

**BYLAWS of AGICOA Europe  
(Association for the European Collective  
Management of Audiovisual Works)  
Non-profit association (ASBL)**

as amended on December 13, 2011, December 11, 2012,  
December 9, 2014, May 19, 2015 and December 15, 2015

1. **AGICOA** (Association for the International Collective Management of Audiovisual Works), association with its seat in Geneva (Switzerland)
2. **ALGOA**, Association Luxembourgeoise de Gestion des Oeuvres Audiovisuelles, ASBL with its seat in Luxembourg (Grand Duchy of Luxembourg)
3. **FIAPF**, Fédération Internationale des Associations de Producteurs de Films, association with its seat in Paris (France)
4. **FRF**, Filmproducenternas Rättighetsförening, with its seat in Stockholm (Sweden)
5. **GWFF**, Gesellschaft zur Wahrnehmung von Film und Fernsehrechten mbh with its seat in Munich (Germany)
6. **IFTA**, International Film and Television Alliance, with its seat in Los Angeles (USA)
7. **MPA**, Motion Pictures Association with its seat in Encino (Ca. USA)
8. **SEKAM**, Stichting tot Exploitatie van Kabeltelevisierechten op Audiovisueel Materiaal, foundation with its seat in Amsterdam (the Netherlands)

-founder members-

AND

**9. AGICOA NORGE**

Norway  
Filmens Hus  
Dronningensgt. 16  
NO-0152 Oslo

**10. BAVP**

Belgium  
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BE-1000 Bruxelles

**11. CAB**

Denmark  
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**12. COMEDIA**

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England  
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**14. CRC**

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**15. EGEDA**

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ES- 28223 Pozuel de Alarcón Madrid

**16. FIAD**

France  
74 Avenue Kléber  
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**17. FINTAGE HOUSE**

The Netherlands  
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NL-2312 AV Leiden

**18. GEDIPE**

Portugal  
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PT-1700-165 Lisboa

**19. SAMSA Distributions**

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Rue de Luxembourg 238C  
LU- 8077 Bertrange

**20. SCREENRIGHTS**

Australia  
Level 3, 156 Military Road  
P.O. Box 1248  
Neutral Bay AU-2089

**21. SE-YAP**

Turkey  
Spo cad. Acisu Sok. Tahsinbey  
Apt. No. 1/16  
34357 ISTANBUL, Maçka

**22. TUOTOS**

Finland  
Mechelininkatu 21 A 7  
FI-00100 Helsinki

**23. VGF**

Germany  
Beichstrasse 8  
DE- 80802 Munchen

**24. ZFP/ ZAPA**

Poland  
Sienna Center  
Ul. Żelazna 28/30,  
PL- 00-832 Warszawa

- Admitted later on-

have created a non-profit association (*Association Sans But Lucratif*) organized according to the present by-laws and under the law of the Grand Duchy of Luxembourg of 21 April 1928, relating to non-profit associations and foundations, and its amendments.

**I. NAME – LEGAL SHAPE – HEADQUARTERS – PURPOSE**

**Article 1**

The name of the association is AGICOA Europe, which stands for “Association for the European Collective Management of Audiovisual Works”.

It is a non-profit association organized corporately in compliance with the present by-laws as well as the Law of Luxembourg dated 21 April 1928, relating to non-profit associations and foundations, and its amendments.

**Article 2**

AGICOA Europe’s seat is in Luxembourg.

**Purpose and activity**

**Article 3**

AGICOA Europe’s purpose is to act as a copyright and neighboring right royalties collecting society as defined by the copyright and neighboring right legislation of the Grand Duchy of Luxembourg.

Under this status granted by the appropriate Grand Duchy’s authorities, AGICOA Europe’s purpose, without any territorial limitation, shall consist in the representation and defense, within the framework of a collective management, of the material and immaterial interests of its individual and institutional members as they are defined under Articles 6 and 8 hereinafter.

The defense and representation of the interests of AGICOA Europe’s members shall be accomplished notably by out-of-court negotiations as well as by any civil, criminal, administrative and/or arbitration proceedings, as dictated by the circumstances.

The out-of-court negotiations shall notably concern the remuneration due to members in the event of simultaneous, full, unchanged and continuous retransmission, by cable, satellite or by any other similar means, in the sense of Article 11bis(1)ii of the Berne Convention, of television programs containing audiovisual works of which they hold or represent any rights, the collection of the amounts determined within the negotiations or within legal proceedings as well as the distribution of the amounts due to the rightsholders in the event of retransmission of their audiovisual works, and this more particularly in application of the Bern Convention.

