




## **THE TRINIDAD AND TOBAGO COPYRIGHT COLLECTION ORGANISATION (T.T.C.O.)**

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### **Distribution Rules (Related Rights)**

The following document serves to outline the specific rules considered appropriate in the distribution of all monies collected by TTCO, with regards to the securing of royalties for “neighboring rights’ (Related Rights), that are controlled by TTCO.

## CONTENTS

|                      |   |    |
|----------------------|---|----|
| <b>Rule One</b>      | Targets.....  | 3  |
| <b>Rule Two</b>      | List of Definitions.....  | 3  |
| <b>Rule Three</b>    | Requirements of Sound Recordings.....   | 5  |
| <b>Rule Four</b>     | Requirements of Performances.....   | 5  |
| <b>Rule Five</b>     | File.....   | 6  |
| <b>Rule Six</b>      | Reserve Funds.....  | 7  |
| <b>Rule Seven</b>    | The Distribution Scheme.....  | 8  |
| <b>Rule Eight</b>    | Distribution of Cost.....   | 8  |
| <b>Rule Nine</b>     | The Collection of Revenues.....   | 9  |
| <b>Rule Ten</b>      | Dissemination of Net Distributable Revenue Between Record Companies and Performers..... | 10 |
| <b>Rule Eleven</b>   | Distribution of Revenues to Record Companies.....                                       | 10 |
| <b>Rule Twelve</b>   | Distribution of Revenues to Performers .....  | 11 |
| <b>Rule Thirteen</b> | Disbursements to Record Companies.....  | 12 |
| <b>Rule Fourteen</b> | Disbursements to Performers.....  | 13 |
| <b>Rule Fifteen</b>  | Variations.....   | 16 |
| <b>Rule Sixteen</b>  | Miscellaneous.....  | 16 |

## **RULE ONE**

### **Targets**

1. The objectives of TTCO Distribution rules are as follows:

- (i) License fees are collected by TTCO and are disseminated to Record Companies and Performers reasonably, professionally, precisely, timely and economically.
- (ii) License fees collected are disseminated to Record Companies and Performers in accordance with the usage of their Sound Recording and the agreed upon contractual duties to the Record Companies and Performers.

## **RULE TWO**

### **List of Definitions**

2. The proceeding list contains definitions used for the purpose of TTCO Distribution Rules:

|                                |  |
|--------------------------------|--|
| Dispute Resolution Procedures: | Procedures that are followed when necessary to resolve any dispute that relates to the Distribution Rules.                           |
| Distribution Committee:        | A duly appointed committee by the Board of Directors to manage the different facets of distribution of revenue by TTCO.              |
| Fund:                          | The collection of revenue obtained by TTCO (by a single or by multiple licensees) after the applicable deductions have been applied. |
| File:                          | Stored information regarding the use of Sound Recordings.  |
| Net Distributable Revenue:     | The net amount accessible for distribution to Record Companies and Performers for any Utilization Period.                            |
| Overpayment:                   | Payments made by TTCO (associated with these rules or otherwise), that is in a surplus of the actual amount that has been paid.      |

|                         |   |
|-------------------------|---|
| Performer:              | A person providing a performance to a sound recording.  |
| Record Company:         | A person (whether an individual, company, partnership or otherwise) with membership from TTCO and whose name appears on TTCO's Register.  |
| Record Company Society: | A society responsible for the collective administration of Sound Recordings in a territory outside of Trinidad And Tobago that enters into an agreement with TTCO, which under the society appoints TTCO as its agent to administer "Rights". |
| Register:               | The list of members kept according to the By Laws that governs TTCO.  |
| Reserve Funds:          | The monies deducted from revenues streams in accordance with Rule 6.  |
| Sound Recording:        | A sound recording as outlined under The Copyright Act.  |
| The Board of Directors: | The board of directors of TTCO.   |
| The Copyright Act:      | The Trinidad and Tobago Copyright Act; any amended or modified versions of that statute, for the duration being in force.   |
| Rights:                 | Includes all the rights in Sound Recordings, included in the Copyright Act, that are administered by TTCO, on behalf of some and/or all of the Record Companies and Performers.   |
| Utilization Period:     | The period where a Sound Recording is used and where a distribution is (willed be) made by TTCO.  |
| Working Day:            | Monday to Friday exclusive of public holidays.  |

