

# APRA CONSTITUTION

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Company Limited by Guarantee

**MEMORANDUM OF ASSOCIATION**

**of**

**AUSTRALASIAN PERFORMING RIGHT ASSOCIATION LIMITED**

1. The name of the Company is "AUSTRALASIAN PERFORMING RIGHT ASSOCIATION LIMITED".
2. The registered office of the Company will be situated in Sydney, New South Wales.
3. The objects for which the Company is established are:
  - (a) To acquire by assignment, licence agreement or by any other means the rights in relation to any musical, literary or dramatic work of performing in public, broadcasting (including televising), and causing to be transmitted to subscribers to a diffusion service, for any and all parts of the world by any means and in any manner whatsoever, and of authorising any such acts.
  - (b) To assign any rights vested in or controlled by the Company and to grant licences, permits or authorities for the use or exercise by others of any such rights.
  - (c) To charge, collect, receive and recover fees and royalties in respect of the use and exercise by others of any rights vested in or controlled by the Company and to institute or defend any legal proceedings for the purpose of enforcing or protecting any rights vested in or controlled by the Company or for the recovery of damages or fees or royalties.
  - (d) To act as agent for any person, corporation or organisation in respect of any rights relating to musical, dramatic or literary works.
  - (e) To distribute to members and other persons, corporations or organisations with which the Company has entered into contracts out of the moneys received by the Company such moneys as shall be available for distribution in accordance with the Articles of Association of the Company.
  - (f) To protect and promote the interests of members in relation to their musical, literary and dramatic works.
  - (g) To make submissions to, be represented before, or give evidence to, any enquiry, Royal Commission, committee or other body which has been constituted for the purpose of enquiring into any matter connected with the objects of the Company or the interests of members in relation to their musical, literary or dramatic works.
  - (h) To be a party to any proceedings before any tribunal established by any statute having jurisdiction over any matter affecting the interests of the Company or its members.
  - (i) To enter into and carry into effect contracts and arrangements with any persons, firms, corporations or organisations in respect of the use of any rights vested in the Company or any property vested in the Company.
  - (j) To print, publish and distribute any periodicals, books, leaflets, bulletins or music that the Company may think desirable for the promotion of its objects.
  - (k) To carry on any business which may seem to the Company capable of being conveniently carried on in connection with the above objects and calculated either directly or indirectly to enhance the value of or render profitable any such works or rights.
  - (l) To purchase or by other means acquire and prolong, protect and renew whether in the Commonwealth of Australia or elsewhere any agencies, copyrights, performing rights, licences, protections and concessions which may appear likely to be advantageous or useful to the Company and to use and turn to account or grant licences or privileges in respect of the same.
  - (m) To acquire or undertake the whole or any part of the business, property or liabilities of any person or company carrying on any undertaking or business which the Company is authorised to carry on or possessed of property suitable for the purposes of the Company.
  - (n) To enter into partnership or into any arrangement for sharing profits, union of interests, co-operation, joint adventure, reciprocal concession or otherwise with any person, association or company carrying on or engaged in or about to carry on or engage in any business or transaction which this Company is authorised to carry on or engage in or any business or transaction capable of being conducted so as directly or indirectly to benefit this Company and to amalgamate with or become affiliated to any such association or company, and to lend money to, guarantee the contracts of or otherwise assist any such person, association or company, and to take or otherwise acquire shares and securities of any such company, and to sell, hold, re-issue, with or without guarantee, or otherwise deal with the same.

- (o) To promote any company or companies for the purpose of acquiring all or any of the property rights and liabilities of this Company or for any other purpose which may seem directly or indirectly calculated to benefit this Company.
- (p) Generally to purchase, take on lease or in exchange, hire or otherwise acquire any real or personal property and any rights or privileges which the Company may think necessary or convenient for the purposes of its undertaking or business.
- (q) To effect insurances on the property of the Company and against the death or sickness of or accident or injury to any Director, servant or employee of the Company or other person or persons whose death, sickness or injury would in the opinion of the Directors of the Company be likely to prejudicially affect the undertaking or revenue of the Company and generally to insure against loss, accident, disaster or damage of any and every description.
- (r) To give any guarantee or security or enter into any bond in connection with the Company's business or in connection with the business of or any proceedings at law or in equity and/or in admiralty instituted by or against any member or customer of the Company or any other person.
- (s) To lend money to such persons and on such terms as may seem expedient and in particular to members and others having dealings with the Company, and to guarantee the performance of contracts by any such persons.
- (t) To receive money on loan and to borrow or raise or secure the payment of money in such manner as the Company shall think fit and in particular by the issue of debentures or debenture stock perpetual or otherwise charged upon all or any of the Company's property both present and future or by bank overdraft, mortgage, lien or otherwise and to purchase, redeem or pay off any such securities.
- (u) To make, draw, accept, endorse, discount, execute, issue and negotiate cheques, promissory notes, bills of exchange, bills of lading, warrants, debentures and other negotiable or transferable instruments.
- (v) To invest and deal with the moneys of the Company not immediately required upon such securities and in such manner as may from time to time be determined.
- (w) To remunerate any person or company for services rendered or to be rendered in placing or assisting to place or guaranteeing the placing of any debentures or securities of the Company or in or about the formation or promotion of the Company or the conduct of its business.
- (x) To distribute among the members in specie in accordance with their respective rights and interests any property of the Company or any proceeds of sale or disposal of any property of the Company.
- (y) To sell or dispose of the undertaking of the Company or any part thereof for such consideration as the Company may think fit, and in particular for shares, debentures or securities of any other company having objects altogether or in part similar to those of this Company.
- (z) To sell, improve, manage, develop, exchange, lease, mortgage, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the Company.
- (aa) To remunerate the Directors, Managers, servants and employees of the Company or any of them by way of salary or commission or participation in revenue or by any or all of these modes.
- (bb) To employ managers, agents, clerks, solicitors, servants, workmen, mechanics, draftsmen and labourers or other persons necessary for carrying on the business of the Company.
- (cc) To appoint any agent or agents for the collection and recovery of any moneys receivable by the Company in the exercise of its powers or otherwise for the purpose of the exercise of any of such powers.
- (dd) To procure the Company to be registered, incorporated or otherwise duly constituted or recognised if necessary or advisable according to the law of any State of the Commonwealth of Australia or in any part of the world.
- (ee) To establish and support or aid in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees or ex-employees of the Company or the dependants or connections of such persons and to grant pensions and allowances and to make payments towards insurance and to subscribe or guarantee money for charitable or benevolent objects or for any show or exhibition or for any public, general or useful object.
- (ff) To undertake and execute any trusts the undertaking whereof may seem desirable and either gratuitously or otherwise.
- (gg) To adopt such means of making known the business and operations of the Company as may seem expedient and in particular by advertising in the press, by circulars, by purchase and exhibition of works of art or interest, by publication of books and periodicals and by granting prizes, rewards and donations.
- (hh) To take, apply for or otherwise acquire and hold shares in any other company having objects altogether or in part similar to those of this Company or carrying on any business capable of being conducted so as to directly or indirectly benefit this Company.

- (ii) To obtain any provisional order or Act of Parliament and to enter into any arrangement with any Government or authority, supreme, municipal, local or otherwise for enabling the Company to carry any of its objects into effect or for effecting any modification of the Company's constitution or for any other purpose which may seem expedient and to oppose any proceedings or applications which may seem calculated, directly or indirectly, to prejudice the Company's interests.
  - (jj) To do all such things as the Company may from time to time deem conducive to the carrying out of the aforementioned objects or any of them.
  - (kk) To do all or any of the abovementioned things in any part of the world where the same may lawfully be done respectively and as principals, agents, contractors, trustees or otherwise and by or through trustees, agents or otherwise and either alone or in conjunction with any other corporations, companies, firms or persons.
4. Every member of the Company undertakes to contribute to the assets of the Company in the event of the same being wound up during the time that he is a member or within one year afterwards for payment of the debts and liabilities of the Company contracted before the time at which he ceased to be a member and the costs, charges and expenses of winding up the same and for the adjustment of the rights of the contributories amongst themselves such amount as may be required not exceeding twenty dollars.

WE the several persons whose names are subscribed are desirous of being formed into a Company in pursuance of this Memorandum of Association.

J. ALBERT & SON,  
per M.F. ALBERT,  
Music Importers, 137 King Street, Sydney.

ALLAN & COMPANY PROPRIETARY LIMITED,  
per GEORGE CLARK ALLAN, Chairman of Directors,  
Music Importers, 276 Collins Street, Melbourne.

CHAPPELL & COMPANY LIMITED  
by its Attorney for Australasia, ERNEST LASHMAR,  
Music Publishers, 321 Pitt Street, Sydney.

E.W. COLE,  
per WALTER BASSETT, Manager,  
Music Importer, Bourke Street, Melbourne.

L.F. COLLIN PROPRIETARY LIMITED,  
EDMUND BURKE, Acting Director,  
Music Importers, 187 Swanston Street, Melbourne.

