

## SCHEDULE 2

### MEMBER ALLOCATION RULES

- A This document sets out VPL's policy, known as the Member Allocation Rules, regarding how monies allocated to a Music Video in respect of the exercise of the UK Rights in that Music Video shall be allocated amongst the Members who are entitled to remuneration in respect of that Music Video.
- B For the avoidance of doubt, monies allocated to a Member may be paid to a third party (such as a party to whom the right to receive remuneration has been transferred or an administrator appointed to control the financial affairs of the Member). Furthermore, due to the need to ensure that payments are made promptly and the fact that all the relevant information may not be available to VPL, it may be necessary to revise the allocations and to make adjustments to distributions to take account of any relevant changes.

### BACKGROUND

- C These Member Allocation Rules are a Schedule to (and are to be read in conjunction with) VPL's main Distribution Rules and they assume that:
- (a) after the creation of Funds (and the application of Profiles to those Funds) pursuant to the Distribution Rules, licensing revenues (arising from the exploitation of the UK Rights) have been allocated to each appropriate Music Video; and
  - (b) in accordance with the Distribution Rules appropriate adjustments (such as the deduction of VPL's administrative costs or the creation of Reserve Funds) have been applied to those licensing revenues.

### OPERATIONAL CONTEXT

- D VPL holds information on 300,000 Music Videos on the VPL Repertoire Database. This data has been obtained from Members directly.

#### 1. Aims

- 1.1 The aims of these Member Allocation Rules are to ensure that:

- (a) Member Video Allocation due to Members is allocated fairly and distributed efficiently, accurately, promptly and in a cost effective manner; and

- (b) VPL's allocations are in accordance with VPL's Articles of Association and VPL's contractual duties to Members.

## 2. Definitions

2.1 Definitions used in the Distribution Rules shall apply to this Schedule unless stated otherwise.

2.2 The following definitions are used in this Schedule:

**Account** The balance (whether positive or negative) of monies provisionally due to a Member from VPL at any one time (and which, for the avoidance of doubt, is not held in a separate bank account for that Member).

**Distribution Rules** VPL's main Distribution Rules.

**VPL Repertoire Database** VPL's Music Video database with details of Music Videos controlled by VPL and of the Member (or Members) who either assigned to VPL, or appointed VPL as its (or their) agent in respect of, the UK Rights in those Music Videos (or, as the case may be, of CMOs and the rightsholders represented by them who have appointed VPL as their agent in respect of the UK Rights in those Music Videos).

**Video Allocation** Revenues allocated to the Member (or Members) on a particular Music Video pursuant to Rule 7 of the Distribution Rules. For the avoidance of doubt, it shall be deemed that VPL's administrative costs and reserve funds have already been deducted from such revenues in accordance with the Distribution Rules.

2.3 References to a "Clause" are to a clause in this Schedule unless indicated otherwise.

2.4 The use of examples in this Schedule is for information only and these examples do not form part of this Schedule.

2.5 The headings in this Schedule are for information only and do not form part of this Schedule.

## **ALLOCATION OF MEMBER VIDEO ALLOCATION**

### 3. **Members**

- 3.1 Subject to the provisions of this Schedule, the Member Video Allocation for a particular Music Video and a particular Exploitation Period shall be allocated to the Member (or those Members) who is (or are) registered as the rightsholder(s) on the VPL Repertoire Database (subject to revisions under Clause 6) in respect of that Music Video and that Exploitation Period.
- 3.2 For the avoidance of doubt, if different Members are entitled to revenue in respect of different aspects of the UK Rights in a particular Music Video and in a particular Exploitation Period, then subject to the Distribution Rules each of those Members will be entitled to revenue only in respect of those aspects of the UK Rights in that Music Video which they have assigned to VPL or in respect of which they have appointed VPL as their agent.
- 3.3 Clause 3.1 shall not apply to the extent that the relevant Member informs VPL in writing otherwise or VPL determines that it is reasonable in all the circumstances to allocate those monies (in whole or in part) to another Member.
- 3.4 For the avoidance of doubt, where the relevant rightsholder in respect of a particular Music Video is a member of a CMO, that rightsholder shall be allocated monies for that Music Video in accordance with Clause 3.1 (whether or not that rightsholder is itself a Member).

### 4. **Incorporated Content**

- 4.1 For the purposes of this Schedule:

“Incorporated Content” is a Music Video, sound recording or other content which has been published and subsequently a part (or all) of it has been incorporated into a separate Music Video.

A “Subsequent Video” is a Music Video which incorporates Incorporated Content.

An “Additional Video” is that part of a Subsequent Video additional to the Incorporated Content.

