



DRAFT ROYALTY DISTRIBUTION RULES

2022

Title	Royalty Distribution Rules
Implementing Unit	Human Resource and Administration Department / ICT Department
Effective Date	3rd Quarter 2022
Next Review Date	3rd Quarter 2025
Version	September 2022
Scope of Application	All KAMP Officers
Approving Authority	KAMP BOARD

TABLE OF CONTENTS

LIST OF ABBREVIATIONS.....	iii
EXECUTIVE SUMMARY	iv
1. INTRODUCTION.....	1
1.1 Background Information	1
1.2 Functions of KAMP	1
1.3 KAMP Governance Structure.....	1
1.3.1 <i>The Annual General Meeting</i>	2
1.3.2 <i>The Board</i>	2
1.3.3 <i>The Management</i>	2
1.4 KAMP Vision	2
1.5 KAMP Mission.....	2
1.6 Core Values	2
1.7 Slogan or Credo	2
2. POLICY STATEMENT	3
2.1 Purpose.....	3
3. TERMS AND DEFINITIONS	3
4. RIGHTS REVENUE STREAMS	4
5. ALLOCATION OF REVENUE.....	5
5.1 General Principles	5
6. BROADCASTING REVENUE.....	5
6.1 Radio	5
6.2 Television (TV).....	6
6.3 Cable Retransmission	6
7. PUBLIC PERFORMANCE / COMMUNICATION TO THE PUBLIC	7
7.1 Dubbing.....	7
7.1.1 <i>Dubbing for Radio broadcasting</i>	7
7.1.2 <i>Dubbing for Public performance / Communication to the Public</i>	7

8. PRIVATE COPYING REMUNERATION	7
8.1 Private copying sound recordings.....	8
8.2 Private copying – audio - visual recordings.....	8
9. WEBCASTING.....	8
10. ACCEPTABLE PRACTICES WHEN NO OTHER ALTERNATIVE IS AVAILABLE	8
11. FAIR AND EQUITABLE APPLICATION OF DISTRIBUTION RULES.....	8
12. DISTRIBUTION SCHEDULE AND PRACTICES.....	8
13. FUNDS FOR DISTRIBUTION	8
14. ADMINISTRATIVE COSTS AND FEES	9
15. RIGHTS CONFLICTS	9
16. UNMATCHED USAGE	9
17. REVENUES FOR UNCLAIMED REPERTOIRE	9
18. GENERAL RESERVES	10
19. DISTRIBUTION TO RELEVANT RIGHT HOLDERS.....	10
20. ANNUAL DISTRIBUTION CALENDAR.....	10
21. APPROVAL AND PUBLICATION	10
22. ACCEPTANCE	11

LIST OF ABBREVIATIONS

ACECA	Anti-Corruption and Economic Crimes Act
ACR	Automatic Content Recognition
AGM	Annual General Meeting
AU	African Union
CMOs	Collective Management Organizations
CTP	Communication to the Public
DJs	Disc Jockeys
DTO	Download-To-Own
DVDs	Digital Versatile Disc
KAMP	Kenya Association of Music Producers
KECOBO	Kenya Copyright Board
OECD	Organization for Economic Development
PhD	Doctor of Philosophy
POEA	Public Officers Ethics Act
TV	Television
UNCAC	United Nations Convention Against Corruption
VDJs	Video Disc Jockeys

EXECUTIVE SUMMARY

The Kenya Association of Music Producers (KAMP) Royalty Distribution Rules Document provides guidance in handling matters of Royalty Distribution and how to process and pay royalties to designated rights holders. This policy shall be read alongside the Associations' Memorandum and Articles of Association, Membership Policy, By-laws, Finance Policy, Procurement Policy, Conflict of Interest Policy, the Public Officers Ethics Act (POEA), the Constitution of Kenya 2010 especially chapter six on Leadership and Integrity, Anti-Corruption and Economics Crimes Act (ACECA), United Nations Convention Against Corruption (UNCAC), the African Union Convention on Preventing and Combating Corruption and other relevant Acts of Parliament in Kenya.

The various sections highlighted herein, make this policy document to provide details in the subject of royalty distribution at the Association.

All officers and particularly line managers are encouraged to familiarize themselves with the contents of this policy and abide by it.

