

**Unilateral Agreement Concerning the Rights of Performers  
between SOCINPRO and SAMPRA**

The undersigned Parties:

**SOCINPRO - SOCIEDADE BRASILEIRA DE ADMINISTRAÇÃO E PROTEÇÃO DE DIREITOS INTELECTUAIS** (thereinafter referred to as SOCINPRO) whose registered office is at AV. PRESIDENTE WILSON, 210 – 9º ANDAR – RIO DE JANEIRO – BRAZIL- CEP 20030-021, represented by its JORGE DE SOUZA COSTA, General Director and ALTAY VELLOSO DA SILVA, Secretary Director, specifically authorised for the purposes of the present contract.

On the one hand

And

**The South African Music Performance Rights Association ("SAMPRA")**

20 De Korte Street, Braamfontein, 2001, Johannesburg, South Africa

Tel: +27 11 789 5784

e-mail: [info@sampira.org.za](mailto:info@sampira.org.za)

Represented by Pfanani Lishivha, Chief Executive Officer

On the other hand

Declare that

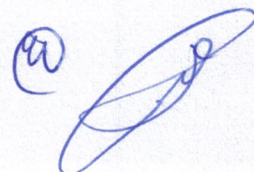
**Whereas** SAMPRA has entered into a bilateral agreement with ABRAMUS for the representation by ABRAMUS of SAMPRA's repertoire in Brazil and for the representation of ABRAMUS's repertoire by SAMPRA in South Africa;

**And whereas** that bilateral agreement expressly excludes from SAMPRA's representation in South Africa the repertoire of SOCINPRO (which ABRAMUS does not represent);

**And whereas** SOCINPRO wishes to appoint SAMPRA as representative of its repertoire in South Africa;

**And whereas** SOCINPRO acknowledges that SAMPRA has established an effective system of management that enables it to distribute remuneration, royalties and/or compensation (hereinafter collectively referred to as "Remuneration") to performers on an individual basis, in, as far as possible, proportion to the actual use of their protected recordings;

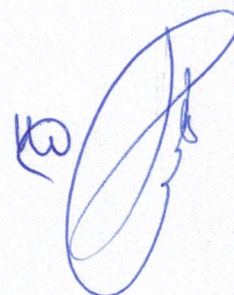
**And whereas** the purpose of this Agreement is to facilitate (i) the collection in South Africa by SAMPRA of Remuneration on behalf of performers represented by SOCINPRO (hereinafter the "SOCINPRO Members") and (ii) the payment by SAMPRA to SOCINPRO of such Remuneration;





**And whereas** SAMPRA is able to allocate individual Remuneration to SOCINPRO Members on an accurate, databased system of distribution and according to the same rules as for its own members, from the entry into force of this Agreement;

They now enter into the following

A handwritten signature in blue ink, consisting of a stylized 'W' followed by a large, loopy flourish that ends in a small hook.



## **AGREEMENT**

### **Article 1 - Territory of the Agreement**

**This Agreement covers the management of SOCINPRO Members' performers' rights in South Africa (the "Territory").**

SAMPRA is operating in South Africa under the provisions of the performers' Protection Act, No. 11 of 1967 (as amended by the Performers' Protection Amendment Act No. 8 of 2002) and the *Copyright Act* No. 98 of 1978 (as amended by the Copyright Amendment Act of 2002), and of its bylaw and internal regulations.

SOCINPRO is operating in Brazil under the provisions of by Copyright Law 9.610/98.

### **Article 2 - Authorization to Manage**

SOCINPRO has been empowered by its Members to represent them abroad via agreements with similar societies in other countries and territories.

SOCINPRO warrants that it is entitled to represent its Members for whom it claims Remuneration within the Territory with respect to the rights specified in Annex I to this Agreement.

In accordance with the mandates or assignments given to it by its Members, SOCINPRO empowers SAMPRA to represent its Members in the Territory as to the use of recorded performances protected under national laws and the applicable international conventions, with respect to the rights specified in Annex I to this Agreement.

