

# ARTICLES of ASSOCIATION

and

# BY-LAWS

## **SODRAC 2003 Inc**

(Amended – EGM of June 13, 2006)  
(Amended – EGM of October 29, 2007)  
(Amended – EGM of March 26, 2009)

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AND BY-LAWS**

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## ARTICLES OF ASSOCIATION OF SODRAC 2003 Inc.

### ARTICLE 1: DEFINITIONS

1.1 *Unless the context otherwise requires, in the Articles as well as in the By-laws, Policies and Resolutions of the Society,*

1.2 *“Author” means an author within the meaning of the Copyright Act;*

1.3 *“Board” means the Board of Directors of the Society;*

1.4 *“Control” a legal person is controlled by a person or a group of persons if shares of the first mentioned legal person carrying more than fifty per cent of the vote for the election of directors are held, otherwise than by way of security only, by or for the benefit of that other person or group of persons and the votes carried by such shares are sufficient, if exercised, to elect a majority of the board of directors of the first mentioned legal person;*

1.5 *“Rights Related to the Commercial Use of Artistic Works” means the rights and prerogatives of a pecuniary nature granted to the authors of artistic works pursuant to the Copyright Act, including, inter alia, all rights of public exhibition, of reproduction in any format or material form, of audiovisual and televisual performance, of communication to the public by telecommunication, of private copying and of reprographic reproduction;*

1.6 *“Publisher” means a person who promotes and markets works and administrates the commercial use thereof;*

1.7 *“Enterprise” means an organised economic activity, whether or not it is commercial in nature, consisting of producing, administering or alienating property, or providing services;*

1.8 *“Enterprise that is a User of the Repertoire of the Society” means an enterprise that reproduces or makes commercial use of works or reproductions of works, such as a radio broadcaster, a television broadcaster, a film, television or record producer, a film or record distributor, a record company, or an advertising agency;*

1.9 *“Subsidiary” means a legal person controlled by another legal person, including a subsidiary of a subsidiary, a legal person controlled by another person, and one or more persons each of which is controlled by that other or a legal person controlled by two or more legal persons each of which is controlled by another person;*

- 1.10 *“Administration” means the carrying on by the Society of the following activities:*
- a) *the operation of a licensing scheme applicable in relation to one or several works of more than one author, pursuant to which are set out the classes of uses authorized under the Copyright Act as well as the royalties and terms and conditions on which those classes of uses are authorized;*
  - b) *the carrying on of the business of collecting and distributing royalties payable pursuant to the Copyright Act and licenses issued by the Society;*
- 1.11 *“Group” two legal persons of which one is the subsidiary of the other or that are both under the control of the same person belong to the same group;*
- 1.12 *“Letters Patent” means the letters patent pursuant to which the Society is created and the supplementary letters patent that may be added thereto;*
- 1.13 *“Act” means the Canada Corporations Act, as amended from time to time, and any other legislation replacing same;*
- 1.14 *“Copyright Act” means the legislation set out in R.S.C. 1985, ch. C-42, as amended from time to time;*
- 1.15 *“Musical Work” means a musical work within the meaning of the Copyright Act, including, for the purposes hereof, a dramatico-musical work;*
- 1.16 *“Artistic Work” means an artistic work within the meaning of the Copyright Act, regardless of the manufacturing means used, the processes through which it is obtained and the method of fixation thereof, including a work that is a drawing, a painting, a sculpture, an engraving and any other work of the same nature;*
- 1.17 *“Person” means a physical person or a legal person established for a private interest or in the public interest;*
- 1.18 *“By-laws” means any By-laws of the Society, as amended from time to time;*
- 1.19 *“Repertoire of the Society” means all the works administered by the Society and in which rights subsist that are contributed to the Society either by the Members or pursuant to contracts with foreign or Canadian societies or otherwise, in accordance with the Copyright Act;*
- 1.20 *“SACEM” means the Société des auteurs, compositeurs et éditeurs de musique created under and governed by the laws of the French Republic;*

- 1.21 “Society” means the corporation without share capital created in 2003 by the issue of letters patent pursuant to the provisions of Part II of the Canada Corporations Act under the name “SODRAC 2003 Inc.”, meaning the Society for Reproduction Rights of Authors, Composers and Publishers in Canada;
- 1.22 “SODRAC Inc.” means the company with share capital created in 1970 by the issue of letters patent under the name “Society for Reproduction Rights of Authors, Composers and Publishers in Canada (SODRAC) Inc.” under the provisions of the Canada Corporations Act, whose shareholders were the SACEM and the SPACQ, and which transfers its activities and assets to the Society;
- 1.23 “SPACQ” means the Société professionnelle des auteurs et compositeurs du Québec created under and governed by the laws of the Province of Quebec;
- 1.24 “Articles” means the Articles of Association submitted with the application for the issue of letters patent, as amended from time to time in accordance with the Canada Corporations Act.