CS Maurice Mwande Okoth
Chief Executive Officer

1. INTRODUCTION

1.1 Background Information

The Kenya Association of Music Producers (KAMP) is a registered non-profit making private company, with no share capital limited by guarantee. KAMP was officially registered in the year 2003 under the Companies Act, Chapter 486 of the Laws of Kenya and licensed by the Kenya Copyright Board to operate as a Collective Management Organisation (CMO) in May 2008 as provided for in Section 46 of the Copyright Act Chapter 130, laws of Kenya.

The idea to form a producers' society in Kenya was mooted by a team of prominent producers of sound recordings after the promulgation of the copyright Act 2001, laws of Kenya. The Act provided for the formation of Kenya Copyright Board (KECOBO) to regulate the licensing and operations of CMOs among other core functions of the Board. The formation of a Music Producers' body is provided for in Section 28 of the Copyright Act Chapter 130.

This policy document sets out the obligations of the board members and employees regarding conflict of interest and the declaration and management of these interests. This policy should be read together with KAMP's other policies especially the Human Resource Policies and Procedures Manual.

1.2 Functions of KAMP

- a) To provide a forum for discussing matters of common interest. To promote dialogue between the various independent creative arms of the industry and to address their opportunities.
- b) To collect and equitably distribute to the members of public performance and broadcast fees, royalties, and any other fees or levies as the company may be permitted to collect.
- c) To establish, negotiate and enter into agreements to authorize the collection of royalties locally and internationally for the public performance and broadcasting of sound recordings and audio-visual recordings on behalf of members and other right holders.
- d) To promote ethical business, to repress malpractice and investigate any other illegal activities detrimental to the members including to advocate for any matter that will protect and enhance the rights of the members such advocacy includes, proposed amendments to the law.
- e) To establish and enforce rules and code of conduct for the regulation, maintenance, and promotion of standards of members, their management, employees, directors, and agents in their dealings with each other and with third parties.
- f) To take such action as may be necessary by legal or other process, for the protection of the rights of the members including enforcement of intellectual property rights.
- g) To consult and liaise with related bodies both at international and national level, including chambers of commerce, trade and business and other mercantile and industrial bodies for the purpose of joint action in the interest of the industry and commerce.
- h) To maintain registers of sound recordings, audio-visual recordings, producers of sound recordings, producers of audio-visual recordings and to an extent performers, authors, composers, broadcasters, and publishers.
- i) To represent the audio-visual producers, Producers of sound recordings or phonogram producers.
- j) To enter into any agreements with producers of music and dramatic works videos.
- k) To enter into any agreements with any government Organizations, authorities that may seem conducive to the company objects.

1.3 KAMP Governance Structure

KAMP has established a structure for its effective management. The structure includes: -

- The Annual General Meeting for Members
- The Board of Directors
- The Management

The roles and functions and the membership at each level on the structure are stipulated in the Memorandum and Articles of Association and other governance documents.

1.3.1 The Annual General Meeting

The Annual General Meeting (AGM) is the supreme organ of the Association/Company. The AGM is held once every year with not more than fifteen (15) months between one AGM and another. At the AGM, the directors of the Association/Company present an Annual Report and Strategy. In addition, members vote as per their weighted voting rights on issues such as appointments to the Association's/Company's board of directors, amendments to the Memorandum and Articles of Association, compensation of directors and appointment of auditors. Members who are unable to attend the AGM in person may vote by proxy.

1.3.2 The Board

The Board is the governing body of the Association through which it can act, administer property and funds, receipt of monies, plant and equipment materials, gifts and grants for its use. The Board is also responsible for the welfare of employees and members and can enter into association with other associations and institutions within Kenya or otherwise as it may deem necessary and appropriate. The Board structure also includes three committees namely: Finance and Legal Committee, Membership Committee and Public Relations/Marketing. These committees may be restructured from time to time.

1.3.3 The Management

The Management, under the leadership of the Chief Executive Officer is responsible for implementing Board's decisions. It is also responsible in providing directives and guidelines to the Association's subsystems for the enhancement of the efficient running of KAMP.

1.4 KAMP Vision

KAMP's vision was revised and given as follows:

"A holistic empowered Music Producer"

1.5 KAMP Mission

KAMP's mission was also revised and stated as given below:

"To efficiently administer the rights of Music Producers, through collection and equitably distributing royalties to rights holders".

