

GWFF Statutes according to VGG

(Version from September 30, 2016)

§1 Name, Seat, Fiscal Year

1. The name of the Company is

GWFF Gesellschaft zur Wahrnehmung von Film- und Fernsehrechten mbH

2. The seat of the Company is in Munich.

3. The fiscal year is the calendar year.

§2 Purpose

1. The purpose of the Company is the fiduciary administration of rights and claims in the national territory and abroad which result from the Copyright Act in conjunction with the international and/or bilateral conventions for film producers, television producers, videogram producers, foreign actors and authors or which have been transferred to them, and the distribution of the revenue to the entitled persons.
2. The Company is a collecting society within the meaning of Article 2 VGG [*German Collecting Societies Act*]. It is not operated for profit.

§3 Administration Agreement

1. An administration agreement will be entered into with the individual entitled persons with respect to the rights and claims to be administered with the consent of the entitled person to the administration being obtained and documented for each individual right and each territory. Before obtaining the consent, the Company shall inform the entitled person of his rights pursuant to Articles 9-12 VGG and of the deductions from the rights revenue including the deductions for administrative costs.

2. The entitled person may limit the type and the scope of the rights and claims to be administered at his choice.
3. Terms of use for non-commercial purposes may also be stipulated in the collection agreement.
4. The terms of administration of the Company regulate in particular the rights of the entitled persons under Articles 9-12 VGG as well as the termination of the rights administration altogether and the withdrawal of rights depending on the type or territory. The terms of administration and the Administration Agreement shall be published on the website of the Company.
5. The shareholders' meeting shall resolve on the rights and claims to be administered under the administration agreement and on the terms of administration with the consent of the advisory board.

§4 Distribution Principles

1. The shareholders' meeting shall, with the consent of the advisory board, adopt the distribution plans for the individual rights administered by the Company.
2. The distribution of the revenue shall be made to the entitled persons and to other collecting societies within the scope of representation agreements.
3. The distribution plans shall be in compliance with the regulations of the VGG and the following principles:
 - a) The distribution shall be made on the basis of the claims filed by the entitled persons.
 - b) In as far as ascertainable by appropriate means, each entitled person shall be entitled to receive the share of the sums to be distributed commensurate with the use of his work.
 - c) In as far as the individual share commensurate with such use cannot be ascertained by appropriate means, general valuation and distribution rules shall be established to approximate such share assessment on a flat rate basis.

- d) The distribution plan may provide for a differentiated valuation of the administered rights where it is to be differentiated, in particular, between the type of work, the year of production, the length and the television and audio-visual use.
 - e) Non-distributable revenue pursuant to Article 30 VGG shall be allocated to the revenue from the same rights category and be distributed in the fourth year after completion of the fiscal year in which the revenue has been realized.
4. The distribution plan shall provide for the right of the Company to deduct the expenses required to cover the administrative costs from the revenue and that the company has at all times sufficient liquid funds to manage the affairs of the Company in accordance with the principles of proper management even in case of legal disputes with third party debtors over revenue from statutory remuneration claims.
 5. Within the scope of the distribution of the revenue for the rights administered by the Company, Article 32 VGG which provides for the establishment of welfare and support schemes and for the promotion of culturally important works and performances shall be complied with. The funds used for these purposes may not exceed an amount equal to ten percent (10%) of the revenue.
 6. The distribution deadlines are specified in Articles 28, 46 No. 3 VGG.

§5 Nominal Capital; Capital Contributions

1. The nominal capital of the Company amounts to EUR 103,000 (one hundred and three thousand).
2. Any disposition of shares or part of a share shall require the consent of the Company. Every shareholder may divide the shares even without a shareholder resolution if such division is made by notarial deed. It shall be notified to the Company without undue delay for evidence purposes. Without undue delay after any change in the shareholder structure has taken effect, the managing directors shall file with the Commercial Registry a shareholder list signed by them. Every shareholder shall be obligated to notify and prove in writing any such change without undue delay.
3. For the purpose of admitting new shareholders, the shareholders shall be obligated to consent to future increases of the nominal capital. This obligation is only owed if and to the extent that the volume of all future capital increases does not exceed an

amount equal to ten percent (10%) of the nominal capital on a cumulative basis. Every shareholder shall be obligated to participate in the capital increase *pro rata* in proportion to his share of the nominal capital.

