIGHTS HOLDER DOES NOT WISH TO ENTRUST AGEDI THE MANAGEMENT OF ANY OF THE RIGHTS NECESSARY TO CARRY OUT THE ACTIVITIES STATED BELOW, SUCH RIGHTS CAN BE RESERVED BY CLICKING THE FOLLOWING CHECK BOXES:

. Regarding phonograms, RIGHTS HOLDER wishes to reserve the rights corresponding to the following activities:

- 1) Simulcasting and non-interactive webcasting in the signatory countries of the multilateral reciprocal agreements entered into by AGEDI for that purpose, and in the terms established in ANNEX 1.

Simulcasting   
SIGNATURE: \_\_\_\_\_

Non-interactive webcasting   
SIGNATURE: \_\_\_\_\_

Comments .....

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- 2) The making available to the public right in the modalities of webcasting, podcasting and background music for websites, within the Spanish territory as well as in the rest of signatory countries of the multilateral reciprocal agreements entered into by AGEDI for that purpose, and in the terms established in ANNEXES 2, 3 and 4, respectively.

Webcasting   
SIGNATURE: \_\_\_\_\_

Podcasting   
SIGNATURE: \_\_\_\_\_

Background music for websites   
SIGNATURE: \_\_\_\_\_

Comments .....

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- 3) The reproduction right exclusively for, directly or indirectly, carrying out the activities referred to in the two previous paragraphs.

SIGNATURE: \_\_\_\_\_

Comments .....

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• Regarding music videos, the RIGHTS HOLDER wishes to reserve the rights corresponding to the following activities:

1) The public communication right, that covers television broadcasting, including satellite broadcasting; wireless retransmission and public dissemination of music videos broadcast on television; cable transmission of the referred music videos and their use in commercial premises, public transport means or other analogous places and simulcasting, all of it within the Spanish territory; There shall not be affected by this reserve the public communication of music videos in the modalities foreseen in article 20.2 f) and g) of Spanish Intellectual Property Law, which according to its article 122, sect. 2 and 3, must be necessarily managed through AGEDI.



SIGNATURE: \_\_\_\_\_

2) The reproduction right exclusively for, direct or indirect, public communication only in the modalities previously mentioned, regardless of the method used for sending copies of music videos.



