

DISTRIBUTION REGULATIONS as from 2016

Version based on the resolution by the Board on 15/11/2016 and the resolution of the Associates' and Delegates' Assembly¹ on 21/06/2017, 07/12/2017, 20/06/2018, 20/11/2018 and 18/06/2019

I. GENERAL

1. As long as individual shares can be established with adequate means, each rights holder shall receive their share relating to the usage of his contribution to a performance from the amount collected after deduction of the effective costs and any allocations for cultural and social purposes.
2. In cases where the individual usage share of the collected amount cannot be established with adequate means, general evaluation and distribution rules for a general approach to this method of measuring the relevant share shall be established. The scope of the usage, the cultural or artistic significance of each rights holder's performance shall be considered adequately. Minimum thresholds for collecting usage data and setting pay-out levels to rights holders shall be permissible.
3. Any rights holders' remuneration entitlements, their exploitation rights or other rights assigned to GVL shall be governed by the distribution regulations, even if the agreement between the rights holder and the user includes deviating provisions.
4. The distribution includes:
 - a) remuneration collected for the respective financial year
 - for broadcasts of commercially published sound recordings² and music video clips,
 - for public performance and reproduction/copying,
 - for rental and lending of commercially published sound recordings and films,
 - for cable re-transmission of artistic performances.
 - b) remuneration which has not been included in the distribution yet, e.g. undeliverable distributable amounts, overpayments to rights holders which had to be recouped, unused reserves.

¹ The powers of the Board were transferred to the Associates' and Delegates' Assembly in 2017.

² Sound recordings are recordings of individual tracks irrespective of their format, i.e. including pure electronic formats such as MP3.

5. Collected remuneration, interest accrued on funds prior to their distribution and all other revenue including any extraordinary income shall be paid out to rights holders after the necessary administration costs have been deducted. GVL's Managing Directors shall be authorised to create a reserve for economic risks to an extent as they see fit, amounting to a maximum of EUR 1,000,000. They must report their respective actions to the supervisory body.
6. If GVL gathers retroactive collections for one or several distribution periods already paid for outside its usual business (extraordinary collections), these extraordinary collections shall be calculated as a supplementary percentage to the pay-out made for the relevant distribution period for each distribution budget or [its] subcategory for the distribution period (supplementary distribution) . If it is not possible to make a period-specific supplementary distribution, the amounts shall be shared between all distribution periods in question.

If the cost for any adjustments to the distribution is higher than 25 % or if the total amount collected ready for an adjustment pay-out is lower than EUR 1m, the collections may be distributed together with other distributable amounts.
7. Up to 5 % of the revenue ready for distribution shall be made available for cultural, politico-cultural and social purposes.

II. DISTRIBUTION PLANS

1. Distribution Plan No. 1 – for performing artists and producers of sound recordings and video producers

Remuneration for broadcasts, reproduction and making available of commercially published sound recordings shall be shared equally (50%/50%) between performing artists and record companies, and remuneration for lending of commercially published sound recordings and films shall be distributed 50%/50%. Based on an overall ratio of 55%/45%, remuneration splits for public performance shall be 50%/50% for sound recordings and audio-visual recordings accompanying sound recordings (music video clips), for public performance of radio broadcasts 60%/40% and for public performance of TV broadcasts 90%/10%. The distribution of remuneration arising from private copying shall – also for event organisers – result from the allocation by ZPÜ to GVL's rights holder groups and the respective share of the repertoire to which they hold rights. Pay-outs already made, based on the previous distribution system, shall be offset against the amounts resulting from the new distribution system and shall either be credited or claimed back.

Remuneration for cable re-transmission of performances not related to sound recordings or audiovisual recordings (music video clips) accompanying sound recordings, shall be allocated exclusively to the performing artists, as well as rental income.

Remuneration for audio-visual recordings accompanying sound recordings (music video clips) will be subject to a preliminary allocation of 60% for the manufacturers, and the remuneration for rental and lending of films will be subject to a preliminary allocation of 40% for the performing artists.

Among the rights holders in the performing artists' category as well as among the producers of sound recordings, producers of music video clips and the event organisers, the distribution of remuneration shares

is made in proportion to radio and TV broadcasts of performances, sound recordings or music video clips in relation to the national territory in the respective financial year.