4. Film producers

- a) who have contributed all their rights to the Company; and
- b) whose rights substantially contribute to the income of the Company. A substantial contribution is deemed to exist if the contributed rights account for at least five percent (5%) of the average annual income of the Company in the preceding five (5) years;
- c) who are not members or entitled persons of competing collecting societies or organizations; and
- d) where no other grounds such as for example impending bankruptcy, improper business practices or investigations by the public prosecutor conflict with their admission

shall be admitted as new shareholders.

5. Every new shareholder pursuant No. 4 may maximally acquire a share in an amount equal to one percent (1%) of the nominal capital. The purchase price is the nominal value of the share plus a premium of ten percent (10%). The existing shareholders shall be obligated, to the extent specified in paragraph 3, to consent to respective capital increases and to sell and assign their shares resulting from the respective capital increase to the new shareholder.

6. The costs of the relevant capital increase as well as the selling and assigning of shares pursuant Nr. 5 third sentence (notary, court) shall be borne by the new shareholder.

§6 Bodies of the Company

The bodies of the Company are:

- a) the shareholders' meeting
- b) the supervisory board

- c) the advisory board
- d) the management.

§7 Shareholders' Meeting

1. The shareholders' meetings shall be called by the managing directors. Every managing director shall alone be entitled to call a shareholders' meeting.
2. The ordinary shareholders' meeting at which, in particular, the annual financial statements are to be adopted shall be held in every fiscal year within the statutory deadlines.
3. Extraordinary shareholders' meetings shall be called where this appears necessary in the interest of the Company or where a majority of the shareholders so requests.
4. The shareholders' meeting shall be called in writing by the management with at least two (2) weeks' notice. The place, the date and time as well as the agenda of the shareholders' meeting shall be indicated in the notice of meeting. Resolutions concerning items which are not included in the agenda may only be adopted if all shareholders are present or represented and agree that the relevant items be dealt with. Unless conflicting with mandatory provisions, any and all provisions regarding the form and period of notice provided in these Statutes or by law may be waived.
5. The shareholders' meeting shall constitute a quorum if at least three-fourths (3/4) of the nominal capital is represented. Failing this, another shareholders' meeting with the same notice period and agenda shall be called without undue delay. That shareholders' meeting shall constitute a quorum irrespective of the represented capital. The managing director oldest in age shall take the chair, unless the shareholders' meeting designates another person. All resolutions of the shareholders' meeting shall be passed by a three-fourths (3/4) majority, unless the law or these Statutes prescribe a different majority.
6. If all shareholders agree with the respective form of resolution and unless there are mandatory formal requirements, resolutions of the shareholders' meeting may also be passed in any other way, in particular by email. Minutes shall be taken of every shareholders' meeting and every shareholder resolution.

7. Shareholders may give each other or a third person written proxy for representation at a specific shareholders' meeting. A representative may not represent more than ten (10) other shareholders. The written proxy has to be submitted to the management ten (10) days prior to the meeting. The proxy is obligated to vote in accordance with the instructions given by the represented shareholder(s). If a shareholder does not want to grant a proxy while he himself cannot attend the shareholders' meeting, he shall be entitled to attend, and exercise his right to vote at, the shareholders' meeting by way of telephone conference or video conference, provided that he so requests in writing no later than fourteen (14) days before the shareholders' meeting.
8. The members of the advisory board shall be given notice of the shareholders' meetings. They are entitled to attend the shareholders' meetings in an advisory capacity, provided that they have notified this in writing no later than ten (10) days before the shareholders' meeting. They shall be given copies of the minutes of the meeting. If an advisory board member wishes to attend the shareholders' meeting by way of electronic communication, he shall request this in writing no later than fourteen (14) days before the shareholders' meeting.
9. Shareholder resolutions may only be challenged by court action within six (6) weeks from mailing of the resolution record.
10. The shareholders' meeting is the general meeting of members within the meaning of Article 17(1), first sentence, VGG.