1.6 Core Values

KAMP's values were revised as an acronym of "KAMP" as follows:

K - Knowledge

A - Accountability

M – Mastery

P – Professionalism

1.7 Slogan or Credo

KAMP's slogan was revised from "Your rights protected" to the following:

"Turning music productions into financial muscle".

2. POLICY STATEMENT

In support of its Vision, Mission, Values and statutory obligations, the Association will take all steps within its reasonable control to manage royalty distribution in a fair and equitable manner. The royalty distribution process is critical to ensure that the objectivity and integrity of Board members and the employees is not compromised, that the employees act in the Association's best interests, and that KAMP avoids situations where it can be accused of improper or unfair royalty distribution process.

2.1 Purpose

These Distribution Rules shall govern the manner in which all rights-holders shall be paid their royalties. The Rules have been set according to General Principles that are at the core of every distribution exercise undertaken by KAMP. The distribution rules compare favourably with other societies, but may vary slightly, due to largely the different legal regimes in each country.

3. TERMS AND DEFINITIONS

Administrative Costs means the total costs related to the collection of this License Fee Revenue, which shall be calculated as a percentage of total amount collected and duly deducted and retained by KAMP to cater for the office operations, administrative costs and licensing costs. KAMP shall endeavour to keep the costs below 30% of revenue collections or a percentage determined from time to time in consultation with the government regulating body taking into account prevailing socio-economic and political situations.

Blank Media Levy (Private Copying Remuneration) Revenue Stream means the total amount derived from Remuneration Revenue earned from importers or manufacturers of said blank media or recording equipment over regular intervals.

Broadcasting Revenue Stream means the total amount derived from Licence Fee Revenue earned from the broadcast of sound recordings, musical and dramatic works audio-visual recordings by radio and TV stations, in a particular Calendar Year

Calendar Year means the current year from 1st January to 31st December

Communication to the Public Revenue Stream means the total amount derived from Licence Fee Revenue earned from the communication to the public by users of recordings, in a particular Calendar Year. This type of license fee revenue stream may also be known as "Public Performance" or making a work available to the public.

Distributable Amount means the amount available for royalty allocation and distribution, which is the net amount after the deduction of Operations and Administrative Costs from KAMP's Revenue in a particular Calendar year as disclosed in the audited annual financial statements including any other related charges, taxes or interest assessed as payable.

Distribution Pool means the total sum of the Blank Media Levy Revenue Stream, the Broadcasting Revenue Stream and the Communication to the Public / Public Performance Revenue Stream, making a work available to the public, digital platforms and any other revenue stream that may arise and fall within KAMP's mandate as the case may be.

Download-To-Own means the process of downloading sound recordings or audio-video productions and storing in an electronic device on a permanent basis.

KAMP Repertoire means all the recordings owned or controlled by the rights holders protected within the ambit of the Copyright Act 2001 that are commercially published and communicated to the public, broadcast and made available, and any further extension of KAMP's mandate as the Board and Members may include.

License Fee Revenue means the gross earnings from broadcasters and other users of recordings in KAMP's repertoire collected based on gazetted tariffs and paid invoiced amounts and license agreements issued by KAMP during a particular Calendar Year and verified in KAMP's audited financial statements, less operations and administration costs.

Reciprocal / Bilateral Agreement means an agreement between KAMP and an international Affiliated Society or mandating Rights Holder Organization dealing with reciprocal or unilateral representation arrangements addressing Bilateral relations.

Recording Airplay means the actual number of times the usage of a recording is reported for purposes of distribution of Royalties from a particular Revenue Stream, as evidenced in log sheets / play lists or any other usage monitoring systems reports.

Royalty Payable means the figure calculated as payable to respective Rights Holders from revenue streams.

Make a work available to the public means to offer a work to the public in such a way as to make it accessible according to its characteristics, through exhibition, publication, performance, broadcasting, or other forms of communication to the public.

Alternative Licensing means generation of revenue through alternative means other than direct issuance of licenses to allow use of recording in public places e.g. generating advertising income from advertisers in public transport vehicles, shopping malls, etc.

Hybrid Distribution means distributing royalties to rights holders using a combination of general equal share plus another share based on either declared catalogue size or on usage reports of log sheets, proxy data, etc.