SOCINPRO certifies that on the date hereof its members are not in any way affiliated with or represented by any other agency or non-profit Organization, or any other person or legal entity for the same Rights in the Territory.

SOCINPRO indemnifies and hold harmless SAMPRA against any claims, demands expenses or liabilities caused by reason of SOCINPRO's breach of its warranties, representations and any other obligation as set out in this Agreement

### **Article 3 – Rightsholders covered by this Agreement**

This Agreement covers the rights of only those SOCINPRO Members who have authorized SOCINPRO to represent them in the territories of both *Contracting Parties*.

SOCINPRO shall provide to SAMPRA lists of its Members on a regular basis and on request confirm that new applicants to its society do not already hold membership in SAMPRA. In the event that an applicant or SOCINPRO Member is found to be a member of SAMPRA, SOCINPRO shall be informed.



Performers who are members of both *Contracting Parties* are not covered by this Agreement.

Heirs of deceased SOCINPRO Members may succeed in their membership.

#### **Article 4 - Code of Conduct**

The Contracting Parties agree to observe the SCAPR Code of Conduct, which forms an integral part of this Agreement. Amendments will automatically be included, unless objection is expressed by one Contracting Party to the other no later than three (3) months after the amendments have entered into force. In such case, the Contracting Parties agree to renegotiate and update this Agreement accordingly in good faith and in a spirit of collaboration.

#### **Article 5 - Liability**

SAMPRA shall cooperate to ensure that SOCINPRO Members receive rightful Remuneration in accordance with its national legislation and applicable distribution rules.

Any claim for Remuneration by SOCINPRO Members shall be settled by SOCINPRO. No SOCINPRO Member may claim directly from SAMPRA.

#### **Article 6 - Cooperation**

The *Contracting Parties* agree to provide each other with any other information, and to take any steps necessary for the proper functioning of this Agreement and for the effective management of the rights referred to in Annex I.

The Contracting Parties shall inform each other of any changes in their applicable legislations, statutes, bylaws, internal regulations, and distribution schemes.

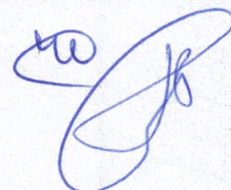
#### **Article 7 - Management Costs**

The Contracting Parties shall cover their own costs incurred in the application of this Agreement.

#### **Article 8 - Settlement of Disputes**

By negotiation, the Contracting Parties shall make every effort to settle any disputes that may arise from or in connection to this Agreement or its application.

However, in the event that such a dispute leads to legal proceedings, the said dispute shall be submitted to and governed by the law of the Defendant's court of jurisdiction, and the language to apply shall be English.





## **Article 9 - Force Majeure and Hardship**

If for reasons of force majeure or hardship a Contracting Party cannot fulfill its obligation in accordance with this Agreement, the necessary consequences shall be negotiated by both Contracting Parties or settled in accordance with Art. 8. The Contracting Parties may then renegotiate this Agreement in good faith, taking into account any changes that may have occurred.

## **Article 10 - Non-Transferability of the Agreement**

Neither of the Contracting Parties shall have the right to assign this Agreement in part or in whole to any third party whatsoever without the written consent of the other Contracting Party.

## **Article 11 - Revision of Legislation**

In the event of an amendment to an applicable national law or international convention or treaty, or the adoption of a new international instrument having resulted in the introduction of new rights or in the extension of existing ones, the Contracting Parties hereby agree to re-discuss this Agreement in good faith so that the mutual powers of management may reflect the new provisions or rights.

## **Article 12 - Data Protection**

SAMPRA shall ensure that in performing its obligations under this Agreement, it complies with the provisions and obligations imposed on it by legislation (including data protection legislation) in force from time to time in its Territory.