- 2.2. A Record Company Society shall be considered a Record Company for the sole purpose of these Rules. As such all distributions to a particular Sound Recording will be based on the Sound Recording rights which are represented by the Record Company Society.
- 2.3. In instances where a person is both a Performer and a Record Company for a single Sound Recording, these rules shall be applied to that person rights;
- (i) when in the capacity of a Record Company as a Record Company
  - (ii) when in the capacity of a Performer as a Performer.

## **RULE THREE**

### **Requirements for Sound Recordings**

- 3.1. Allocations and payments (to Record Companies or to Performers) will only be paid in regard to a Sound Recording where:
- (i) sound recording meets the criteria established for Copyright protection with regards to the “Rights” at the time those rights are being applied;
  - (ii) TTCO controls Rights of Sound Recording.
- 3.2. Allocations shall be made according to Rule 3.1., to any Sound Recording or any Performer, with rights that are under the scope of “Rights” and is controlled by TTCO.

## **RULE FOUR**

### **Requirements for Performances**

- 4.1. Where “Rights” covers a Sound Recording that qualifies for allocation under Rule 3.1., a person is eligible to be paid reasonably as follows:
- (i) when the right to equitable remuneration within The Copyright Act of Trinidad and Tobago, applies to a utilization period;
  - (ii) the contribution to the Sound Recording qualifies as that of a performer in respect of that Sound Recording in accordance with these Rules.

- 4.2. Where TTCO represents a Record Company regarding the Rights of a Sound Recording, TTCO will pay equitable remuneration to Performers (in accordance with these Rules) on behalf of that Record Company.

## **RULE FIVE**

### **File**

- 5.1. Monies accumulated in each Fund (Rule Nine) are disseminated to the Sound Recording according to the File created for that “Fund”.
- 5.2. The objective of creating Funds and Files is to guarantee that all monies procured from licenses’ fees by TTCO are distributed in such proportions that is a fair and precise reflection of each Utilization Period of the “Rights” in Sound Recordings.
- 5.3. TTCO shall create Files on the basis of actual usage (with the exception of information being unavailable for any satisfactory reason or when the cost attached in obtaining the information would be unbalanced regarding the revenue represented by such usage).
- 5.4. In instances where there is no recoverable, incomplete usage information for a license granted by TTCO or the usage information is determined to be disproportionate by TTCO the following would be taken in consideration;
  - (i) Information provided via similar licensees with similar use of the rights controlled by TTCO;
  - (iii) Information provided via similar licensee with a similar genre of music;
  - (iv) Reliable information provided to TTCO with evidence of Sound Recording usage;
  - (v) Any other information as determined by the discretion of TTCO.
- 5.5. TTCO will take into consideration the format and information within the usage report, as determined by the discretion of TTCO, of a Sound Recording, before such information is included in Files.
- 5.6. **Note well;** TTCO will take into account when creating “Files” and applying “Funds” to Files, the usage in any Utilization Period, where the need for a license arose or if Utilization Period is different a license fee was received.
- 5.7. TTCO will take into account when creating “Files” and applying “Funds” to Files, the number of persons who the Sound Recording was communicated to as a result of usage and/or category of usage of Sound Recording.

- 5.8. The following may be removed from Files as determined by the discretion of TTCO, when Sound Recording have been produced for other than distribution and sale;
- (i) Sound Recordings produced to accompany radio and television broadcast;
  - (ii) Sound recordings produced for use in the advertising of products or services;
  - (iii) Sound Recording produced to accompany the exercise tracks used in fitness classes;
  - (iv) Karaoke Sound Recordings.
- 5.9. Accumulated monies in a Fund to be distributed between, Sound Recordings in a relevant “File” according to Rule 3 is as follows;
- (i) in direct proportion between the total amount of time that each Sound Recording was utilized and the total amount of time that Sound Recordings in that “File” was utilized.
  - (ii) in instances where there is insufficient information to complete the distribution in accordance with Rule 5.9.(i), in direct proportion to the number of plays of each Sound Recording in that “File”.
- 5.10. In the absence of sufficient information to complete the distribution in accordance with Rule 5.9. then allocations will be made using an estimate of the number of plays for each Sound Recording in a “File”.

