

# Statutes and Meeting and Voting Procedure as amended by the resolutions of the 2020 General Assembly meeting

## GEMA Statutes

(as amended on 30 September/1 October 2020)

This translation is provided for convenience only. In the event of conflict or ambiguity the original German version shall be authoritative.

### § 1 Name and seat

GEMA is a commercial association [*wirtschaftlicher Verein*] under German law. It operates under the name

GEMA  
Gesellschaft für musikalische Aufführungs- und mechanische Vervielfältigungsrechte  
[*GEMA Society for Musical Performing and Mechanical Reproduction Rights*]

(hereinafter referred to as the “Association”) and has its seat in Berlin.

Its legal personality is based on grant from the state according to Sec. 22 of the German Civil Code [*Bürgerliches Gesetzbuch – BGB*].

### § 2 Purpose

1. The purpose of the Association is to protect and support authors, to safeguard and promote their interests and to administer their rights within the scope and as defined in these Statutes. It has been established as a non-profit organisation that does not seek to further any interests of its own.

2. Its task is to administer in a fiduciary capacity the rights GEMA members and third parties transfer to it under unilateral or bilateral contracts for exploitation on their behalf. It may do all things necessary or conducive to protecting and managing the rights transferred to it. This includes, for example, acquiring interests in companies that manage rights of use granted by copyright centrally for multiple countries. GEMA may also acquire interests in other companies or businesses if deemed conducive to a more effective management of the rights transferred to it.

The Association has the right to give parties who are interested in exploiting the rights transferred to GEMA permission to do so.

3. The Association also has the right to take on mandates from other collecting societies and other rights holders if this is beneficial to its members. Furthermore, the Association may collaborate with others if the object of their activity comprises not only copyrights but also related rights within the meaning of the German Act on Copyrights and Related Rights [*Gesetz über Urheberrecht und verwandte Schutzrechte – UrhG*].

4. Rights are granted bearing in mind always the aspects of preservation and development of musical heritage and culture.

### § 3 Rights management

The rights to be managed by the Association are transferred to it by way of a special agreement (Deed of Assignment) to be entered into, which also defines the scope of the rights to be managed. In the case referred to in § 2 para. 3 sentence 1, the rights are granted by way of a Mandate Agreement.

The Deed of Assignment must state the following:

- a) that all rights the entitled person is entitled to at present or may become entitled to in the future are transferred subject to the proviso that the Deed of Assignment may be terminated in writing on six months’ notice to expire at the end of a calendar year; the Deed of Assignment may specify a shorter notice period for online uses.
- b) that the GEMA Statutes and the GEMA Distribution Plan are acknowledged,
- c) that the fees to be set by the Supervisory Board will be paid,

d) that in the event of the death of the entitled person, the successors to his or her copyrights shall appoint an attorney to manage the rights under the Deed of Assignment on their behalf,

e) that the entitled person will not give users a direct or indirect share of the royalties he or she receives in order to obtain an unfair advantage as to whether and how his or her works are used. (This prohibition is violated, for example, if an author or publisher gives a broadcasting organisation a direct or indirect share in the royalties he or she receives to cause that broadcasting organisation to give preference to his or her works in its playlisting process.)

In the event of contravention of this prohibition, the entitled person shall pay an amount equal to the share he or she gave the user in its royalties to the GEMA Welfare Fund [*Sozialkasse*]. If the amount paid to the user exceeds the remuneration the entitled person earned for the work concerned, only the remuneration shall be paid to the GEMA Welfare Fund.

This shall be without prejudice to all other provisions of the GEMA Statutes relating to actions in breach of the Statutes.

A Deed of Assignment may be entered into or terminated with respect to the transfer of rights for only certain types of use and/or certain countries. However, such limitations may be applied only to the transfer of rights in all and not just some of the works of an entitled person.

The membership rights of an entitled person shall remain unaffected by any such limitations to the transfer of rights. However, the provisions of § 7 and § 9 of Section A of the GEMA Statutes on the requirement for a minimum amount of royalties remain authoritative in terms of attainment or maintenance of full membership status.

#### **§ 4 Financial year**

GEMA's financial year is the calendar year.

#### **§ 5 Constituent bodies of the Association**

The constituent bodies of the Association are

- a) the General Assembly of its full members,
- b) the Supervisory Board [*Aufsichtsrat*]
- c) the Managing Committee [*Vorstand*] within the meaning of the German Civil Code [*Bürgerliches Gesetzbuch – BGB*].

#### **§ 5a [Honorary service and compensation granted to the Managing Committee]**

The members of the Supervisory Board and of committees and commissions hold their office in an honorary capacity. Unless otherwise stipulated in these Statutes, they are only reimbursed for travel expenses and out of pocket expenses and are paid a reasonable flat rate attendance fee for meetings.

The amount of the attendance fee shall be determined bearing in mind the nature of the work, the responsibility and the tasks the office concerned typically involves, as well as the financial position GEMA is in. The roles of Chair and Deputy Chair of the Supervisory Board and of committees and commissions shall be given special consideration in this regard.

The members of the Managing Committee receive compensation for their work, the amount of which is determined by the Supervisory Board.

#### **§ 6 Membership<sup>1</sup>**

1. The Association distinguishes between full membership and extraordinary membership. Only full members are members within the meaning of German association law [*Vereinsrecht*] and as defined by the German Collecting Societies Act [*Verwertungsgesellschaftengesetz – VGG*].

Full membership can be attained only in one professional category.

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<sup>1</sup> The amendments adopted by resolution of the 2020 General Assembly on Item 16 of the agenda shall take effect on 1 January 2021 (subject to approval of the competent Senate Department).

2. “Extraordinary membership” is the status an entitled person who does not qualify for full membership attains automatically by signing the Deed of Assignment (§ 3). Admission to extraordinary membership is conditional on the payment of the admission fee determined by the Supervisory Board.

An additional condition for the admission of a music publisher as extraordinary member is that it must submit a valid publishing contract [*Verlagsvertrag*] which stipulates that the publisher may participate in distributions made by GEMA under the GEMA Distribution Plan as well as a trade registration [*Gewerbeanmeldung*] and an extract from the German commercial register [*Handelsregister*] or a similar register of another country.

If GEMA rejects or postpones the admission of an applicant as extraordinary member, the applicant shall be informed of this decision in writing, giving reasons for the decision. The applicant may turn to the GEMA Grievance Committee to appeal the rejection within six weeks of receipt. The decision of the Grievance Committee on the membership application shall be final.

3. Full GEMA membership in the professional categories of composers or lyricists is only available to applicants who qualify as authors [*Urheber*] within the meaning of the *UrhG*. To qualify as author for the purposes of this provision, applicants must produce evidence to show their authorship as follows<sup>2</sup>:

- a) Composers must submit 5 self-authored works of music.
- b) Lyricists must submit 5 self-authored sets of lyrics set to music.

4. Full GEMA membership in the professional category of publishers is only available to applicants who themselves operate a music publishing organisation and are registered in the German commercial register [*Handelsregister*] or a similar register of another country. Apart from that, music publishers must provide publishing services within the meaning of the GEMA rules. The term “publishing service” means reproduction and distribution [*Vervielfältigung und Verbreitung*] of works of music (with or without lyrics) within the meaning of the German Publishing Act [*Verlagsgesetz – VerlG*]. Irrespective of that, such a publishing service may also be provided in the form of promotion and marketing activities for the work concerned, financing and production services or support and administrative services. Support and administrative services include, but are not limited to, handling any necessary communication with GEMA regarding the work and its use, including in the interest of the author (e.g. by notifying the work to GEMA, verifying accounting records and processing complaints). Through the services they provide as described above, music publishers bring financial benefit to GEMA by contributing to the royalty income GEMA receives and thus indirectly increasing the amount of distributions composers and lyricists receive.