SIGNATURE: \_\_\_\_\_

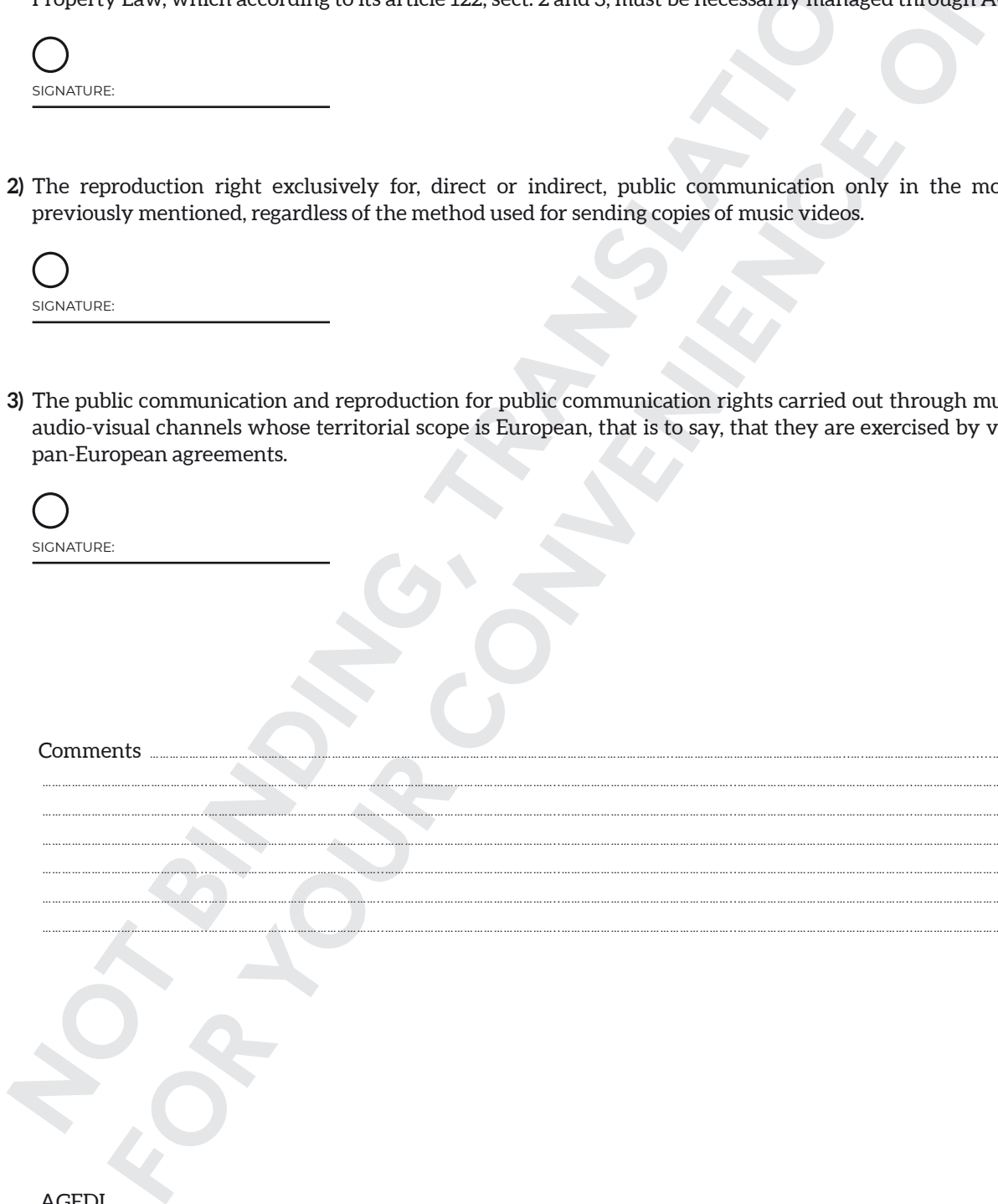
3) The public communication and reproduction for public communication rights carried out through music and audio-visual channels whose territorial scope is European, that is to say, that they are exercised by virtue of pan-European agreements.



SIGNATURE: \_\_\_\_\_

Comments .....

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# ANNEXES

## ANNEX 1

### TERMS FOR ENTERING INTO SIMULCASTING AND NON-INTERACTIVE WEBCASTING CONTRACTS

**1** Definitions. To the purposes of this mandate, the following definitions shall apply:

- a) **Simulcasting:** simultaneous unaltered transmission by radio and TV broadcasters via the Internet or mobile networks of phonograms included in their single-channel and radio and TV free-to-air broadcasts, as long as they have been duly authorised.
- b) **Webcasting:** streaming of phonograms via the Internet, or mobile networks, provided that the primary purpose of the service is to sell, advertise or promote music products or services such as phonograms, live concerts or other music-related events, and in which streaming also complies with the following requirements:
  - (i) that it is carried out in accordance with terms specified in subparagraph 2 of this Annex, and
  - (ii) that the operator cannot carry out nor contribute to the making of copies that could be usable after the end of the transmission.
- c) “Streaming of phonograms via the Internet or mobile networks” means a transmission that:
  - (i) is only made available for use via the World Wide Web or mobile networks and it is accessible for all users by means of a general purpose browser capable of accessing substantially all other Internet services, and
  - (ii) enables that the phonograms transmitted are performed contemporaneously on or through a user’s computer or mobile device, without the user having the possibility to make any copies that would be usable after the cessation of the transmission, except for the transient reproduction necessary for offering such transmission, for instance, a data buffering.

For the avoidance of doubt, and without prejudice of other limitations specified in subparagraph 2, webcasting does not include any activities whereby the transmission of a phonogram commences upon the request of a user. Further, transmissions within closed proprietary systems and closed private networks are excluded.

**2** Operating conditions and other requirements that an operator must fulfil to sign a simulcasting or non-interactive webcasting contract with AGEDI are as follows:

**a) No advance publishing:**

The operator shall not publish or cause to be published, by means of an advance program schedule or prior announcements or in any other way, of the titles of the songs or the names of albums containing the songs to be transmitted nor, except for illustrative purposes, the names of the featured recording artists.