§8 Powers of the Shareholders' Meeting

1. The shareholders' meeting has the powers set out in Section 46 GmbHG [*German Act on Limited Liability Companies*] and in Articles 17, 18 VGG. It shall resolve, in particular, on
 - a) the statutes and modifications of the statutes;
 - b) the appointment and removal of the auditor;

- c) mergers and alliances with the participation of the Company, the formation of subsidiaries, the takeover of other organizations and the acquisition of interests or rights in other organizations;
 - d) the risk management policy;
 - e) the establishment, addition to and modification of distribution plans;
 - f) the use of the non-distributable rights revenue;
 - g) the general policy on investment of the rights revenue;
 - h) the general principles on deductions from the rights revenue including the general principles on coverage of the administrative costs and, as the case may be, deductions for the promotion of culturally important works and performances and for the operation of welfare and support schemes;
 - i) the acquisition and sale of and lending against immovables;
 - j) the raising and granting of loans as well as the provision of loan collateral;
 - k) the conclusion, the contents and the termination of representation agreements;
 - l) the terms of administration;
 - m) the tariffs;
 - n) the determination of the rights covered by the scope of activities of the Company;
 - o) the conditions on which the entitled person may grant anybody the right to use his works or other subject matter for non-commercial purposes;
 - p) transfer of power to the supervisory board
 - q) the appointment and removal of the members of the supervisory board and the management and on their remuneration and other benefits.
2. The shareholders' meeting shall further resolve on

- a) the conduct of lawsuits involving fundamental issues and the seizing of the arbitral body;
 - b) the adoption of the annual financial statements and the transparency report as well as the discharge of the management;
 - c) the consent to the assignment of shares;
 - d) the appointment and removal of 'Prokurists' with joint authority to represent the Company;
 - e) transactions outside the ordinary course of business of the Company.
3. Resolutions pursuant to paragraph 1 e)-h) and p)-o) shall only be valid with the consent of the advisory board. Resolutions pursuant to paragraph 1 q) shall only be valid with the consent of the advisory board if and to the extent that they concern the remuneration or other benefits.

§9 Supervisory Board

1. The Company has a supervisory board. The supervisory board is composed of six (6) members who are elected by the shareholders' meeting. At least two (2) members of the supervisory board must represent authors or foreign actors.
2. The term of office of the supervisory board members is four (4) years. It starts with the shareholders' meeting at which the supervisory board members have been elected and ends four (4) years later.
3. The supervisory board shall elect a chairman and his deputy from among its members. Re-election is permissible without limitation.
4. The supervisory board meetings shall be called by the management with two (2) weeks' notice with the place of meeting and the agenda to be indicted. Every supervisory board member may request that a supervisory board meeting be called.
5. The supervisory board shall constitute a quorum if at least two-thirds (2/3) of the advisory board members participate in the adoption of the resolution. Abstention from voting shall be deemed participation.

6. The votes shall be taken by a two-thirds (2/3) majority. In the event of equality of votes, a motion shall be deemed rejected. Resolutions may be adopted in writing or by email by way of circular procedure if no member objects.
7. Supervisory board members may grant each other written proxy for representation.
8. The supervisory board may issue rules of procedure for the supervisory board.

§10 Powers of the Supervisory Board

1. The supervisory board shall supervise the management.
2. The shareholders' meeting may resolve that the powers pursuant to Article 17(1), Nos. 3-5 and 10-14 VGG be conferred on the supervisory board, in whole or in part.
3. The supervisory board members shall serve in an honorary capacity. They shall be reimbursed their travel expenses and disbursements in accordance with the permissible maximum rates for tax purposes.

§11 Advisory Board

1. The Company has an advisory board. The advisory board represents the interests of those rightholders who are not shareholders but who have entered into a Collection Agreement with the Company.
2. The advisory board has six (6) members. One-third (1/3) of its members are representatives delegated by the shareholders' meeting, one-third (1/3) are producers or representatives of producers and one-third (1/3) are authors or foreign actors or their representatives being elected pursuant to section 12 No.1.
3. Except for the representatives delegated by the shareholders, advisory board members may only be natural persons who are not shareholders but who have entered into a Collection Agreement with the Company. Statutory representatives or authorized representatives of undertakings/organizations which are not shareholders but which have entered into a Collection Agreement with the Company may also be

advisory board members. A further requirement for membership of the advisory board is that the natural person or the undertaking/organization has received total distributions of at least EUR 5,000 in the two (2) years preceding the meeting of entitled persons.