One License Regime means collection of revenue and issuance of licenses to users of recordings in partnership with Government Agencies, Local Authorities or County Governments as they collect their own revenues and issue their licenses.

Synchronization Rights: This refers to right to synchronize a song or piece of music with a visual image or film. This right is acquired by signing an agreement or getting a license from the Publisher of the song or music

Master Use Rights: This refers to the right to reproduce a specific recording of a song in a film. This right is acquired by signing an agreement or getting a license from the Record Label or owner of sound recording rights of the song or music

4. RIGHTS REVENUE STREAMS

KAMP expects to collect revenue from the following streams:

- 1) Communication to the public (including public performance), for example
(Accommodation, Transport, Hospitality, Retail, Industrial and similar sectors)
- 2) Broadcasting (including online simulcasting), radio & TV signals
- 3) Making available, for example

(Digital online platforms – streaming services and similar sectors)

- 4) Membership registration fees
- 5) Private Copying Remuneration (blank media levy)
- 6) Interest from temporary invested monies and sundry other income

5. ALLOCATION OF REVENUE

5.1 General Principles

KAMP shall apply the following principles when allocating revenues to right holders:

- 1) revenues shall be distributed to all right holders at track level; and
- 2) revenues shall be distributed based on actual use in respect of the services to which the revenue relates insofar as it is economically reasonable and unless otherwise stated in this Distribution rules document.
- 3) KAMP shall allocate and distribute revenues relating to the declared and protected recordings in its repertoire from members, foreign repertoire through signed mandates / reciprocal agreements and to unrepresented rights holders through compulsory/blanket licensing of users.

6. BROADCASTING REVENUE

6.1 Radio

Revenue from radio broadcasters shall be allocated based on actual use. KAMP shall obtain usage reports (playlists/logs) from broadcasters or contracted media monitoring companies, also known as Automatic Content Recognition (ACR) service providers to identify the use of sound recordings.

Revenues shall be allocated for each station or channel separately, taking into account:

- 1) the distributable amount for the station or channel;
- 2) the cumulative reported frequencies (number of plays) of all recordings broadcast on that station or channel; and
- 3) the cumulative reported frequency of usage of each individual recording

Note: A play of a recording will be taken into account if it lasts for at least one (1) minute. However, earnings per play will be dependent on the total length of a play.

Where it is not economically feasible to allocate all revenue separately per channel, revenues from channels with similar profiles will be pooled and distributed based on reports from a statistically representative sample of channels.

For small and medium radio stations that do not supply playlists or for which the cost of processing the playlist is not reasonable compared to the revenue collected from that station, a statistically representative sample of stations, for which playlists of good quality are available, shall be used to determine the allocation of revenues collected from all similar stations.

Efforts will be made to ensure that the selection of reports from radio stations for statistically representative samples are transparent and would be available to right holders. The selection of reports shall be based on objective criteria and analysis so as to reflect the actual use of recordings as closely as possible. The appropriateness of the sample stations for the other stations they represent shall be regularly reviewed and re-assessed. Only high-quality reports reflecting actual use will be selected for the sample. Revenue shall be allocated according to the total plays or frequencies of the recordings broadcast by all the stations in the sample.

6.2 Television (TV)

Revenue from TV broadcasters shall be allocated based on actual use. KAMP shall obtain usage reports (playlists/logs) from TV broadcasters or contracted media monitoring companies, also known as Automatic Content Recognition (ACR) service providers to identify the use of recordings.

Revenues collected from TV broadcasters and original cable-casters shall be distributed based on actual use. Revenues shall be allocated for each station or channel separately, taking into account:

- 1) the distributable amount for the station or channel;
- 2) the cumulative reported number of plays of all recordings broadcast on that station or channel; and
- 3) the cumulative reported number of plays of each individual recording, which will determine the allocation of revenues accrued to each recording; and

Revenues per individual TV station shall be allocated per recording in proportion of the cumulative number of plays of the broadcasting of the recordings compared to the cumulative number of plays of the total recordings broadcasted.

Where it is not economically feasible to allocate all revenue separately per channel, revenues from channels with similar profiles may be bundled and distributed based on reports from a statistically representative sample of channels.