**b) Prohibition of use in advertising and synchronisation :**

The operator shall not broadcast in full or in part any phonograms for advertising purposes, either they are their own or third parties', unless expressly authorised.

It shall not reproduce in full or in part phonograms in audiovisual recordings of any type.

The operator shall not broadcast phonograms alone or as part of a service that offers transmissions of visual images, in a manner that is likely to cause confusion, to cause mistake, or to deceive as to any affiliation or association of the RIGHTS HOLDER with the operator, or with a particular service or product advertised by the operator; it shall not do it either in a manner that could cause confusion, to cause mistake, or to deceive as to any sponsorship or approval by the RIGHTS HOLDER or the featured artist of the activities of the operator other than the phonogram’s performance itself.

**c) Scanning and copying by recipient:**

The operator shall use effective technological measures (including those referred to the use of geo-blocking technologies or equivalent accepted at any time by the recording industry), insofar as they are commercially available and can be implemented without imposing unreasonable costs, with the purpose of preventing that:

- (i) recipients of the transmission or any other person or society can scan automatically the operator's transmissions alone or together with other operators' transmissions, with the aim of selecting particular phonograms to be broadcast to the recipient of the transmission;
- (ii) recipients of the transmission or any other person or organisation can make copies of phonograms. Therefore, no metadata regarding phonograms shall be provided to third parties, nor third parties shall be supported or allowed to recover and/or gather such metadata from transmissions;
- (iii) transmissions are available outside the territory or territories where they have been authorised;
- (iv) transmissions being retransmitted by the recipients of the transmission or any other person or organisation, by means of links or any other way. However, the operator shall be able to authorise third parties the retransmission of its transmissions, as long as it is simultaneous and unaltered, is made under the original brand or channel and it carried out from the operator's server. In any case, this operation must have the express authorisation of AGEDI.

**d) Technical protection measures:**

The operator shall accommodate and not interfere with technical measures used by rights holders to identify and protect phonograms, insofar as they do not cause a perceptible visual or aural degradation of the digital signal and the transmission is technically feasible without imposing substantial costs to the operator.

**e) Information for the management of intellectual property rights:**

Subject to conditions set in item f):

- (i) The operator shall identify the phonogram during the time it is performed, but not before, and the following details shall be shown: title of phonogram, title of the album if appropriate, and featured recording artist, so that the recipient is able to see them on the screen of its reception device;
- (ii) The transmission of the phonogram shall be accompanied, if technically feasible, by the information encoded in it and identify the title of the phonogram, performing artist and other related information.

**f) Prohibition to transmit unlawful phonograms:**

The operator shall not transmit unlawful phonograms, including bootlegs, nor shall broadcasted phonograms that are not yet been made available for webcasting in the territory where the operator is established. It shall not re-mix, edit or otherwise modify the phonograms, so that what is broadcasted would be different from the original phonogram.

**g) Automatic channel switching and skip and pause buttons:**

The operator shall not permit that the device receiving the transmission switches automatically from one channel to another, and shall not incorporate skip, pause or back buttons into the service.

The operator shall not include any functionality that allows the recipients to personalize the service, such as choosing music genres, choosing artists, or rating songs or artists.

It shall neither offer indexing nor search functions that allow the recipient of the service to choose phonograms from a particular artist or album.

**h) Moral rights:**

The operator shall broadcast phonograms by always respecting the moral rights of authors and artists or featured recording artists.

The operator shall act with diligence when selecting and using phonograms so as not to denigrate artistic integrity of any protected works or any performance embedded on them, and not giving them a derogatory treatment. Besides, the operator shall not perform any of the phonograms together with any images that would have any of the described effects or which is illegal or offensive.

The operator shall not include in the service any mention to gambling games, alcoholic drinks, tobacco, pornography, drugs, music piracy, violence, vulgar, irreverent or offensive contents, or to unlawful activities or content. The foregoing includes, without limitation, intellectual property rights infringement (including file sharing), racism, homophobia, hatred, fraud or infringement of the third parties rights.

The operator shall be obliged to withdraw from the service any particular phonograms if so was requested by the RIGHTS HOLDER, by means of a notice duly reasoned and communicated by AGEDI to the operator.