AGICOA Europe shall have the competence in principle to authorize and/or to prohibit the retransmission - within the meaning of Article 11bis (1)(ii) of the Berne Convention – of audiovisual works contained in the television programs taken up by third party organisms and retransmitted without the rightsholders' authorization.

In addition, AGICOA Europe benefits from the general attribution to authorize and/or to prohibit the intervention of a satellite package provider, cable distribution platform or other comparable TV distribution platform in the communication to the public of audiovisual works contained in television programs.

Furthermore, based on ad-hoc mandates of its members, AGICOA Europe benefits from the attribution to authorize and/or prohibit additional services related to linear broadcast of audiovisual works contained in the TV programs as far as these services have not already been licensed by its members.

AGICOA Europe shall also exercise the communication to the public right by authorizing or prohibiting communication to the public of broadcast audiovisual works by a third party other than the broadcasters, when performed by hotels and similar establishments, and collect remuneration arising therefrom.

In order to achieve the above, AGICOA Europe's functions include:

- 1) to conclude with each of the above mentioned distribution platforms agreements authorizing the latter to retransmit or otherwise communicate to the public simultaneously, fully, without any changes and continuously the audiovisual works broadcast or otherwise transmitted by the originating television broadcasting organizations;
- 2) to collect and/or to receive, directly or through the intermediary of its choice, the royalties due in the performance of the above-mentioned agreements and/or due in application of the provisions of International, European or National Law;
- 3) to assure the distribution among the rightsholders it represents;
- 4) to see to it that the above mentioned distribution platforms do not proceed with any durable or reproducible recording of the broadcasts they receive;
- 5) to provide its members with all the available information on the activities of the above mentioned distribution platforms;
- 6) to carry out any other tasks which contribute to the achievement of the association's purpose.
- 7) to do all activities as are incidental or conducive to the attainment of AGICOA Europe's purpose and or in service of other agreed needs of AGICOA Europe.

AGICOA Europe may participate in and/or confer mandates on other legal entities which perform similar activities.

### **Official language of AGICOA Europe**

#### **Article 4**

AGICOA Europe's official language is English.

AGICOA Europe's by-laws are in English.

## **II. MEMBERS**

#### **Article 5**

The minimum number of members will not lower than three.

#### **A. Individual members**

### **Conditions of admission**

#### **Article 6**

- 1) The producers of audiovisual works and their agents and/or assignees, who are affiliated to an institutional member as described under Articles 8 and 9 hereunder, automatically become individual members of AGICOA Europe.
- 2) The rightsholders who are not affiliated to an institutional member as described under Articles 8 and 9 hereinafter may become individual members of AGICOA Europe if they apply to do so. Unless they state the contrary, they are considered to acknowledge as their delegate to the General Assembly the institutional member(s) from their country, in compliance with Article 18, par. 2 hereinafter.

### **Admission procedure**

#### **Article 7**

The application for admission from members referred to in Article 6 above must be made in writing.

The Executive Board shall approve the candidatures referred to in Article 6 par. 1 above after having checked the formal validity of the application and the affiliation to an institutional member.

The Executive Board shall rule on the applications made under Article 6 par. 2 above, which it may reject.

B. Institutional members

**Conditions of admission**

**Article 8**

The founder members of AGICOA Europe are considered institutional members of AGICOA Europe.

The organizations of the producers and/or distributors of audiovisual works, of organizations of producers and/or distributors of audiovisual works may become institutional members of AGICOA Europe if they apply to do so and provide the proof of their powers to represent their members or their principals in order to achieve the purpose and to carry out the activities of AGICOA Europe.

**Admission procedure**

**Article 9**

The application for membership of organizations referred to in Article 8 above must be filed with AGICOA Europe in writing.

The Executive Board shall decide on these applications which it may reject.

C. Provisions applicable to all members

**Obligations**

**Article 10**

The members will give AGICOA Europe the benefit of their knowledge and their experience.

**Delegation**

**Article 11**

By their membership, the individual members confer on AGICOA Europe, within the framework of these by-laws, the mandate to authorize or to prohibit the simultaneous, full, unchanged and continuous retransmission or communication to the public - as specified in Article 3 - of the programs containing audiovisual works on which they hold or represent any rights, to collect, to allocate and to distribute the remuneration due for the authorization to retransmit and to communicate to the public and to take any steps, namely legal ones, which it deems necessary for this purpose, subject to the exceptions which they will notify to AGICOA Europe.

## **Resignation**

### **Article 12**

Each member is authorized to leave AGICOA Europe upon written declaration.

The declaration of resignation must reach AGICOA Europe at least six months before the end of a business year. The resignation from AGICOA Europe shall become effective at the end of that business year.

