

573232

**CONTRACT OF RECIPROCAL REPRESENTATION
(PERFORMING RIGHT)**

BETWEEN

COTT AND AMAR



49 RTD-CAPIT...
APRESENTADO E PROTOCOLADO...
REGISTRADO EM CD-R E MICROFILME...
2002
AAA573232

Between The undersigned:

Copyright Organisation of Trinidad and Tobago (COTT), whose registered office is, at, 45C Jerningham Avenue, Belmont, Port of Spain, Trinidad and Tobago; represented by its President, Christophe Grant, specifically authorized for the purpose of the present contract by General By-Law

on the one part;

and

Associação de Músicos Arranjadores e Regentes/Sociedade Musical (AMAR) whose registered office is at, Av. Rio Branco, 18-19 andar- Centro – RJ 20090-000, Brazil; represented by its President, Marco Venicio Mororo De Andrade, specifically authorised for the purpose of the present contract by Articles of Association

on the other part:

it is agreed as follows:

Art. 1(I) COTT assigns to AMAR the performing right (as defined in paragraph III of the Article), in the territories in which this latter Society operates (as defined and delimited in ART. 6(I) hereafter), and the right to authorise all public performances (as defined in paragraph (III) of this Article) of musical works, with or without lyrics, which are protected under the terms of national laws, bilateral treaties and multilateral international conventions relating to the author's right (copyright, intellectual property, etc.) now in existence or which may come into existence and enter into effect while the present contract is in force.

The assignment of the performing right referred to in the preceding paragraph is conferred insofar as the performing right in the works concerned has been, or shall be, during the period when the present contract is in force, assigned, transferred or granted by whatever means, for the purpose of its administration, to COTT by its members, in accordance with its By-Laws and Rules, the said works collectively constituting "the repertoire of COTT".

(II) Reciprocally, AMAR assigns to COTT the performing right (as defined in paragraph III of this Article), in the territory in which this latter Society operates (as defined in Art. 6(I) hereafter) and the right to authorize all public performances (as defined in paragraph III of this Article) of musical works, which or without lyrics, which are protected under the terms of national laws, bilateral treaties and multilateral



international conventions relating to the author's right (copyright, intellectual property, etc.) now in existence or which may come into existence and enter into effect while the present contract is in force.

The assignment of the performing right referred to in the preceding paragraph is assigned insofar as the performing right in the works concerned has been, or shall be, during the period when the present contract is in force, assigned, transferred or granted by whatever means, for the purpose of its administration, to **AMAR** by its members, in accordance with its Articles of Association and Rules, the said works collectively constituting "the repertoire of **AMAR**".

(III) Under the terms of the present contract, the expression "performing right" includes any right that now exists or may exist in the future performance of any musical work in public by any means whether now known or later invented and in any manner, of broadcasting of any musical work or of communication of any musical work to the public or authorizing or prohibiting any public performance, broadcast or any communication of any work to the public within the territories in which each of the contracting Societies operates. "Public performance" shall have a corresponding meaning and without limiting the generality of the foregoing, includes performances whether instrumental or vocal or both and whether provided by live means, by mechanical means (including but not limited to analog or digital sound recordings whether phonographic recordings, discs, wires, tapes, sound tracks and similar devices capable of reproducing sound); by processes of projection (including but not limited to videogrammes, whether sound film, tape, and similar devices capable of reproducing sound); by means of telecommunication (including but not limited to wire, radio, visual, optical or other electromagnetic system) and whether by radio communication, broadcast, diffusion or other transmission; and by any process whatsoever whether wired or wireless, (including but not limited to radio, television, telephonic apparatus, cable, fibre optic, satellite and similar means and devices); and whether made directly, relayed, rebroadcast or retransmitted.

With regard to direct broadcasting by satellite, the contracting Societies agree that the rights conferred by virtue of Art. 1 of this Contract are not limited to the territories of operation but are valid for all countries within the footprint of the satellite of which the transmissions are effected from the territories in which a contracting Society operates, subject to having obtained the other contracting Society's prior agreement as to the conditions under which the authorizations required for such transmissions may be delivered, insofar as the territories in which it operates are situated within the satellite's footprint.