D. DAVIS & COMPANY LIMITED,  
HERBERT DAVIS, Managing Director,  
Music Importers, Queen Victoria Bldgs., George St., Sydney.

SAM FOX PUBLISHING CO. (Australia) PTY. LTD.,  
per LESLIE SMITH, Manager,  
Music Importers, 290 Bourke Street, Melbourne.

NICHOLSON & CO. LIMITED,  
ARTHUR McELHONE, Chairman of Directors,  
Music Importers, 390 George Street, Sydney.

W.H. PALING & CO. LIMITED,  
WALTER DIBLEY, Managing Director,  
Music Importers, 338 George Street, Sydney.

Dated this Twenty-third day of December, 1925.

Witness to all the above signatures,

S.W. EDWARDS, Secretary,  
250 Pitt Street, Sydney.

Company Limited by Guarantee

**ARTICLES OF ASSOCIATION**

**of**

**AUSTRALASIAN PERFORMING RIGHT**

**ASSOCIATION LIMITED**

PRELIMINARY

Table "A"  
not to apply. 1. The regulations contained in Table A in Schedule 3 of the Corporations Law shall not apply to this company.

INTERPRETATION

Marginal notes not  
part of Articles. 2. Any marginal notes which may be reproduced with these Articles do not form part of these Articles and shall have no bearing on the interpretation thereof.

Definitions. 3. In these Articles unless there be something in the subject or context inconsistent therewith –

“affiliated society” means a society or association in any country having objects similar to those of the Association with which the Association has from time to time entered into a contract relating to Performing Rights or any interest therein;

“the Association” means the Australasian Performing Right Association Limited;

“Board” means a meeting of the Directors duly called and constituted at which a quorum shall be present or as the case may be the Directors assembled or represented at such meeting;

“copyright work” and “work” shall mean and include –

- (i) any musical work,
- (ii) any adaptation by way of transcription or arrangement of a musical work, and
- (iii) any song, lyric or other literary or dramatic work which has been written for the purpose of accompanying or being associated with any musical work and any translation thereof;

“Directors” means the Directors for the time being of the Association or as the case may be the Directors assembled or represented at a Board;

“Full Member” means and includes both a Writer Full Member and a Publisher Full Member as those terms are defined in Article 7(b);

“Interested Persons” means, in respect of a work or works for the purpose of Article 17,

- (a) a Writer Member;
- (b) a Publisher Member; or
- (c) another person

who has assigned to the Association the Performing Right in respect of such work or works which is or are the subject of a notice provided to the Association pursuant to Article 17;

“the Law” means the Corporations Law as amended from time to time, and when any provision of the Corporations Law is referred to, the reference is to that provision as amended from time to time;

“member” means and includes both a Full Member and an Associate Member;

“the office” means the registered office for the time being of the Association;

“Performance” in Article 17, means a performance in public, broadcast (including television broadcast), or communication to the public other than by means of public performance or broadcast but including by means of transmission to subscribers to a diffusion service, by any means and in any manner whatsoever;

“Performing Right” shall mean and include, subject to the exceptions set out below, the rights in relation to a copyright work of performing in public, broadcasting (including televising), and causing to be communicated or transmitted to the public other than by way of performing in public or broadcasting but including transmission to subscribers to a diffusion service, in all parts of the world, by any means and in any manner whatsoever, and the right of authorising any of the said acts, but shall not include the right of performing in public, broadcasting (or televising), or causing to be communicated or transmitted to the public other than by way of performing in public or broadcasting but including transmission to subscribers to a diffusion service or of authorising any of the said acts, in relation to any of the following classes of works performed in the following manner, unless performed by means of a cinematograph film:

- (i) dramatico-musical works performed in their entirety;
- (ii) in the case only of a public performance, any works or excerpts therefrom, performed in a dramatic context;
- (iii) oratorios and large choral works (that is, choral works written to exceed 20 minutes duration), performed in their entirety;
- (iv) the whole or any part of any music and of any words associated therewith composed for or used in conjunction with a ballet, if accompanied by a visual representation of that ballet or part thereof.

In the above definition of Performing Right:

“dramatico-musical work” shall mean an opera, operetta, musical play, revue or pantomime, insofar as it consists of words and music written expressly therefore;

“dramatic context” means:

- (a) in conjunction with:
  - (i) acting;
  - (ii) costumes;
  - (iii) scenic accessories; and
  - (iv) scripted dialogue or other dramatic effects; or
- (b) as a ballet;

“ballet” shall mean a choreographic work having a story, plot or abstract idea, devised or used for the purpose of interpretation by dancing and/or miming, but shall not include country or folk dancing, nor tap dancing, nor precision dancing sequences;

“cinematograph film” shall have the meaning assigned by the Australian Copyright Act 1968;

“the Seal” means the Common Seal of the Association;

“Secretary” means any person appointed to perform the duties of secretary to the Association;

“in writing” and “written” includes any mode of representing or reproducing words, figures, drawings or symbols in a visible form;

Words or expressions contained in these Articles shall be interpreted in accordance with the provisions of the Interpretation Act 1987 (NSW) and of the Law, as amended from time to time;

Words importing the singular number include the plural number and vice versa;

Words importing the masculine gender include the feminine gender;

Words importing persons include corporations unless the context otherwise indicates.

## MEMBERS

- |                             |    |                                                                                                                                                                                                                                                                                                            |
|-----------------------------|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Membership Unlimited.       | 4. | For the purposes of the Law the number of members is declared to be unlimited.                                                                                                                                                                                                                             |
| Who are members.            | 5. | The members of the Association shall be as follows: <ul style="list-style-type: none"> <li>(a) all persons who are members at the time these Articles become binding upon the Association, and</li> <li>(b) any person who is admitted to membership by the Board pursuant to Articles 6 and 7.</li> </ul> |
| Eligibility for membership. | 6. | The following persons shall be eligible for admission to membership of the Association: <ul style="list-style-type: none"> <li>(a) any composer, author or publisher of a copyright work;</li> </ul>                                                                                                       |



- Application for and admission to membership
- (b) a person who owns or controls for the Commonwealth of Australia and/or the Dominion of New Zealand (together with any other countries, states or territories) the Performing Right in a copyright work or any interest in such Performing Right;
- (c) any executor, administrator or trustee of the estate of a deceased member, or a beneficiary in the estate of a deceased member, or widow, widower, child or next-of-kin of a deceased member.
7. (a) Any person who is eligible for membership may apply to the Board for admission to membership. Such applications shall be made in writing, signed by the applicant, and shall be in such form as the Board shall from time to time prescribe. The Board may require any applicant to supply such evidence of eligibility as it considers reasonably necessary. The Board shall consider each application and may, in its absolute discretion, admit the applicant to membership with specific reference to the appropriate category of eligibility (a), (b) or (c) in Article 6. The Board shall have full and unrestricted power to reject any application without assigning any reason for such rejection.
- (b) (i) Any person who has been admitted to membership under category (a) of Article 6 and who is a composer or author of a copyright work shall be a Writer Full Member.
- (ii) Any corporation which has been admitted to membership under category (a) of Article 6 and which is a publisher of a copyright work shall be a Publisher Full Member.
- (iii) Any person, not being a corporation, who has been admitted to membership under category (a) of Article 6 and who is a publisher of a copyright work shall be an Associate Member.
- (iv) Any person who has been admitted to membership under category (b) or category (c) of Article 6 shall be an Associate Member.
- (v) No person shall be admitted to more than one class of Full Membership.
- (c) Any person who has been admitted to membership by the Board shall have issued to him a Certificate as to his membership in such form as the Board shall from time to time prescribe.
- Associate Members and voting eligibility.
8. (a) An Associate Member shall not be entitled to notice of, or to attend or vote at general meetings, but in all respects, except as otherwise provided by these Articles, shall have the same rights and privileges and be subject to the same obligations as a Full Member.
- (b) In the event that any Full Member shall have failed during any two consecutive financial years of the Association (ending with the financial year current at the date of adoption of this Article or any subsequent financial year) to have had allocated to him any share of moneys collected by the Association, then such member shall not be entitled to notice of, or to attend or vote at, any general meeting held after the expiration of the said two consecutive financial years and until after the expiration of a financial year during which that member shall have had allocated to him a share of moneys collected by the Association.
- (c) Any composer or author who was an Associate Member on the date of adoption of this Article and who had been admitted to membership by virtue of being eligible as a composer or author of a copyright work shall ipso facto be from that date a Full Member and shall be classified as a Writer Full Member.
- (d) Any corporation which was an Associate Member on the date of adoption of this Article and which had been admitted to membership by virtue of being eligible as a publisher of a copyright work shall ipso facto be from that date a Full Member and shall be classified as a Publisher Full Member.
- (e) The “date of adoption” of this Article shall be deemed to be the date upon which the special resolution adopting it was passed.