## **Suspension and exclusion**

### **Article 13**

Any member who, in spite of a written reminder, no longer complies with the general obligations of a member of AGICOA Europe, may be suspended by the General Assembly. In urgent cases where immediate suspension is necessary to avoid serious harm and damage to the interests of the association or one of its members, the Executive Board can suspend a member on a transitional basis until the next General Assembly meeting. In that case of suspension by the Executive Board the suspension shall be notified to AGICOA Europe's members.

The General Assembly shall decide upon the exclusion of a suspended member.

Any member may be excluded from AGICOA Europe if he commits any act aimed against AGICOA Europe and/or which is of such a kind as to harm the latter's interests or those of its members.

The exclusion shall be pronounced by the General Assembly deciding by a two third majority upon a reasoned proposal made by the Executive Board.

## **Consequences of the resignation, suspension or exclusion of a member**

### **Article 14**

If an institutional member resigns, is suspended or excluded from AGICOA Europe, it is up to the individual members it represented to appoint among themselves their representative at the General Assembly.

Any institutional or individual member, who has resigned, been suspended or excluded, loses its voting right with immediate effect.

The agreements and contracts concluded by AGICOA Europe before the resignation, suspension or exclusion of a member remain in force until the contractual expiry of these agreements and contracts.

The procedures of collection, weighting and distribution of the amounts due to the resigning, suspended or excluded member are not affected by the resignation, the suspension or the exclusion.

## **III. RESOURCES AND EXPENSES**

## **Resources**

### **Article 15**

AGICOA Europe's resources are the following:

- 1) The amount which is granted every year by the General Assembly by the adoption of an approved budget. This budget will be financed by a deduction at a rate set by the General Assembly each year and deducted from the amounts which AGICOA Europe receives and/or collects on behalf of its members or any other rightholders. This rate cannot exceed 15 %. No other contribution or fee may be asked from the members of the association.
- 2) Donations, bequests, miscellaneous proceeds as well as the interest accrued on AGICOA Europe's own assets.

## **Expenses**

### **Article 16**

AGICOA Europe's expenses include the following:

- 1) the overheads of the management, the general cost for collection and distribution of the amounts due to members and other rightsholders;
- 2) the costs resulting from the negotiations with cable distribution companies or any other private or public organisms;
- 3) the costs of litigation or any other costs necessary for the defense of the interests of AGICOA Europe and its members;
- 4) any other costs resulting from resolutions adopted by the General Assembly or the Executive Board.

## **IV. ORGANIZATION**

### **Statutory Bodies**

#### **Article 17**

AGICOA Europe's statutory bodies are the following:

- A. The General Assembly
- B. The Executive Board and it's President

#### **A. THE GENERAL ASSEMBLY**

### **Composition**

#### **Article 18**



The General Assembly is composed of all individual and institutional members.

Unless they make a statement to the contrary, the individual members are considered to accept, as their delegate, one of the institutional members from their country.

The individual members who are nationals of a country which does not have any institutional member are their own representatives at the General Assembly. They have a number of votes as determined by application of Article 22 hereinafter.

## **Attributions**

### **Article 19**

The General Assembly is the supreme authority of AGICOA Europe.

The General Assembly has the exclusive powers:

- 1) to adopt and to amend the by-laws;
- 2) to adopt and to amend the General Regulations;
- 3) to decide the fundamental principles of royalty distribution (for instance allocation of royalties according to the duration of the use);
- 4) to decide on the location of the headquarters and its transfer;
- 5) to designate and elect the members of the Executive Board pursuant to Article 26;
- 6) to approve the financial statements;
- 7) to determine the amount of the annual operating budget and the annual universal administrative fee for AGICOA Europe;
- 8) to grant discharge to the Executive Board and AGICOA Europe's General Manager(s);
- 9) to proclaim the exclusion or suspension of a member;
- 10) to decide on AGICOA Europe's winding-up;
- 11) to appoint the liquidators of AGICOA Europe, subject to the mandatory provisions of the law;
- 12) to adopt any resolutions on any other issues which are attributed to it by the law or the by-laws;

The General Assembly must vote on each of the resolutions on the agenda.

## **Convening of the General Assembly**

### **Article 20**

The General Assembly shall be convened by AGICOA Europe's President.

In the event that the President is prevented from doing so, the General Assembly shall be convened by the eldest of AGICOA Europe's two Vice-Presidents.

A General Assembly meeting shall be held once a year within six months after the closing of the business year which shall be December 31.

An Extraordinary General Assembly must be convened whenever this is requested by at least two members of AGICOA Europe representing on a combined basis at least one third of the voting rights within AGICOA Europe by e-mail, fax message or letter sent to AGICOA Europe's General Manager(s).

## **Mode of convening the General Assembly**

### **Article 21**

An ordinary or extraordinary General Assembly shall be convened by email, fax message or letter sent to each institutional member six weeks at least before the date of the meeting.