(IV) Nothing shall imply authorization, consent or grant of any licenses in respect of mechanical reproduction rights or synchronization rights.

Art. 2(1) The assignment of performing right as referred to in Art. 1, entitles each of the contracting Societies, within the limits of the powers pertaining to it by virtue of the present contract, and of its own By-Laws, Articles of Association and Rules, and of the national legislation of the country or countries in which it operates;



- (A) to permit or prohibit, whether in its own name or that of the copyright owner concerned, public performances of works in the repertoire of the other Society and to issue the necessary authorizations for such performances;
- (B) to collect all royalties required in return for the authorizations issued by it as provided in (A) above);
- (C) to receive all sums due as indemnification or damages for unauthorized performances of the works in question;
- (D) to commence and pursue, either in its own name or that of the copyright owner concerned, any legal action against any person or corporate body and any administrative or other authority responsible for illegal performances of the works in question;
- (E) to transact, compromise, submit to arbitration, refer to any Court of Law, special or administrative tribunal;
- (F) to take other action for the purpose of ensuring the protection of the public performance right in the works covered by the present contract.

(II) The present contract being personal to the contracting Societies, and concluded on that basis, it is formally agreed that, without the express written authorization of one of the contracting Societies, the other contracting Society may not in any circumstances assign or transfer to a third party all or part of the exercise of the prerogatives or faculties to which it is otherwise entitled under the said contract and in particular under Art. 2 (1). Any transfer effected contrary to this clause shall be null and void without the fulfilment of any formality, except as regards a transfer limited to the administration of rights for purposes of diffusion by means of a fixed service satellite or similar device and operated in favour of a Society having concluded a reciprocal representation contract with each of the contracting Societies.

Art. 3(1) By virtue of the powers conferred by Articles 1 and 2, each of the contracting parties undertakes to enforce within the territory in which it operates the rights of the members of the other party in the same way and to the same extent as it does for its own members, and to do this within the limits of the legal protection afforded to a foreign work in the country where protection is claimed, unless by virtue of the present contract, such protection not being specifically provided in law, it is possible to ensure an equivalent protection. Moreover, the contracting parties undertake to uphold to the greatest possible extent, by way of the appropriate measures and rules, applied in the field of royalty distribution, the principle of solidarity as between the members of both Societies, even where by the effect of local law foreign works are subject to discrimination.



In particular, each Society shall apply to works in the repertoire of the other Society the same tariffs, methods and means of collection and distribution of royalties as those which it applies to works in its own repertoire.

(II) Each of the contracting Societies undertakes to send to the other Society any information for which it may be asked concerning the tariffs it applies to different kinds of public performance in its own territories.

(III) For the purpose of co-ordinating their efforts to raise the level of copyright protection in their respective countries and with a view to equating the economic content of the present contract, each society undertakes, at the request of the other Society, to seek the most effective means to this end.

Art. 4 Each of the contracting parties shall place at the disposal of the other all documents enabling the latter to justify the repertoire it is responsible for licensing and the royalties it is responsible for collecting under the present contract and to take any legal or other action, as mentioned in Art.2(1) above.

Art. 5(1) Each contracting party shall place at the disposal of the other all documents, records and information enabling it to exercise effective and thorough control over its interests, in particular as regards notification of works, collection and distribution of royalties, and obtaining and verifying performance programmes, In particular, each contracting party shall inform the other of any discrepancy which it notes between the documentation received from the other Society and its own documentation of that furnished by another Society.

(II) In addition, each of the Societies shall have the right to consult all the other Society's records and to obtain all information from it relating to the collection and distribution of royalties to enable it to verify the administration of its repertoire by the other Society.

(III) Each contracting Society may accredit a representative to the other society to carry out on its behalf the verification provided for in paragraphs (I) and (II) above. The choice of this representative shall be subject to the approval of the Society to which he or she is to be accredited. Refusal of such approval must be motivated.

TERRITORY

Art. 6(1) The territory in which **COTT** operates is Trinidad and Tobago.

The territory in which **AMAR** operates is Brazil.

(II) For the duration of the present contract, each of the contracting Societies shall refrain from any intervention within the territory of the other Society in the latter's exercise of the mandate conferred by the present contract.