## **RULE SIX**

### **Reserve Funds**

- 6.1. During the process of distributing cost or disseminating money for any Utilization Period a reasonable proportion of money shall be set aside from the Net Distributable Revenue as determined by the discretion of TTCO and approved by the Board of Directors.
- 6.2. Monies (Rule 6.1.) will then be placed into a Reserve Fund which will at all times accrue interest.
- 6.3. Monies in the Reserve Fund (Rule 6.1.) will be only used for specific purposes in such amounts as determined by the discretion of TTCO and approved by The Board of Directors.
- 6.4. Any surplus of money in the Reserve Fund will be added to the Net Distributable Revenue as determined by the discretion of TTCO and approved by The Board of Directors.

## **RULE SEVEN**

### **The Distribution Scheme**

- 7.1. Distributions of Net Distributable Revenue will be made according to the following:
- (i) TTCO Revenues and Administrative Cost will be independently audited for each Utilization Period.
  - (ii) The audited administrative cost will be allocated to the relevant Revenue Stream (or a combination of revenue streams) such cost will not supersede (15 %) and Funds will be created from these Revenue Streams (or a combination of Revenue Streams) which will be then used to remunerate Producers and Performers (Rule 11 and Rule 12).
  - (ii) Applied to Funds is the cost of Usage Information which is used to calculate the monies allocated to Sound Recordings (Rule 5).
  - (iv) Reserve Funds will be deducted as per the discretion of TTCO (Rule 6).
  - (v) The subsequent monies will be allotted to Sound Recordings then split up between Record Companies and Performers (Rule 10, Rule 11 and Rule 12).
  - (vi) Precise and timely payments would be made to Record Companies or to persons that are eligible to collect monies on their behalf (Rule 13).
  - (vii) Precise and timely payments would be made to Performers or to persons that are eligible to collect monies on their behalf (Rule 13).

## **RULE EIGHT**

### **Distribution of Cost**

- 8.1. Established Revenue Streams will receive revenues for any Utilization Period, which can be combined in the Distribution of Cost.
- 8.2. Each Revenue Stream will incur all cost (which will not supersede 15%) in regard to collecting Revenue unless determined otherwise by the discretion of TTCO and approved by The Board of Directors.
- 8.3. All costs including but not limited to corporate and administration (which will not supersede 15%), will be shared proportionally between Revenue Streams as determined by the discretion of TTCO approved by The Board of Directors.



- 8.4. All costs incurred for the collection and dissemination of monies will not supersede 15% of that Revenue Stream, in the event that the above cannot be maintained, adjustments will be made as determined by the discretion of TTCO and approved by The Board of Directors.
- 8.5. The cost of collecting and distributing Revenue to Record Companies and Performers will be shared proportionally between Record Companies, Performers and Revenue Streams as determined by the discretion of TTCO.
- 8.6. Distributing cost in Rule 6.2., Rule 6.3. and Rule 6.4. will be applied as follows; cost will be allocated to the Utilization Period for which the cost was incurred or apportioned between different Utilization Periods to which the cost is projected to be incurred.
- 8.7. Distribution of cost in Rule 8.2, Rule 8.3, Rule 8.4 and Rule 8.5. will be reviewed by an auditor, confirmed by the Finance Committee and approved by The Board of Directors.