Individual members shall be convened by publication in the Memorial<sup>1</sup>, six weeks at least before the date of the General Assembly.

Both individual and institutional members shall send to AGICOA Europe's General Manager the names of their delegates who will attend the General Assembly by e-mail, fax message or letter at least seven (7) calendar days prior to the meeting (date of receipt).

In case of emergency, the time-limit for the convening of the General Assembly may be reduced to two weeks by the President or, if he is prevented from doing so, by the older of the two Vice-Presidents.

The items on the agenda will be mentioned in the notification of the meeting. Proposals for the amendment of the by-laws will be mentioned or attached to the written notifications. They will be held at the disposal of individual members at AGICOA Europe's headquarters; this will be mentioned in the publication.

No decision may be taken outside of the agenda, except the convening of an extraordinary General Assembly.

## **Voting rights**

### **Article 22**

At the ordinary or extraordinary General Assembly, the number of votes is determined as follows

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<sup>1</sup> Official Journal of Luxembourg  
Bylaws as last amended on December 15, 2015

- 1) The votes are attributed to AGICOA Europe members according to the amounts (1 Euro = 1 vote) allocated to their members and principals through AGICOA, AGICOA Europe and/or their affiliated partner companies and on which the universal AGICOA group service fee was applied, during three calendar years which precede the date of the calculation of the voting rights. Members without any collection have one vote.

In case of doubt whether a rightsholder domiciled in a certain country is a member or principal of AGICOA Europe's institutional or individual member organization(s) in that country, the royalties received by that rightsholder are nonetheless allocated to AGICOA Europe's institutional member organization in that given country. In case of several AGICOA Europe member organizations in a given country the amounts shall be allocated to the AGICOA Europe members pro rata of the percentages of the royalties collected by those rightsholders for which it is known that they are members or principals of those institutional members. If no information on rightsholders being members or principals of those AGICOA Europe member organizations is available, an equal share will be allocated to every AGICOA Europe member organization.

- 2) The interests of the claims paid are counted within the calculation of the voting rights;
- 3) Final distributions are taken into account within the calculation of the voting rights;
- 4) The results from the multi-claimed works claimed by claimants in conflict are not taken into consideration for the calculation of the voting rights;
- 5) If there is more than one institutional member per country, the institutional members of that country will share the votes attributed to their country proportionally to the number of votes they obtained or according to an agreement among them, the terms of which they will communicate to AGICOA Europe's General Manager at least two weeks before the ordinary General Assembly, one week at least before the extraordinary General Assembly.

In this case, each national organization will have its delegate;

- 6) The number of votes of individual members who informed AGICOA Europe of their participation pursuant to Article 21 and who are present at the General Assembly is deducted from the number of votes of the institutional member(s) of their country of origin. The number of votes of individual members is added to the number of votes of the institutional member(s) of their country of origin if the individual members did not inform AGICOA Europe's General Manager of their wish to attend the meeting according to Article 21;
- 7) The calculation of the voting rights is done every year (in October) in application of the above mentioned rules in order to be applied from the following General Assembly thereafter onwards.
- 8) The results of these calculations will be communicated to the members together with the invitation to the General Assembly.

## **Representation of a member**

### **Article 23**

The voting right may be exercised at the General Assembly through the intermediary of another institutional member holding one or more written and signed power(s) of attorney.

To this purpose, each institutional member shall receive, together with the notification of the meeting, the invitation to mandate another institutional member in the event that he is not able to attend.

## **Quorum and decisions**

### **Article 24**

Except in cases where the law sets the contrary, the quorum is set at sixty per-cent of the total number of votes.

The General Assembly shall adopt all its resolutions and proceeds with all elections by the majority of three quarters (75 %) of the votes of the delegates present or represented.

## **Minutes**

### **Article 25**

Minutes of the resolutions and elections which take place at the General Assembly will be kept. The minutes shall be signed by the President of the General Assembly as well as by the minute-taker.

Within thirty days after the General Assembly, the General Manager(s) will send the minutes to each institutional member as well as to individual members who attended the Assembly.

Institutional members will ensure that the individual members they represented will have the opportunity to take notice of the minutes without delay.

At the expiry of a period of sixty days after the General Assembly, the minutes, as amended according to the written observations stated by the members will be adopted by tacit approval. If there is any challenge of their terms, they will be submitted to the next General Assembly for adoption.

## **B. EXECUTIVE BOARD**

### **Composition**

#### **Article 26**

- 1) The Executive Board is composed of eleven ordinary members with voting rights and a President. The term of the mandate of the Executive Board is 3 years.