DISTRIBUTION OF ROYALTIES

Art. 7(1) Each Society undertakes to do its utmost to obtain programmes of public performances which take place in its territories and to use these programmes as the effective basis for the distribution of the total net royalties collected.

(II) The allocation of sums collected in respect of works performed in the territories of each Society shall be made in accordance with Art. 3 and the distribution rules of the distributing Society, having regard, nevertheless, to the International Documentation and Distribution Procedures established by CISAC and approved by the Administrative Council of CISAC, and any subsequent amendments to or new versions of those procedures.

Art. 8(1) Each Society shall be entitled to deduct from the sums it collects on behalf of the other Society the percentage necessary to cover its effective administration expenses. This necessary percentage shall not exceed that which is deducted for this purpose from sums collected for members of the distributing Society, and the latter Society shall always endeavour in this respect to keep within reasonable limits, having regard to local conditions in the territories in which it operates.

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

(III) Any other deductions, apart from taxes, that either of the contracting Societies may make or be obliged to make from the new royalties accruing to the other Society would require special arrangements between the contracting parties so as to enable the Society not making such deductions to recoup itself as far as possible from the royalties collected by it for the account of the other Society.

(IV) No part of the royalties collected by either Society for the account of the other in consideration of the authorizations which it issues solely for the copyright works which it is authorized to administer may be regarded as not distributable to the other Society. With the exception, therefore, only of the deduction mentioned in paragraph (I) of this Article, and subject to the provisions of paragraphs (II) and (III) of the said Article, the net total of the royalties collected by one of the contracting Societies for the account of the other shall be entirely and effectively distributed to the latter.

Art. 9(1) Each of the contracting Societies shall distribute to the other the sums due under the terms of the present contract as and when distributions are made to its own members and at least once a year. Payment of these sums shall be made within 90 days following each distribution, barring duly ascertained cases outside the Societies' control.



(II) Each payment shall be accompanied by a distribution statement in such form as to enable the other Society to allocate to each interested party, whatever his membership or category as member, the royalties accruing to him. These statements shall be uniform in style and content and conform as far as possible to the standards recommended from time to time by the Technical Committee of BIEM and CISAC and approved by the Administrative Council of CISAC.

(III) Settlements shall be made by each Society in a transferable currency at international rates current on the date of payment.

(IV) Each Society shall remain responsible to the other for any error or omission which it may make in the distribution of the royalties accruing to works in the repertoire of the other Society.

(V) The fact that the date for settlement of accounts agreed upon between the contracting Societies has fallen due shall constitute without any formality, a formal demand on the Society which has failed to make the payment due to the other Society on the date in question. This provision shall be subject to force majeure.

(VI) If legislative or statutory measures impede the free exchange of international payments, or exchange control agreements have been or will be concluded in the future, between the countries of the two contracting Societies, each Society shall:

(A) without delay, immediately after drawing up the distribution accounting for the other Society, take all necessary steps and comply with all formalities as required by its national authorities in order to ensure that the said payments can be effected at the earliest possible moment;

(B) inform the other Society that the said steps have been taken and formalities complied with when sending to it the statements mentioned in paragraph (II) of the present Article.

Art. 10(1) Each Society undertakes to supply on a regular basis to the CAE Centre of CISAC (SUISA) complete and detailed information on the real names and pseudonyms of its members, including dates of decease, deletions and alterations. Furthermore, each Society undertakes to use the CAE List output as the basis for its identification of and distribution in respect of the membership of the other Society.

(II) Each Society shall also provide the other with a copy of its current Articles of Association, By-Laws and Rules, including its Distribution Plan, and shall inform it of any subsequent modifications made thereto while the present contract is in force.

Art.11(I) The members of each contracting Society shall be protected and represented by the other Society under the present contract without the said members being required by the Society representing them to comply with any formalities and without their being required to join the other Society.



(II) While this contract is in force, neither of the contracting Societies may, without the consent of the other, accept as member any member of the other Society or any natural person, firm or company having the nationality of one of the countries in which the other society operates. Any refusal to consent to such acceptance by the other society must be duly motivated. In the absence of a reply within three months, following a request sent by recorded delivery letter, it shall be presumed that agreement has been given.