2. Distribution Plan No. 2 – for performing artists

a) Basic Principles

aa) The distribution to performing artists – apart from distributions of recordings for the period prior to 2001 where evidence of the contributions cannot be supplied any more shall be made separately in each distribution budget and within such budgets separately under the respective sub-budgets.

In a first step, distribution shares from the different usage categories are allocated to the relevant distribution budgets and sub-budgets. The result is the distributable total amount of the budgets.

aaa) The basis for the distribution of the budgets is – apart from the distribution for sound recordings without a relevant broadcast usage (Distribution plan no. 2 b) bb) – usually the broadcast of all productions within a distribution budget or sub-budget. The broadcast duration of a production in minutes and seconds shall form the basis for this, and it can be increased or decreased by certain factors such as share factor or cultural multiplier, broadcast duration etc. The result is the point value for the duration. The production as such may be subject to a multiplier depending on its genre or work category. This multiplier shall be applied consistently to each sub-budget. Based on broadcasters with different weightings or broadcast durations, each production may obtain a different point value. If several broadcasts took place, they may be subject to a regressive multiplier. For individual sub-budgets, the number of broadcast productions shall be used instead of the broadcast duration.

The remuneration calculated for each individual artist per production shall depend on the nature of their contribution to the recording. Depending on the kind of contribution, the respective contribution point value shall be multiplied with the point value of the used production in that specific instance. As far as contributions of specific artists have already been established, their contribution point value shall be used. For contributions not yet specifically established, the contribution point values shall be calculated on the basis of a statistically calculated average number in a line-up. The total points of all rights holders within the distribution budgets or sub-budgets are thus added up. The total amount of the distribution budget and sub-budgets shall be divided by the total points -after it has been reduced by a deduction for exploitations that have not been processed so far but can still be reported retroactively. The result thereof is the financial point value of each distribution budget and sub-budget. The number of points for each artist for each individual production, multiplied with the financial value per point shall equal the distributable value for each artist per production.

bbb) The basis for the distribution of the budget for sound recordings without any relevant broadcast exploitation (Distribution Plan No. 2 b) bb) shall be the reported licensing income of a licensee for public performance and its pro rata public performance exploitation of a recording . The distribution shares for performing artists shall be determined by allocating the reported licensing income per recording pursuant to Distribution Plan No. 2 b) bb) on a pro rata basis.

- ccc) In cases where a usage based distribution based on the analysis of all broadcast products is deemed uneconomical for individual sub-budgets, the Associates' and Delegates' Assembly may resolve that these sub-budgets are distributed based on different parameters such as individual/personal claims.
- bb) The distribution usually takes place once a year based on the annual distribution to be made per distribution budget or sub-budget. Pay-out dates may differ depending on distribution budget or sub-budget. As a rule, the distribution of rights' remuneration shall take place nine months after the end of the financial year during which it was collected, at the latest; except thereof are cases where there are objective grounds preventing GVL to do so. The Associates' and Delegates' Assembly may decide that distributions take place in shorter periods. For certain sub-budgets, it may also decide that the remuneration can be combined for several years if the distribution cost is disproportionate to the distributable amount.
- cc) Performing artists shall only receive pay-outs of individual allocations if, subject to any applicable tax or other deductions, a minimum amount of EUR 5.00 is reached. Allocated amounts not paid out shall be credited to the rights holder for a later distribution.
- dd) In order to be entitled to get a share of the remuneration, performing artists need to register their contributions with GVL.
Rights holders shall be obliged to provide GVL with evidence of their contributions if they are prompted to do so.
- ee) The share reserved for rights holders whose contribution has not yet been established in line with dd) shall be calculated based on the reported usages of the relevant productions, increased by a risk premium for productions that have not been reported to GVL, but are relevant for distribution. Rights holders may establish their claims up to three years after the financial year during which income was collected for the rights has lapsed. In the fourth year, reserves still available must be dissolved and allocated on an accrual basis, as long as the total amount per distribution is more than EUR 500,000. In case the amount falls short of EUR 500,000, it can be allocated to the next regular distribution.
- ff) Any amounts still available after the statutory retention period pursuant to ee) has lapsed shall be paid as a final distribution within the relevant distribution budget or sub-budget. In cases where the amount of rights holders' claims related to a sub-budget exceeds the reserves available for it, the Associates' and Delegates' Assembly can resolve that non-distributable collections pursuant to s. 30 Collecting Societies' Act (VGG) from another distribution budget or sub-budget may be used for the settlement of such claims.
- gg) The Associates' and Delegates' Assembly may resolve that the collections that cannot be distributed in line with ff) pursuant to Art. 30 Collecting Societies' Act may be used for social and cultural purposes.
- hh) The following basic principles shall apply for qualifying contributions - with the exception of the distribution for sound recordings without relevant broadcast exploitation (Distribution Plan No. 2 b) bb): Depending on the nature of their contribution, different weightings shall be applied to artists' performances. On the basis of **Annex 1** the contributions are categorised (role and function) and a point value is allocated to each category.