The members of the Executive Board designated and elected by the General Assembly are the individual and institutional members as defined in article 6 (also referred to as members or member organizations), who should appoint principal and substitute delegates to exercise office within the Executive Board. Appointment can be made by communication of the member addressed to the President of the Executive Board or by submission of principal and substitute delegates for designation and election purposes at the General Assembly. The replacement of principal and substitute delegates by the member is possible at all times during the term of the mandate.

- 2) Each of those members of AGICOA Europe representing one of the top three collection countries shall designate a delegate to occupy one of the top three “collection country” seats.

To determine the top three collection countries all royalties collected by AGICOA Europe and/or its affiliated partner companies – directly or through intermediaries –are taken into account, provided collection occurs in a given country from users located in that country and to which the AGICOA Europe fee applies. All royalties collected during the last three years prior to the year of designation are counted. The designation remains valid for three years even though the collection may vary during the term. AGICOA Europe shall base its calculation of the collected royalties on figures that have been audited either for AGICOA Europe or its respective affiliated partner companies. Should AGICOA Europe and/or one of its affiliated partner companies located in a given country collect royalties from users covering more than one country, the royalties are split amongst those countries according to their origin.

Only that AGICOA Europe member with its headquarter in a given collection country is eligible to designate a delegate for a “collection country” seat that is collecting and distributing royalties in that country in partnership with AGICOA Europe, contributes to the AGICOA Europe administrative fee and represents a substantial part of the national rightsholders and a substantial part of rightsholders claiming in that country.

Should more than one institutional or individual member of AGICOA Europe in a given collection country be eligible to designate a delegate to one of the top three collection country seats, these members shall seek to agree on their delegate to be designated as member of AGICOA Europe’s Executive Board. They shall communicate their delegate to AGICOA Europe’s General Manager(s) at least one week before the date on which a new Executive Board will be composed. Should they fail to agree by the end of that deadline, the one amongst them that received the highest amount of royalties shall be entitled to designate the representative for the seat.

Six weeks prior to the date on which a new Executive Board will be composed, AGICOA Europe’s General Manager(s) shall circulate amongst AGICOA Europe’s members the list of those AGICOA Europe member organizations that would be entitled to designate delegates for the three seats reserved for the top three collection countries. The communication

shall include the amount of royalties collected. AGICOA Europe's members shall treat the amount of royalties with utmost confidentiality.

The representatives of the AGICOA Europe member organizations representing the three top collection countries shall inform AGICOA Europe's General Manager(s) at least one week prior to the date when the new Executive Board will be composed of the delegates that they designate for the three seats on the Executive Board.

- 3) Each of those members of AGICOA Europe that represents one of the top five royalty recipients shall designate a representative to occupy one of the five "royalty recipient" seats.

Royalty recipients are AGICOA Europe member organizations, the members or principals of which are collecting royalties through AGICOA Europe and/or one of its affiliated partner organizations on which the universal AGICOA Europe fee was applied. All royalties received by the members or principals of the AGICOA Europe member organizations during the last three calendar years prior to the year in which the members of the Executive Board are designated are taken into account. The designation remains valid for three years even though the royalties received may vary during the term. Article 22(1) to (6) apply mutatis mutandis.

Six weeks prior to the date on which a new Executive Board will be composed, AGICOA Europe's General Manager(s) shall circulate amongst AGICOA Europe's members the list of those AGICOA Europe member organizations that would be entitled to designate delegates for the five royalty recipient seats. The communication shall include the amount of royalties received by the AGICOA Europe members. AGICOA Europe's members shall treat the amount of royalties with utmost confidentiality.

The representatives of the AGICOA Europe member organizations representing the top five collection countries shall inform AGICOA Europe's General Manager(s) at least one week prior to the date when the new Executive Board will be composed of the delegates that they designate for the five seats.

- 4) Should the entitled AGICOA Europe member organization not wish to exercise its right to designate a member of the Executive Board according to Article 26(2) or (3) the next AGICOA Europe member organization on the ranking list of top collection countries or royalty recipients shall move up one rank and be entitled to designate a delegate for the Executive Board. Members shall communicate to the Chairman of the General Assembly their intention not to accept the designation and not to appoint a delegate in a period of two weeks after receiving AGICOA Europe's communication of their organization's entitlement to be appointed as members of the Executive Board.
- 5) Should an AGICOA Europe member organization that is entitled to designate a delegate for one of the top three collection countries seats also rank amongst the top five royalties recipients it loses its right to designate a delegate for the new Executive Board for the royalty recipient seat. Consequently, the next AGICOA Europe member organization on

the ranking list of royalty recipients shall move up one rank and be entitled to designate a delegate for the new Executive Board.