#### CESSATION OF MEMBERSHIP

- By notice of Member.
9. Any member may, by not less than six months' notice in writing to the Association expiring on either a 30 June or 31 December, or such shorter period of notice expiring at such time as may be accepted by the Board, determine his membership and his membership shall cease accordingly at the expiration of such period of notice.
- 9A. A member may not terminate his membership until he has paid all debts owing to the Association.
- By death.
10. On the death of a member his membership of the Association shall cease and shall not be transmitted to any other person, but the rights already vested in the Association by the member or controlled by the Association by virtue of his membership shall remain so vested or controlled for a period ending on the 30th June in the third year following the year in which the member's death took place, or, if a successor shall be elected during such period in respect of such member, so long as such successor remains a member. Any payment to which the member would, if living, have been entitled under the provisions of these Articles in respect of any period prior to the election of such successor shall be made to the member's legal personal representative until a successor is elected, or until the 30th June of such third year as aforesaid, whichever is the earlier date. Upon the election to membership of any successor as aforesaid, any payment to which the member would, if living, have been entitled under the provisions of these Articles in respect of any period subsequent to such election shall be made to such successor. For the purpose of this provision "successor" shall mean any person who has been elected to membership pursuant to Article 6(c).
- By change in control of corporation or Firm.
11. (a) In the case of a corporation being a member of the Association its membership shall cease if the Board so decides –
- (i) in the event of an order being made or a resolution passed for its winding up, or
  - (ii) in the event of it disposing of its assets or undertaking or being amalgamated with or associated with or coming under the control of any other corporation or any person being a person not previously connected with such corporation,
  - (iii) if, having been admitted to membership on the basis of eligibility under Article 6(b) it ceases to satisfy the conditions of eligibility specified therein.
- (b) In the case of a person having been admitted to membership of the Association in partnership with any other person or persons under a firm name, that person's membership shall cease if the Board so decides in the event of and upon the dissolution of such firm or upon a change in its constitution or upon its amalgamation with or absorption by any other firm, company or person.
- (c) Upon the cessation of membership of the Association by a corporation or person as above set out the rights (if any) already vested in the Association by such corporation or person, or controlled by the Association by virtue of the election of such corporation or person to membership of the Association, shall remain so vested or controlled for a period of not less than six months ending on the next 30 June or 31 December from the date the cessation of membership as set out above occurred. If both of those periods are greater than six months then the shorter of those two periods shall apply. Any payment to which the corporation or person would have been entitled if it or he had remained a member of the Association shall during such period be made to the person entitled for the time being to receive debts due to the corporation or person.
- By expulsion.
12. The Board at any time may by notice in writing to any member require him to withdraw from the Association, and in the event of such member within thirty days after the service of such notice failing to forward notice in writing of his intention to withdraw, the Board may forthwith expel such member, and from and after the receipt by the Board of such notice of withdrawal or on the posting by the Board of a notice to such member informing him of the passing of a resolution of the Board for his expulsion, he shall forthwith cease to be a member. Provided always that if before the expiration of such notice from the Board to any Full Member, a valid requisition for an extraordinary general meeting to review the expulsion shall have been lodged with the Secretary, such Full Member shall not cease to be a member or be deemed to have given notice of his intention to withdraw therefrom unless and until the Association in extraordinary general meeting shall have approved the action of the Board. If the Association in extraordinary general meeting shall approve the action of the Board, the member shall, as from the date of such meeting, cease to be a member. Provided always that if, at the time of giving the said notice, the Board shall also give the said member notice in writing accordingly, all or such portion of the rights (if any) already vested in the Association by such withdrawing or expelled member, or controlled by the

Association by virtue of his previous membership, as are specified in the notice, shall remain so vested or controlled for a period of not less than six months ending on the next 30 June or 31 December from the date the cessation of membership occurred. If both of those periods are greater than six months then the shorter of those two periods shall apply. Any member who has so withdrawn or been expelled shall be entitled to receive payment from the Association until the end of such period in the same manner as he would have been entitled to receive the same had he remained a member during that period.

- Upon expiration of Performing Rights.
13. The membership of any member shall ipso facto cease –
- (a) upon legal protection for the Performing Right ceasing to subsist in all parts of the world in respect of any works in relation to which such member is entitled to participate in the allocation of moneys collected by the Association, or
  - (b) in the case of any member being an executor, administrator or trustee upon his having disposed of all interest in all Performing Rights which have been vested in him as such executor or administrator or trustee.
- No transfer of membership.
14. No member shall be at liberty to transfer his membership or any rights or privileges attached to such membership to any other person.
- Proceedings pending.
15. If any proceedings have been instituted by or against the Association in respect of a member's works either in the name of the Association or of the member and such member ceases to be a member during the pendency of the proceedings, any rights the subject of the proceedings which have been vested in the Association by such member, or are controlled by the Association by virtue of his membership, shall remain so vested or controlled until such proceedings are finally disposed of.
- Cessation.
16. Subject to the provisions of Articles 10, 11, 12 and 15 and this Article 16 all rights, privileges and obligations of membership shall cease on the date of cessation of membership. In particular and without prejudice to the generality of the foregoing, the member concerned shall cease to have any claim upon the assets of the Association and shall not be entitled to participate in any further allocations. Notwithstanding Article 9A, on cessation of membership the member remains liable for all moneys owing to the Association whether owing as at the date of cessation or afterwards.

#### CONTROL OF PERFORMING RIGHTS

- Assignment of Performing Rights.
17. (a) Subject to the provisions of this Article, every member shall on request by the Association assign, or cause to be assigned to the Association:
- (i) the Performing Right in all or any works or parts of works, present and/or future, of which he is the composer, author and/or publisher; and/or
  - (ii) the whole or any part of the Performing Right in any work or part of a work to the extent that any such right or part of a right is or shall during his membership be or become vested in him.
- Such assignment shall be in the form prescribed from time to time by the Association and shall operate for and during the period of the assignor's membership, subject however to earlier or later termination as may be provided by these Articles.
- Reservation/assignment of categories of

performing right

(b) Every member may at any time after admission by the giving of not less than 3 months' notice in writing to the Association expiring on either a 30 June or 31 December require the Association to assign to him, or may on admission reserve to himself ("Opt Out") one or more of the following categories of the Performing Right in all of his works:

- (i) the right to perform in public;
- (ii) the right to communicate to the public by means of broadcast;
- (iii) the right to communicate to the public other than by means of broadcasting;
- (iv) the right to perform in public by live means;
- (v) the right to perform in public by the exhibition of cinematograph films;
- (vi) the right to perform in public by means other than live performance and the exhibition of cinematograph films;
- (vii) the right to communicate to the public by radio broadcast;
- (viii) the right to communicate to the public by free to air television broadcast; and/or
- (ix) the right to communicate to the public by subscription television broadcast.

(c) Each member Opting Out shall:

- (i) comply with such reasonable pre-conditions to the Opt Out prescribed by the Board from time to time;
- (ii) provide the Association with a written consent and release (in a form prescribed by the Board from time to time) from all Interested Persons consenting to the proposed Opt Out and releasing the Association from any obligation to collect any royalty or other sums in respect of the works arising as a result of the Opt Out; and
- (iii) provide the Association with a written indemnity (in a form prescribed by the Board from time to time) indemnifying the Association against any actions arising from the use by any licensee of the Association of the member's works in the relevant categories of the Performing Right.

(d) If any member Opts Out, that member cannot assign or reassign (as applicable) to the Association the categories of the Performing Right reserved by, or assigned to, (as applicable) that member until the expiry of 12 months from the date of the Opt Out.

Authority pending  
Assignment.

(e) Pending any assignment in accordance with Article 17(a) and insofar as it may not extend, every member, by virtue of his election, grants to the Association for and during the period of his membership, subject however to earlier or later termination as may be provided by these Articles, in his name or in that of the Association, but at the Association's sole charge and expense, the sole power and authority in respect of the rights to be administered by the Association:

- (i) to authorise or permit or forbid the exercise of such rights;
- (ii) to grant licences on his behalf for the exercise of such rights in respect of all or any such works on such terms and conditions as the Association may think fit;

- (iii) to collect fees, subscriptions and all moneys pursuant to the grant of such licences for the use of any of the member's works or by way of damages or compensation for the infringement of any such rights;
  - (iv) to institute and prosecute proceedings against all persons infringing such rights and, if the Association at its discretion thinks fit, to defend or oppose any proceedings taken against any member in respect of such works, and to compound, compromise, refer to arbitration or submit to judgement in any such proceedings, and generally to represent the member in all matters concerning such rights;
  - (v) to protect generally such rights in the said works;
  - (vi) to delegate authority to do any acts as aforesaid to any affiliated society or to any representative or agent in any territories, States or countries in any part of the world, for the purpose of exercising such rights.
- (f) Subject to Article 17(g) any member may require the Association to grant to the member a non-exclusive licence to permit the member to license in Australia all or part of the Performing Right in respect of any particular work or works where the Performing Right has been assigned to the Association, or where an authority has been granted pending assignment under Article 17(e), by the member as the composer, author, publisher or proprietor of it ("Licence Back").
- (g) It is a pre-condition of the grant of a Licence Back that:
- (i) the purpose of the licence is to enable the member to grant a sub-licence of the Performing Right;
  - (ii) the member provides the Association with notice as set out in sub-paragraph (h) (in a form reasonably determined by the Board from time to time). The notice must provide sufficient information to identify the works the subject of the licence, the licensee, and the scope of the licence, including (as appropriate):
    1. the title/s of the relevant work or works;
    2. the name of the licensee and such other details as are reasonably necessary to identify whether a particular person has been granted a sub-licence;
    3. the term of the licence, or if the licence is for particular performances or communications only, such details regarding the date or dates of the performances or communications as are reasonably necessary to identify the performances or communications to which the sub-licence relates;
    4. the territory of the licence, or if the licence is for a public performance (as opposed to a communication) such details regarding the geographic location and venue of the performance as are reasonably necessary to identify whether the sub-licence extends to a particular area and venue;
    5. where applicable, the broadcasting or on-line service and if the licence is restricted to particular programs or content segments, the program or content segment in respect of which the proposed sub-licence will be granted, and if the licence is for the performance of works by means of cinematograph film, the title of the film in which the work appears.