- aaa) A maximum contribution of 1 artistic music producer shall be considered per recording and/or live transmission. If several artistic music producers have contributed, their share shall be reduced proportionately.

In cases where a contribution as a conductor takes place, it is not possible for the artist to be considered additionally as an artistic producer or studio conductor.

bbb)

- If performing artists have contributed to a recording in more than one different artistic role, the role with the highest point value shall be fully considered, the second contribution only with the lowest point value. Further performances/contributions shall not be considered at all.

The following additional provisions shall apply to AV productions:

- Only one of the two different artistic contributions to be considered can have a performing character. The other one will be valued in conducting terms only (Dubbing, spoken word and stage directors, conductors, artistic producers, studio conductors).
- Contributors to AV productions pursuant to AV sub-budget vii. (individual contributions in non-fictional formats) shall be considered only once per production; their highest contributory role shall be applied.

The following additional provisions shall apply to radio productions:

- Music contributors to radio productions pursuant to AV sub-budget ii. (radio plays, readings) shall be considered only once per production; their highest contributory role shall be applied.

- ccc) For recordings with contributions by performer ensembles, the total number of musicians in the ensemble is deduced from the actual number of parties contributing to the recording. Replacements shall receive the full point value.

A performer ensemble shall be a body established long-term including a minimum of 10 members who are linked to this ensemble in a setup often identical over a long period of time. Its members can be singers, instrumentalists or dancers.

Permanent members of the ensemble may usually only report their contribution via a representative they elected or who has been appointed by the board of the ensemble. The rules applicable for the respective board shall apply in cases of electing and deselecting representatives for ensembles. As a rule, only those members of the ensemble shall receive remuneration who have actually contributed to the productions which qualify for distribution. In cases where it is not possible to identify all contributors any longer, the remuneration shall be distributed on a pro rata basis to all members of the ensemble who have been members of said ensemble during the year where the production qualifying for distribution was made (solidarity distribution). The solidarity distribution can also take place if a binding resolution of the representative of the ensemble can be proven. Replacements must register their contributions themselves.

Permanent members of an ensemble without a representative must carry out their registrations independently and autonomously. Confirmation of the registration of their contributions requires a complete list of all contributors for the production in question.

Remuneration of the productions qualifying for distribution shall only be paid to GVL rights holders who were actual contributors and have been registered.

b) Creation of distribution budgets

The distributable amounts for performing artists and event organisers shall first be allocated to various distribution budgets. These are distributed independently from one another to the rights holders who are entitled to receive remuneration pursuant to distribution regulations specific to the relevant distribution budgets. Within each distribution budget, fixed shares may be determined for sub-categories which in turn may be distributed independently.

The following distribution budgets shall attract the following revenue shares:

- aa) **Commercially published sound recordings** broadcast during the distribution year in radio and TV programmes that are subject to analysis

Revenue for this category shall consist of 100 % of sound recordings' broadcast remuneration, 99.7 % of sound recordings' public performance remuneration, 75 % of private copying audio remuneration, 5 % of private copying video remuneration and 69.286 % of lending remuneration of the relevant distribution year.

- bb) **Sound recordings which had public performance exploitations during the distribution year and were whose broadcast use was lower than 200 broadcast minutes.**³

For this purpose, the following is reserved: 0.3 % of the income from the public performance of sound recordings.

- cc) **Music video clips (audiovisual recordings)**

Revenue for this category shall consist of 100 % of music video clips' broadcast remuneration, 100 % of music video clips' public performance remuneration, 1.85 % of private copying video remuneration, 10 % of rental remuneration and 0.714 % of lending remuneration.

- dd) **Radio broadcasts of productions not based on commercially published sound recordings**

Revenue for this category shall consist of 100 % of the public performance remuneration of radio broadcasts, 25 % of private copying audio and 100 % of cable retransmission remuneration of any other artistic audio productions.