SAMPRA shall establish and maintain all reasonable technical and organizational measures, in accordance with current industry standards against unauthorized loss or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data. Such measures shall ensure a level of security appropriate to the harm that might result from a data protection event and the nature of the personal data, having regard to the state of technological development and the cost of implementing the measures.

SOCINPRO shall be responsible for obtaining any necessary consent for the collection and use of personal data that it may transfer to SAMPRA.

Where a Contracting Party ("supplying party") supplies the other Contracting Party ("receiving party") pursuant to this Agreement, to the extent that there are any rights (including but not limited to copyright, proprietary and database rights), title or interest in the data or information, and the supplying party owns or controls such rights, title or interest, the supplying party shall retain any and all legal rights, title and interest in such data or information. The receiving party acknowledges that it: (a) acquires no rights, title or interest in such data or information, save that it shall have a non-exclusive licence for the duration of the Agreement to only use the data or information for purposes relating to the proper Remuneration of performers and producers, and (b) shall comply with the reasonable instructions of the supplying party relating to such data or information. The receiving party may also disclose such data and information as required by tribunal or regulatory body with appropriate authority, or by order of court.



### Article 13 - Confidentiality

The Contracting Parties shall take appropriate steps to ensure the confidentiality of information, to the extent required by the other Contracting Party or the applicable statutory provisions. Unless otherwise agreed by the Parties all information obtained from a Contracting Party regarding that Contracting Party or its members in the course of implementing this Agreement shall be regarded as confidential.

Each *Contracting Party* undertakes to the other that it will not at any time use, divulge or communicate to any person (except to its professional representatives or advisers or as may be required by law or by any legal or regulatory authority), any confidential information concerning the business or affairs of the other *Contracting Party* which may have or may in future come to its knowledge and each *Contracting Party* shall use its reasonable endeavours to prevent the publication or disclosure of any confidential information concerning such matters.

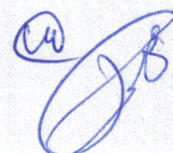
### Article 14 - Duration

This Agreement shall take effect as from the date last written below and shall remain in force until the end of the third calendar year following this date ("End Date").

It shall have an initial term of three (3) years and automatically renew for one (1) year at a time, unless notice of non-renewal is made via registered, or electronic mail (with confirmation by reply email) by either *Contracting Party* to the other no later than six (6) months before expiration of the contract term.

This Agreement:

- (a) shall terminate automatically if a *Contracting Party* (the "Insolvent Party") is wound up whether compulsorily or voluntarily (save for the purpose of reconstruction or amalgamation) or suffers an execution to be levied against its goods or property or has a receiver or administrator appointed over its assets or any of them or notice of any liquidation or other proceedings (including an application for an administration order) related to insolvency is served upon it; or
- (b) may be terminated immediately by a *Contracting Party* (by giving written notice sent by registered mail) upon the other *Contracting Party* being in persistent or material breach of this Agreement (and, in the case of material breach capable of remedy, having failed to remedy the same within thirty (30) days of receiving written notice to do so), especially in case a member of SOCINPRO is found to be a member of another PMO or a client of another Agency
- (c) Where this Agreement is terminated Remuneration collected from users and/or received from SAMPRA under this Agreement prior to such termination shall be distributed in accordance with the provisions of the Agreement notwithstanding such termination.





- (d) Where the termination is pursuant to Art. 14(a), if the terminating *Contracting Party* (or the non-Insolvent Party) is SAMPRA, it shall not be obliged to transfer collected Remuneration to SOCINPRO if, in its reasonable opinion, the grounds for such termination are such that it would not be in performers' interests to do so.

Articles 12 and 13 shall survive termination of this Agreement.

It shall be each *Contracting Party's* responsibility to notify the other *Contracting Party* promptly of any change to its address as given on the front of this Agreement, and any changed address as so notified shall then be the address to which any notices should be given under this Art. 14.