## **RULE NINE**

### **The Collection of Revenues**

- 9.1. For the purpose of these Rules the collection of revenue will constitute the “Funds”.
- 9.2. Any interest compounded on monies in regard to the application of “Rights” will be added proportionally to Revenue Streams as determined by the discretion of TTCO and with the approval of The Board of Directors.
- 9.3. All payable taxes incurred by TTCO, will be shared proportionally between Revenue Streams as determined by the discretion of TTCO with the approval of The Board of Directors.
- 9.4. Any anti-piracy activities payments and distribution of cost from Revenue Streams at the discretion of TTCO, will be determined by The Board of Directors.
- 9.5. All other music industry contributions (exclusive of Rule 9.3.), payments and distribution of cost from Revenue Streams at the discretion of TTCO, will be determined by the Board of Directors.
- 9.6. Any other payments and distribution of cost from Revenue Streams at the discretion of TTCO, will be determined by The Board of Directors, and/or Finance Committee.
- 9.7. The resulting monies that exist from Revenues Streams, after all adjustments addressed in Rule 8 and Rule 9 are made for a predetermined Utilization Period, will be considered The Collection of Revenue (“Funds”).

- 9.8. In creating The Collection of Revenue (“Funds”), at the discretion of TTCO with the approval of The Board of Directors the following will be taken into account;
- (i) all pertinent features of licensees, which includes but not limited to the size, type and location of business that has paid a license fee;
  - (ii) the genre of music used by licensees that has paid a licenses’ fee;
  - (ii) the quantity of persons that the Sound Recording is communicated to by licensees that has paid a licenses’ fee;
  - (iv) the reason for the use of the Sound Recording by licensees that has paid a license fee for which a Fund is to be generated including but not limited to where the performers have a right to receive equitable remuneration for such use and
  - (v) the availability and quality of usage information (Rule 5).
- 9.9. The Collection of Revenues will be confirmed by the Distribution Committee for each Utilization Period.
- 9.10. All monies in the “Funds” covering any Utilization Period will be the Net Distributable Revenue for that period.

## **RULE TEN**

### **Dissemination of Net Distributable Revenue Between Record Companies and Performers**

- 10.1. All monies in “Fund” shall be distributed in accordance to Rule 9, to “Files” of Sound Recordings, equally between Record Company or Record Companies and the Performers on that Sound Recording.
- 10.2. Rule 10.1 will not apply to performers who are not entitled to equitable remuneration when allocating monies to a Sound Recording cover with Rights controlled by TTCO for any Utilization Period.
- 10.3. Such monies (Rule 10.2.) will be distributed as follows:
- (i) to Record Company or Record Companies;

- 10.4. When a single payment is made to TTCO in respect to two or more “Rights” and Performers do not have the right to equitable remuneration in regard to those rights, TTCO will distribute payments in proportions that will be reasonable in all circumstances.
- 10.5. With The Board of Directors approval an alternate method can be used to allocate according to Rule 10.1.

## **RULE ELEVEN**

### **Distribution of Revenues to Record Companies**

- 11.1. All royalties applicable to (Rule 10), distributed to Record Company and/or Record Companies will be done in accordance with Rule 13 and with approval from the Board of Directors.

## **RULE TWELVE**

### **Distribution of Revenue to Performers**

- 12.1. All royalties applicable to (Rule 10), distributed to a performer of a Sound Recording will be done in accordance with Rule 14 and with approval from the Board of Directors.
- 12.2. All royalties applicable to (Rule 10), distributed to a performer of a Sound Recording, who is not entitled to equitable remuneration will not be paid to the Performer but will be distributed in accordance with Rule 10.2. and with approval from The Board of Directors.
- 12.3. As determined by the discretion of TTCO, with The Board of Directors approval an alternate method can be used when paying Performers of a particular Sound Recording according to Rule 14.