³ The Distribution Plans are, in this respect, preliminary. The level of this stipulation will be determined by the Associates' and Delegates' Assembly in a timely manner.

ee) **Audiovisual Productions (except music video clips)**

Revenue for this category shall consist of 100 % of the remuneration for public performance of TV broadcasts, 93.15% of private copying video remuneration, 90 % of rental remuneration, 5 % of lending remuneration and 100 % of cable retransmission remuneration for any other artistic video productions.

c) **Individual distribution of the distribution budgets per distribution budget.**

aa) **Commercially published sound recordings** broadcast during the distribution year in radio and TV programmes that are subject to analysis

A distribution shall be made to rights holders which have contributed to commercially published sound recordings, subject to the qualifying total broadcast duration per recording during the distribution year (aaa) and the nature of their contribution to the recording (bbb).

aaa) Total broadcast duration per recording

The broadcast duration of a sound recording shall be calculated based on broadcasters subject to analysis and to a weighting system as per **Annex 2**. The selection and weighting of the broadcasters in **Annex 2** for the distribution of sound recordings is made on the basis of the criteria in **Annex 8** item I.

Minutes broadcast via the "ARD night programme" shall only count for the broadcaster in charge of the programme.

Theme music, trailer/logo and jingles are valued with 10% of the broadcast duration of a programme, provided that their sources are published sound recordings. For all other usage types, the broadcast duration shall be fully weighted.

"Weighted" broadcast minutes shall only be considered per distribution year, per recording, as follows:

Weighted broadcast minutes	Percentage considered for calculation
30,000 to 60,000	90 %
over 60,000 to 90,000	80 %
over 90,000 to 120,000	70 %
over 120,000 to 150,000	60 %
over 150,000 to 180,000	50 %
over 180,000	40 % only

bbb) Nature of contribution to the recording

Depending on the nature of the contribution, a point value, as per **Annex 1** shall be applied. Narrators and literary directors shall be considered consistently without any further differentiation within the featured and non-featured categories. Music contributions to word productions shall be weighted with 25 %.

Music contributors to word productions shall not receive more than a joint share of 20% of the remuneration which is allocated to contributions to word productions.

bb) **Sound recordings which had public performance exploitations during the distribution year and were whose broadcast use was lower than 200 broadcast minutes.**⁴

The distribution shall be made to rights holders who contributed to commercially published sound recordings which generated a lower broadcast use than 200 broadcast minutes and which were demonstrably used by way of public performance. The distribution shall be calculated on the basis of the reported public performance licensing income of a licensee and the share of the respective sound recording in the total exploitation by the respective licensee. The result thereof is the distribution amount per recording. The share allocable to the performing artist shall be relevant. The share of the party submitting the report shall depend on the number of contributors and their relevant role. It shall be reduced by an administration cost rate of 15 %. The process can only be used if the pay-out for the party submitting the report is at least EUR 10. In cases where the licensing income relates to various exploitation categories, the share relating to the exploitation category for which the public performance was established shall be taken as a basis.

cc) **Music video clips (audiovisual recordings)**

The broadcast duration of a music video clip shall be based on broadcasters subject to analysis and to a weighting system as per **Annex 2**. The selection and weighting of the broadcasters in **Annex 2** for the distribution of music video clip recordings is made on the basis of the criteria in **Annex 8** item I.

The distribution shall be made analogously to the distribution of sound recordings in TV broadcasts subject to the provision that the authors of the film work shall be paid for this usage as GVL rights holders, just like performing artists.

dd) **Radio broadcasts of productions not based on commercially published sound recordings**

The distribution shall be made to rights holders which have contributed to sound recordings which were not commercially published, in accordance with the relevant sub-budgets (aaa), the qualifying total broadcast duration per recording during the distribution year (bbb) and the nature of their contribution to the recording (ccc).

aaa) For this distribution budget, the following sub-budgets shall be created.

- i. Commissioned broadcasts (broadcasters' own productions) – music (recordings and live broadcasts). The sub-budget is subject to weighting factor 1
- ii. Radio plays and readings. The sub-budget is subject to weighting factor 1
- iii. Small literary formats. The sub-budget is subject to weighting factor 0.9.
- iv. Jingles (broadcasters' self-promotion). The sub-budget comprises 1.72% of the distribution budget.