These provisions are without prejudice to § 16 E. of these Statutes and § 7 paras. 1 to 3 in conjunction with § 10 of the Distribution Plan.

In order to be admitted to full membership, music publishers must provide evidence of their provision of publishing services with respect to 5 works they published.<sup>3</sup>

5. The specific additional conditions for the attainment of full membership are set out in § 7 and § 8.

## **§ 7 [Full membership]<sup>4</sup>**

1. Full membership is available only after five years of extraordinary membership and is restricted to:

- a) composers who received royalties of at least EUR 30,000.00 in five successive years, but at least EUR 1,800.00 per year in four successive years from GEMA.
- b) lyricists who received royalties of at least EUR 30,000.00 in five successive years, but at least EUR 1,800.00 per year in four successive years from GEMA.
- c) music publishers who received royalties of at least EUR 75,000.00 in five successive years, but at least EUR 4,500.00 per year in four successive years from GEMA.

<sup>2</sup> The requirement to produce evidence does not apply to members who attained extraordinary membership under the Statutes as in force until 31 December 2020.

<sup>3</sup> The requirement to produce evidence does not apply to members who attained extraordinary membership under the Statutes as in force until 31 December 2020.

<sup>4</sup> The amendments adopted by resolution of the 2020 General Assembly on Item 16 of the agenda shall take effect on 1 January 2021 (subject to approval of the competent Senate Department).

The conditions specified at a) to c) above must have been met within 10 years before the application for full membership is filed.

The minimum amounts stated at a) to c) above are reduced by  $\frac{1}{3}$  for authors and music publishers in distribution category E.

If a member has ever been a full member before, the periods referred to at a) to c) above are three years, respectively, and the minimum amount of royalties received is EUR 12,000.00 for a) and b) above, and EUR 30,000.00 for c). In this case, previous membership years shall be counted in full.

Previous years of membership of another collecting society in the European Union and the royalties received as part thereof shall be counted towards the required minimum amount of royalties and towards the minimum period of five years. In exceptional cases, and subject to the approval of the Supervisory Board, previous years of membership of another collecting society outside the European Union and the royalties received as part thereof may be counted towards the required minimum amount of royalties and towards the minimum period of five years.

2. Moreover, composers, lyricists and music publishers who have transferred their rights to the Association and in whose case it appears desirable for cultural reasons to have them as full members may be co-opted for full membership by the Supervisory Board.

Whether these conditions are met shall be determined by the Supervisory Board, for each of the three professional categories (composers, lyricists und music publishers) separately.

However, the number of full members co-opted by the Supervisory Board shall in no circumstances exceed the number of full members who attained full membership in accordance with the provisions of para. 1 above.

## § 8 [Admission procedure]<sup>5</sup>

1. In order to be admitted to full membership, entitled persons must submit the complete application form provided for this purpose, together with the requisite supporting documents referred to in § 6 para. 3 or para. 4, respectively, to GEMA.

In his or her application form, the entitled person must state

- a) that he or she acknowledges the GEMA Statutes and the GEMA Distribution Plan,
- b) that he or she will do all things necessary or expedient to achieve the object of the Association as defined in the GEMA Statutes, and will refrain from all acts that would be detrimental to the achievement of this object,
- c) if the entitled person qualifies for more than one professional category, the professional category in which he or she wishes to attain membership and exercise his or her membership rights.

2. The membership application and the supporting documents to be submitted pursuant to § 6 para. 3 or para. 4, respectively shall first be submitted to an admission committee which will then make a recommendation to this effect to the Managing Committee and the Supervisory Board.

Further details of the composition and the procedures of the admission committee shall be set out in a set of Internal Rules [*Geschäftsordnung*], which shall be adopted by the Supervisory Board.

3. The decision on membership applications [*Aufnahmeanträge*] is made by the Managing Committee by mutual agreement with the Supervisory Board.

If a membership application is accepted, full membership shall commence on 1 January of the year following receipt of the complete application documents to be submitted by the entitled person.

4. Acceptance as a full member may be denied despite the conditions of § 6 para. 3 or para. 4, respectively, § 7 para. 1 and § 8 para. 1 being met if there are objective reasons relating to the member personally which justify this. This shall be deemed to be the case in particular if the member concerned

- a) has repeatedly and severely breached the Deed of Assignment, the GEMA Distribution Plan or the GEMA Statutes, or acted against the interests of the Association,

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<sup>5</sup> The amendments adopted by resolution of the 2020 General Assembly on Item 16 of the agenda shall take effect on 1 January 2021 (subject to approval of the competent Senate Department).

- b) provided false information and thereby gained an unlawful pecuniary advantage for him or herself, or for another member, at the expense of GEMA, or had another person procure such unlawful pecuniary advantage, or made an attempt at doing so.

This does not apply if the member is not responsible for the breach. § 9 para. 4 subpara. 3 of the GEMA Statutes applies *mutatis mutandis*.

5. If a membership application is rejected, the applicant will be notified by registered letter, setting out the reasons for the decision. In response to the rejection, the applicant may request, by registered letter within one month of receipt, that the final decision on his or her membership application be made by the General Assembly at an ordinary meeting. If the request is received at least eight days before the next ordinary meeting of the General Assembly, the decision shall be made at that meeting. If the request is received later than that, the decision shall be made at the next following meeting of the General Assembly. The General Assembly shall make its decision by simple majority of those present, without a previous resolution by the professional categories.

6. Once an application for full membership according to § 8 para. 4 of the GEMA Statutes has been rejected, a new application for full membership can be made at the earliest 5 years after the end of the year in which the last application was made. § 7 para. 1 and § 8 of the GEMA Statutes apply *mutatis mutandis* to the new application. Royalties from years preceding the year of the last application for full membership shall not be taken into account for the purposes of the new application.

## § 9 Termination of full membership<sup>6</sup>

Full membership shall be terminated

1. if the member concerned gives written notice to the Managing Committee of his or her resignation from the Association.

The notice of resignation [*Austrittserklärung*] must be received by the Managing Committee at least six months before the end of a financial year. It will take effect at the end of the then current financial year. Termination of full membership shall be without prejudice to the time period for which the rights were agreed to be transferred under the Deed of Assignment. After termination of his or her full membership, an entitled person shall retain extraordinary member status for as long as the Deed of Assignment is in force.

2. (1) The Managing Committee may, subject to the consent of the Supervisory Board, terminate the full membership of members who attained this status in accordance with § 7 para. 1 to expire at the end of the financial year in which it is established that

- a) the average level of royalties a composer received from GEMA was less than EUR 1,200.00 per year in three successive years, or less than EUR 1,000.00 per year in six successive years;
- b) the average level of royalties a lyricist received from GEMA was less than EUR 1,200.00 per year in three successive years, or less than EUR 1,000.00 in six successive years;
- c) the average level of royalties a music publisher received from GEMA was less than EUR 3,000.00 per year in three successive years, or less than EUR 2,000.00 per year in six successive years.

(2) However, the provision of § 9 para. 2 subpara. (1) shall cease to apply after ten years of full membership according to § 7 para. 1 of the GEMA Statutes.

(3) The Managing Committee may, subject to the consent of the Supervisory Board, terminate the full membership of members who attained this status in accordance with § 7 para. 2 to expire at the end of a financial year.

3. by death or, in the case of a corporate member, if insolvency proceedings are instituted over its assets or a petition to this effect is rejected for insufficiency of assets, or after the completion of liquidation.