The notice must contain:

    1. where applicable, a signed consent to the proposed sub-licence and release and indemnity in a form reasonably required by the Board from time to time from all Interested Persons; and
    2.
      - a. an undertaking to pay reasonable costs to the Association, in accordance with the Board's published schedule of costs (if any), prior to the date of the first performance or communication or the date on which the proposed sub-licence is to take effect; and

- b. an undertaking to pay to the Association such further reasonable costs which may be actually incurred by the Association in connection with and/or arising out of the granting of the licence back to the member to the extent that such costs exceed the costs identified in the Board's published schedule.
  - (h) For live performances of the member's own works, performances by means of cinematograph films, and for all communications, the Association requires one week's notice. For all other public performances, the Association requires two weeks' notice.
  - (i) Subject to Articles 17(j) and (k) any member may require the Association to grant to the member a non-exclusive licence to permit the member to license worldwide for Non-Commercial Purposes the right to communicate to the public online in respect of any particular work or works where the Performing Right has been assigned to the Association, or where an authority has been granted pending assignment under Article 17(e), by the member as the composer, author, publisher or proprietor of it ("Non-Commercial Licence Back").
  - (j) In this Article, "Non-Commercial Purposes" means:
    - (i) that there is no consideration or financial incentive whether directly or indirectly received by any party for the communication or any subsequent use of the work under any sub-licence; and
    - (ii) any sub- licensee is a not for profit entity whose activities are not directed towards commercial advantage and that does not receive public or institutional funding.
  - (k) It is a pre-condition of the grant of a Non-Commercial Licence Back that:
    - (i) the purpose of the Non-Commercial Licence Back is to enable the member to grant a sub-licence of the right to communicate the work to the public online for Non Commercial Purposes; and
    - (ii) the member provides the Association with not less than one week's notice (in a form reasonably determined by the Board from time to time), specifying:
      - 1. the title/s of the relevant work or works;
      - 2. a signed consent to the proposed sub-licence and release and indemnity in a form reasonably required by the Board from time to time from all Interested Persons; and is accompanied by:
        - a. an undertaking to pay reasonable costs to the Association, in accordance with the Board's published schedule of costs (if any), prior to the date of the first communication or the date on which the proposed sub-licence is to take effect; and
        - b. an undertaking to pay to the Association such further reasonable costs which may be incurred by the Association in connection with and/or arising out of the granting of the Non-Commercial Licence Back to the member.
- Affiliated societies. 18. The Association may exercise and enforce the Performing Right in works written, composed or owned by members of any affiliated societies, pursuant to the terms of any contracts now existing or which may hereafter be entered into between the Association and any such affiliated societies.
- Extension of rights. 19. The Association may act upon the request and authority of any member or affiliated society to exercise the Performing Right in any work or works without regard to the limitations upon the definition of "Performing Right" specified in Article 3.
- Rejection of rights. 20. The Association may, by notice in writing to any member, decline to exercise the whole or any part of the Performing Right in any particular work or works of which such member is the composer, author, publisher or proprietor and any assignment thereof already made to the Association by such member shall pro tanto cease to have effect. Provided always that the Association may at any time, and from time to time by further notice in writing to such member withdraw such notice in respect of all or any of the rights comprised therein, whereupon any such assignment shall pro tanto again have full force and effect.

- Notification of works. 21. Every member upon his election shall notify to the Association upon forms or in manner prescribed by the Association all works in respect of which he is the composer, author, publisher or proprietor and shall thereafter so notify to the Association all further works which he has composed, written or published or in which he has acquired an interest as proprietor. Every member shall also deposit with the Association, upon request by the Association, a print or copy of each such work. The Association shall not be responsible for any loss or damage sustained by any member by reason of his failure to comply with the provisions of this Article.
- Members not to take legal proceedings. 22. No legal proceedings shall be instituted or undertaken by any member without the sanction of the Board in respect of the Performing Right of any works for the time being controlled by the Association.

#### GENERAL MEETINGS

- Annual general meeting. 23. An annual general meeting of the Association shall be held in accordance with the provisions of the Law. All general meetings other than the annual general meetings shall be called extraordinary general meetings.
- Extraordinary general meeting. 24. The Board may, whenever it thinks fit, convene an extraordinary general meeting. An extraordinary meeting may also be convened in such manner and by such persons as may from time to time be prescribed by the Law.
- Notice. 25. Subject to the provisions of the Law relating to special resolutions and agreements for shorter notice fourteen days notice at the least specifying the place, the day and the hour of meeting and in case of special business, the general nature of that business shall be given to such Full Members and other persons as are entitled to receive such notices from the Association.
- Accidental omission. 26. The accidental omission to give notice of a meeting to or the non-receipt of notice of a meeting by any person entitled to receive notice thereof shall not invalidate the proceedings at any meeting.
- Special business. 27. All business shall be special that is transacted at an extraordinary general meeting and also all that is transacted at an annual general meeting with the exception of the consideration of the accounts balance sheet and the report of the Directors and auditors, the appointment of Directors in the place of those retiring and the appointment and fixing of the remuneration of the auditors.
- Postponement. 28. The Board may by notice in writing to such Full Members and other persons as are entitled to receive notice of meetings posted not less than four days prior to the date fixed for any general meeting (exclusive of the day on which such notice is served or deemed to be served but inclusive of the day on which such general meeting was fixed to be held) postpone such meeting either to a later date or indefinitely. This Article is subject to Article 23 and shall not apply to a meeting called upon requisition or by requisitionists pursuant to the Law.

PROCEEDINGS AT GENERAL MEETINGS

- No business without quorum. 29. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.
- Quorum. 30. Five Full Members personally present shall be a quorum for a general meeting for the election of Chairman for the meeting and for the adjournment of the meeting. For all other purposes the quorum for a general meeting shall be five Publisher Full Members and five Writer Full Members all personally present. The quorum for a meeting of either class of members shall be five Full Members of that class all personally present. For the purpose of this Article a person present who is representing a corporation which is a member shall be deemed to be a member who is personally present.
- Chairman. 31. The Chairman or, if he is unavailable, the Deputy Chairman of Directors shall be entitled to take the chair at every general meeting, or, if there be no Chairman, or Deputy Chairman, or, if at any meeting they shall not be present within fifteen minutes after the time appointed for holding such meeting, the Full Members present shall choose another Director as Chairman, and, if no Director be present, or if all the Directors present decline to take the chair, then the Full Members present shall choose one of their number to be Chairman.
- Adjournment for lack of quorum. 32. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; but in any other case it shall stand adjourned to the same day in the next week, at the same time and place, and if at such adjourned meeting a quorum is not present, those Full Members who are present shall be a quorum and may transact the business for which the meeting was called.
- Adjournment with consent of meeting. 33. The Chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
- Method of voting. 34. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:
- (a) by the Chairman;
  - (b) by at least two Full Members present in person or by proxy;
  - (c) by any member or members present in person or by proxy and representing not less than one-tenth of the total voting rights of all the members having the right to vote at the meeting.
- Unless a poll is so demanded, a declaration by the Chairman that a resolution has, on a show of hands, been carried or carried unanimously or by a particular majority or lost and an entry to that effect in the book containing the minutes of the proceedings of the Association shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution, the demand for a poll may be withdrawn. No poll shall be demanded on the election of a Chairman.
- Poll. 35. If a poll is duly demanded it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the Chairman directs and the result of the poll shall be the resolution of the meeting at which the poll was demanded, but a poll demanded on a question of adjournment shall be taken forthwith.
- Poll – business to continue. 36. The demand of a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded.



Chairman - no casting vote. 37. In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall not be entitled to a second or casting vote.

#### VOTES OF MEMBERS

Full Members only. 38. At any general meeting only Full Members shall, subject to Article 8(b), be entitled to vote.

Show of hands. 39. On a vote by show of hands every Full Member shall have only one vote.

Poll – number  
of votes.