An amalgamation of revenue and usage sources into pools for allocation purposes may only occur where the stations or channels amalgamated have verifiably similar license value and/or similar usage and shall take account of relative usage. For example, TV channels with varying repertoire but similar low license value will be amalgamated.

For small and medium TV stations or channels that do not supply playlists or for which the cost of processing the playlist is not reasonable compared to the revenue collected from that station, a statistically representative sample of stations, for which playlists of good quality are available, may be used to determine the allocation for a wider group of similar stations.

Efforts will be made to ensure that the selection of reports from TV stations for a statistically representative sample will be done in a transparent manner and will be made available to right holders. The selection of the reports shall be based on objective criteria and analysis and shall reflect the actual use of recordings as closely as possible. The appropriateness of the sample TV stations for the other TV stations they represent shall be regularly reviewed and re-assessed when necessary. Only high-quality reports reflecting actual use will be selected for the sample. Revenue shall be allocated according to the total number of plays of the recordings broadcasted by all the TV stations in the sample.

Recordings, which will not qualify for remuneration, for instance recordings, which will not meet the criterion of "published for commercial purposes", or recordings for which the right holder has already been remunerated directly by the user, will be excluded from the usage reports used for distribution.

6.3 Cable Retransmission

KAMP shall allocate the revenues based on the actual use of sound recordings (SR) and audio-visual (AV) recordings or as close as possible. KAMP shall endeavour to obtain usage reports in a cost-effective way from users, Automatic Content Recognition (ACR) or other service providers to identify the use of SR and AV Recordings. This will be mainly from broadcasters (including satellite transmissions), communication to the public, making available to the public, etc.

The packages offered by cable operators generally consist of local and international channels.

KAMP shall divide the fund for distribution according to:

- 1) the proportion of domestic/international channels/programs retransmitted by the cable operator; and
- 2) the proportion of households using the packages.

Domestic: revenues paid by the cable operator for the retransmission of the eligible recordings in domestic radio or TV broadcasts shall be distributed on the basis of the usage reports provided by domestic terrestrial broadcasters or by ACR companies or other providers.

International: KAMP shall distribute monies paid by the cable operator for the retransmission of the recordings in international radio or TV broadcasts obtaining actual usage reports from:

- 1) foreign Collective Management Organizations (CMOs) licensing the broadcaster in the territory from which the retransmitted broadcast is originating or being uplinked/transmitted; or
- 2) ACR companies or other usage data providers.

The reports of international channels/programs shall be prioritised according to the revenue generated (e.g. based on the number of subscribers to the channel) by the channels/programs. KAMP shall request usage reports from foreign Collective Management Organizations (CMOs) and/or other service providers if it is economically feasible, i.e. the distributable value of the channel/program is sufficiently high.

7. PUBLIC PERFORMANCE / COMMUNICATION TO THE PUBLIC

It may not be possible to acquire reports on actual usage from all communication to the public users. In this regard, KAMP will try as much as possible to obtain the reports using either or a combination of the following methods:

- 1) Data collected from background music providers, including DJs or VJs
- 2) Use ACR solutions/technologies to identify the use of recordings
- 3) Statistical usage information from a representative sample of certain users (e.g. discotheques, transport sector, etc.)
- 4) Use of audio broadcast data as a proxy for (part of the) communication to the public / public performance usage. The justification for this is that there's usually a general assumption that the music that plays on media houses in particular periods is likely to be the same music playing in public places e.g. shopping, malls, supermarkets, transport sector, etc.

7.1 Dubbing

7.1.1 Dubbing for Radio broadcasting

KAMP shall allocate revenues according to the logs/playlists supplied by radio broadcasters for each station or channel separately. Media monitoring or ACR companies may also be contracted to provide usage data. The revenues shall be allocated per individual recording used and the length of time.

7.1.2 Dubbing for Public performance / Communication to the Public

KAMP shall allocate dubbing revenues through the following methods: -

- 1) According to the usage reports provided by Communication to the Public (CTP) / public performance users, who undertake dubbing,
- 2) According to the usage reports provided by background music providers (or in some cases by ACR companies).

8. PRIVATE COPYING REMUNERATION

KAMP shall allocate the remuneration for private copying as closely as possible to the actual use, and, to the extent relevant, allocation shall take into account the different media types being used to copy, and the best available relevant proxies.