4. by expulsion, which may be applied to a member for good cause. Good cause shall be deemed to exist in particular if the member concerned

- a) has repeatedly and severely breached the Deed of Assignment, the GEMA Distribution Plan or the GEMA Statutes, or acted against the interests of the Association,

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<sup>6</sup> The amendments adopted by resolution of the 2020 General Assembly on Item 16 of the agenda shall take effect on 1 January 2021 (subject to approval of the competent Senate Department).

b) provided false information and thereby gained an unlawful pecuniary advantage for him or herself, or for another member, at the expense of GEMA, or had another person procure such unlawful pecuniary advantage, or made an attempt at doing so.

This does not apply if the member is not responsible for the breach.

If the member is a legal entity or commercial company, expulsion may also be applied if an executive body [*Organ*] or member of an executive body or a general partner [*persönlich haftender Gesellschafter*] or other member or shareholder who has significant influence over the company grossly violates the GEMA Statutes, the interests of the Association or copyright law.

If in exploiting copyrights a member abuses his or her legal position in relation to other members, this will constitute grounds for expulsion of that member, unless a contractual penalty is deemed sufficient.

Expulsion shall be by resolution of the Supervisory Board after giving the member the opportunity to state his or her objections to the proposed expulsion, either orally or in writing, to the Supervisory Board.

In response to the resolution of the Supervisory Board, the member may request within three weeks of receipt of the resolution that a decision be made by the General Assembly.

If membership terminates by expulsion, this shall be without prejudice to the continued existence of the Deed of Assignment. The expelled member shall continue to have the rights of an extraordinary member for as long as the Deed of Assignment is in force. Once a member has been expelled, he or she can make a new application for full membership at the earliest after 10 years. This shall be without prejudice to § 7 para. 2 of the GEMA Statutes.

## § 10 General Assembly<sup>7</sup>

1. An ordinary meeting of the General Assembly shall be held within eight months of the end of each financial year.

Members shall be notified of the date of the meeting and of the elections to be held in the General Assembly at least four months in advance. If this notice period is not adhered to, this shall be without prejudice to the validity of and shall not invalidate any resolutions passed by the General Assembly at that meeting, which shall nevertheless have full force and effect.

2. Full members have the right to vote and stand for election to an elected office in the General Assembly.

3. An extraordinary meeting of the General Assembly shall be convened in the cases provided by law and, in addition, whenever deemed necessary by the Supervisory Board or at the request of at least 10% of the full members including delegates.

4. The notice convening the meeting of the General Assembly shall be issued by the Managing Committee by mutual agreement with the Supervisory Board. The meeting shall be chaired by the Chair of the Supervisory Board or one of his or her Deputies.

5. The notice convening the meeting shall be sent in writing five weeks in advance of the date of the General Assembly meeting. This notice period shall be deemed adhered to by putting the notice in the mail.

The agenda and an extract from the financial report shall be published on the GEMA website five weeks before the date of the General Assembly meeting. Members may request in writing to be sent the agenda and the extract from the financial report also by post until further notice. Copies sent by post shall be sent three weeks before the date of each General Assembly, for the first time before the ordinary meeting of the General Assembly held in the year following the year in which the request was received by GEMA. The three-week time limit shall be deemed adhered to by putting the copies in the mail.

No resolutions can be made on items that did not form part of the agenda.

Proposals to the General Assembly for agenda items must be signed by at least ten full members and/or delegates (§ 12 para. 4) and must be received by GEMA at least eight weeks before the date of the General Assembly meeting concerned. This does not apply to proposals by the Supervisory Board or the Managing Committee. However, the Supervisory Board must be informed of any proposals of the Managing Committee.

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<sup>7</sup> The amendments adopted by resolution of the 2020 General Assembly on Item 16 of the agenda shall take effect on 1 January 2021 (subject to approval of the competent Senate Department).

Proposals for resolutions to be passed at the ordinary meeting of the General Assembly may be submitted to GEMA in draft form for review. A necessary condition for this is that at least 20 members and/or delegates entitled to submit proposals request a review of their draft proposal (with reasons) in writing, specifying a contact with details, at least 16 weeks before the beginning of the ordinary meeting of the General Assembly.

GEMA shall inform the members and/or delegates of the outcome of its review within six weeks. This time limit shall begin to run when a sufficient number of members and/or delegates jointly asks GEMA for its comments on a draft.

In its comments, GEMA shall address in particular the following points:

1. whether there are any objections to the form or language of the draft proposal, and if so, what these are;
2. whether and how the presumed objectives of the draft proposal conflict with other provisions of the GEMA rules;
3. whether there are any concerns regarding the compatibility of the presumed objectives of the draft proposal with applicable law, and if so, what these are.

GEMA has no obligation to provide worded amendment proposals to applicants.

6. The functions of the General Assembly include, but are not limited to, the following:

- a) to hear the financial report and the annual financial statements and adopt the transparency report,
- b) to formally approve the actions of the Managing Committee and of the Supervisory Board,
- c) to elect or remove members of the Supervisory Board and to elect and remove members of the committees and commissions which fall within the responsibility of the General Assembly. GEMA is committed to improving the representation of women in all of its bodies. The General Assembly decides on the attendance fee to be paid to members of the Supervisory Board and of the committees and commissions on the basis of a proposal from the Attendance Fee Commission.
- d) to appoint Honorary Presidents and award Honorary Memberships at the proposal of the Supervisory Board,
- e) to pass resolutions amending the GEMA Statutes,
- f) to pass resolutions amending the Deed of Assignment,
- g) to pass resolutions amending the GEMA Distribution Plan, including the general principles governing deductions from revenues and the use of non-distributable royalty revenue,
- h) to pass resolutions in relation to the general investment policy applicable to the royalty revenue generated from the rights,
- i) to pass resolutions on the terms on which entitled persons may grant anybody the right to use their works free of royalty for non-commercial purposes,
- j) to pass resolutions on the dissolution of the Association.

This shall be without prejudice to § 20.

7. In the General Assembly, each full member shall have one vote. If a publisher owns two or more individually-owned firms, he or she shall have only one vote. The total number of votes held by publishers belonging to a group [*Konzern*] within the meaning of Sec. 18 of the German Stock Corporation Act [*Aktiengesetz – AktG*] shall not exceed twenty.

The following rules apply to the representation of full members in the General Assembly by authorised or legal representatives:

- a) Their representation must not give rise to concern in terms of a conflict of interest. A conflict of interest is typically to be expected in cases where any of the following categories of persons is authorised to represent full members:
  - members of other professional categories,
  - extraordinary members,
  - users or parties that have close economic ties with users,
  - persons who represent the interests of users or of members of other professional categories.

A conflict of interest is, as a rule, not to be expected if another full member of the same professional category or a close relative of the member concerned is authorised to represent him or her.

- b) The maximum number of members who may be represented in accordance with this provision by one person is limited to ten.
- c) The representative is bound by instructions from the member(s) he or she represents.
- d) A representation arrangement is valid for one meeting of the General Assembly only and is irrevocable.
- e) GEMA must be notified of a representation arrangement in writing, using the form provided for this purpose, at least two weeks before the beginning of the General Assembly meeting concerned. If a member is unable to attend due to illness, notice of a representation arrangement (accompanied by a medical certificate) may still be given until three business days before the beginning of the General Assembly meeting. This also applies to publishing firms who exercise their voting right through their owner.
- f) If a member falling within the professional category of composers or lyricists acts, at the same time, as the representative appointed under the statutes or under the articles of association of a music publisher, this member shall also be entitled to exercise membership rights only in one professional category.
- g) If a publishing firm organised in the form of a company is only allowed to be represented jointly, its voting right shall be exercised by one of its joint representatives while its other representative(s) only has or have the right to attend.

8. Instead of exercising their voting right at a meeting of the General Assembly, full members may vote in advance of a General Assembly meeting using electronic means of communication (e-voting). Full members may also view a live stream of the meeting of their respective professional category and of the general members' meeting [*Hauptversammlung*].