4. The advisory board meets at least once every year and, in addition, where necessary in the interest of the Company or where a majority of the advisory board members so requests. The advisory board meetings shall be called by the management in writing or by email with the place of meeting and the agenda to be indicated and with at least fourteen (14) days' notice.
5. The advisory board members shall elect from among their number a chairman and a deputy. Re-election is permissible without restriction.
6. The advisory board members may give each other written proxy for representation at the advisory board meeting. If an advisory board member does not want to grant a proxy while he himself cannot attend the advisory board meeting, he shall be entitled to attend and exercise his right to vote at the advisory board meeting by way of telephone conference or video conference, provided that he has notified the Company thereof no later than fourteen (14) days before the advisory board meeting.
7. The advisory board shall constitute a quorum if at least half of its members are present or represented. Every advisory board member has one (1) vote. Resolutions shall be passed by a three-fourth (3/4) majority of the votes cast. Advisory board members who together represent more than twenty-five percent (25%) of the revenue realized by the Company in the fiscal year preceding the adoption of the resolution have a right of veto. Resolutions may also be passed in a different way if all advisory board members agree therewith. Minutes shall be taken of every advisory board meeting and every advisory board resolution. A copy of the minutes shall be sent to the shareholders.
8. The advisory board members shall serve in an honorary capacity. For attending the meetings, they shall be reimbursed the travel expenses and receive a *per diem* allowance at the maximum rates permissible for tax purposes.

§12 Election of the Advisory Board Members

1. The members of the advisory board as well as two (2) substitutes shall be elected at a meeting of entitled persons who are not shareholders (meeting of entitled persons). The meeting of entitled persons shall be called by the management in writing or by email every four (4) years with at least fourteen (14) days' notice with the place of meeting and the agenda to be indicated.
2. Unless otherwise decided by the meeting of entitled persons, the managing director oldest in age shall chair the meeting of entitled persons.
3. The advisory board members and the substitutes may be elected either individually or *en bloc*. The chairperson shall determine the details of the election procedure. Election proposals must be submitted to the management of the Company in writing no later than seven (7) days before the date of the meeting of entitled persons.
4. Every entitled person has one (1) vote at the meeting of entitled persons. Resolutions and the election of the advisory members shall require a majority of three-fourth (3/4) of the votes cast.
5. The election right may be exercised personally, by a statutory representative or by an authorized representative on the basis of a written power of attorney.
6. The term of office of the advisory board members is four (4) years.
 - a) It starts for all members with the resolution of the meeting of entitled persons at which the election is made and ends with the ordinary meeting of entitled persons four (4) years later.
 - b) If a member resigns prematurely from the advisory board for any reason whatsoever, such member shall be replaced by a substitute member. If the resigning member represents producers, he shall be replaced by the substitute member elected for producers. If the resigning member represents authors/foreign actors, he shall be replaced by the member elected as his substitute. The term of office of the substitute member shall end at the time at which the term of office of the member replaced by the substitute member ends.

7. If new advisory board members are not elected or not validly elected, the term of office of the existing members shall be extended beyond the 4-year term.
8. The meeting of entitled persons may adopt supplementary, in particular, organizational regulations for the conduct of the election.

§13 Powers of the Advisory Board

1. Without prejudice to the competence of the shareholders' meeting, the advisory board shall resolve on the following:
 - a) the establishment, addition to and modification of distribution plans;
 - b) the use of non-distributable rights revenue;
 - c) the general investment policy;
 - d) the general principles on deductions from the rights revenue including the general principles on coverage of the administrative costs and, as the case may be, deductions for the promotion of culturally important works and performances and for the operation of welfare and support schemes;
 - e) the conclusion, the contents and the termination of representation agreements;
 - f) the terms of administration;
 - g) the tariffs;
 - h) the determination of the rights covered by the scope of activities of the Company;
 - i) the conditions on which the entitled person may grant anybody the right to use his works or other subject matter for non-commercial purposes;
 - j) the remuneration and other benefits of the management and the supervisory board;
 - k) the transfer of power to the supervisory board.