40. On a poll each Full Member shall be entitled to the number of votes (including fractions) ascertained as follows:

- (a) The total number of primary votes available to all Publisher Full Members entitled to attend and vote at general meetings shall be determined in accordance with Article 41.
- (b) The total number of primary votes available to all Writer Full Members entitled to attend and vote at general meetings shall be determined in accordance with Article 41.
- (c) If the total of publishers' primary votes determined under (a) above exceeds the total of writers' primary votes determined under (b) above, then the number of primary votes available to each Publisher Full Member shall be reduced by multiplying such number of votes by the same fraction which (b) (total writers' votes) bears to (a) (total publishers' votes), and the number of primary votes available to each Writer Full Member shall remain unaffected and shall constitute his effective voting entitlement.
- (d) If the total of writers' primary votes determined under (b) above exceeds the total of publishers' primary votes determined under (a) above, then the number of primary votes available to each Writer Full Member shall be reduced by multiplying such number of votes by the same fraction which (a) (total publishers' votes) bears to (b) (total writers' votes), and the number of primary votes available to each Publisher Full Member shall remain unaffected and shall constitute his effective voting entitlement.

Members' earnings. 41. (a) For the purpose of determining primary votes available to each Full Member on a poll under Article 40, and on the election of Directors under Article 50, votes of each Full Member shall be based upon the total amount properly allocated to him by the Association during the preceding financial year as his share of moneys collected by the Association in respect of the exercise of the Performing Right assigned to the Association in accordance with these Articles. The total amount so allocated is hereinafter referred to as the "member's earnings".

(b) Every Full Member shall have one vote plus one additional vote for each complete \$500 of such member's earnings during the preceding financial year.

(c) Notwithstanding (a) and (b) above, no Publisher Full Member shall be entitled, by way of primary votes, to more than fifteen per centum of the total primary votes available to all Publisher Full Members who are entitled to attend and vote at general meetings of the Association.

(d) Notwithstanding (a) and (b) above, no Australian Writer Full Member shall be entitled, by way of primary votes, to more than fifteen per centum of the total primary votes available to all Australian Writer Full Members who are entitled to attend and vote at general meetings of the Association.

(e) Notwithstanding (a) and (b) above, no New Zealand Writer Full Member shall be entitled by way of primary votes, to more than fifteen per centum of the total primary votes available to all New Zealand Writer Full Members who are entitled to attend and vote at general meetings of the Association.

(f) For the purpose of calculating the primary voting entitlement of a Full Member pursuant to (c), (d) or (e) above, the limitations in (c), (d) or (e) shall be ignored in determining the voting entitlement of other Full Members.

(g) If any Publisher Full Member being a corporation is related to another corporation which is a Publisher Full Member then for the purpose of determining primary voting entitlement pursuant to (a), (b) and (c) above, the earnings of all such related members shall be aggregated. The total number of votes so available shall then constitute the

voting entitlement of that one of the related corporations which has the highest member's earnings, and each of the other related corporations shall have only one primary vote each.

- (h) For the purpose of determining whether a member being a corporation is related to another member being a corporation, the definition of "related corporation" in the Law (and related definitions of "holding company" and "subsidiary company") shall apply.
- (i) (i) If any Publisher Full Member being a corporation is or becomes related to another Publisher Full Member being a corporation, it shall so notify the Secretary of the Association.
- (ii) If any Publisher Full Member has given a notice under (i) above that it is related to another Full Member, then that other member need give no notification.
- (iii) The notice shall be in writing signed by a director or the secretary of the member giving the notice.
- (iv) The notice shall be given –
- (a) where the relationship is already in existence at the date of adoption of this Article, within 21 days of that date;
- (b) in any other case, within 21 days of the date of formation of the relationship;
- provided that in no case shall notice be given later than 10 days before the date upon which any general meeting of members is to be held, or the date upon which a meeting of Publisher Full Members for the appointment of a Director pursuant to Article 57 is due to be held.
- (v) The Association may at any time, by notice in writing to any Publisher Full Member, require that member to inform the Association as to whether or not that member is related to any other member and if so, to identify that other member. Within 10 days of the giving of the notice by the Association, the member shall notify to the Association in writing the information requested. If so required by the Association, the information shall be notified in the form of a Statutory Declaration by a director or the secretary of the member.
- (vi) A notice once given shall remain in force in relation to all future meetings as referred to in (iv) above, provided that if after any notice has been given there is a change in the information contained in that notice, then a fresh notice shall be given within the time specified in (iv) above specifying the change.
- (vii) In the event that no member of a group of related corporations being Publisher Full Members has given due notice as required by (i) or (v) above, or if the only notice given by a member of that group is false either by statement or omission, then each member of that group shall have only one vote each at any meeting held before a correct notice is duly given, provided that failure to enforce this restriction in relation to a vote taken at any such meeting shall not invalidate that vote.

- Proxies. 42. On a show of hands, or on a poll, votes may be given either personally or by proxy.
- Proxy instrument. 43. The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing or if the appointor is a corporation, either under seal or under the hand of an officer or attorney duly authorised. Subject to the Law, a proxy must be a Full Member of the Association or the representative of a Full Member who has been appointed pursuant to Article 47.
- Form of Proxy. 44. Any instrument appointing a proxy shall, as nearly as circumstances will admit, be in the form or to the effect following:

AUSTRALASIAN PERFORMING RIGHT ASSOCIATION LIMITED.

I  
of  
in the State of  
being a Full Member of Australasian Performing Right Association Limited hereby appoint  
of  
as my proxy to vote for me and on my behalf at the annual or extraordinary (as the case may be) general meeting of the Association to be held on the  
day of                      and at any adjournment thereof.  
Signed this                      day of                      19                      .

- Deposit of Proxy.                      45.                      The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the registered office of the Association, or at such other place as is specified for that purpose in the notice convening the meeting, not less than twenty-four hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than twenty-four hours before the time appointed for the taking of the poll, and in default the instrument of proxy shall not be treated as valid.
- Revocation etc.  
of Proxy.                      46.                      A vote given in accordance with the terms of an instrument of proxy or attorney shall be valid notwithstanding the previous death or unsoundness of mind of the principal or revocation of the instrument or of the authority under which the instrument was executed if no intimation in writing of such death, unsoundness of mind or revocation, as aforesaid, has been received by the Association at the registered office before the commencement of the meeting or adjourned meeting at which the instrument is used.
- Corporations –  
representatives.                      47.                      Any corporation which is a member of the Association may, by resolution of its Directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting or all meetings of the Association or of any class of members of the Association and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual member of the Association; for the purposes of these Articles such a representative at any such meeting shall be deemed to be a member.
- Objections.                      48.                      No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the Chairman of the meeting, whose decision shall be final and conclusive.

#### DIRECTORS

- Number.                      49.                      The number of Directors shall be twelve subject however to:
- (a)                      any reduction due to unfilled casual vacancies;
  - (b)                      any reduction due to omission or failure to elect the full numbers of Directors;
  - (c)                      an increase to thirteen due to appointment of a Managing Director pursuant to Article 86 who is not already a Director.
- Composition  
and election.                      50.                      (a)                      Six Directors, to be known as Publisher Directors, shall be Publisher Full Members and six Directors, to be known as Writer Directors, shall be Writer Full Members.
- (b)                      The Publisher Directors shall be elected by the Publisher Full Members.
  - (c)                      Five of the Writer Directors shall be elected by the Australian Writer Full Members and one Writer Director shall be elected by the New Zealand Writer Full Members.