E-voting is available only with respect to nominations and proposals for resolution that were made public as part of the agenda. E-votes are non-transferrable and irrevocable.

E-voting is not available to members who are represented at a General Assembly meeting or attend a General Assembly meeting as representative of another member.

To be able to use e-voting and attend by live stream, members must comply with the applicable deadlines and authentication requirements. These are laid down by the Supervisory Board in a set of Internal Rules [*Geschäftsordnung*] which must be made public.

Members who breach the provisions of § 10 para. 8 subpara. 2 sentence 2 and of the Internal Rules on e-voting and live streaming regarding the non-transferability of votes, the confidentiality of authentication data and the non-public nature of the live stream may be excluded from e-voting and attendance by live stream for a period of five years by resolution of the Supervisory Board.

9. Meetings of the General Assembly are held according to a Meeting and Voting Procedure adopted by the General Assembly that forms part of these GEMA Statutes.

10. The validity of resolutions passed by the General Assembly can only be challenged in court. A claim of invalidity cannot be based on

- a) a violation of rights exercised by electronic means that was caused by a technical problem, unless GEMA is guilty of gross negligence or intent,
- b) a violation of procedures that has not had any effect on the passing of resolutions.

A violation of procedures may be claimed by any member attending a meeting of the General Assembly in person, provided that he or she has declared his or her objection to the resolution concerned for the record, and by any member not attending in person who claims that he or she was wrongly denied the opportunity to attend a meeting of the General Assembly, or that the meeting was not duly convened, or that an item for resolution was not duly made known as part of the agenda.

A court action on this ground must be started within six weeks of the resolution being passed.

This shall be without prejudice to any mandatory provisions of applicable law.

## **§ 11 [Voting by professional categories]**

a) Each of the three professional categories (composers, lyricists, publishers) separately elects members to represent its interests on the Supervisory Board. Each professional category elects its candidates by relative majority. Any decision to remove a member from the Supervisory Board requires a majority of two thirds. If three quarters of the votes present in



each of the other two professional categories do not agree with the election of a member elected in another professional category, the professional category concerned has to hold a re-election, unless it elects the candidate elected in the first round once more by three quarters of its votes.

b) Amendments to the GEMA Statutes, the Deed of Assignment and the GEMA Distribution Plan as well as resolutions on the dissolution of the Association shall be adopted separately by each professional category, with each professional category having one vote; amendments to the GEMA Statutes, the Deed of Assignment and the GEMA Distribution Plan as well as resolutions on the dissolution of the Association shall only be valid if they were passed unanimously by the three professional categories. This shall be without prejudice to § 20.

Within each professional category, the vote on each resolution requires a majority of two thirds to the effect that, in the event of dissolution of the Association, the majority of two thirds must make up at least half of the total number of members in the professional category concerned.

## § 12 Meeting of extraordinary members<sup>8</sup>

1. A meeting of all extraordinary members shall be held in conjunction with each ordinary and extraordinary meeting of the General Assembly of full members. The notice convening the meeting shall be issued by the Managing Committee by mutual agreement with the Supervisory Board.

This meeting shall be chaired by the Chair of the Supervisory Board or one of his or her Deputies, and the Managing Committee shall present the financial report and be available to answer questions of those at the meeting. However, the financial report shall not be presented if the meeting is held in conjunction with an extraordinary meeting of the General Assembly of full members.

Severely disabled members with an officially established degree of disability of 50 or over who are unable, due to mobility restrictions associated with their disability, to attend the meeting of extraordinary members in person may be represented by another member of their professional category. § 10 para. 7 subpara. 2 applies *mutatis mutandis*. Each member can represent only one severely disabled member.

2. Every three years, the Assembly elects up to 64 members from among its members present in separate meetings of the three professional categories to sit as delegates on the General Assembly of the full members, namely

- up to thirty-two from the professional category of composers, at least twelve of which should be successors in title;
- up to twelve from the professional category of lyricists, at least four of which should be successors in title;
- up to twenty from the professional category of publishers.

Up to five alternates shall be elected for each professional category. Only GEMA members of two years standing or more can be elected as delegates or alternates. Moreover, members can be elected as delegates or alternates only if they have received royalties totalling at least EUR 50.00 in the two calendar years preceding the year of the election. Members authorised to represent a full publisher member cannot be elected as delegate or alternate at the same time. Extraordinary members whose application for full membership has been rejected according to § 8 para. 4 of the GEMA Statutes and members who have been expelled according to § 9 para. 4 of the GEMA Statutes are not eligible to stand for election for a period of 5 years from the date of the decision to reject or expel them.

Each member has one vote in the election of delegates and in the election of alternates. Publishing firms which are individually-owned firms exercise their voting right through their owner. Publishing firms which are companies exercise their voting right through a representative appointed under their statutes or under their articles of association. A representative cannot exercise the voting right for more than five publishers. If a publishing firm is unable in law or in fact to exercise its voting right, the voting right can be exercised by a representative entered in the commercial register or by an agent [*Handlungsbevollmächtigter*] within the meaning of Sec. 54 of the German Commercial Code [*Handelsgesetzbuch – HGB*]. These representatives must have a permanent role in the publishing firm, working in a publishing or commercial capacity. § 10 para. 7 subpara. 1 sentences 2 and 3 and subparas. 2d) to h) apply *mutatis mutandis*.

Each meeting of a professional category shall be chaired by the Chair of the Supervisory Board if he or she is a member of the professional category concerned, or by the Deputy Chair who is a member of that professional category. If the Chair of the Supervisory Board or his or her Deputy is unable to attend, the meeting shall be chaired by the oldest Supervisory Board member of the professional category concerned who is present at the meeting.

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<sup>8</sup> The amendments adopted by resolution of the 2020 General Assembly on Item 16 of the agenda shall take effect on 1 January 2021 (subject to approval of the competent Senate Department).

Within each professional category, the election of the various delegates and alternates shall be combined into a single election process. To this end, all candidates are placed on one list and put up for election. The number of votes each voter has must not exceed the number of vacancies for delegates or alternates in his or her professional category. Each voter may cast only one vote per candidate. Those candidates who receive the most votes (relative majority) will be elected. If there is no clear election result because there is a tie of votes, a run-off ballot shall be held. If there is a tie of votes in the run-off ballot, the decision between the candidates with the same number of votes shall be made by lot to be drawn by the Chair of the meeting. If, in the election of delegates, the number of members running for election does not exceed the number of vacancies for delegates, the meeting of the professional category concerned may decide by simple majority to hold an *en bloc* election.

In the professional categories of composers and lyricists, the election of the successors in title shall be held first, followed by the election of the other delegates. If the intended number of successors in title is not reached, the number of other delegates up for election increases accordingly.

The term of office of the delegates and of their alternates shall run from the end of the meeting of the General Assembly following their election to the end of the fourth ordinary meeting of the General Assembly following their election. Re-election is permitted. If a delegate or alternate attains full membership, his or her term of office shall end on the day on which the Managing Committee decides by mutual agreement with the Supervisory Board to admit him or her as a full member. If, for this or any other reason, a delegate vacates his or her office before the expiration of his or her term of office, the alternate elected with the highest number of votes for the professional category concerned shall fill his or her place for the remainder of that term. If a delegate who vacates office cannot be replaced by an elected alternate, the professional category concerned shall elect a new delegate at the next following meeting of extraordinary members to fill his or her place for the remainder of his or her term. Apart from that, no by-elections will be held.

In the event that not all delegates are present at a meeting, the alternates elected for the professional category concerned shall take their place. The order in which they succeed to the absent delegates shall also be determined by the number of votes cast for each alternate when he or she was elected.