⁴ The Distribution Plans are, in this respect, preliminary. The level of this stipulation will be determined by the Associates' and Delegates' Assembly in a timely manner.

v. Advertising. The sub-budget comprises 0.18 % of the distribution budget.

bbb) Total broadcast duration of the sound recording

The broadcast duration of a recording shall be taken into account pertaining to sub-budgets i.-iii.). With regards to sub-budgets iv.-v. the broadcast duration shall not be taken into account. The selection and weighting of the broadcasters subject to analysis for the distribution budget "Productions broadcast on the radio which have not been published on sound recordings" in **Annex 3** shall be made on the basis of **Annex 8** Ziffer II.

The following tiers shall apply for the calculation of broadcast minutes:

i. Broadcasters' own music productions

"Weighted" broadcast minutes shall only be considered per distribution year, per recording, as follows:

Weighted broadcast minutes	considered percentage for calculation
15.000 to 30.000	90 %
over 30,000 to 45,000	80 %
over 45,000 to 60,000	70 %
over 60,000 to 75,000	60 %
over 75,000 to 90,000	50 %
over 90,000	40 % only

ii. Radio plays and readings

The first broadcast and the following three broadcasts shall be considered as 100 % each, the fifth to the ninth broadcast with 50 % each and the tenth and any further broadcasts with 10 % each. The count of broadcasts shall relate to the entire usage period since 1st January 2010.

iii. small literary formats

In this sub-budget, the number of broadcasts is not subject to a regressive multiplier.

iv. jingles (broadcasters' self-promotion)

In this sub-budget, the number of broadcasts is not subject to a regressive multiplier.

v. Advertising

In this sub-budget, the number of broadcasts is not subject to a regressive multiplier.

ccc) Nature of the contribution to the recording

Depending on the nature of the contribution, a point value, as per **Annex 1** shall be applied.

Narrators and literary directors shall be considered consistently without any further differentiation within the featured and non-featured categories. Music contributions to radio plays and readings containing music shall be weighted with 25%.

In the case of feature productions, neighbouring rights of the contributing speakers and literary directors shall only attract 25% of the usual point value.

Music contributors to radio plays shall not receive more than a joint share of 20% of the remuneration which is allocated to contributions to radio plays (radio dramas).

ee) **Audiovisual Productions (except music video clips)**

A distribution shall be made to rights holders which have contributed to commercially published audiovisual recordings, in accordance with the relevant sub-budgets (aaa), the qualifying total broadcast duration per production during the distribution year (bbb) and the nature of their contribution to the production (ccc).

aaa) For this distribution budget, the following sub-budgets shall be created.

- i. Concert, ballet, opera, theatre. The sub-budget is subject to weighting factor 1.
- ii. Cabaret, comedy programmes. The sub-budget is subject to weighting factor 0.9.
- iii. Cinema movies: The sub-budget is subject to weighting factor 1.
- iv. TV movies, short films, TV series, comedy series. The sub-budget shall be subject to weighting factor 0.9
- v. Daily soaps / telenovelas. The sub-budget is subject to weighting factor 0.3.
- vi. Documentary soaps, courtroom shows. The sub-budget is subject to weighting factor 0.1.
- vii. Individual performances (such as live performances of music or comedy, fictional scenes, cartoon scenes) in non-fictional formats ("AktENZEICHEN XY", childrens' programmes, shows), others. The sub-budget is subject to weighting factor 1.
- viii. Jingles (TV self-promotion) The sub-budget comprises 1.26 % of the distribution budget.
- ix. Advertising. The sub-budget comprises 2.80 % of the distribution budget.
- x. Documentary cinema films. The sub-budget is subject to weighting factor 1
- xi. Documentary TV productions. The sub-budget is subject to weighting factor 0.9.

bbb) Total broadcast duration of the production

The broadcast duration and the broadcast time of a production shall be taken into account pertaining to sub-budgets i.-vii. and x.-xi.). With regards to sub-budgets viii.-ix. the broadcast duration shall not be taken into account. The basis are broadcasters subject to analysis and to a weighting system as per **Annex 4**. The selection and weighting of the broadcasters in **Annex 4** for the distribution of audiovisual productions (with the exception of music video clips) is made on the basis of the criteria in **Annex 8** item III.

The following tiers shall apply for the calculation of broadcast minutes:

- i. Concert, ballet, opera, theatre: The first broadcast and the following three broadcasts shall be considered as 100 % each, the fifth to the ninth broadcast with 50 % each and the tenth and any further broadcasts with 10 % each.
- ii. Cabaret, comedy programmes. The first broadcast and the following three broadcasts shall be considered as 100 % each, the fifth to the ninth broadcast with 50 % each and the tenth and any further broadcasts with 10 % each.