- 4.2 The Member Video Allocation for a Subsequent Video shall be allocated to the Member (or Members) responsible for the Additional Video in accordance with Clause 3.1. Unless VPL is properly informed in writing otherwise, it shall be for that Member (or Members) to pay the owners of the UK Rights in any Incorporated Content featured on that Subsequent Video.
- 4.3 For the avoidance of doubt, where VPL is informed that the use of Incorporated Content in a Subsequent Video was not licensed by the Member responsible for the Incorporated Video, VPL may suspend payments to (or in respect of) the Member responsible for the Additional Video pursuant to Rule 10.

## 5. **Transfer of repertoire**

5.1 Where there is a transfer of repertoire by one Member to another Member during an Exploitation Period, those Members must agree between themselves as to:

- (1) Which Member is to be paid by VPL for exploitations of the UK Rights in the period from the start of the Exploitation Period to the date of the transfer; and
- (2) Which Member is to be paid by VPL for exploitations of the UK Rights in any previous Exploitation Periods in respect of which the transferring Member controlled that repertoire,

but in the absence of such agreement (or the adequate notification of such agreement to VPL), VPL shall be entitled to pay the second Member as it determines to be reasonable in all the circumstances.

5.2 In adjusting allocations to take account of a transfer of repertoire (whether such adjustment is in accordance with instructions from the relevant Members or on the basis of VPL's discretion), VPL shall be entitled to treat the transfer as taking place on a date other than the actual date of the transfer where VPL determines this to be reasonable in all the circumstances.

*Example: where the transfer of repertoire takes place on 27 November, VPL may decide to treat the transfer as taking place on 1 December on the basis that a substantial proportion of usage reporting to VPL takes place on a monthly basis.*

## **REVISIONS**

### 6. **Revisions of Member Video Allocation**

6.1 Without limitation to Rule 11 of the Distribution Rules where at any time (whether before or after a distribution) VPL determines that it is reasonable in all the circumstances (such as where there is the provision of further information to VPL, the conclusion of VPL research, and/or the receipt by VPL of a valid declaration form), VPL may revise the Member Video Allocation in respect of a particular Music Video and Exploitation Period.

### 7. **Initial Distribution**

7.1 In accordance with the Distribution Rules VPL may pay the Member (or Members) entitled to remuneration for a Music Video a share of the Member Video Allocation in respect of that Music Video pursuant to Clause 3 or, as appropriate, on the provisional allocations in Clause 3 .

## **ADJUSTMENTS TO THE ACCOUNTS OF MEMBERS**

## 8. **Adjustments**

- 8.1 For the avoidance of doubt, and without limitation to Rule 11 of the Distribution Rules where a distribution of Member Video Allocation has taken place, it may be necessary to make adjustments to the Account(s) of the Member (or Members) in respect of that Music Video pending future distributions in accordance with the Distribution Rules where:
- (a) the allocation of the Member Video Allocation is revised and the Member (or Members) has (or have) been allocated either too much or too little of either the Member Video Allocation in respect of one or more Exploitation Periods; and/or
  - (b) the wrong amount of Member Video Allocation was paid to (or in respect of) a Member for any other reason.
- 8.2 Where a situation as specified in Clause 8.1 arises, VPL may:
- (a) when making distributions in respect of a Member and that Music Video (whether or not in respect of the Exploitation Period relating to the erroneous allocation), deduct any Overpayment from the amount to be paid in respect of that Member; and/or
  - (b) when making distributions in respect of that Member and other Tracks, deduct any Overpayment from the amount to be paid in respect of that Member; and/or
  - (c) make any other deductions (whether from payments to that Member or to third parties) as permitted under the Distribution Rules.
- 8.3 Any adjustments made pursuant to Clause 8.2 (whether in the form of additional payments or deductions from further distributions) shall be limited in time in accordance with the Distribution Rules.
- 8.4 Any exercise of Clause 8.2 by VPL shall not preclude VPL from exercising any other remedies in order to recover monies paid out to (or in respect of) Members in error.
- 8.5 For the avoidance of doubt, an adjustment to the allocation of Member Video Allocation in respect of one Exploitation Period does not mean that all relevant Members should receive the same allocations in respect of any future Exploitation Period.
- 8.6 VPL shall be under no obligation to notify all or any of the Members entitled to payment from VPL for the exploitation of the UK Rights in a Music Video of any amendments, adjustments and/or recalculations under this Clause 8.

## **GENERAL**

9. **General**

- 9.1 In the event of a conflict between this Schedule and the Distribution Rules, the Distribution Rules shall prevail.
- 9.2 This Schedule may be amended from time to time by VPL, such amendment to be effective from the date specified by VPL.