**i) Security conditions:**

The operator shall have to comply with the security conditions and DRM established by AGEDI.

**3|** Additionally, non-interactive webcasting services shall have to fulfil the following requirements:**a) Transmission of phonograms:**

The operator shall not transmit within a 3-hour period:

- (i) more than 3 different songs from a particular album, including no more than 2 consecutively, or
- (ii) more than 4 different songs by a particular artist or from a compilation of songs, including no more than 3 consecutively.

**b) Archived and looped programming:**

Transmission shall not be part of:

- (i) an archived programme of less than 5 hours in duration, or
- (ii) an archived programme of 5 hours or greater that is available for a period exceeding 2 weeks, or
- (iii) a continuous program with is of less than 3 hours duration.

**c) Repeat of other programmes:**

In archived or continuous programmes, the transmission shall not consist of identifiable programs in which phonograms are offered in a predetermined order that is transmitted:

- (i) more than 3 times in any 2-week period that has been publicly announced in advance, in the case of a program of less than one hour in duration, or
- (ii) more than 4 times any 2-week period that has been publicly announced in advance, in the case of a program with one hour or more in duration.

## ANNEX 2

### TERMS FOR ENTERING INTO WEBCASTING CONTRACTS

**1** Definitions: To the purposes of this mandate, the following definitions shall apply:

a) Webcasting: streaming of phonograms via the Internet, or mobile networks, provided that the primary purpose of the service is to sell, advertise or promote music products or services such as phonograms, live concerts or other music-related events, and in which streaming also complies with the following requirements:

- (i) that it is carried out in accordance with terms specified in subparagraph 2 of this Annex, and
- (ii) that the operator cannot carry out nor contribute to the making of copies that could be usable after the end of the transmission.

b) "Streaming of phonograms via the Internet or mobile networks" means a transmission that:

- (i) is only made available for use via the World Wide Web or mobile networks and it is accessible for all users by means of a general purpose browser capable of accessing substantially all other Internet services, and
- (ii) enables that the phonograms transmitted are performed contemporaneously on or through a user's computer or mobile device, without the user having the possibility to make any copies that would be usable after the cessation of the transmission, except for the transient reproduction necessary for offering such transmission, for instance, a data buffering.

For the avoidance of doubt, and without prejudice of other limitations specified in subparagraph 2, webcasting does not include any activities whereby the transmission of a phonogram commences upon the request of a user. Further, transmissions within closed proprietary systems and closed private networks are excluded.

**2** Operating conditions and other requirements that an operator must fulfil to sign a contract with AGEDI are as follows:

a) **No advance publishing:**

The operator shall not publish or cause to be published, by means of an advance program schedule or prior announcements or in any other way, of the titles of the songs or the names of albums containing the songs to be transmitted nor, except for illustrative purposes, the names of the featured recording artists.

b) **Transmission of phonograms:**

The operator shall not transmit within a 3-hour period:

- (i) more than 3 different songs from a particular album, including no more than 2 consecutively, or
- (ii) more than 4 different songs by a particular artist or from a compilation of songs, including no more than 3 consecutively.

c) **Archived and looped programming:**

Transmission shall not be part of:

- (i) an archived programme of less than 5 hours in duration;
- (ii) an archived programme of 5 hours or greater that is available for a period exceeding 2 weeks;
- (iii) a continuous program with is of less than 3 hours duration.

**d) Repeat of other programmes:**

In archived or continuous programmes, the transmission shall not consist of identifiable programs in which phonograms are offered in a predetermined order that is transmitted:

- (i) more than 3 times in any 2-week period that has been publicly announced in advance, in the case of a program of less than one hour in duration, or
- (ii) more than 4 times any 2-week period that has been publicly announced in advance, in the case of a program with one hour or more in duration.

**e) Prohibition of use in advertising and synchronisation:**

The operator shall not broadcast in full or in part any phonograms for advertising purposes, either they are their own or third parties', unless expressly authorised.

It shall not reproduce in full or in part phonograms in audiovisual recordings of any type.