- 6) Those AGICOA Europe members that do not designate delegates to occupy seats for the top three collection countries in accordance with Article 26(2) fourth subparagraph are not eligible to designate delegates for one of the top five royalty recipient seats. Consequently, the next AGICOA Europe member organization on the ranking list of royalty recipients shall move up one rank and be entitled to designate a delegate for the new Executive Board.
- 7) Given the non-profit nature of AGICOA Europe there cannot be more than two for profit members of AGICOA Europe represented at the Executive Board.
- 8) The remaining three ordinary seats are open seats.

Proposals for candidates for the open seats can be made by any AGICOA Europe member, with the prior knowledge and approval of the candidate.

Members of AGICOA Europe that are designated for the top three collection country or top five royalty recipients seats are not entitled to vote for the three open seats and are accordingly excluded from the quorum.

Six weeks prior to the date on which a new Executive Board will be composed AGICOA Europe's General Manager(s) shall inform those AGICOA Europe member organizations that are not entitled to designate representatives for the top three collection country or top five royalty recipients seats of their voting rights for the election of the candidates of the three open seats.

Six weeks prior to the date on which a new Executive Board will be composed, AGICOA Europe's General Manager(s) shall circulate amongst AGICOA Europe's member organizations an invitation to propose individual candidates for the open seats. AGICOA Europe's member organizations shall inform AGICOA Europe's General Manager(s) of their proposals at least three weeks prior to the date when the new Executive Board will be composed.

The quorum for the election is set at 50% of the votes of those AGICOA Europe member organizations entitled to vote for the three open seats.

The voting on the proposals for the three open seats shall be done at the General Assembly meeting at which the new Executive Board will be composed. The voting will be done by voting cards in a process securing the confidentiality of casting the ballot. The voting cards shall contain the number of voting rights and the proposal to be voted on. There shall be one voting card per proposal per member.

A candidate is elected if it obtains the simple majority of the votes of those AGICOA Europe members present or represented at the General Assembly meeting that are entitled to vote for the three open seats.

- 9) If no proposals or insufficient proposals are made for the three open seats AGICOA Europe's President shall make a new call for nomination(s) at the



General Assembly meeting when the Executive Board is designated. In case no proposal or insufficient proposals are made the open seat(s) remain empty. One additional observer seat reserved for AGICOA Europe's founding members FIAPF and FIAD or any other AGICOA Europe member being a supra-national non-profit association promoting the interests of AGICOA Europe's rightsholders unless their representative has been designated or elected for one of the eleven ordinary seats of the Executive Board. Unless the above organizations agree on which organization is entitled to occupy this seat, the members of the Executive Board occupying the eleven ordinary seats can determine which organization shall occupy the observer seat.

- 10) By a decision adopted by 90% of votes the members of the Executive Board may invite a member organization that has not been designated for the direct seats or elected for the open seats to participate in the Executive Board meetings as an observer without voting rights.
- 11) The designation and election process for the seats on the Executive Board shall follow the following order: top three collection country seats, top five royalty recipient seats, three open seats, the observer seat.
- 12) After completion of the above designation and election process for the ordinary and observer seats AGICOA Europe's President and the two Vice-Presidents are elected by and amongst the eleven ordinary members of the Executive Board. The eleven ordinary members of the Executive Board also designate the Treasurer of the Association. The Treasurer can be an external expert as defined in Article 26(22).

The President shall not hold vote or veto powers and therefore his or her member organization shall exercise its office through the substitute delegate (who shall be a person other than the President) to serve as the principal delegate of that member.

In such case all duties and rights inherent with the status of a member of the Executive Board (whether established by law or any internal regulations in force), including exercise of voting rights, shall become incumbent upon such substitute delegate serving as principal in place of the President.

If the President resigns from his role or if he is unable to hold office on a permanent basis for any reason, the Executive Board must hold a fresh election to select a new President. If necessary, the member organization elected as President may appoint a new substitute to exercise office as principal; otherwise, the substitute appointed for election purposes shall exercise as principal as set forth in the previous paragraphs.

If the President is unable to attend a meeting, he or she shall be replaced by one of the Vice-Presidents. The longest serving of the two Vice-Presidents shall be the President's substitute. In case of equal service length in office, the Vice-President representing the member organization that is higher in the ranking list of collection countries or royalty recipients in accordance with the voting rights considered for the purposes of designation or election, shall replace the President.

- 13) Only natural persons may be in exercise of office for members of the Executive Board.



- 14) Re-designation or re-election is possible.
- 15) Members elected to the executive Board and their delegates must fully comply with AGICOA Europe's internal regulations in force, including but not limited to the Executive Board Code of Conduct, in order to hold or maintain their seat.
- 16) Should a delegate, during the term of its mandate to the Executive Board, become significantly conflicted, the member and its delegate will lose its seat with immediate effect, upon majority decision of the Executive Board as further described below.