8.1 Private copying sound recordings

The revenues shall be allocated proportionally taking into consideration the various data for each source of private copying, in the same proportion as for the allocation of revenues collected from these sources. If no reliable usage data is available, KAMP shall distribute private copying remuneration using radio broadcasting usage data (logs/playlists) as a proxy.

8.2 Private copying – audio - visual recordings

KAMP shall allocate the revenues according to the reports from users for the broadcasting of those audio-visual products for which the private copying levy is collected. If the quality of the reports from TV broadcasters is too poor to properly reflect actual use, the use of other proxies must be considered.

9. WEBCASTING

KAMP shall allocate webcasting revenues in a similar manner to the process for radio broadcast, i.e. according to the actual usage using playlists supplied by the webcaster or podcaster. For small revenues that can't be economically processed using full usage data for all webcast channels, data shall be carried forward to the following reporting periods so that amounts may accumulate to a level where they can be economically processed. If usage reports are not available, or allocation based on usage reports may not be economically feasible, then usage reports of broadcasters or reports by a sample of similar webcasters shall be used as a proxy.

10. ACCEPTABLE PRACTICES WHEN NO OTHER ALTERNATIVE IS AVAILABLE

For all kind of revenues, if despite good faith efforts, parts of user reports cannot be processed (for example poor quality playlists that nevertheless have a significant proportion of the recordings properly identified), the following practices shall be used in the following order of preference, so as to reflect the actual use as close as possible:

- 1) allocation using the standard practice for the portion of the users' reports that can be processed;
- 2) allocation using reports supplied by other users of the same sector, when the recordings used are supposed to be similar to those of the other users;
- 3) allocation using reports supplied by users of a different sector but linked to the sector concerned.

11. FAIR AND EQUITABLE APPLICATION OF DISTRIBUTION RULES

The distribution rules and their implementation shall be overseen by the KAMP Finance and Legal Committee. KAMP shall apply a non-discriminatory application of the distribution rules. There shall be fair and equitable treatment regarding distribution for all represented right holders either directly or through a bilateral agreement with another CMO.

12. DISTRIBUTION SCHEDULE AND PRACTICES

KAMP shall distribute the collected revenues to all right holders no later than six months after the end of financial year in which such revenue is collected. KAMP shall develop, approve, and publish the distribution schedule well in advance of the distribution taking place. KAMP shall publish the following year's distribution schedule before the end of any current financial year. The distribution schedule shall include distribution to local members and distribution under international agreements. Further, KAMP shall provide to the right holders they represent and to other international mandating Organizations with which they have unilateral or bilateral agreements, royalty statements itemised per track.

13. FUNDS FOR DISTRIBUTION

KAMP shall segregate the funds for each revenue stream. The method for preparing each fund for distribution shall be set out within the distribution rules. The method shall clearly establish processes for:

- 1) deducting operating costs/fees (see Administrative Costs and Fees);
- 2) deductions for general reserves (see General Reserves);
- 3) deductions of applicable taxes;
- 4) any other authorised deductions;

- 5) any additional sources of revenue, such as interest, income arising from investments of rights revenue etc.; and
- 6) any reserves for redistribution (unclaimed or General Reserves, see below).

KAMP shall maintain information about the funds in a manner that enables these details to be reported to right holders as part of the distribution file.

14. ADMINISTRATIVE COSTS AND FEES

Administrative costs and administration fees applied by KAMP shall reflect the true position and shall be well documented. Variable costs deductions from different revenue streams shall be fair and based on the costs actually attributable to the relevant revenue streams. As explained in Section 2 on definition of terms, KAMP shall endeavour to keep the costs below 30% of revenue collections or a percentage determined from time to time in consultation with the government regulating body taking into account prevailing socio-economic and political situations.

15. RIGHTS CONFLICTS

KAMP shall implement fair and transparent procedures for resolving claims conflicts, including robust processes and reasonable deadlines for the processing of double claims by right holders. If the ownership is contested with credible claim and proof of ownership, KAMP shall not pay out monies for the recordings in question until the claim has been resolved.

16. UNMATCHED USAGE

KAMP shall endeavour to minimise unclaimed usage of sound recordings and audio-visual recordings by maintaining a good quality and comprehensive repertoire data and a good quality usage reporting.