The operator shall not broadcast phonograms alone or as part of a service that offers transmissions of visual images, in a manner that is likely to cause confusion, to cause mistake, or to deceive as to any affiliation or association of the RIGHTS HOLDER with the operator, or with a particular service or product advertised by the operator; it shall not do it either in a manner that could cause confusion, to cause mistake, or to deceive as to any sponsorship or approval by the RIGHTS HOLDER or the featured artist of the activities of the operator other than the phonogram's performance itself.

**f) Scanning and copying by recipient:**

The operator shall use effective technological measures (including those referred to the use of geo-blocking technologies or equivalent accepted at any time by the recording industry), insofar as they are commercially available and can be implemented without imposing unreasonable costs, with the purpose of preventing that:

- (i) recipients of the transmission or any other person or society can scan automatically the operator's transmissions alone or together with other operators' transmissions, with the aim of selecting particular phonograms to be broadcast to the recipient of the transmission;
- (ii) recipients of the transmission or any other person or organisation can make copies of phonograms. Therefore, no metadata regarding phonograms shall be provided to third parties, nor third parties shall be supported or allowed to recover and/or gather such metadata from transmissions;
- (iii) transmissions are available outside the territory or territories where they have been authorised, and
- (iv) transmissions being retransmitted by the recipients of the transmission or any other person or organisation, by means of links or any other way. However, the operator shall be able to authorise third parties the retransmission of its transmissions, as long as it is simultaneous and unaltered, is made under the original brand or channel and it carried out from the operator's server. In any case, this operation must have the express authorisation of AGEDI.

**g) Technical protection measures:**

The operator shall accommodate and not interfere with technical measures used by rights holders to identify and protect phonograms, insofar as they do not cause a perceptible visual or aural degradation of the digital signal and the transmission is technically feasible without imposing substantial costs to the operator.

**h) Information for the management of intellectual property rights:**

Subject to conditions set in item f):

- (i) the operator shall identify the phonogram during the time it is performed, but not before, and the following details shall be displayed: title of phonogram, title of the album if appropriate, and featured recording artist, so that the recipient is able to see them on the screen of its reception device;
- (ii) the transmission of the phonogram shall be accompanied, if technically feasible, by the information encoded in it and identify the title of the phonogram, performing artist and other related information.

**i) Prohibition to transmit unlawful phonograms:**

The operator shall not transmit unlawful phonograms, including bootlegs, nor shall broadcast phonograms that are not yet been made available for webcasting in the territory where the operator has its establishment. It shall not re-mix, edit or otherwise modify the phonograms, so that what is transmitted would be different from the original phonogram.

**j) Automatic channel switching and skip and pause buttons:**

The operator shall not permit that the device receiving the transmission switches automatically from one channel to another.

The operator shall be able to incorporate skip and pause buttons into the service that allow for a maximum of six skips per hour. It shall not incorporate a back button.

For the avoidance of doubt, the operator shall not include any functionality that allow the recipients to personalize the service, such as choosing music genres, choosing artists, or rating songs or artists.

It shall neither offer indexing nor search functions that allow the recipient of the service to choose phonograms from a particular artist or album.

**k) Moral rights:**

The operator shall broadcast phonograms by always respecting the moral rights of authors and artists or featured recording artists.

The operator shall act with diligence when selecting and using phonograms so as not to denigrate artistic integrity of any protected works or any performance embedded on them, and not giving them a derogatory treatment. Besides, the operator shall not perform any of the phonograms together with any images that would have any of the described effects or which is illegal or offensive.

The operator shall not include in the service any mention to gambling games, alcoholic drinks, tobacco, pornography, drugs, music piracy, violence, vulgar, irreverent or offensive contents, or to unlawful activities or content. The foregoing includes, without limitation, intellectual property rights infringement (including file sharing), racism, homophobia, hatred, fraud or infringement of the third parties rights.

The operator shall be obliged to withdraw from the service any particular phonograms if so was requested by the RIGHTS HOLDER, by means of a notice duly reasoned and communicated by AGEDI to the operator.

**l) Security conditions:**

The operator shall have to comply with the security conditions and DRM established by AGEDI.