- iii. Cinema movies: The first broadcast and the following three broadcasts shall be considered as 100 % each, the fifth to the ninth broadcast with 50 % each and the tenth and any further broadcasts with 10 % each.
- iv. TV films, short films, TV series, comedy series: The first broadcast and the following three broadcasts shall be considered as 100 % each, the fifth to the ninth broadcast with 50 % each and the tenth and any further broadcasts with 10 % each.
- v. Daily soaps / telenovelas. The first broadcast and the following three broadcasts shall be considered as 100 % each, the fifth to the ninth broadcast with 50 % each and the tenth and any further broadcasts with 10 % each.
- vi. Documentary soaps, courtroom shows. The first broadcast and the following three broadcasts shall be considered as 100 % each, the fifth to the ninth broadcast with 50 % each and the tenth and any further broadcasts with 10 % each.
- vii. Individual performances (such as live performances of music or comedy, fictional scenes, cartoon scenes) in non-fictional formats ("Aktenzeichen XY", childrens' programmes, shows), others. The first broadcast and the following three broadcasts shall be considered as 100 % each, the fifth to the ninth broadcast with 50 % each and the tenth and any further broadcasts with 10 % each.
- viii. Jingles: In this sub-budget, the number of broadcasts is not subject to a regressive multiplier.
- ix. Advertising: In this sub-budget, the number of broadcasts is not subject to a regressive multiplier.
- x. Documentary cinema films. The first broadcast and the following three broadcasts shall be considered as 100 % each, the fifth to the ninth broadcast with 50 % each and the tenth and any further broadcasts with 10 % each.
- xi. Documentary TV productions: The first broadcast and the following three broadcasts shall be considered as 100 % each, the fifth to the ninth broadcast with 50 % each and the tenth and any further broadcasts with 10 % each.

The count of broadcasts shall relate to the entire usage period since 1st January 2010.

ccc) Nature of the contribution to the recording

Depending on the nature and duration of the audiovisual production, the nature of contribution shall be categorised as follows:

- i. With regards to films, series and other fictional productions from 40 minutes' duration onwards, the following shall apply: Actors', dancers' and speakers' contributions shall be categorised based on the number of production units they took part in (days of shooting, takes) in relation to the total production units in accordance with Annex 5. From distribution year 2018 onwards, the following shall apply: Contributions of dubbing actors or ensemble speakers for whom there is no evidence for more than five takes in a role with a role description, shall only be taken into account with 50% of the point value of category C.
- ii. Actors', dancers' and speakers' contributions to fictional formats under 40 minutes as well as on all daily series (daily soaps, telenovelas) and documentary soaps shall not be categorised and shall be treated consistently.

- iii. Actors', dancers' and speakers' contributions to documentary formats with a share of play scenes of at least 40 minutes shall be treated as if they were contributions to fictional formats.
- iv. Actors', dancers' and speakers' contributions to documentary formats with a share of play scenes of less than 40 minutes shall be treated as if they were contributions to non-fictional formats.
- v. Actors' performances including amateur actors shall only be taken into account if the participant submits evidence for switching into a role – usually with text – provided in the script.
- vi. Contributions to fictional formats and documentary productions shall be weighted as follows:

1. Music contribution	20 %
2. Speakers' contribution/ dubbing	25 %
3. Actors' contributions - dubbed	55 %
4. Actors' contributions - not dubbed	80 %
5. Dancers' contributions	80 %
- vii. Contributions to stage formats or individual contributions shall be weighted as follows:

1. All contributions	80 %
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- viii. Music contributors to fictional formats shall not receive more than a joint share of 20% of the remuneration which is allocated to contributions to fictional formats.
- ix. Music contributions to audio logos shall only be weighted at 25% of the normal point value.

d) Distribution of foreign remuneration to GVL rights holders who have assigned their foreign rights administration to GVL

In cases where performing artists entitled to such rights have entrusted GVL with the administration of their foreign rights for specific countries, the remuneration shall be paid out based on existing and future reciprocal agreements. These agreements shall provide for the remuneration for artists represented by foreign sister societies to be based on a calculation pursuant to these Distribution Regulations. In return, the artists represented by GVL shall receive the remuneration specifically calculated on the basis of the sister societies' distribution regulations. In cases where this is not achievable due to a lack of individual details for distribution purposes, and where these details cannot be acquired with a reasonable effort, GVL may, in the framework of the reciprocal contracts, also agree to blanket arrangements, which are based on other available parameters. If sister societies receive lump-sum payments based on this methodology, the relevant payments allocated to the members of sister societies pursuant to items I – III, should they exceed the amounts calculated for the lump-sum payments, shall be paid as a supplement within each of the distribution budgets applicable to the rights holders of GVL who have assigned GVL with the administration of their rights for the territory of the sister society.