Depending on the prevailing provisions in the Kenyan Copyright Law, in situations where KAMP shall be licensing and collecting revenue only on behalf of its members who have declared their repertoire to KAMP, then unmatched usage from non-represented rights holders (non-members) shall be excluded. In such cases KAMP shall take all reasonable steps to encourage the non-represented right holders to register as members and declare their repertoire for media usage monitoring.

If the copyright law permits KAMP to collect for all repertoire, then KAMP shall take all reasonable steps to identify recordings and right holders and retain adequate reserves to meet claims from unrepresented right holders within the prescription periods.

17. REVENUES FOR UNCLAIMED REPERTOIRE

KAMP shall establish systems and processes for exchanging data and information about unclaimed usage with right holders so that usage can be claimed.

KAMP shall apply a three-year prescription period for unclaimed repertoire usage or royalties. KAMP shall hold throughout the prescription period (three years) relevant monies against the recordings used, if the rights holder/payee:

- 1) cannot be located despite all reasonable effort, or
- 2) has not provided the details required to enable the payment to be processed.

KAMP shall open a separate account and keep unclaimed revenues for a period of three (3) years after which the revenue shall be added to the preceding distribution if there is/are no claim(s) taking into account in particular

allocations made previously to right holders in the relevant financial year, and with the objective of allocating revenue to the right holders most likely to have a claim to such revenue.

KAMP shall freeze the relevant revenue for a time beyond the prescription period of three years if the unpaid revenue is due to claims conflicts and parties to the dispute can show evidence of on-going arbitration/legal proceedings.

18. GENERAL RESERVES

With the approval by members at the Annual General Meeting (AGM), KAMP shall maintain general reserves at a level reasonably required to a maximum of 3% of distributable income to deal with third party claims, legal risks, etc. KAMP shall maintain a further 7% fund deducted from the total distributable income for social and/or cultural purposes. At the expiry of the prescription period, revenue held in reserve shall be distributed to rights holders in proportion to allocations made to those rights holders in the relevant financial year. KAMP shall ensure that during the respective prescription period, revenues held in reserve may be allocated to rights holders making valid claims, e.g. where usage was not properly reported or missing from the usage report.

All monies allocated to anonymous works, orphaned works and works falling under public domain shall be directed to the social/or cultural fund.

19. DISTRIBUTION TO RELEVANT RIGHT HOLDERS

KAMP shall distribute the royalty allocated to a recording to the rights holder or entity that owned the rights at the time in which the recording was exploited or as that rights holder mandates in writing. Allocations of royalties shall be offset against any previous overpayments made to the party or to associated parties.

20. ANNUAL DISTRIBUTION CALENDAR

The table below provides a schedule of royalty distribution in a year.

No.	Type of Royalty	Type of Distribution	Time of Distribution
1.	Communication to the public (Not falling under the one license regime / Alternative licensing regime)	Hybrid	April.
2.	Broadcasting	Scientific	October.
3.	Communication to the public (one license regime / alternative licensing regime)	Hybrid	Monthly.
4.	Concert/ Events	Scientific	30 days after the event.
5.	Mechanical Rights	Scientific	Quarterly.
6.	International	Scientific	7 days upon receipt.
7.	Synchronizing / Master Use	Scientific	Case by case basis where there is specific authorization.
8.	Private Copying remuneration (Blank Media Levy)	Hybrid	Quarterly.

21. APPROVAL AND PUBLICATION

These set of Distribution Rules are subject to approval by the Board of Directors and ratified at the Annual General Meeting (AGM) KAMP members.

22. ACCEPTANCE

We the undersigned Board Members of **Kenya Association of Music Producers (KAMP)** named herein do hereby accept and approve Conflict of Interest Policy for and on behalf of the Association/Company.

<u>TITLE</u>	<u>NAME</u>	<u>DATE</u>	<u>SIGN</u>
CHAIRMAN	Mr. Anthony Karani Murimi	.....	.....
VICE-CHAIRPERSON	Ms. Angela M. Ndambuki	.....	.....
MEMBER	Mr. Patrick K. Ndilango	.....	.....
MEMBER	Ms. Faith N. Kithele	.....	.....
MEMBER	Mr. Gabriel Torome	.....	.....
MEMBER	Mr. Abeddy K.O Ngosso	.....	.....
MEMBER	Rev (Dr) Anthony Musembi Kivuthi	.....	.....