3. Delegates have the same rights as full members, except that they cannot stand for election to an elected office and cannot be represented by others.

E-Voting is not available to elected alternate delegates.

4. Delegates have the right to submit proposals for resolutions to be passed at an ordinary meeting of the General Assembly on the same conditions as full members.

## § 13 Supervisory Board

1. The Supervisory Board consists of 15 members, six of which must be composers, five publishers and four lyricists. Two alternates may be elected for each professional category who shall have the right to attend meetings of the Supervisory Board with full voting rights if and to the extent that full members of their respective professional category are unable to attend a meeting of the Supervisory Board; the election procedure for these alternates shall be the same as for members of the Supervisory Board.

Composers and lyricists are eligible for election if they are German citizens or citizens of another Member State of the European Union or Member State of the European Economic Area or have their residence for tax purposes in any of those countries and have been full members of the Association for at least five years.

Publishers are eligible for election if they have owned an individually-owned firm or been the General Partner [*persönlich haftender Gesellschafter*] of a general partnership [*offene Handelsgesellschaft – oHG*] or limited partnership [*Kommanditgesellschaft – KG*], the Managing Director [*Geschäftsführer*] of a company with limited liability [*Gesellschaft mit beschränkter Haftung – GmbH*], a member of the Executive Board [*Vorstandsmitglied*] of a joint-stock company [*Aktiengesellschaft – AG*] or held a managerial role in a music publishing organisation for at least five years. In addition, a publishing organisation must have its registered office in Germany or another Member State of the European Union or Member State of the European Economic Area and must have been a full member of the Association for at least five years.

Only one person from a publisher or publishing group may be a member of the Supervisory Board.

Members are generally ineligible to stand for election to the Supervisory Board if there is cause for concern in terms of a structural conflict of interest. Such a conflict of interest is, as a rule, deemed to exist if the author member or publisher member concerned

- a) entered into licensing agreements with GEMA, a company in which GEMA holds an interest or any other collecting society on a regular basis, or on a larger scale, in the three years preceding his or her election, or
- b) has economic or personal ties with any such licensees, or
- c) has economic or personal ties with an organisation that competes with GEMA.

However, one publisher member may nevertheless be elected to the Supervisory Board and another one may be elected as alternate for that Supervisory Board member even though they meet the criteria laid down in para. 5. Their voting right shall be suspended with respect to the passing of resolutions on the establishment and adjustment of tariffs and the entry into general agreements, and with respect to all other items for resolutions on which a conflict of interest may materialise.

2. The term of office of members of the Supervisory Board shall run from the end of the meeting of the General Assembly at which they were elected to the end of the third ordinary meeting of the General Assembly following their election.

Re-election is permitted. The Supervisory Board will remain in office until new elections are held. If a representative of the professional category of publishers moves to another publisher during his or her term of office, he or she shall remain in office if the new publisher meets the conditions for eligibility to the Supervisory Board. Otherwise, he or she shall vacate office.

If, for this or any other reason, a member of the Supervisory Board vacates his or her office before the expiration of his or her term of office, the Supervisory Board members of his or her professional category shall elect a substitute member to fill his or her place.

If the term of office continues until after the next meeting of the General Assembly, the substitute member must be approved by the General Assembly.

3. The Supervisory Board has the duties and powers conferred on a supervisory body by the VGG.

It makes decisions on

- a) the appointment, employment and dismissal of members of the Managing Committee as well as on the remuneration and provision of other benefits to them,
- b) the appointment and removal of the auditor,
- c) the accession to or exit from other societies, associations or other organisations, the setting-up of subsidiaries and the acquisition of interests in other entities,
- d) the risk management policy,
- e) the acquisition, the sale and hypothecation of immovable property,
- f) the taking out and granting of loans and the provision of security for loans,
- g) the conclusion and the termination of representation agreements with other collecting societies,
- h) the conditions of rights management, unless these GEMA Statutes provide for a different allocation of responsibilities,
- i) the establishment and adjustment of tariffs and the entry into inclusive contracts.

The Supervisory Board has a right to give instructions to the Managing Committee.

Further details about how certain transactions are handled by the Supervisory Board and the Managing Committee shall be laid down by the Supervisory Board in a set of Internal Rules [*Geschäftsordnung*].

4. The Supervisory Board has the right to delegate Supervisory Board members to attend meetings of the various committees and commissions.

The Supervisory Board may abrogate resolutions of committees and commissions and has the last say on them. However, this does not apply to resolutions of the Attendance Fee Commission and of the Grievance Committee.

5. The Supervisory Board shall elect from amongst its members the Chair of the Supervisory Board and two Deputies.

6. Within the Supervisory Board, the vote shall be passed by simple majority of the members present. If the composers present at a meeting of the Supervisory Board have a unanimous view on a matter, they cannot be outvoted by the other Supervisory Board members present.

Proxy voting is not permitted.

The Supervisory Board shall have a quorum if at least half of its members, including at least two members of each professional category, are present.

7. The Supervisory Board shall adopt standing orders within which it will operate [*Geschäftsordnung*].

## **§ 14 Managing Committee**

The Managing Committee shall represent the Association in court and out of court.

If the Managing Committee consists of two or more persons, the Association shall be represented by two of them, acting jointly.

The members of the Managing Committee are appointed and removed by the Supervisory Board.

The power of representation of the Managing Committee is evidenced by a certificate to be issued by the Senate Department in charge of the supervision of associations. For this purpose, the document of appointment of each member of the Managing Committee shall be submitted to the Senate Department.

In January of each year, the Managing Committee shall submit to the competent Senate Department the list of members of the Managing Committee and of the members of the Supervisory Board stating their name, first name, status and place of residence. If the persons forming the Managing Committee and/or the Supervisory Board have not changed since submission of the last list, submission of a declaration to this effect shall be sufficient..

## **§ 15 [Annual report]**

The Managing Committee shall submit a financial report to the Supervisory Board on a quarterly basis and, in addition, a financial report for the financial year just ended and a forecast for the following year at least one month before the ordinary meeting of the General Assembly .

## **§ 16 [Conciliation Committee, arbitration panel, Grievance Committee, Attendance Fee Commission, Author/Publisher Arbitration Committee]**

A. N/A

B. Arbitration tribunal

1. a) Unless otherwise stipulated in the following provisions, any disputes between GEMA members shall be determined by an arbitration tribunal without recourse to the ordinary courts of law.

In particular in cases of dispute, the arbitration tribunal shall determine the proper interpretation of the GEMA Statutes, the GEMA Distribution Plan, the Deed of Assignment, the Internal Rules [*Geschäftsordnungen*] and the Meeting Procedure, and the validity of resolutions and other actions of GEMA.

b) The rules of procedure of the arbitration tribunal shall be adopted by the Supervisory Board.

c) The arbitration tribunal consists of an umpire and four assessors, two of which shall be appointed by each party. Members of the GEMA Managing Committee and members of the GEMA Supervisory Board as well as persons employed with or otherwise permanently engaged to work for GEMA are not eligible to be appointed umpire or assessor. As far as Supervisory Board members from the professional category of publishers are concerned, this applies for all representatives and other employees of the publisher. The umpire must be qualified to exercise the office of judge. He or she shall be chosen by the assessors from a list of nominations to be prepared by the Supervisory Board, unless the parties to the dispute agreed on an umpire in advance. The rejection of an assessor or of the umpire shall be governed by Secs. 1036, 1037 of the German Code of Civil Procedure [*Zivilprozessordnung – ZPO*]. If the majority of assessors does not agree on an umpire, the umpire shall be appointed, at the request of a party, by the President of the Special Panel for Copyright Law of the German Federal High Court of Justice [*Bundesgerichtshof – BGH*] from the list of nominations.