## ANNEX 3

### TERMS FOR ENTERING INTO PODCASTING CONTRACTS

1| To the purposes of this mandate, the following definitions shall apply:

- a) **Broadcast:** an off-to-air television or radio broadcast by Hertzian waves, satellite or cable transmission.
- b) **Broadcast organization:** entity which provides the broadcast.
- c) **Entity:** broadcasting entity or any other entity that engages in broadcasting.
- d) **Catch-up:** offering of a program that has been previously broadcast by the Entity.
- e) **Podcast** (portable on demand broadcast): making available to the public of a program aimed at the recipient making an electronic copy in digital format.
- f) **Preview:** offering of a program that shall be broadcasted by the entity within 30 days following the date of the offering.
- g) **Offering:** making available of a program by streaming or as podcast, via the Internet or mobile networks, where it is accessible to any user by means of a web browser capable to access substantially all Internet services or existing mobile networks; or via an application.
- h) **Pause:** user's ability to stop playback of a program and then, on request, continue playback of the program from the point that it stopped.
- i) **Program:** clearly separate identifiable radio or television program (including episodes of series) or a clearly identified and unedited part thereof.
- j) **Skip:** ability provided through whatever technical means, for a user upon request and at the time chosen by him, to advance or retreat to a particular point of the program.
- k) **Streaming:** transmit a program from a server, via the Internet and/or mobile networks, that is substantially contemporaneous with the rendering of the phonogram using a technology that prevents that the reproduction of the phonogram would be usable after the cessation of the transmission, except for the transitory reproduction required to render such transmission, for instance, a data buffering.

2| Activities covered.

This contract allows to license on a non-exclusive basis the entities to offer phonograms incorporated in certain of their programs via the Internet or mobile networks, whether they are the offering of a preview or a catch-up, provided that they comply with the following requirements:

- a) The programs shall be offered from a server owned or controlled by the entity, accessed only through the publicly accessible website or application.
- b) ) The recipient of the service shall have to agree, in advance of receiving the offering of the program, to only use it for their own personal non-commercial use.
- c) The program shall not contain any "back to back" music, however one time occurrence of no more than three songs in a row within one program is allowed.



- d) The signature of podcasting contracts regarding programs that highlight or focus on a single artist or group, or on several artists or groups, or on one or several music genres, such as chart shows, artist documentaries, etc. for instance, require prior consent from the record company RIGHTS HOLDER of the phonograms used in the program;
- e) The entity shall need to have previously signed a dubbing contract for the initial incorporation of phonograms into the programs offered under this agreement, as well as a public communication contract for the broadcast of the program;
- f) For the avoidance of doubt, AGEDI may only sign podcasting contracts with entities that hold a valid contract for the broadcasting of phonograms included in the programs. Accordingly, services that do not broadcast the programs they offer shall not possibly sign podcasting contracts;
- g) The offering of programs shall not be done in order to sell, advertise or promote particular services or products different from phonograms. However, the association of a program with a commercial brand under a sponsorship agreement is allowed, provided that the program does not bear the name of the sponsor and that no reference is made, either audibly or visually, to the sponsor when the phonogram is playing;
- h) The entity shall not broadcast phonograms alone or as part of a service that offers broadcasts of visual images, in a way that could lead to confusion, or mislead, in respect of an alliance or association of the RIGHTS HOLDER with the operator, or with particular services or products advertised by the operator; it shall not do it either in a way that could lead to confusion or mislead, in respect of the sponsorship or approval by the RIGHTS HOLDER or the artist of the activities of the operator, except for what refers to the phonogram's broadcast itself.

For the avoidance of doubt, the offer of programs set out here does not include any activity whereby the transmission of a particular phonogram commences upon the request of a user, or where phonograms would in any other manner be made available individually to recipients of the service.

The contracts signed between AGEDI and podcasting operators cannot cover the use of music videos.