(III) Nevertheless, the preceding clause shall not be interpreted as prohibiting either of the contracting Societies from accepting as members natural persons who enjoy refugee status in its own territories or operation, or who have been authorized to settle there and have actually been resident there for at least one year, and to do so as long as they continue to reside there. Such membership shall not apply to the territory of the Society operating in the country of which the author is a national.

(IV) Each contracting Society undertakes not to communicate directly with members of the other Society, but, if the occasion arises, to communicate with them through the intermediary of the other Society.

(V) Any disputes or difficulties which may arise between the two contracting Societies relating to the membership of an interested party or assignee shall be settled amicably between them in the widest spirit of conciliation.

Art.12 The contracting Societies shall have regard to the provisions of the Statutes and decisions of the International Confederation of Societies of Authors and Composers.

ENTRY INTO FORCE

Art.13 The present contract shall come into force for an initial period of five years as from the 1st day of October 2002 and, subject to the terms of Article 14, shall continue in force from year to year by automatic extension if it has not been terminated by certified mail at least six months before the expiration of each period.

Art.14 Notwithstanding the terms of Art. 13, the present contract may be terminated by one of the contracting Societies:

(A) if an alteration is made in the Articles of Association, By-Laws or Distribution Plan of the other Society such as may modify in an appreciably unfavourable way the enjoyment or exercise of the patrimonial rights of the present owners of the copyrights administered by the Society represented. Any change of this nature shall be verified by the competent body of CISAC. After such verification the Confederation's Administrative Council of CISAC may allow the representing Society a period of three months to remedy the situation thus created. When this period has expired without the necessary steps having been

taken by the Society in question the present contract may be terminated by the unilaterally expressed wish of the Society represented, if it so decides;

(B) if such a legal or factual situation arises in the country of one of the contracting Societies that the members of the other Society are placed in a less favourable position than the members of the Society of the said country, or if one of the contracting Societies puts into practice measures resulting in a boycott of the works in the repertoire of the other contracting Society.

LEGAL DISPUTES - JURISDICTION

Art. 15(1) Each of the contracting Societies may seek the advice of the Administrative Council of CISAC about any difficulty which may arise between the two Societies regarding the interpretation or performance of this contract.

(II) The two Societies may, if need be, and after attempting conciliation before the body mentioned in Article 10 (b) 6th paragraph of the Statutes, agree to resort to arbitration by CISAC's appropriate authority in order to settle any dispute that may arise between them with regard to the present contract.

(III) If the two contracting Societies do not think it appropriate to resort to arbitration by CISAC, or to arrange between them for arbitration, even independently of CISAC, in order to settle their disagreement, the competent Court to decide the issue between them shall be that in which the defendant Society is domiciled.

Executed in good faith in two copies.

Dated in Trinidad and Tobago

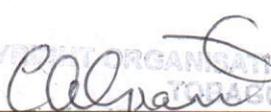
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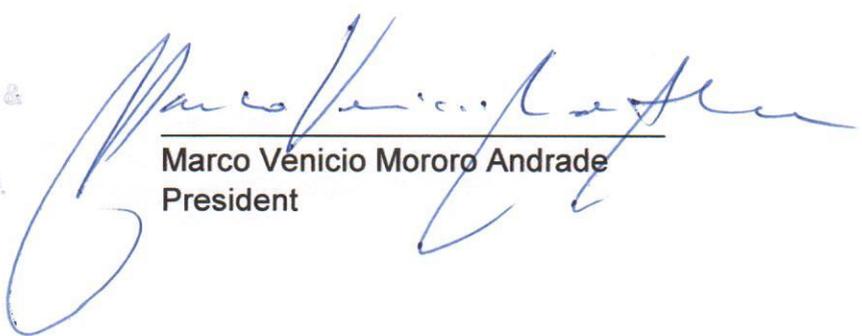
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**COPYRIGHT ORGANISATION
OF TRINIDAD AND TOBAGO
(COTT)**

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ARRANJADORES E REGENTES
BRAZIL**


Christophe Grant
President


Marco Venicio Mororo Andrade
President