3. Distribution Plan No. 3 – for event organisers

Distribution Plan No. 2 shall be applicable to event organisers. It contains a triple point value of the maximum point value provided for the respective media type.

4. Distribution Plan No. 4 – for producers of sound recordings or music video clips relating to the remuneration for broadcasts, public performance, copying, lending⁵

Remuneration for sound recordings shall be distributed among producers based on the ratio of the actual usage (broadcast minutes) of their sound recordings in radio / TV broadcasts in the respective financial year by public and private broadcasters listed in **Annex 7** to Distribution Plan No. 4. The selection and weighting of the broadcasters in **Annex 7** for the distribution of sound recordings and music video clips is made on the basis of the criteria in **Annex 8** item I.

Minutes broadcast via the “night programme of ARD” shall only count for the broadcaster in charge of the programme.

Theme music, trailer/logo and jingles are valued with 10% of the broadcast duration of a programme, provided that their sources are published sound recordings. For all other usage types, the broadcast duration shall be fully weighted.

Recordings commissioned by broadcasters themselves, made with the broadcasters together with organisations pursuant to s. 15 AktG (Companies Act) or on behalf of broadcasters or other related entities, shall qualify for distribution with a maximum of 5% of the total broadcast duration relevant for distribution regarding the broadcaster affected by this provision.

In accordance with the broadcast minutes evaluated in line with paragraphs 1 to 4 of this Distribution Plan, remuneration for broadcasters not chosen for evaluation and remuneration for public performance and copying shall be distributed.

In the first three complete years after an agreement has been entered into, and in addition to a potential short financial year, the number of minutes shall be increased to 100, as long as broadcast minutes have accrued at all. Producers which generated less than 15 broadcast minutes for sound recordings shall not participate in the distribution (minimum threshold).

Remuneration for music video clips shall be distributed among producers based on the ratio of the actual usage in the respective financial year by public and private broadcasters listed in **Annex 7** to Distribution Plan No. 4. Each usage of a music video clip with a duration of over 45 seconds and a usage of 10 excerpts each with a duration up to and including 45 seconds shall qualify as one usage.

If video producers retain an entitlement for remuneration pursuant to s. 94, para. 4 of the German Copyright Act for certain music video clip productions, the distribution to them shall be made as follows: First, the total share due to music video clips for remuneration entitlements shall be calculated. During this process, the broadcasts of music video clips reported to GVL pursuant to this Distribution Plan shall be calculated at 45 seconds each for excerpts, and entire music video clips with 3 minutes each. The total duration resulting from this is then doubled. The final amount shall be put into the ratio of the total broadcast minutes of sound recordings in accordance with this Distribution Plan. The result is the total remuneration share allocable to

⁵ The Distribution Plans are, in this respect, preliminary.

music video clips. The remuneration specifically allocable to each individual clip shall now be calculated as a ratio between the total usage of this music video clip and the total of all music video clip usages. The amounts thus calculated must be deducted from the payments to the producers who had the broadcast rights assigned to them. If a producer of a sound recording has received an unreduced distribution payment, he must pay it back and the amounts in question may be recouped from future distributions. In the event that video producers and the commissioning sound recording producer claim any entitlements, GVL shall put the distributable amount allocated to the video on hold. GVL shall only be obliged to pay one of the claiming parties if the parties either provide a contractual agreement or a legally binding court decision which proves the entitlement of one of the parties.

Entitlements and claims by producers of sound recordings and music video clip producers to participate in the remuneration requires that they declare their rights ownership to GVL. Rights holders shall be obliged to provide GVL with evidence of their rights ownerships if they are prompted to do so. The share reserved for rights holders whose rights ownership has not yet been established, shall be calculated based on the reported usages of the relevant productions, increased by a risk premium for productions that have not been reported to GVL, but are relevant for distribution. Rights holders may establish their claims up to three years after the financial year during which income was collected for the rights has lapsed. In the fourth year, retention [of the funds] ends; reserves still available must be dissolved and distributed on an accrual basis, provided that the total amount per distribution is more than EUR 500,000. In case the amount falls short of EUR 500,000, it can be allocated to the next regular distribution.