**3** | Technical conditions and other requirements that any entity must fulfil to sign a podcasting contract with AGEDI are as follows:

**a) Scanning and copying by recipient:**

The entity shall use effective technological measures (including those referred to the use of geo-blocking technologies or equivalent accepted at any time by the recording industry), insofar as they are available in the market and can be implemented without an excessive cost, with the purpose of avoiding that:

- (i) recipients of the transmission or any other person or society can scan automatically the operator's transmissions alone or together with other operators' transmissions, with the aim of selecting particular phonograms to be broadcasted to the recipient of the transmission;
- (ii) recipients of the transmission or any other person or organisation can make copies of phonograms. Therefore, no metadata regarding phonograms shall be provided to third parties, nor third parties shall be supported or allowed to recover and/or gather such metadata from transmissions;
- (iii) transmissions are available outside the territory or territories where they have been authorised, and
- (iv) transmissions being retransmitted by the recipients of the transmission or any other person or organisation, by means of links or any other way. However, the operator shall be able to authorise third parties the retransmission of its transmissions, as long as it is simultaneous and unaltered, is made under the original brand or channel and it carried out from the operator's server. In any case, this operation must have the express authorisation of AGEDI.

**b) Technological protection measures:**

The entity shall assume and not interfere with technological measures used by rights holders to identify and protect phonograms, insofar as they do not cause a perceptible visual or aural degradation in the digital signal and the transmission is technically feasible without imposing excessive costs to the entity.

**c) Prohibition of use in advertising and synchronisation:**

The entity shall not broadcast in full or in part any phonograms for advertising purposes, either they are their own or third parties', unless expressly authorised. It shall not reproduce in full or in part any phonograms in audiovisual recordings of any type.

**d) Information for the management of intellectual property rights:**

Subject to terms set in item a):

- (i) the entity shall identify the phonogram during the time it is being transmitted and not before, and the following details shall be shown: title of phonogram, title of the album if appropriate, and featured recording artist, so that the recipient is able to see them on the screen of its reception device;
- (ii) the transmission of the phonogram shall be accompanied, if technically feasible, by the information encoded in it and identify the title of the phonogram, performing artist and other related information.

**e) Prohibition to broadcast unlawful phonograms:**

The entity shall not broadcast unlawful phonograms, including bootlegs, nor shall broadcast phonograms that are not yet available for broadcasting or transmission in the territory where the entity is established. It shall not re-mix, edit or otherwise modify the phonograms, so that what is broadcast would be different from the original phonogram, so that what is transmitted is different from the original phonogram.

**f) Automatic channel switching, skip and pause buttons and customisation of the service:**

The entity shall not permit the broadcast's receiver device to switch from one program to another.

The entity shall not incorporate skip, forward or backward buttons (except for a case limited to the recipient being able to pause the transmission or move it forward or backward to a point of the program, at his/her choice and in the time chosen by him/herself) into any part of its service and shall neither include any functionalities that allow the recipients of the service customisations of transmissions or podcasts, such as choosing music genres, choosing artists, choosing albums, voting for songs or voting for artists or albums. The user shall neither go back or forth, nor skip or forward within a program, from one phonogram to another.

**g) Moral rights:**

The entity shall broadcast phonograms by always respecting the moral rights of authors and artists or performing artists.

The entity shall act with diligence when selecting and using phonograms to not denigrate artistic integrity of any protected work or performance embedded on it, and without treating them disrespectfully. Besides, the operator shall not perform any of the phonograms together with any images that would have any of the described effects or which is illegal or offensive.

The entity shall not include in the service any mention to gambling games, alcoholic drinks, tobacco, pornography, drugs, music piracy, violence, vulgar, irreverent or offensive contents, or to unlawful activities or content.

The foregoing includes, without limitation, intellectual property rights infringement (including file sharing), racism, homophobia, hatred, fraud or infringement of the third parties' rights.

The entity shall be obliged to withdraw from the service any particular phonograms if so was requested by the RIGHTS HOLDER, by means of a notice duly reasoned and communicated by AGEDI to the entity.

**h) Security conditions:**

The entity shall have to comply with the security conditions and DRM established by AGEDI.