- (d) For the purpose of such elections, the Publisher Full Members, the Australian Writer Full Members and the New Zealand Writer Full Members shall respectively elect a Chairman and, in the case of equality of votes, such Chairman shall have a single casting vote, both on a show of hands and on a poll, in addition to the vote or votes to which he may be entitled on such election.
- (e) For the purposes of these Articles, a “New Zealand Writer Full Member” means a Writer Full Member who, at the time of admission to membership, ordinarily resides in the Dominion of New Zealand or its Territories, provided that if any such member has been, since admission to membership, ordinarily residing outside the Dominion of New Zealand or its Territories for a period of not less than two years, then such member shall, upon his written request, be classified as an Australian Writer Full Member. Where an Australian Full Writer Member has been ordinarily residing in the Dominion of New Zealand or its Territories for a period of not less than two years, then such member shall, upon his written request, be classified as a New Zealand Full Writer Member. “Australian Writer Full Member” shall mean any Writer Full Member who is not a New Zealand Writer Full Member.
- (f) On elections for Directors each Full Member shall be entitled to exercise the full number of primary votes available to him as determined pursuant to Articles 40 and 41.
- Publisher Director  
– extended meaning. 51. A Publisher Full Member which is a corporation may nominate any person who is its officer, representative or agent, and whether or not such person is a member of the Association, for election or appointment as a Publisher Director and such person shall thereupon be eligible for election or appointment as a Publisher Director as if he were a Publisher Full Member. In the event of such Director ceasing to be an officer, representative or agent of the corporation which has nominated him, then his office as a Director shall forthwith become vacant.
- Retirement by  
Rotation. 52. At each annual general meeting two of the Publisher Directors and two of the Writer Directors shall, in addition to any Director retiring pursuant to Article 60, retire from office provided that (subject to Articles 58 and 60) no Director shall be bound to retire before he has been in office for three successive annual terms since the date of his last election.
- Order of retirement. 53. The Directors to retire, as aforesaid, shall be the Directors who have been longest in office as Publisher Directors and Writer Directors respectively. As between two or more who have been in office an equal length of time the Director or Directors to retire shall, in default of agreement between them, be determined by lot. The length of time a Director has been in office shall be computed from his last election where he has previously vacated office. A retiring Director shall be eligible for re-election and shall act as a Director throughout the meeting at which he retires.
- Retiring Directors  
may continue. 54. If at any annual general meeting at which an election of Directors ought to take place the places of the retiring Directors are not filled up, the retiring Directors or such of them as have not had their places filled up shall, if willing, continue in office until the next annual general meeting and so on from year to year until their places are filled up.
- Removal by ordinary  
resolution. 55. The Association may, by ordinary resolution, remove a Director before the expiration of his period of office, but no such resolution for the removal of a Publisher Director or Writer Director shall take effect until his successor has been appointed at a meeting of the relevant class of Full Members called for the purpose.
- Removal by  
Members’ class. 56. Without prejudice to Article 55, a Publisher Director or Writer Director may be removed before the expiry of his period of office by a resolution passed by a majority of the relevant class of Full Members at a meeting called for the purpose, and a successor may be appointed.
- Filling vacancy  
caused by removal. 57. The members of the relevant class may fill the vacancy caused by the removal of a Director pursuant to Article 55 or Article 56, or by death, or by vacation of office pursuant to Articles 51 or 64, by appointing any other Full Member of that class in the place of the Director so removed. At any meeting called for this purpose the provisions of Article 50 as to a Chairman and as to voting shall apply, and the appointment shall be by election conducted in accordance with Articles 67 to 73.
- Replacement  
Director - time  
Of retirement. 58. A person appointed to be a Director pursuant to Article 57 shall be treated, for the purpose of determining the time at which he or any other Director is to retire, as if he had been elected a Director on the day on which the person in whose place he is appointed was last elected a Director.

Notice of nomination of Director.	59.	<p>(a) No member shall be entitled to nominate for election or appointment as a Director of the Association unless such member is entitled to notice of, and to attend and vote at, the general meeting at which the election or appointment is to take place.</p> <p>(b) No person not being a retiring Director shall, unless recommended by the Directors for election, be eligible for election as a Director at any general meeting unless not less than sixty days before the date appointed for the meeting there shall have been left at the registered office of the Association a notice in writing, signed by a Full Member, of his nomination of such person for election and signed also by such person signifying his consent to such nomination. Any such notice shall specify whether the person nominated is nominated for election as a Publisher Director or as a Writer Director.</p>
Directors may fill casual vacancies.	60.	The Publisher Directors and the Writer Directors shall respectively have the power to appoint a Publisher Full Member or a Writer Full Member to fill a casual vacancy in either the Publisher Directors or the Writer Directors as the case may be, but so that the number of Publisher Directors or Writer Directors shall not exceed the number fixed by Article 50. Any Director so appointed shall (in addition to the Directors retiring pursuant to Article 52) retire from office at the next following annual general meeting of the Association but shall be eligible for re-election. "Casual vacancy" shall include a vacancy caused by an increase in the number of Directors by addition to or amendment of these Articles.
Continuing Directors may act despite vacancy.	61.	The continuing Directors may act notwithstanding any vacancy in their body.
Remuneration.	62.	The Directors shall be paid out of the funds of the Association by way of remuneration for their services as Directors such sum or salary as the members in general meeting may from time to time determine, and any such sum shall be divided among them in such proportions and manner as the Directors shall determine and in default of such determination within the year equally.
Special allowances etc.	63.	If any Director being willing, shall be called upon to perform extra services, or to make any special exertions in going or residing abroad, or otherwise for any of the purposes of the Association, the Association shall remunerate the Director so doing, either by a fixed sum or otherwise as may be determined by the Board, and such remuneration may be either in addition to or in substitution for his share in the remuneration provided in Article 62 hereof. Directors shall be paid also such reasonable travelling expenses and allowances as are authorised by the Board in connection with any travelling undertaken on behalf of the Association.
Vacation of office.	64.	<p>The office of Director shall become vacant if the Director –</p> <p>(a) ceases to be a Director by virtue of the Law;</p> <p>(b) becomes bankrupt or makes any arrangement or composition with his creditors generally;</p> <p>(c) becomes prohibited from being a Director by reason of any order made under the Law;</p> <p>(d) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;</p> <p>(e) resigns his office by notice in writing to the Association;</p> <p>(f) if, without special leave of absence from the Board, he is absent from the meetings of the Board during a period covered by three consecutive meetings;</p> <p>(g) if he (not being a Managing Director) ceases to be a member entitled to notice of, to attend and to vote at general meetings, or the corporation of which he is the nominee pursuant to Article 51 ceases to be a member entitled to notice of, to attend and to vote at general meetings;</p> <p>(h) ceases to be an officer, representative or agent of the corporation which has nominated him pursuant to Article 51;</p> <p>(i) is removed from office pursuant to Articles 55 and 56; or</p>

- (j) without the consent of the Association in general meeting holds any other office of profit under the Association except that of Managing Director.
- Contracting with Association. 65. Any Director and any corporation or firm of which a Director is a member and any corporation or firm of which a Director is the nominee pursuant to Article 51 may enter into contracts with the Association and any Director may vote as Director or member in respect of any such contract provided always that he shall have previously declared the nature of his interest or that of such corporation or firm in any such contract in the manner required by Section 231 of the Law.
- Appointment of alternate. 66. Any Director may, with the consent of the Board, appoint by notice in writing to the Secretary some person to be an alternate Director to act in his place as an alternate Director during his absence and may revoke such appointment and appoint another alternate Director from time to time, provided that no person shall be so appointed to be an alternate Director who is not a Full Member or an officer, agent or representative of a Publisher Full Member. The alternate Director shall be entitled to notice of meetings of the Directors and to attend and vote thereat in the absence of the Director appointing him and shall, at such meetings and generally in the absence of his principal, have the same power to exercise all the powers of an ordinary Director. Any alternate Director shall ipso facto vacate office on his principal ceasing to be a Director, or if he becomes subject to any of the disqualifications mentioned in Article 64, or if he resigns, or if he be requested in writing by a majority of the Directors, including his principal, to resign. The appointment of an alternate Director may be for a fixed time and may be rescinded or determined at any time. The alternate Director shall not be entitled to be remunerated otherwise than out of the remuneration of the Director appointing him. Any alternate Director may be invested by the Board with any special duties in connection with the business of the Association.

#### CONDUCT OF VOTING

- Voting by ballot. 67. Subject to Article 60, elections to fill all vacancies for Directors arising from retirement or otherwise shall take place by ballot in accordance with Articles 68, 69, 70 and 73A.
- Ballot paper. 68. Voting in all cases shall be by ballot paper on which the voter shall mark his votes by endorsing a tick opposite the names of each eligible candidate for whom he wishes to vote, being not more candidates than the number of Directors of the relevant class to be elected. Those of the candidates equal to the number to be elected who respectively receive the highest number of votes shall be deemed elected.
- Number of candidates. 69. If the number of the duly nominated candidates does not exceed the number to be elected for a particular class of Director, then all such candidates shall be deemed elected without a ballot at the annual general meeting next following their nomination.
- Voting. 70. In addition to any electronic voting procedures instituted under Article 73A, postal voting for Directors shall be available to any member entitled to vote on request by the member in writing to the Association within 5 days after the giving of notice of the general meeting at which the member wishes to vote. If a member requests to vote by post:
- (a) the Association will arrange for the appropriate documentation to be sent to the member in accordance with the Association's postal voting procedures determined by the Board from time to time;
  - (b) postal votes shall be exercised personally and not by proxy. A member which is a corporation shall exercise its postal vote by its representative appointed under Article 47;
  - (c) the non receipt by any member of a voting paper or any associated documentation shall not invalidate the ballot;

- (d) all voting papers received by the Secretary by 7 days before the date fixed for the general meeting shall be counted in the ballot;
  - (e) prior to the general meeting the scrutineers shall aggregate the postal votes with the votes cast in accordance with procedures instituted under Article 73A, and shall count or cause to be counted the votes received in accordance with these Articles; and
  - (f) in the event of an equality of votes in favour of any 2 or more eligible candidates, the eligible candidates to be elected shall, prior to the general meeting, be determined by drawing lots in the manner determined by the Chairman.
- 70A. All votes must be counted before each annual general meeting and the Secretary must declare the result of the ballot, and the election of the Directors occurs, at the general meeting.
- Scrutineers. 71. The scrutineers shall be two persons appointed by the Board, or failing appointment by the Board, by the Chairman for the election, who are partners or employees of the Association's auditors.
- Informal votes. 72. No voting paper shall be declared informal,
- (i) because votes are endorsed for a lesser number of candidates than the number of Directors to be elected, or
  - (ii) because the method of completing the voting paper has not been strictly followed, if the scrutineers consider that nevertheless the voting intention has been made clear.
- Ballot papers – destruction. 73. Ballot papers shall be destroyed after the declaration of an election, unless the Chairman of the meeting otherwise directs.
- Electronic Voting Procedures 73A. Notwithstanding any other provision in these Articles setting out a method of voting, including postal voting, the Board may institute procedures for voting electronically, and for the electronic appointment of proxies and representatives appointed under Article 47, in such manner and at such times as it considers appropriate.