In the case where producers of sound recordings or video producers entitled to such rights have entrusted GVL with the administration of their rights for specific countries, their participation in the respective remuneration shall be based on existing and future reciprocal agreements. These agreements shall provide for the remuneration for producers of sound recordings represented by foreign sister societies to be based on a calculation pursuant to these Distribution Regulations. In return, producers of sound recordings and video producers represented by GVL shall receive the amounts specifically calculated on the basis of the sister societies' distribution rules. In cases where this is not achievable due to a lack of individual details for distribution purposes, and where these details cannot be acquired with a reasonable effort, GVL may, in the framework of the reciprocal contracts, also agree to blanket arrangements, which are based on other available parameters. If sister societies receive lump-sum payments based on this methodology, the relevant payments allocated to the members of sister societies pursuant to this Distribution Plan, should they exceed the amounts calculated for the lump-sum payments, shall be paid as a supplement to the rights holders of GVL who have assigned GVL with the administration of their rights for the territory of the sister society.

As a rule, the distribution of rights' remuneration shall take place nine months after the end of the financial year during which it was collected, at the latest; except thereof are cases where there are objective grounds preventing GVL to do so.

The Associates' and Delegates' Assembly may resolve that the collections pursuant to Art. 30 Collecting Societies' Act that cannot be distributed may be used for social and cultural purposes.

5. Distribution Plan No. 5 – regarding allocations for cultural, politico-cultural and social purposes

Specially reserved fees – up to a maximum of 5 % of the amount available for distribution – shall be used in accordance with the guidelines agreed by the Board relating to grants for cultural, politico-cultural and social purposes as resolved by the Board on 12/03/2012 and 20/11/2012.

Unofficial Translation

III. DISTRIBUTION PROCESS

The pay-out of the distributable amounts for the respective financial year pursuant to Distribution Plans Nos. 1-4 shall be made to the rights holders, usually in September of the subsequent year (initial distribution) as well as in the consecutive distributions of the subsequent years up to the final distribution. The final (closing) distribution takes place once the registration deadline is over. Claims to remuneration from the distribution budget "Publicly performed sound recordings without relevant broadcast exploitation" can be registered up to 31/12/2020 for distribution years 2016-2018, and up to 31/12 of the year following the exploitation for the subsequent distribution years.

1. Distributable amounts which, despite all necessary efforts undertaken by GVL to find and reach the addressee could not be delivered within three years from the first attempt to deliver the payment to the rights holder for reasons GVL is not responsible for, shall be allocated and distributed to the remaining performing artists and/or producers or organisers.

Allocations for cultural, politico-cultural and social purposes in line with distribution plan No. 5 have already been paid out during the relevant financial year.

2. In the event that the distribution for a specific distribution period should turn out to be systematically faulty in its entirety or in parts, specifically in cases where this is due to the invalidity of a provision of the underlying distribution regulations (including their Annexes), and if a complete reversal and rerun of the distribution is not possible or only feasible at disproportionate costs,
 - a) the level of the entitlements arising from the faulty distribution can be estimated if a precise calculation is not possible or only at disproportionate costs,
 - b) the entitlements of those negatively affected by the faulty distribution can be satisfied from current and future collections,
 - c) reclaim entitlements by the society may be offset against future payment entitlements
 - d) or instead of these amounts being offset, reclaim entitlements by the society may be waived in their entirety or in part.

When selecting from these measures, the aim is to consider that the relevant entitlements are being fulfilled as completely as possible, and to observe the requirement of proportionality. The principle of equality shall be observed and cases of hardship must be taken into account.

3. Income based on the rights shall continue to be collected, managed and distributed on the basis of the general provisions including in cases where the rights holder is entitled to receive remuneration from rights
 - a) for exploitations pertaining to a period prior to the effective termination of the rights administration relationship or the coming into force of a rights withdrawal of rights or
 - b) arising from an exploitation right which the collective management organisation had assigned prior to the effective termination of the rights administration relationship or the coming into force of the withdrawal of rights.

Berlin, 18/06/2019