2. The costs of the arbitration shall be shared between the parties to the arbitration by analogous application of the provisions of the *ZPO* on costs and in accordance with the decision of the arbitration tribunal.

3. Instead of applying to the arbitration tribunal, the claimant can also bring an action before an ordinary court of law having jurisdiction. This right to choose shall cease to apply once the claim has been lodged. Before lodging the claim with

the arbitration tribunal, the claimant shall obtain the consent of the respondent to the dispute being resolved by the arbitration tribunal. If the respondent denies its consent, or if consent is not given within 14 days of receipt of the request, only an ordinary court of law can be applied to.

### C. Grievance Committee

1. The Grievance Committee is responsible for hearing disputes between GEMA and its members that arise from their membership.

Any member can contact the Grievance Committee if his or her legitimate interests as a member of the Association are violated.

The Grievance Committee does not have jurisdiction to hear matters for which the GEMA Statutes or other provisions provide a different internal procedure of the Association.

2. The Committee makes a decision at the request of the member concerned, which is to be given within six months. Recourse to the ordinary courts of law is excluded as long as a decision by the Grievance Committee has not been made.

3. The Committee consists of one representative of each of the three professional categories and one alternate for each of them, plus one Chair and one Deputy Chair. The representatives of the professional categories or the publishers they work for, respectively, must have been full members of GEMA for at least five years. The alternates or the publishers they work for, respectively, must have been full members of GEMA for at least three years. Supervisory Board members are not eligible for election to the Committee. As far as Supervisory Board members from the professional category of publishers are concerned, this applies for all representatives and other employees of the publisher.

The Chair and his or her Deputy shall be chosen by the representatives of the three professional categories from a list of nominations to be prepared by the Supervisory Board. The Chair and his or her Deputy must be qualified to exercise the office of judge.

Subject to the consent of the Supervisory Board and the Managing Committee, the Committee may consult third-party experts as the need arises or co-opt them to its permanent membership with an advisory status. The term of office of experts co-opted for permanent membership ends when the term of office of the Committee members entitled to vote expires, or when they are removed by the Committee members entitled to vote.

4. The representatives of the three professional categories are elected by the General Assembly from nominations made by the Supervisory Board. They are elected for a term of 3 years. In making its nominations, the Supervisory Board will have regard to the objective of improving the representation of women in all bodies of GEMA. Full members and delegates may submit alternative nominations to the Election Committee in the run-up to the meeting of the General Assembly at which the election will be held. The provisions of § 11a) of the GEMA Statutes and section B.I. of the Meeting and Voting Procedure shall apply *mutatis mutandis* to the submission of nominations and the election.

The representatives of the three professional categories shall remain in office until the end of the third ordinary meeting of the General Assembly following their election. Re-election is permitted. If the representative of the professional category of publishers or his or her alternate moves to another publisher during his or her term of office, he or she shall remain in office if the new publisher meets the conditions for eligibility to the Grievance Committee. Otherwise, he or she shall vacate office.

If, for this or any other reason, a representative of a professional category or his or her alternate vacates his or her office before the expiration of his or her term of office, the Supervisory Board members of his or her professional category shall elect a substitute member to fill his or her place. If the term of office continues until after the next meeting of the General Assembly, the approval of the General Assembly with respect to the election of the substitute member must be obtained at that meeting.

5. Grievances should be addressed to the Managing Committee. A grievance may be remedied by the Managing Committee or – if it falls within the remit of the Supervisory Board – by the Supervisory Board. If the Managing Committee or the Supervisory Board are unable to remedy a grievance, the Grievance Committee shall make a decision without undue delay.

6. Except for the own costs of the party raising the grievance, the costs of the grievance process shall be borne by GEMA. The members of the Grievance Committee are only reimbursed for travel expenses and out of pocket expenses incurred in their duties. In addition, a case fee of EUR 2,400.00 is paid for each grievance process conducted. EUR 1,200.00 of this sum goes to the Chair or the Deputy Chair, respectively, and EUR 400.00 to each of the representatives of the three professional categories.

7. The Grievance Committee shall adopt a set of Internal Rules [*Geschäftsordnung*] within which it will operate and which must be submitted to the General Assembly.

D. Attendance Fee Commission

1. The Attendance Fee Commission makes proposals to the General Assembly, taking into account the provisions of § 5a, for decision on the amount of the attendance fees to be paid.

2. The Attendance Fee Committee consists of one representative of each of the three professional categories and the Chair of the Grievance Committee (acting as Chair). The representatives of the three professional categories are elected by the General Assembly for a term of three years in accordance with the principles governing the election of members of the Supervisory Board. An alternate is elected for each representative of a professional category. Re-election is permitted. Full members and delegates may submit nominations to the Election Committee in the run-up to the meeting of the General Assembly at which the election will be held. The provisions of § 11a) of the GEMA Statutes and section B.I. of the Meeting and Voting Procedure shall apply *mutatis mutandis* to the submission of nominations and the election. The Deputy Chair of the Grievance Committee shall act as Deputy Chair of the Commission. The representatives of the professional categories or the publishers they work for, respectively, must have been full members of GEMA for at least five years. The alternates or the publishers they work for, respectively, must have been full members of GEMA for at least three years. Supervisory Board members and members of other committees or commissions are not eligible for election as representative of a professional category or alternate. As far as Supervisory Board members from the professional category of publishers are concerned, this applies for all representatives and other employees of the publisher. If the representative of the professional category of publishers or his or her alternate moves to another publisher during his or her term of office, he or she shall remain in office if the new publisher meets the conditions for eligibility to the Attendance Fee Commission. Otherwise, he or she shall vacate office. If, for this or any other reason, a representative of a professional category or his or her alternate vacates his or her office before the expiration of his or her term of office, the professional category concerned shall elect a substitute member at the next following meeting of the General Assembly to fill his or her place if his or her term of office continues until after that meeting.

3. Meetings of the Commission shall be convened by the Supervisory Board or the General Assembly. The deliberations of the Commission are not public. The Chair of the Supervisory Board and his or her Deputies and the Managing Committee shall be given the opportunity to state their views. If the deliberations relate to attendance fees for committees or commissions composed of members other than Supervisory Board members, the Chair of the body concerned, or a representative appointed by that body, shall also have this right. The Chair of the Attendance Fee Commission shall decide whether experts are to be consulted.

4. The Commission shall decide by simple majority; the Chair shall have the casting vote in the case of a tie.

5. The members of the Attendance Fee Commission are only reimbursed for travel expenses and out of pocket expenses incurred in their duties.

6. The GEMA members shall be informed by the financial report about the amount of the flat rate attendance fees for meetings set by the Attendance Fee Commission and about the total amount of payments made in a financial year to the members of the Supervisory Board and of commissions and committees.

7. Until the General Assembly passes a resolution on this matter for the first time, attendance fees for meetings will be paid in the amount applicable until then.

E. Author/Publisher Arbitration Committee

1. The Author/Publisher Arbitration Committee (APAC) [*Urheber-Verleger-Schlichtungsstelle – UVS*] is responsible for resolving disputes between authors and publishers about the provision of the publishing service in accordance with § 7 paras. 2 and 3 of the GEMA Distribution Plan.

2. Any author of a published work who claims that the publisher should no longer be paid a share of the royalty revenue from the work concerned because the publisher did not provide publishing services as defined in § 7 para. 2 of the GEMA Distribution Plan to him or her can apply to the Author/Publisher Arbitration Committee. Publishers, also, can apply to the Author/Publisher Arbitration Committee about disputes relating to the provision of publishing services.

If two or more authors complain about the non-performance of a publishing service under one particular publishing contract, the legal relationship between each author and the publisher shall be considered and decided upon separately.