A conflict of interests may notably occur in case the organization represented by the delegate, or the delegate him/herself, is in opposition with AGICOA Europe to such a degree that it appears unable to make decisions regarding AGICOA Europe activities in a fully disinterested way or is, by virtue of its activities, directly opposing AGICOA Europe's collections, allocations, distributions of royalties, representation and collection by AGICOA Europe of its administrative fees. In such case the delegate should immediately communicate its impediment to the Chairman. Alternatively, a potential conflict of interest may be communicated to the Chairman by any other AGICOA Europe member, including a member of the Executive Board. After consultation with the Executive Board and upon a majority vote finding a significant conflict exists, the delegate shall be suspended from voting in deliberations where a conflict of interest may arise, so long as the conflict is not solved in a reasonable period as defined by the Executive Board.

For interpretation purposes, a conflict will be deemed to arise if the member organization, or the delegate him/herself, rejects or infringes the practices defined by the Executive Board or the General Assembly. A conflict of interest does not arise solely on the basis of the expression of divergent views over any issue, including licensing of rights, even when such divergent views are expressed through a member's voting rights.

- 17) Should an AGICOA Europe member organization that has designated a delegate for one of the top three collection country seats or top five royalty recipient seats or a representative of which has been elected as delegate to one of the three open seats leave AGICOA Europe during the term of the delegate's mandate of the Executive Board the delegate loses its seat with immediate effect.
- 18) Should an AGICOA Europe member organization that has designated a delegate for one of the seats of the Executive Board, while remaining a member of AGICOA Europe, undergo, during the term of the delegate's mandate to the Executive Board, substantial and permanent changes in its representative or organizational capacity, notably enter into any form of insolvency proceedings, including administration or insolvency or stop representing rightsholders within AGICOA Europe, the delegate loses its seat with immediate effect.
- 19) Should an AGICOA Europe member organization that has designated a delegate for one of the top three collection country seats, while remaining an AGICOA Europe member, stop collecting and distributing royalties in partnership with AGICOA Europe and contributing to the AGICOA Europe

administrative fee during the term of its delegate's mandate to the Executive Board, the delegate loses its seat on AGICOA Europe's Executive Board with immediate effect.

- 20) The seats that become vacant pursuant Article 26(14), (15), (16) and (17) shall remain vacant during the remaining term of the Executive Board.
- 21) Should a delegate occupying one of the seats of the Executive Board, during the term of the delegate's mandate to the Executive Board, resign from its Board seat, ceases to represent the AGICOA EUROPE member organization who designated him, pass away or otherwise be no longer able to exercise its function as delegate to the Executive Board, the AGICOA EUROPE member organization represented by that delegate shall designate either the substitute or a new delegate for the remaining term of the Executive Board.
- 22) The Executive Board is entitled to delegate its tasks to committees composed by members of the Executive Board, represented by their principal or substitute delegates, and external experts. External experts include representatives of AGICOA Europe member organizations that have not been designated/elected to be a member of the Executive Board as well as persons that have no link to one of the AGICOA Europe members.

However, the final decision making remains reserved to the full Executive Board. The functioning of these committees is governed by AGICOA Europe's General Regulations.

## **Attributions**

### **Article 27**

The Executive Board:

- 1) Determines the general policy of AGICOA Europe and exercises oversight over the operational management;
- 2) Sets - within the limits defined by the General Assembly - the strategic direction of AGICOA Europe;
- 3) Takes any appropriate steps, initiatives and decisions in order to fulfill the Association's purpose, the exclusive attributions of the General Assembly remaining reserved. It has the general statutory attributions;
- 4) Has the power to decide on any subjects which are not explicitly attributed to the General Assembly and which it wishes to deal with together with or instead of AGICOA Europe's General Manager(s);
- 5) Submits its recommendations to the General Assembly on any subjects which are attributed to the General Assembly;
- 6) Prepares AGICOA Europe's General Regulations and submits them to the General Assembly for approval;