## **RULE THIRTEEN**

## **Disbursements to Record Companies**

- 13.1. The proceeding Rules will be used by TTCO in the delivery of its contractual duties in respect to making payments to Record Company and /or Record Companies and will be subjected to any statutory deductions.
- 13.2. Remuneration will be made to Record Company and/or Companies or any duly appointed person or persons as follows:
  - (i) contractual parties to whom a Record Company has deployed to receive payments on their behalf;
  - (ii) any third party that authorization was given to be paid by the contractual party
  - (iii) any third party TTCO is obligated to pay according to law or in respect of a court order.
- 13.3. Payments will be made to a Record Company and /or Record Companies quarterly, semi annually and or/ annually or as determined by the discretion of TTCO and with approval by The Board of Directors, in regards to any Utilization Period
- 13.4. All interest compounded on revenues in accordance to Rule 9.2. or by any other means will be added to payments made to Record Company and/or Record Companies in relation to the Revenue Streams and these Rules, as determined by the discretion of TTCO and with approval by The Board of Directors.
- 13.5. Tax and charges in accordance with law and Rule 9.3. will be applied to the payments of Record Company and/ or Record Companies.
- 13.6. In any instance that an Overpayment was made to a Record Company and/or Record Companies TTCO will recover such as follows;
  - (i) all or part of the Overpayment will be deducted from any payment that is owed to the Record Company and/or Record Companies;
  - (ii) if the catalog of the Record Company and/or Record Companies has been transferred, all or part of the Overpayment will be deducted from any payment that is owed to the Record Company and/or Record Companies who has control over the catalog;
  - (iii) if all or part of the Overpayment has been paid to any organization acting on behalf of the Record Company and/or Record Companies, all or part of the Overpayment will be deducted from any payment that is owed to the organization.

- 13.7. Any deductions made according to Rule 13.6. will be restricted to payments owed in regard to the Record Company and/or Record Companies and the catalog that was the subject of the Overpayment.
- 13.8. Overpayments can be recovered from one or more than one of the criteria according to Rule 13.6. provided that the total sum does not supersede the total Overpayment.
- 13.9. In any instance where an Overpayment made to a Record Company and/or Record Companies has not been recovered according to Rule 13.6. the Record Company and/or Record Companies will repay TTCO within fifteen (15) working days of receipt of a formal written request from TTCO (not dependent on the pursual of Rule 13.6.).
- 13.10. Monies in respect of a Record Company and/ or Record Companies can be held, as determined by the discretion of TTCO and with approval by The Board of Directors as follow:
  - (i) for monies to achieve an appropriate point for a payment to be made;
  - (ii) pending the resolution of all disputes in regard to distribution and payments of a Record Company and/or Record Companies;
  - (iii) pending the receipt of data related to a Sound Recording in respect to a Record Company and/or Record Companies;
  - (iv) pending the resolution of all concerns raised by TTCO in regard to distribution of a Record Company and/or Record Companies;
- 13.11. Changes made by any Record Company and/or Record Companies to their catalog must be communicated to TTCO at the Record Company and/or Record Companies earliest convenience; TTCO reserves the right as determined by the discretion of TTCO and with approval by The Board of Directors to withhold payments in accordance with Rule 13.10.
- 13.12. Overpayment made to a Record Company and/or Record Companies (or any authorized parties on their behalf) is expected to be communicated to TTCO in writing within fifteen working days after receiving Overpayment and returned at the same time.
- 13.14. In instances where a Sound Recording is made for charitable purposes, TTCO will pay to such organization, in accordance with Rule 13.2. the total payments allocated to the relevant Record Company and/or Record Companies unless otherwise requested.

## **RULE FOURTEEN**

### **Disbursements to Performers**

- 14.1. The proceeding Rules will be used by TTCO in the delivery of its contractual duties in respect to making payments to Performers and will be subjected to any statutory deductions.

14.2. Remuneration will be made as follows:

- (i) collecting societies that has been assigned the right to equitable remuneration by the Performer;
- (ii) appointed agent of a Performer;
- (iii) appointed person with Power of Attorney for a Performer;
- (iv) grant of representation in respect of a deceased Performer;
- (v) any third party with authorization that was given by a Performer;
- (vi) any third party TTCO is obligated to pay according to law or in respect of a court order.

14.3. Payments will be made to a Performer quarterly, semiannually and or/ annually or as determined by the discretion of TTCO and with approval by The Board of Directors, in regards to any Utilization Period.

14.4. All interest compounded on revenues in accordance to Rule 9.2. or by any other means will be added to payments made to Performer in relation to the Revenue Streams and these Rules, as determined by the discretion of TTCO and with approval by The Board of Directors.