3. The Author/Publisher Arbitration Committee shall make an arbitration award in writing, which is to be rendered within 6 months. The award must be made with reasons. In its award, the Author/Publisher Arbitration Committee determines

whether or not the publisher provided a publishing service as defined in § 7 para. 2 of the GEMA Distribution Plan and should therefore continue to be paid a share of the royalty revenue from the work concerned. In determining whether a publishing service has been provided, the Author/Publisher Arbitration Committee shall carefully weigh up the interests involved, considering the economic circumstances in which the work concerned was created and exploited, the provisions of the publishing contract and the time transpired since the creation of the work. The arbitration award shall be without prejudice to any claims in contract or law that may exist in the internal relationship between the author and the publisher, e.g. rights of termination, withdrawal or revocation.

4. Recourse to the ordinary courts of law is excluded until the arbitration award is rendered. Once the arbitration award has been rendered, the defeated party can assert its claims by way of proceedings in the ordinary courts of law within another period of 6 months. If no evidence is provided within this time limit to demonstrate that the claims are being asserted in court, or if the arbitration award is accepted by both parties by way of a joint statement to be submitted to GEMA, GEMA shall distribute the royalties received as determined by the arbitration award.

5. The Author/Publisher Arbitration Committee consists of one representative of each of the three professional categories and one alternate for each of them, plus one Chair and one Deputy Chair. The representatives of the three professional categories shall be appointed by the Supervisory Board members of their respective professional category for a term of three years. They must not be members of the Supervisory Board or of any other body to be elected by the General Assembly in their capacity as individuals. The Chair and his or her Deputy shall be chosen by unanimous decision of the representatives of the three professional categories from lists of nominations to be prepared by the Supervisory Board. The Chair and his or her Deputy must be qualified to exercise the office of judge.

The Author/Publisher Arbitration Committee shall decide by simple majority. The Chair shall have the casting vote in the case of a tie. The representatives of the professional categories of composers and lyricists shall participate only in decisions about disputes to which members of their respective professional category are a party.

6. The members of the Author/Publisher Arbitration Committee are reimbursed for travel expenses and out of pocket expenses incurred in their duties. In addition, a case fee of EUR 600 is payable for each arbitration conducted before the Arbitration Committee, one half of which shall go to the Chair or Deputy Chair, respectively, while the other half shall go in equal shares to the representatives of the three professional categories involved in the decision as allowance for expenses. The Arbitration Committee shall determine on the basis of the decision of the arbitration award who shall bear these costs and the own costs incurred by each party.

7. Further details shall be laid down in a set of Internal Rules [*Geschäftsordnung*] to be adopted by the Supervisory Board.

8. The Supervisory Board and the Managing Committee shall closely monitor the functioning and the workload of the Author/Publisher Arbitration Committee. If this move is supported either by the majority of the Supervisory Board or unanimously by the representatives of one professional category on the Supervisory Board, the Supervisory Board and the Managing Committee shall draw up a proposal for a revision of the provisions on the functioning of the Author/Publisher Arbitration Committee and put it up for vote at the 2020 ordinary meeting of the General Assembly.

## **§ 17 [Distribution of royalties received]**

Royalties received, including amounts made available for social and cultural purposes, shall be distributed according to a Distribution Plan which may be amended only in accordance with the provisions of § 11b) of the GEMA Statutes. The GEMA Distribution Plan may provide for the Supervisory Board and the Managing Committee to decide by mutual agreement on the settlement of claims which arise from a systematic error in the distribution which is discovered only afterwards, in particular because a provision of the GEMA Distribution Plan turns out to be invalid.

## **§ 18**

N/A.

## **§ 19 [Amendments to these Statutes]**

Amendments to the GEMA Statutes are governed by the applicable statutory provisions.

In the event that the Association is dissolved, any residual assets shall be contributed to associations which are acknowledged non-profit cultural organisations.

Amendments to the GEMA Statutes must be approved by the competent Senate Department according to Sec. 33 Para. 2 BGB in order to be valid; the same applies to the dissolution of the Association.

## **§ 20 Editorial changes**

The Supervisory Board has the right to make editorial changes to the GEMA Statutes, the GEMA Distribution Plan and the Internal Rules adopted by the General Assembly by mutual agreement with the Managing Committee as long as such changes concern only the form in which those documents are written but not the content of their provisions. This includes only corrections to the spelling, grammar or punctuation, updates to cross references and numbering within the GEMA rules, updates to references to provisions of statutes and names of organisations as well as corrections to make the use of acronyms consistent.

All editorial changes made will be made public. Members will be informed about them through the “virtuos” magazine, which is circulated to all members, in the issue following the adoption of the Supervisory Board resolutions concerned, for which purpose the cover of that issue shall prominently highlight this information.



## **Meeting and Voting Procedure**

(as amended on 30 September/1 October 2020)

This translation is provided for convenience only. In the event of conflict or ambiguity the original German version shall be authoritative.

### A. Meeting Procedure

according to § 10 para. 9 of the GEMA Statutes

#### I. General Assembly

1.

The term "General Assembly" comprises the general members' meeting and the meetings of the three professional categories.

No resolutions may be passed before the meetings of the professional categories have taken place.

2.

The general members' meeting and meetings of the three professional categories are not held in public. In addition to those persons who have a statutory right to attend and the Managing Committee, the following categories of persons may attend as guests:

- newly elected delegates of the extraordinary members may attend the General Assembly meeting following their election,<sup>9</sup>
- the necessary number of carers or companions accompanying members who need assistance,
- up to two representatives of the professional associations affiliated with the professional categories, and
- speakers, GEMA employees, legal advisors, auditors and other persons invited by the Managing Committee.

Other persons are admitted to attend only if approved by simple majority resolution of the General Assembly.

Persons admitted to attend in accordance with this clause shall not have the participation rights conferred by membership.

For the purposes of this provision, members are deemed to need assistance if they are unable due to illness or age to duly exercise membership rights at a meeting without the assistance of a carer or companion. If members wish to attend a meeting with a carer or companion, GEMA shall be notified in writing at least one week before the beginning of the General Assembly meeting concerned, enclosing the documents needed to verify their need for assistance. Evidence of disability must be supplied by presentation of a disability card or medical certificate. The admission granted to a carer or companion shall apply for one General Assembly meeting only.

#### II. General members' meeting

1.

(1) The general members' meeting shall be chaired by the Chair of the Supervisory Board or one of his or her Deputies, or by the oldest Supervisory Board member (in age).

(2) Once the meeting proceeds to the agenda, the proposals for resolution shall be discussed in the order in which they appeared on the notice convening the general members' meeting. The general members' meeting may decide by simple majority that the order of the agenda be varied.

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<sup>9</sup> The amendments adopted by resolution of the 2020 General Assembly on Item 16 of the agenda shall take effect on 1 January 2021 (subject to approval of the competent Senate Department).

- (3) Priority shall be given to requests from members to speak in relation to the procedure, in particular proposals relating to
- a) the application of the Meeting Procedure,
  - b) referral to a committee,
  - c) the end of the discussion,
  - d) the adjournment of the discussion,
  - e) requests to return to the agenda.

This kind of requests to speak shall have priority over the principal agenda item the deliberations on which are interrupted by such requests.

(4) The time available to each speaker for his or her contribution to an agenda item shall be limited to 10 minutes. However, the general members' meeting may decide to allow a speaker more time. If a speaker exceeds the time limit, the Chair may, after an initial call to order, forbid him or her to speak.

(5) The general members' meeting may pass a resolution ending the debate. In this case, only speakers whose request to speak has been received by then will be allowed to speak. The time available to each speaker shall then be reduced to 5 minutes.

2.