NOT BINDING - TRANSLATION ONLY  
FOR YOUR CONVENIENCE ONLY

## ANNEX 4

### TERMS FOR ENTERING INTO CONTRACTS FOR THE EXPLOITATION OF BACKGROUND MUSIC ON WEBSITES

1| To the purposes of this mandate, the following definitions shall apply:

- a) Background music for websites: communication to the public of phonograms, insofar as it is done through a transmission:
  - (i) that is only made available for use via the Internet and accessible to a user by means of a general web browser capable of accessing substantially all other Internet services;
  - (ii) that allows to listen to the phonograms transmitted through a user's computer and that excludes the making of copies of the phonograms by users;
  - (iii) that meets the criteria set out in point 3 of this agreement, and
  - (iv) that is carried out exclusively via streaming or online streaming.
- b) Skip: ability, provided by whatever technical means, for a user of the service to advance or retreat to a particular point of the stream, upon request and at the time chosen by him.
- c) Streaming or online streaming: provision of a song via the Internet that is substantially contemporaneous with the transmission from a server, using a technology that is designed not to result in a reproduction of the phonogram that would be usable after the cessation of the transmission, other than the transient reproduction required to render such contemporaneous performance, for instance, a data buffering.

For the avoidance of doubt, transmissions within closed proprietary systems and closed private networks or mobile phone networks likewise are excluded from the scope of this agreement.

2| Activities covered.

This agreement allows to authorise on a non-exclusive basis the use of phonograms as background music on websites that pertain to private individuals, associations or businesses whose primary location or domicile is in Spain, provided that they comply with the following requirements:

- a) the total length of all the tracks used as background music shall not exceed 15 minutes;
- b) the streams may not include more than one track per artist and must have a minimum of 2 tracks;
- c) the streaming shall be done using non-downloadable formats;
- d) the streams are in audio only format;
- e) the streamed content must have been legally purchased;
- f) the streams must commence automatically on visiting the website or once a visitor to the website scrolls over a particular area of the website;
- g) visitors may not have the ability to select, pause, back, replay or skip the tracks;

- h) the authorised website shall not advertise, announce or feature in any manner the titles of the particular tracks or the names of albums incorporating such songs to be used as background music, or the names of the featured recording artists or suggest by implication or otherwise any endorsement by such featured artist of any product or service. The titles of the tracks or the names of the albums incorporating such tracks or the names of featured artists shall not be used in the website metadata, so as to prevent the website coming up in search results for the tracks or the albums incorporating the tracks or the featured artists, or stream rippers from crawling the site to find the songs or the albums incorporating them or the featured artists;
- i) only one contract can be signed with a single individual, association or business;
- j) the website signing the contract carries no third party advertising;
- k) in the event that a recording artist should object to use of its recordings in the authorised website or in the event that the producer concerned believed that such continued use will subject it to legal liability or affected negatively its relationship with the recording artist concerned, then upon notice to the operator hereunder the operator shall immediately remove such phonograms from its website or shall substitute recordings by an alternative recording artist;
- l) linking to tracks is not allowed. The authorised website shall not allow, authorise or promote access to the tracks through other websites or services operated by third parties or the operator itself;
- m) the RIGHTS HOLDER shall have the right to withdraw any particular songs or artists from the contract;
- n) the maximum term of a contract is 12 months provided that it may be renewed by mutual agreement in same length or shorter increments;
- o) the operator shall not synchronise the tracks with any particular visual materials;
- p) the operator shall be responsible for clearing the rights required for the use of the underlying musical works;
- q) the contract may be terminated immediately in the event of a breach by the operator.

The authorised websites shall not include in the service any mention to gambling games, alcoholic drinks, tobacco, pornography, illegal drugs, music piracy, violence, vulgar, irreverent or offensive contents, or to unlawful activities or content. The foregoing includes, without limitation, intellectual property rights infringement (including file sharing), racism, homophobia, hatred, fraud or infringement of the rights of others.

AGEDI shall not sign contracts with websites or businesses offering digital music services.

### 3| To sign a contract with AGEDI, websites must fulfil the following operating conditions:

- a) The operator shall use effective technologies, insofar as such technologies are commercially available and can be implemented without imposing unreasonable costs, which aim is to prevent the visitors of the website from making copies of the phonograms and further transmitting them; and
- b) The operator shall not re-mix, edit nor otherwise modify phonograms so that what is streamed would be different from the original sound recording.
- c) The operator shall act with diligence when selecting and using phonograms so as not to denigrate artistic integrity of any protected work or any performance embodied on it, and not to subject them to derogatory treatment. Besides, it shall not perform any of the phonograms together with images that would have any of these described effects, or which are illegal or offensive.

**AGEDI**

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