#### PROCEEDINGS OF DIRECTORS

- Meetings. 74. The Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit. A Director may at any time and the Secretary shall, on the requisition of a Director, summon a meeting of the Directors. Where the Directors are not all in attendance at one place and are holding a meeting through a system of communication and each of the Directors can hear and be heard by one another:
- (a) the participating Directors shall, for the purpose of every provision of these Articles concerning meetings of the Directors, be taken to be assembled together at a meeting and to be present at that meeting; and
  - (b) the meeting shall be taken to be held at the place agreed to by the participating Directors so long as at least one participating Director is physically present at that place; and
  - (c) all proceedings of those Directors conducted in that manner shall be as valid and effective as if conducted at a meeting at which all of them were present.
- Quorum. 75. The quorum necessary for the transaction of the business of the Directors shall be not less than three Publisher Directors together with not less than three Writer Directors.

Authority of meeting.	76.	A meeting of the Directors for the time being at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions by or under these Articles or the Law vested in or exercisable by the Directors generally.
Voting.	77.	Questions arising at any meeting shall be decided by a majority of votes, and in case of an equality of votes, the Chairman shall not have a second or casting vote.
Chairman.	78.	The Directors may elect a Chairman and Deputy Chairman of their meetings and determine the period for which he is to hold office; but if no such Chairman or Deputy Chairman is elected, or if at any meeting the Chairman or Deputy Chairman is not present at the time appointed for holding the same, the Directors present shall choose one of their number to be Chairman of such meeting.
Committees.	79.	The Directors may delegate any of their powers to committees of one or more members of their body as they think fit. Any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may from time to time be imposed upon it by the Directors.
Proceedings of Committees.	80.	The meetings and proceedings of any such committees, consisting of two or more members, shall be governed by the provisions herein contained for regulating meetings and proceedings of the Directors so far as the same are applicable thereto and are not superseded by any regulations made by the Directors under the last preceding clause.
Validation of Directors.	81.	All acts done by any meeting of the Directors, or by a committee of Directors or by any person acting as a Director shall, notwithstanding that it shall afterwards be discovered that there was some defect in the appointment of such Directors or persons acting as aforesaid or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.
Resolution in writing.	82.	A resolution in writing, signed by all the Directors for the time being entitled to receive notice of a meeting of the Directors, shall be as valid and effectual as if it had been passed at a meeting of the Directors duly convened and held. Any such resolution may consist of several documents in like form each signed by one or more Directors.
Absent Directors – notice.	83.	It shall not be necessary to give notice of a meeting of the Directors to any Director who is absent from the Commonwealth of Australia, or in the case of a Director who is ordinarily resident in the Dominion of New Zealand, who is absent therefrom; nor shall any meeting of the Directors be invalid on the ground that notice of such meeting was not given to or received by any Director in sufficient time to enable him to be present at such meeting.

#### POWERS OF DIRECTORS

General Powers vested in Board.	84.	The management of the business of the Association shall be vested in the Board which, in addition to the powers and authorities by these Articles or otherwise expressly conferred upon it, may exercise all such powers and do all such acts and things as may be exercised or done by the Association and are not hereby or by the Law expressly directed or required to be exercised or done by the Association in general meeting, but subject nevertheless to the provisions of the Law and of these Articles.
Certain specific powers.	85.	Without prejudice to the general powers conferred by the last preceding Article, and the other powers conferred by these Articles, it is hereby expressly declared that the Directors shall have the following powers, that is to say power – <ul style="list-style-type: none"> <li>(a) from time to time to appoint any person as General Manager and/or other officer of the Association for such term and at such remuneration as they may think fit and (subject to any contract entered into between the Association and such General Manager and/or other officer) from time to time to remove him and appoint some other person as General Manager and/or other officer in his place;</li> </ul>



- (b) to delegate to a General Manager and/or other officer all such of its administrative powers as aforesaid as they may deem necessary for the full and proper administration of the affairs of the Association;
- (c) to borrow money and to mortgage or charge the undertaking and property of the Association or any part thereof and to issue debentures, as security for any debt, liability or obligation of the Association or any third party;
- (d) to determine who shall be entitled to sign on the Association's behalf bills, notes, receipts, acceptances, endorsements, cheques, releases, contracts and documents;
- (e) to provide for the establishment and conduct of any branch office in any part of the world for the transaction and management of the business of the Association;
- (f) from time to time to appoint any corporation, firm, person or body of persons to be the attorney or attorneys of the Association in any part of the world for such purposes and with such powers, authorities and discretions and subject to such conditions as may be thought fit;
- (g) to establish and regulate in the Commonwealth of Australia or the Dominion of New Zealand or in any other part of the world local boards, local managing or consulting committees or local agencies; and to appoint any one or more of their number or any other person or persons to be members thereof with such powers and authorities for such period and at such remuneration as they may deem fit; and to revoke any such appointment; and
- (h) to determine the reasonable form of notices, other documents and reasonable costs under Article 17.

#### MANAGING DIRECTOR

- |                          |     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|--------------------------|-----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Appointment.             | 86. | The Board may, from time to time, appoint one or more of its number or any other person to be Managing Director of the Association, either for a fixed term not exceeding ten years or without any limitation as to the period for which he is to hold such office and may, from time to time, remove or dismiss him from office and appoint another in his place or places.                                                                                                                                                                                                                                            |
| Not subject to rotation. | 87. | A Managing Director shall not, while he continues to hold that office, be subject to retirement by rotation and he shall not be taken into account in determining the rotation in which other Directors shall retire, but he shall, subject to the provisions of any contract between him and the Association, be subject to the same provisions as to the resignation and removal as the other Directors of the Association and if he ceases to hold the office of Director for any cause, he shall ipso facto and immediately cease to be a Managing Director.                                                        |
| Remuneration.            | 88. | The remuneration of a Managing Director shall, from time to time, be fixed by the Directors and may be by way of salary, commission or bonus, or by any or all of those modes and shall be paid out of the funds of the Association, and may be in addition to any remuneration which he may receive as a Director of the Association.                                                                                                                                                                                                                                                                                  |
| Powers.                  | 89. | The Directors may from time to time entrust to and confer upon the Managing Director, for the time being, such of the powers exercisable by the Directors as they may think fit and may confer such powers for such time and to be exercised for such objects and purposes and upon such terms and conditions and with such restrictions as they think expedient; and they may confer such powers, either collaterally with, or to the exclusion of, and in substitution for all or any of the powers of the Directors in that behalf and may from time to time revoke, withdraw, alter or vary all or any such powers. |

#### SECRETARY

- Appointment. 90. The Secretary shall, in accordance with the Law, be appointed by the Directors for such term, at such remuneration, and upon such conditions as they may think fit; and any Secretary so appointed may be removed by them.

#### MINUTES

- How to be kept. 91. (a) The Directors shall cause minutes to be duly entered in the books provided for the purpose:
- (i) of all appointments of officers made by the Board;
  - (ii) of the names of the Directors present at each meeting of the Board or of any committee thereof;
  - (iii) of all orders made by the Board or a committee thereof;
  - (iv) of all resolutions and proceedings of general meetings and of meetings of the Board and committees thereof.
- (b) Any such minutes of any meeting of the Directors, or any committee or of the Association, if purporting to be signed by the Chairman of such meeting, or by the Chairman of the next succeeding meeting shall be receivable as prima facie evidence of the matters stated in such minutes.
- (c) The books containing the minutes of general meetings of the Association shall be kept at the office and shall be open to the inspection of Full Members between the hours of 2 pm. and 4 pm. on each business day.

#### SEAL

- Method of affixing. 92. The Directors shall provide for the safe custody of the seal which shall be used only by authority of the Board, and every instrument to which the seal is affixed shall be signed by two Directors whose signatures shall be witnessed by the Secretary or a third Director or by some other person appointed by the Directors for the purpose.

#### ALLOCATION OF MONEYS

- Order of application of receipts. 93. (a) All moneys received by the Association in respect of the rights, licences or authorities granted by members and affiliated societies together with all income arising from the investment of any such moneys shall be applied first to payment of all expenses of and incidental to the conduct, management and operation of the Association (including the administrative costs of collecting those amounts), and then, subject to Article 95, shall be held on trust for members and affiliated societies pending such monies being allocated and distributed amongst the members and affiliated societies in accordance with a method of entitlement to be fixed from time to time by the Board.