(1) Voting at the general members' meeting shall be by electronic or paper ballots or by show of hands. The chair of the meeting shall determine which voting method is to be used. This shall be without prejudice to § 10 para. 8 of the GEMA Statutes.

(2) If votes are cast by a show of hands, the chair of the meeting shall have the right, subject to the consent of the general members' meeting, to determine the result of a vote by counting only the "no" votes and abstentions (i.e. by subtraction).

(3) If any doubt is raised about the result of such a vote, all votes cast shall be counted.

(4) Whether the requisite majority of votes has been obtained is determined on the basis of the ratio of "yes" votes to the total number of "yes" and "no" votes cast. In the event of a tie, a proposal shall be deemed to be rejected. Abstentions shall not be taken into account. However, explicit abstentions shall be recorded as such in the minutes.

(5) During a vote, the doors of the room where the meeting is held shall be kept closed.

(6) The result of each vote shall be recorded in the minutes. If a vote is taken on a proposal to amend the GEMA Statutes, the ratio of votes in numbers shall also be recorded in the minutes.

(7) If a request is made at the general members' meeting to discuss and vote once more, before the end of the deliberations on the agenda item concerned, on a proposal previously accepted or dismissed by the professional categories, this request shall be complied with if it is supported by half of the votes cast, or by three quarters of the votes cast by a professional category. Part II para. 2 (4) shall apply *mutatis mutandis*. Proposals for resolution that have been accepted by all professional categories, albeit in different versions, shall always be discussed and voted on once more at the general members' meeting.

This shall not apply to elections.

### III. Meetings of professional categories

1. The items for the agenda of the general members' meeting shall be discussed at a meeting of each professional category, where a vote shall be taken on all items in respect of which a separate vote by professional categories is required to be taken. The result of the vote within a professional category may be "yes", "no" or "abstain".

The submitter of a proposal may be granted a right to speak in another professional category if no member of that category is involved in the proposal for resolution. His or her request to speak should be indicated in the proposal.

2. Each meeting of a professional category shall be chaired by the Chair of the Supervisory Board if he or she is a member of the professional category concerned, or by the Deputy Chair who is a member of that professional category, or by a Supervisory Board member elected by the Supervisory Board members present.

3. Apart from that, the provisions of Part II (except for para. 1 (1)) shall apply *mutatis mutandis*.

4.

(1) The Chairs of the three professional categories shall inform one another and the Managing Committee about the results of the votes taken in their respective category.

(2) If a proposal for resolution in respect of which a separate vote is required to be taken by each professional category has been dismissed, or if it has been accepted by all professional categories, albeit in different versions, the Mediation Committee can be applied to.

(3) The Mediation Committee can be applied to by the Chair of each meeting of a professional category, or by the Managing Committee.

(4) In addition to the Managing Committee and the Chairs of the meetings of the three professional categories, the Mediation Committee is composed of two other representatives from each professional category who shall be elected by the professional category concerned. Those candidates who receive the most votes (relative majority) will be elected. Each professional category can elect different representatives for each proposal to be reviewed by the Mediation Committee.

In addition, the meeting of the Mediation Committee shall be attended by the legal advisors, the in-house counsel and, if applicable, other GEMA employees and other persons invited by the Mediation Committee in an advisory capacity.

(5) The Mediation Committee shall discuss and decide whether the dismissed version of the proposal or a different version of it shall be submitted to the professional categories for re-resolution.

(6) A vote on the proposal submitted by the Mediation Committee shall be taken at the general members' meeting by each professional category separately. This shall be without prejudice to Part II para. 2 (7).

#### IV. Amendments

Amendments to the Meeting Procedure require such majority of the General Assembly as is required for amendments to the GEMA Statutes. This shall be without prejudice to § 20 of the GEMA Statutes.

#### B. Voting Procedure for the election of the Supervisory Board

##### I. Conduct of the election in the professional categories of composers, lyricists and publishers

1. The election of the Supervisory Board members within each professional category (6 composers and 2 alternates, 4 lyricists and 2 alternates, 5 publishers and 2 alternates) shall be held as a single election process in which each member entitled to vote has as many votes as Supervisory Board members or alternates, respectively, are to be elected.

2. Those candidates who receive the most votes in the order of valid votes cast for them (relative majority of votes) will be elected. Invalid votes and blank votes shall be deemed uncast votes and shall not be counted. If there is no clear election result because there is a tie of votes, a run-off ballot shall be held. If there is a tie of votes in the run-off ballot, the decision between the candidates with the same number of votes shall be made by lot to be drawn by the Election Officer. This shall be without prejudice to § 10 para. 8 subpara. 2 of the GEMA Statutes.

3. Under the direction of the Chair of the meeting, each professional category shall elect an Election Committee whose task is to prepare lists of nominations for the single election process in the run-up to the General Assembly meeting and to manage the election.

Full members and delegates may submit their nominations for membership of the Supervisory Board and alternate membership of the Supervisory Board in their professional category to the Election Committee using the form provided for this purpose. In addition, the members running for election shall state to the Election Committee in the stipulated form whether and how they fall within the provisions of § 13 para. 1 subpara. 5 of the GEMA Statutes. All nominations and statements by candidates must be received at least eight weeks before the date of the General Assembly meeting at which the election is to be held. Except in cases where a subsequent nomination may be necessary, nominations may not be added at the General Assembly meeting.

The Election Committee shall check the nominations as to whether candidates have the right to stand for election to an elected office and shall combine them into one list for the single election process. This combined list of nominations shall be made public as part of the agenda for the General Assembly meeting at which the election is to be held.

Each Election Committee shall consist of an Election Officer and a Deputy Election Officer. The members of the Election Committee must be full members of GEMA, may not be members of the Supervisory Board and may not stand for election to the Supervisory Board. As far as members from the professional category of publishers are concerned, this applies for all representatives and other employees of the publisher. Nominations for the Election Committee shall be submitted to GEMA as described in Part I para. 3 subpara. 2. The members of the Election Committee shall be elected for a term of three years as described in Part I para. 1 and 2 of this Voting Procedure. Their term of office shall run from the date of their election until a new election is held. Re-election is permitted. If the Election Officer of the professional category of publishers or his or her alternate moves to another publisher during his or her term of office, he or she shall remain in office if the new publisher meets the conditions for eligibility to the Election Committee. Otherwise, he or she shall vacate office. If, for this or any other reason, a member of the Election Committee vacates his or her office before the expiration of his or her term of office, the Supervisory Board members of his or her professional category shall elect a substitute member to fill his or her place. If the term of office continues until after the next meeting of the General Assembly, the approval of the professional category concerned must be obtained at that meeting.

4. Election at the meeting of the General Assembly shall be by secret ballot, using either an electronic voting system or ballot papers. The Election Officer shall determine which voting method is to be used. This shall be without prejudice to § 10 para. 8 of the GEMA Statutes. Each full member has as many votes as Supervisory Board members are to be elected in his or her professional category (6 composers, 4 lyricists, 5 publishers). Members shall vote by casting their vote, or abstaining from vote, respectively, for each candidate on the combined list of nominations for the single election process.

5. After completion of the election process, the Election Officer shall declare the result.

6. The work of the Election Committee shall be documented in a record to be signed by all members of the Election Committee. This record must include at least the following information: the place and time of the meeting at which the election was held, the names of the members of the Election Committee, the number of members entitled to vote in each ballot, the names of the candidates, the result of the first and, if applicable, all following ballots, whether the election was accepted.

## II. Amendments

This Voting Procedure may be amended as part of the Meeting Procedure. Amendments to the Voting Procedure require such majority of the General Assembly as is required for amendments to the GEMA Statutes. This shall be without prejudice to § 20 of the GEMA Statutes.