- 7) Sees to the respect and to the correct application of the provision of the by-laws and of the General Regulations;
- 8) Decides on the creation or on the participation in other organizations;
- 9) Elects the President and the two Vice-Presidents of the Association amongst the members of the Executive Board according to Article 26 (11);
- 10) Assists the General Manager(s) namely in the carrying out of the resolutions of the General Assembly and sees to their being carried out correctly.
- 11) Decides on the applications under Articles 7 and 9 hereinabove;
- 12) Adopts the agreements to be concluded with the cable distribution companies and/or satellite platform operators as well as with any other company which exploits audiovisual works in a sector in which the collective management of the rights is necessary, as well as any agreements directly related to AGICOA Europe's purpose;
- 13) Decides on the conditions of distribution of the collected amounts among the rightsholders while the decision on fundamental distribution principles (for instance allocation of royalties according to duration) remains reserved for the General Assembly;
- 14) Defines the attributions of the Association's General Manager(s) - this definition becomes a full part of the General Regulations;
- 15) Appoints or dismisses the General Manager(s) whose engagement contract(s) is (are) signed by AGICOA Europe's President.
- 16) In general, it decides together with the General Manager(s) on the questions of current management such as:
  - The taking and the cancellation of leases (except the transfer of the headquarters);
  - The hiring and the dismissal of senior staff (except the General Manager(s));
  - The purchase, the leasing, the sale of movable goods and equipment (office equipment);
  - The decisions on all questions of internal administration (opening of bank accounts, ways of management, hiring of staff and of executives, renting of office space (except the transfer of the headquarters), accounting principles, computer management and computer administration);
  - The decisions regarding the signatures which bind AGICOA Europe and the conditions attached thereto;
  - The establishment of a list of experts, for each subject to be dealt with (general affairs; finance; identification of rightsholders and of audiovisual works; weighting, legal questions; satellites), who are invited to attend the meetings of the Executive Board in order to deal with the subjects regarding which they are experts.

B. The President:

The role of the President of the Executive Board shall be the institutional representation of AGICOA Europe and effective guidance of the Executive Board meetings, including (but not limited to) defining the agenda, conducting the discussions, auspicing negotiations to generate consensus, raising strategic discussions and establishing working groups to the benefit of AGICOA Europe's or its members' social purposes.

## **Meetings**

### **Article 28**

The Executive Board meets at least once a year upon the request stated by the President, by one of the Vice-Presidents or by AGICOA Europe's General Manager(s).

The invitation to the meetings includes the list of items on the agenda.

Each of the eleven members of the Executive Board is entitled to designate for the whole term of its mandate one person as substitute. The substitute may attend the meetings of the Executive Board at the member's cost.

The members who cannot attend a meeting of the Executive Board will empower their substitute to represent them.

If the substitute cannot attend, each member unable to attend a meeting of the Executive Board will mandate one of the members who are present to represent him.

The Executive Board is entitled to invite external experts to attend the meetings on an ad-hoc decision or regular basis. External experts include representatives of AGICOA Europe member organizations that have not been designated/ elected to be a member of the Executive Board as well as persons that have no link to one of the AGICOA Europe members. External experts can notably exercise the function of the Treasurer of the Association.

## **Decisions**

### **Article 29**

The quorum for the broaching of subjects is set at 7 ordinary members of the Executive Board present or represented at the Executive Board meeting.

The Executive Board takes its decisions (1) by a majority of two thirds of its members present or represented and (2) provided that at least two members of the Board representing on an combined basis at least 1/3 of the votes on the General Assembly do not oppose the majority.

For the calculation of how many votes of the present or represented members of the Executive Board are necessary to reach the two third majority all figures behind the decimal point are rounded up to the next whole number.

The members of the Executive Board and their substitutes shall respect AGICOA Europe's Code of Conduct and its Code regulating Conflict of Interests that are part Bylaws as last amended on December 15, 2015

of AGICOA Europe's General Regulations. AGICOA Europe's General Assembly charges to AGICOA Europe's General Manager(s) to draft the above policies with the advice of the Executive Board.

## **V. GENERAL REGULATIONS**

### **Article 30**

These By-Laws will be completed by General Regulations which are binding on all members.

They are submitted by the Executive Board to the General Assembly for approval.

## **VI. WINDING-UP AND LIQUIDATION**

### **Winding-up**

#### **Article 31**

The General Assembly may resolve at any time to wind-up AGICOA Europe.

### **Liquidation**

#### **Article 32**

In case of winding-up, the liquidation shall be carried by the liquidators appointed by the General Assembly, unless the law provides for a specific procedure of liquidation.

### **Allocation of assets**

#### **Article 33**

After payment of the debts - including the debts towards the producers and/or their assignees - the possible remaining assets will be used, on resolution of the General Assembly, for a purpose which is similar or related to the one pursued by AGICOA Europe. In no event, may these assets be distributed among AGICOA Europe's members.

## **VII. APPLICABLE LAW**

### **Article 34**

Any element not explicitly dealt with in the present by-laws will be handled according to the law of the Grand Duchy of Luxembourg of 21 April 1928, relating to non-profit associations and foundations, and its amendments.

These bylaws were adopted on September 26, 2007 and amended by AGICOA Europe's General Assembly on December 13, 2011, December 11, 2012, December 9, 2014, May 19, 2015 and December 15, 2015, and came into force at the same dates unless specified otherwise.