14.5. Tax and charges in accordance with law and Rule 9.3. will be applied to the payments of a Performer.

14.6. In any instance that an Overpayment was made to a Performer TTCO will recover such as follows;

(i) all or part of the Overpayment will be deducted from any payment that is owed to the Performer;

(ii) if all or part of the Overpayment has been paid to any organization acting on behalf of the Performer, all or part of the Overpayment will be deducted from any payment that is owed to the organization.

14.7. Overpayments can be recovered from one or more than one of the criteria according to Rule 13.6. provided that the total sum does not supersede the total Overpayment.

14.8. In any instance where an Overpayment made to a Performer has not been recovered according to Rule 14.6. the Performer will repay TTCO within fifteen (15) working days of receipt of a formal written request from TTCO (not dependent on the pursual of Rule 13.6.).

- 14.9. Monies in respect of a Performer can be held, as determined by the discretion of TTCO and with approval by The Board of Directors as follow:
- (i) pending registration of a performer or a person duly appointed to act on their behalf;
  - (i) for monies to achieve an appropriate point for a payment to be made;
  - (ii) pending the resolution of all disputes in regard to distribution and payments to a Performer;
  - (iii) pending the resolution of all concerns raised by TTCO in regard to distribution and payments to a Performer;
  - (iv) pending resolution of any court order or legal responsibilities of TTCO.
- 14.10. Overpayment made to a Performer (or any authorized parties on their behalf) is expected to be communicated to TTCO in writing within fifteen working days after receiving Overpayment and returned at the same time.
- 14.11. In instances where a some or all of the Performers on a Sound Recording belongs to a choir;
- (i) the choir has an amateur or volunteer status;
  - (ii) it is not cost effective to identify all the Performers individually;
  - (iii) the Performers in the choir have appointed a representative to receive payment on their behalf;
  - (iv) subject to Rule 14.12. and Rule 14.13.;
- then TTCO will allocate and disburse the royalties of such performers to the person(s) responsible for the administration of the choir.
- 14.12. Allocation and disbursement in accordance to Rule 14.11. will only take place;
- (i) the choir qualifies for equitable remuneration;
  - (ii) the appointed representative or the person(s) responsible for the administration of the choir enters into a contractual agreement with TTCO.
- 14.13. In instances where a Sound Recording is made for charitable purposes, TTCO will pay to such organization, in accordance with Rule 14.2. the total payments allocated to the relevant Performer unless otherwise requested.

## **RULE FIFTEEN**

### **Variations**

#### **General Modifications**

- 15.1. Modifications to amounts allocated to a Sound Recording, to Record Companies or to Performers can be made, as determined by the discretion of TTCO and with approval by The Board of Directors in the following instances;
- (i) additional revenue has become available for distribution or addition data usage information has become available;
  - (ii) additional or revised information in relevance to ownership of rights to a Sound Recording;
  - (ii) additional or revised information in regard to the entitlement of Performers to equitable remuneration in respect to a Sound Recording.
- 15.2. Any modification according to Rule 15.1. can increase or decrease the revenues allocated to Record Companies; Record Companies and Performers and/or Performers.

#### **Unusual Modifications**

- 15.3. As determined by the discretion of TTCO and with approval by The Board of Directors, the distribution of a Revenue Stream will be revised or redone.
- 15.4. Any modification according to Rule 15.3. can alter the revenues allocated to Record Companies; Record Companies and Performers and/or Performers.

## **RULE SIXTEEN**

### **Miscellaneous**

#### **Commencement**

- 16.1. These Rules will become applicable in the respect to any Utilization period with effect from January 1<sup>st</sup>, 2023; subjected to any revisions or replacement for any Utilization Period as determined by the discretion of TTCO and with approval by The Board of Directors.

#### **Law**

- 16.2. These Rules will be subject to the laws that govern Trinidad and Tobago and in accordance with the Bylaws of TTCO.



## **Rules**

16.3. The use of Rules throughout the entire document will be in reference to the rules outlined within this document.

## **Titles**

16.4. Titles used throughout this document are for information and not part of Rules.

## **Amendments**

16.5. Amendments to these rules must be approved by a majority of The Board of Directors.

16.6. In instances where there is a conflict between these Rules and any other TTCO documentation these Rules will prevail.