### Article 15 – Annex

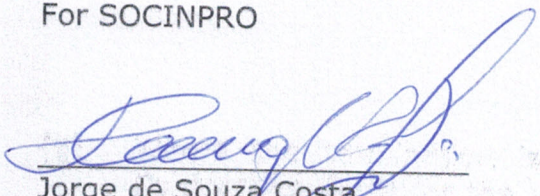
The Annex to this Agreement forms an integral part of this Agreement.


Date January , 01<sup>st</sup> of 2021\_\_\_\_\_

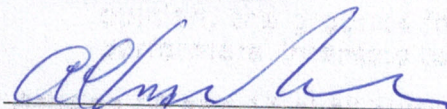
Date \_\_\_\_\_

For SOCINPRO

For SAMPRA

  
Jorge de Souza Costa  
General Director

  
Pfanani Lishivha  
Chief Executive Officer

  
Altay Velloso da Silva  
Secretary Director



## ANNEX I

### Article 1 - Performers' Rights Covered by the Agreement

The following performers' rights conferred to the rightholders of SOCINPRO are entitled:

- The right to equitable remuneration for the communication to the public of commercial phonograms, including broadcasting, webcasting and simulcasting, retransmission of broadcast and public performance.

All the above rights are granted by the South African Copyright Act and the Performers' Protection Act.

The criteria for protection of phonograms in South Africa are: performances taking place and broadcast without a fixation, or first fixed in South Africa, or first fixed in a country which is a member of the World Trade Organisation: Provided that the right conferred on performers in section 5(1)(b) shall, in the case of performances in the Republic, but emanating from a country which is a member of the World Trade Organisation, only be granted to them to the extent that performances emanating from the Republic enjoy corresponding protection in that country, and such performances of foreign origin shall not enjoy any wider protection in the Republic than is enjoyed in that country by performances emanating from the Republic.

### Article 2 - Objective of the Agreement

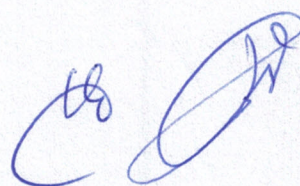
The objective of the Agreement is the transfer from SAMPRA to SOCINPRO Remuneration collected in the Territory on behalf of SOCINPRO Members in accordance with Art. 1 of Annex I.

SAMPRA shall distribute to SOCINPRO the Remuneration due to its members from the rights in Art. 1 of Annex I, since 2017.

Its initial transfer shall be made no later than **31 December 2021**.

SAMPRA shall base its distribution for featured and/or non-featured performers on the information provided in accordance with Art. 3 of Annex I.

SOCINPRO agrees not to lodge any claims against SAMPRA for payments related to periods prior to the dates in Annex I, or to represent their members in connection with claims relating to the said period.





## **Article 3 - Exchange of Information**

### **Article 3.1 - Information on Rightholders**

On an annual basis, SOCINPRO shall provide SAMPRA with the following and full databased information, as available, on its rightholders covered by the Agreement, to substantiate the claims for Remuneration. This information shall contain the following, to the extent possible:

- First name, last name, date of birth, local ID, IPN, pseudonym(s), nationality, country of residence, and group name(s).

This information shall be provided in a format supported by the systems of both Contracting Parties in accordance with the accepted standards of SCAPR.

SOCINPRO authorize SAMPRA to extract and download the above data directly from the IPD.

### **Article 3.2 - Recording Information for Audio Agreements**

Once a year and before the end of the respective months indicated below, the Contracting Parties shall exchange data files containing the following information, in full accordance with the procedure in the SCAPR Data Exchange Guidelines (SDEG).

1. Played Recordings to SOCINPRO (1 July)
2. Recording Claims to SAMPRA (30 September)
3. Distribution Statements and Exchange of Remuneration to SOCINPRO (30 November)

#### Track:

Title  
Main Artist  
Local Track ID  
Album/Single Title(s) (if available)  
Catalogue/Reference No(s) (if available)  
Record Company (if available)  
Label (if available)  
Year of Publication (if available)  
Year of Recording (if available)  
Date and Place of First Fixation (if available)  
ISRC Code or Others (if available)  
Composer (if available)



Performer:

IPN  
 Local ID  
 Performer Name  
 Date of Birth  
 Country of Birth  
 Nationality  
 Country of Residence  
 Role Code

The above information shall comprise all participating performers, irrespective of their membership or nationality.