2. As far as the powers of the advisory board overlap with the powers of the shareholders' meeting, resolutions of the advisory board shall only be valid with the consent of the shareholders' meeting and resolutions of the shareholders' meeting shall only be valid with the consent of the advisory board.

§14 Management

1. The Company has one or more managing directors. If more managing directors have been appointed, the Company shall be represented by each managing director individually. If only one managing director has been appointed, he shall represent the Company alone. Exemption from the restrictions of Section 181 BGB [*German Civil Code*] may be granted.
2. The management shall, in accordance with the purpose of the Company set out in these Statutes, be organized such that the Company does not realize profits.
3. The managing directors shall comply with the general and special instructions given by the shareholders' meeting and with the resolutions of the supervisory board.
4. The managing directors shall be obligated to fulfill their functions in a sound, prudent and appropriate manner and submit a personal statement pursuant to Article 21(3) VGG to the shareholders' meeting once a year. If a managing director is at the same time an entitled person, any conflicts of interest must be avoided such that that entitled person may not take part in the adoption of resolutions which affect his interests as entitled person. Unavoidable conflicts of interest must be disclosed. The shareholders' meeting may determine more detailed regulations in this respect.

§15 Annual Financial Statements and Disclosure

1. The annual financial statements shall be audited by an auditor. A written audit report shall be prepared which fulfills the requirements of Article 57 VGG. The audit certificate shall be published with its full text within the scope of the publication of the annual financial statements.
2. The Company shall prepare a transparency report in accordance with Article 58 VGG and publish the same including the auditor's certificate for the annual transparency

report pursuant to Article 58(3) VGG or any complaints together with the audit certificate with its full text only on its website.

3. The annual financial statements shall be published in the electronic Federal Gazette [*Bundesanzeiger*].

§16 Complaints Procedure

1. Entitled persons and rightholders and also collecting societies on behalf of which the Company administers rights under a representation agreement have a right to complain to the management and shareholders have a right to complain to the shareholders' meeting represented by the chairman of the shareholders' meeting.
2. The subject of a complaint may be, in particular without limitation:
 - a) the commencement and the termination of the rights administration;
 - b) the withdrawal of individual rights;
 - c) the terms of administration for the conclusion of a Collection Agreement;
 - d) the conditions of admission as shareholder;
 - e) the collection, administration and distribution of rights revenue;
 - f) deductions from the rights revenue.
3. As a precondition of a complaint being dealt with, the subject of the complaint must be identifiable in the complaint.
4. Decisions on a complaint shall be made by the management. They shall be notified to the complainant in writing. If a complaint is rejected, the reasons therefor shall be given. The party concerned may file a further complaint against the decision on a rejected complaint which must be addressed to the shareholders' meeting in writing with the grounds to be stated. The shareholders' meeting shall then finally decide on the complaint. This applies *mutatis mutandis* to decisions on complaints by shareholders with the proviso that the decision is made by the chairman of the shareholders' meeting.

5. Complaints procedures shall be conducted by the Company in an effective and speedy manner.

§17 Receipt of Written Declarations

The following applies for all notices and declarations provided for, in particular, in these Statutes

-of the Company to the shareholders

-of the shareholders to the Company

-of the shareholders among themselves:

- a) every shareholder shall designate to the Company the address to which written declarations and notices of any kind intended for the shareholder shall be addressed;
- b) declarations to the shareholders shall be addressed to the address last made known to the Company pursuant to sub-paragraph a);
- c) if a deadline has been fixed for a declaration, mailing of the letter in a timely manner shall be sufficient for establishing observance of the deadline;
- d) the written notices and declarations shall be sent by registered letter.

§18 Notifications of the Company

The notifications of the Company shall only be published in the electronic Federal Gazette [*Bundesanzeiger*]. The statutory obligations to provide information pursuant to Part 2, Chapter 6 VGG remain unaffected.