The obligation to distribute shall arise in the same year as the said moneys and the said income are received and, to the extent that payment of any such distribution has not been effected, the unpaid balance shall be treated as a liability of the Association in its yearly accounts. In default of any resolution having been passed by the Board before year end fixing a method of entitlement, then the method shall be the same as last fixed by the Board.

Distributions as soon

- as possible. (b) Distributions shall be paid to members as soon as is reasonably possible after the allocation of the amounts for distribution.
- No directions. (c) A member cannot direct the Association to pay an amount at a particular time.
- Board to observe agreements. (d) Any method of entitlement fixed by the Board shall comply with the terms and conditions of any agreement in force from time to time between the Association and any member or affiliated society.
- Time of distributions. (e) The Board shall fix the times for payment to members of moneys due for distribution.
- Certification of receipts. (f) The declaration of the Board supported by the certificate of the auditors as to the amount of the moneys received by the Association shall be conclusive.
- Interim allocations and/or distributions. (g) The Board may from time to time make to the members such interim allocations and/or distributions and/or payments on account of moneys due for distribution as in their judgement the position of the Association justifies.
- No dividends. (h) Notwithstanding any other provision of these Articles, the payment of a dividend to any member is prohibited.
- Past members. (i) For the purposes of this Article only the word "member" shall be deemed to extend to and include a past member in respect only of such portion of the member's rights as are still vested in or controlled by the Association pursuant to Articles 10, 11 or 12.
- Allocations and distributions final and binding 94. Allocations and distributions, when made by the Board, shall be final and binding except that the Board shall be at liberty to consider and, if thought fit, to make any adjustment:
- (a) in response to any claim by any interested persons made within three years of the date of the allocation or distribution concerned; or
- (b) otherwise, within three years of the date of the allocation or distribution concerned.
- 94A. The Association may recover any moneys owed by the member to it from amounts allocated to the member or otherwise.
- Special provisions. 95. The Board may before making any allocation and distribution among the members and affiliated societies:
- (a) apply out of the receipts such sums as it thinks proper or has agreed to contribute towards –
- (i) any superannuation, benevolent, pension or similar fund which has been or may be established for the benefit of employees of the Association or their wives, widows, children or dependents;
- (ii) promoting the use and/or recognition of works written by the Association's members.
- Superannuation fund etc.
- Promoting works written by members.
- Reserve fund. (b) set aside, out of the receipts of the Association, such sums not exceeding five per centum of the receipts of the Association for the preceding financial year as they think proper as a reserve fund to meet contingencies, or for special allocations or for repairing, improving and maintaining any of the property of the Association, or for such other purposes as the Directors shall in their absolute discretion think conducive to the interests of the Association; and to invest the several sums so set aside upon such investments as they may think fit and from time to time deal with and vary such investments and dispose of all or any part thereof for the benefit of the Association and to divide the reserve fund into such special funds as they think fit with full power to employ the assets constituting the reserve fund in the business of the Association and that, without being bound, to keep the same separate from the other assets.

## REGISTER OF MEMBERS

Register to be kept. 96. The Association shall keep a register of its members in accordance with the Law and such register shall be open to inspection as therein provided.

## ACCOUNTS

- Accounts to be kept. 97. The Directors shall cause proper accounts to be kept with respect to –
- (a) all sums of money received and expended by the Association and the matters in respect of which the receipt and expenditure takes place;
  - (b) all sales and purchases of goods by the Association; and
  - (c) the assets and liabilities of the Association.
- Books. 98. The accounts shall be kept at the registered office of the Association, or at such other place or places as the Directors think fit, and shall always be open to the inspection of the Directors.
- Inspection of accounts and records. 99A. The members shall be entitled to inspect the accounting and other records of the Association at such times and places and under such reasonable conditions or regulations as the Board shall from time to time determine, provided that no member (not being a Director of the Association) shall be entitled to require or receive any information containing any confidential information of the Association or any other person.
- Inspection of records regarding works. 99B. Any member shall be permitted to inspect the records of the Association as they relate to that member's works at such times and places and under such reasonable conditions or regulations that the Board shall from time to time determine, provided that any such member notifies the Association in writing that he wishes to do so, and such notice specifies as the day of inspection a business day, not earlier than seven business days after the date on which the notice is given.
- Profit and loss account etc. 100. The Directors shall from time to time in accordance with the relevant provisions of the Law cause to be prepared and to be laid before the Association in general meeting such profit and loss accounts, balance sheets and reports as are referred to in that section.
- Balance sheet and report. 101. A balance sheet shall be made out in every year and laid before the Association in general meeting made up to a date not more than five months before such meeting. The balance sheet shall be accompanied by a report of the Directors as to the state of the Association's affairs containing such information as may be required by the relevant provisions of the Law.
- Copies of balance sheet and report. 102. A copy of such balance sheet and report shall, together with a copy of the auditor's report, seven days previously to the meeting be sent to the persons entitled to receive notice of general meetings in the manner in which notices are to be given hereunder.

## AUDIT

Auditors to be appointed.

103. Auditors shall be appointed and their duties regulated in accordance with the sections of the Law which from time to time regulate the appointment and removal of auditors and the auditor's report on a company's financial statements.

## NOTICES

Method of giving notice.

104. (a) A notice may be given by the Association to any member by:
- (i) serving it on the member personally;
  - (ii) sending it by post to the member at the member's registered address, or (if the member has no registered address within the Commonwealth of Australia or the Dominion of New Zealand) to the address, if any, within the Commonwealth of Australia or the Dominion of New Zealand, supplied by the member to the Association for the giving of notices to the member;
  - (iii) facsimile to the facsimile number supplied by the member to the Association for the giving of notices; or
  - (iv) sending it to the electronic address (if any) nominated by the member.
- (b) Where a notice is sent by post, service of the notice shall be taken to be effected by properly addressing, prepaying and posting a letter containing the notice and to have been effected:
- (i) in the case of a notice of a meeting, on the second day after the date of its posting; and
  - (ii) in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- (c) Where a notice is sent by facsimile or other electronic means service of the notice shall be taken to be effected by properly addressing and sending the notice and to have been effected on the day it is sent.

Notice after death.

105. Any notice given in accordance with the last preceding Article addressed to a member at his registered address, or the address supplied by him for the giving of notices shall, notwithstanding that such member be then deceased, and whether or not the Association has notice of his decease, be deemed to have been duly served until some other person be registered in his stead as representing such member, and such notice shall, for all purposes of these Articles, be deemed a sufficient service of such notice on his executors, administrators or heirs.

Notice of general meeting.

106. (a) Notice of every general meeting shall be given in any manner hereinbefore authorised to –
- (i) every Full Member entitled to receive notice of that meeting except those Full Members who (having no registered address within the Commonwealth of Australia or the Dominion of New Zealand) have not supplied to the Association an address within the Commonwealth of Australia or the Dominion of New Zealand for the giving of notices to them;

- (ii) the auditor for the time being of the Association.
- (b) No other person shall be entitled to receive notices of general meetings.

#### WINDING UP

Procedure on winding up.

107. In the event of and upon the winding up of the Association, whether voluntary or otherwise, at any time, the assets of the Association (other than the Performing Rights vested in or controlled by the Association) and sums available for allocation and/or distribution in accordance with these Articles shall, insofar as they are available for the purpose, be apportioned among the persons who are members at the date of such winding up in the proportions in which such members received allocations from the Association in respect of the year ending on the 30th day of June immediately prior to such winding up; and the rights, if any, vested in the Association by any member, or controlled by the Association by virtue of his membership, shall revert to such member or his personal representative notwithstanding any other provision in these Articles to the contrary.

#### INDEMNITY AND INSURANCE

Indemnity and insurance for directors and officers.

108. (a) To the extent permitted by law and without limiting the powers of the Association, the Board may authorise the Association to, and the Association may enter into any:
- (i) documentary indemnity in favour of; or
  - (ii) insurance policy for the benefit of,
- a person who is, or has been, a Director, Secretary, auditor, employee or other officer of the Association which indemnity or insurance policy may be in such terms as the Board approves and, in particular, may apply to acts or omissions prior to or after the time of entering into the indemnity or policy;
- (b) The benefit of any indemnity previously given to any person in respect of liabilities incurred prior to the date this Article is adopted (including any indemnity given under these Articles prior to the date this Article (in its present form) was adopted) is not affected by this Article 108.

#### CONFIDENTIAL INFORMATION

Declaration to be signed.

109. Every Director, Managing Director, manager, Secretary, member of committee or other officer employed or engaged in the business of the Association and thereby having access to records, accounts, transactions or other information relating to the affairs of the Association, or of any member or other person with whom the Association has transacted business, shall sign a declaration pledging himself not to reveal, other than to the Board or management, and not to use for his own business or private purposes, any of the information relating to such matters which may thereby come to his knowledge except when required so to do by the Board or by a general meeting or under a duty imposed by any statute or court of law.