The *Contracting Parties* may store the exchanged information regarding the specific tracks and the participating performers in their national recording databases.

### **Article 3.3 - Tax Treaties and Accountability**

SAMPRA shall make the required standard at source deductions required under its domestic tax legislation, unless exempted by the provisions of a tax treaty between Brazil and South Africa. If applicable, SAMPRA shall complete the procedures necessary for acquiring tax exemption or limitation on the payment of Remuneration due to SOCINPRO under the provisions of the relevant Double Taxation Agreement between the respective countries.

In no event shall the percentage of any cost deduction exceed that applied by SOCINPRO to its domestic distributions to its members.

### **Article 4 - Transfer of Remuneration**

Once a year and on or before the end of December SAMPRA shall send lists in digital format of databased information on the amounts to be passed on to named performers of SOCINPRO ("Statement").

SAMPRA shall transfer to SOCINPRO the Remuneration due to its members no later than thirty (30) days after communication of the Statement and any necessary documents required by law.

Payments by SAMPRA shall be made in **Rands** and the cost of transfer shall be paid by SAMPRA.

SAMPRA undertakes to apply the same principles and procedures for calculating and apportioning the payments to be distributed to SOCINPRO Members, as those applied to performers directly registered with SAMPRA.



## Article 5 - Payment to Performers

SOCINPRO shall use its best efforts to disburse to its Members, according to its own distribution rules and any other applicable internal rules, the Remuneration no later than six (6) months from its receipt of funds from SAMPRA.

If, however, the Remuneration cannot be paid out to its Members within twelve (12) months from the date of its receipt, the amount shall be returned to SAMPRA. If SOCINPRO pleads force majeure as stated in art. 9 of this agreement, the parties agree to settle the payment to performers according to art. 8 "Settlement of Disputes" of this agreement.

Notwithstanding the said, the amounts shall regardless of art. 9 of this agreement (Art. 9 Force Majeure and Hardship) be returned to SAMPRA if remuneration has not been paid out to performers by SOCINPRO 36 months after the date of reception of the remuneration.

## Article 6 - Non-Transfer of Remuneration

Individual remuneration reserved for rightholders who are residents of Brazil but not members of SOCINPRO, or who cannot be properly identified, shall remain in the Territory.

## Article 7 - Duration

This Annex shall enter into and remain in force simultaneously with the Agreement.

## Article 8 - Miscellaneous

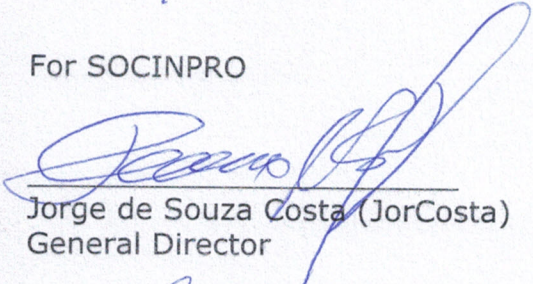
Remuneration collected under the Agreement shall be distributed in accordance with the Agreement, even if the Agreement has expired or one of the *Contracting Parties* has ceased its activities.

Date 04/04/2021

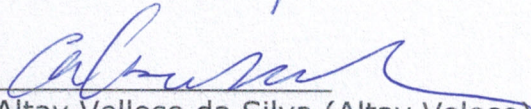
Date \_\_\_\_\_

For SOCINPRO

For SAMPRA

  
Jorge de Souza Costa (JorCosta)  
General Director

\_\_\_\_\_  
Pfanani Lishivha  
Chief Executive Officer

  
Altay Velloso da Silva (Altay Veloso)  
Secretary Director