## **ARTICLE 2: OBJECTS, ACTIVITIES AND POWERS OF THE SOCIETY**

2.1 The Society is a collective society within the meaning of the Copyright Act. It oversees the collective administration of the copyrights in creative works, including the reproduction rights applying to Musical Works (in addition to the private copying of such works) and the commercial user rights applying to Artistic Works. In Canada, these rights are managed directly under a licensing system. In the rest of the world, these rights are managed indirectly through the cooperation and efforts of similar foreign collective societies or agencies, which manage the applicable rights themselves and subsequently remit any royalties collected on the Society's behalf to the Society. (Amended – EGM of October 29, 2007)

2.2 *The Society may carry out all the activities of a collective society as provided for by the Copyright Act and may exercise all the powers necessary to the fulfilment of its objects, inter alia:*

- a) *exercise all the powers of a collective society provided for by the Copyright Act;*
- b) *administrate a licensing scheme applicable in relation to the works of Authors;*
- c) *set out the classes of uses that it agrees to authorize pursuant to the Copyright Act as well as the royalties in consideration of and the terms and conditions on which it agrees to authorize those classes of uses;*
- d) *negotiate agreements and enter into contracts with users of the works for the purpose of granting them licenses;*
- e) *take all reasonable measures to collect the royalties;*
- f) *distribute the collected royalties among the Members;*
- g) *enter into agreements for representation with foreign societies having similar objects;*
- h) *hold interests or shares in other legal persons;*
- i) *defend the common interests of the Members, and, in particular, promote and value copyright in Canada and at the international level.*

2.3 *The Society shall carry out its operations without pecuniary gains to its Members. The profits or other accretions of the Society shall be used to fulfil its objects and shall not be distributed among the Members.*

*Due to the special nature of the rights contributed to the Society by the Members for the exercise thereof, such rights shall not become the property of the Society but shall constitute the legal basis for the rights of the Members provided for in the Articles and By-laws.*

2.4 *The head office of the Society shall be situated in the City of Montreal. It may be transferred by a decision of the Board approved by the Members in accordance with section 4.22 of the Articles.*

2.5 *The seal of the Society shall be kept at the head office of the Society.*

2.6 *The financial year of the Society shall end on the last day of March of each year or on any other date that the Board may determine from time to time.*

### **ARTICLE 3: MEMBERS OF THE SOCIETY**

3.1 *The status of Member shall be granted to an Author or a Publisher whose Membership Application has been accepted, who has agreed to the Articles and By-laws of the Society and who has contributed his rights to the Society, the whole in accordance with the provisions of the Articles and By-laws of the Society.*

3.2 *The Society shall be comprised of Author Members and Publisher Members. An Author may join the Society with respect to his Musical Works or with respect to his Artistic Works.*

3.3 *The SACEM and the SPACQ shall be considered as “Founding Members” of the Society. Their rights and obligations shall be strictly limited to those set out in sections 5.3, 5.4, 5.5, 5.6, 5.8 and 6.18 of the Articles.*

3.4 *Compliance with any one of the conditions for admission shall not confer any right.*

3.5 *A Person may be admitted as both an Author Member and a Publisher Member. Such Person shall comply with the procedures and conditions for admission applicable to both classes of Members.*

3.6 *No employee of the Society may become or remain a Member of the Society.*

#### **Conditions for Admission as an Author Member**

3.7 *An applying Author shall submit his Membership Application to the Author’s Commission for recommendation to the Board. The Board may accept or refuse any such recommendation of the Author’s Commission. (Amended – AGM / EGM of June 13, 2006)*

3.8 Unless an exemption is granted by the Board under exceptional circumstances as determined by the Board, a Membership Application may only be accepted where the applying Author meets one of the following conditions:

- a) he is the Author or the joint Author of the music or the lyrics of at least one Musical Work published by a Person doing business as a music Publisher;
- b) he is the Author or the joint Author of the music or the lyrics of at least one Musical Work recorded and used for a commercial purpose;
- c) he is the Author or the joint Author of the music or the lyrics of at least one Musical Work that has been recorded or is in the process of being recorded and is in the process of being used for a commercial purpose;
- d) he is the Author or the joint Author of at least one Artistic Work that is or has been the object of at least one form of commercial use within the meaning of section 1.5 of the Articles;
- e) he has acquired in the capacity of personal assign upon the death of an Author, by will or by operation of the law, a right, title and interest in a work described in one of foregoing paragraphs (a), (b), (c) and (d).

### **Conditions for Admission of a Publisher Member**

3.9 An applying Publisher shall submit his Membership Application to the Publisher's Commission for recommendation to the Board. The Board may accept or refuse any such recommendation of the Publisher's Commission. (Amended – AGM / EGM of June 13, 2006)

3.10 Unless an exemption is granted by the Board under exceptional circumstances as determined by the Board, a Membership Application may only be accepted where the applying Publisher files the agreement(s) for the publishing of five original Musical Works recorded and used for a commercial purpose or in the process of being recorded and used for a commercial purpose.

### **Affiliation Statement**

3.11 Membership Applications, whether for the status of Author Member or Publisher Member, shall be accompanied by an Affiliation Statement duly signed on behalf of the applicant and his successors.

3.12 *The Affiliation Statement shall contain inter alia:*

- a) *the explicit agreement of the Author or the Publisher to contribute to the Society, in accordance with the Articles and By-laws, his rights relating to the reproduction of his Musical Works, or the reproduction of the Musical Works that he publishes, as the case may be, for the purpose of having said rights administered by the Society;*
- b) *the explicit agreement of the Author of Artistic Works to contribute to the Society, in accordance with the Articles and By-laws, his rights relating to the commercial use of his works for the purpose of having said rights administered by the Society;*
- c) *an undertaking by the Author or the Publisher to comply with the Articles and By-laws of the Society and with any decision of the Society's bodies made in accordance with said Articles and By-laws;*
- d) *an undertaking by the Author or the Publisher to abstain from personally authorizing or prohibiting the reproduction of the Musical Works, or the commercial use thereof in the case of Artistic Works, or from collecting royalties from users in this regard. Any authorization given or prohibition made by the Member in breach of such undertaking shall be null and void;*
- e) *an undertaking by the Publisher entrusted with the commercial use of the works of Authors who are not Members of the Society not to do anything to prevent such Authors from joining the Society on the basis of a prior assignment of rights for the benefit of said Publisher, and an undertaking to enable such Authors to contribute such rights to the Society if they are admitted as Members of the Society, the whole subject to sections 3.21, 3.22 and 3.23 of the Articles.*

3.13 *Execution of his Affiliation Statement by an Author or a Publisher shall entail acknowledgement that the Society does not have an obligation of results as regards to the collection of royalties and that it has sole discretion to decide whether or not to institute legal proceedings, arbitrate or transact in such regard. Through his affiliation, an Author or a Publisher shall authorize the Society to retain administration fees as determined by the Board from the royalties received on his behalf.*

3.14 *In the case of a Publisher that is a legal person, the Affiliation Statement shall be signed by the duly authorized legal representative of said Publisher.*

3.15. *An applying Author or an applying Publisher shall become a Member of the Society upon the Board's acceptance and retroactively on the date of reception of the Membership Application duly completed. (Amended – AGM / EGM of June 13, 2006)*

### **Preliminary requirements relating to Membership Applications and Statements**

3.16 *The Board may pass By-laws concerning preliminary requirements applicable to the admission of Members.*

3.17 *The amount of the membership fees to be paid by the Members shall be determined by the Board. Said fees shall not be refundable.*

### **Contribution of the Member to the Society**

3.18 *An Author who joins the Society with respect to his Musical Works shall contribute to the Society the exclusive rights to authorize or prohibit the reproduction of said works as from the creation thereof, in any material form, except on paper, and by any known or to be discovered means, including private copying, for the whole world and for as long as he remains a Member of the Society.*

3.19 *An Author who joins the Society with respect to his Artistic Works shall contribute to the Society the exclusive rights relating to the commercial use of his works, for the whole world and for as long as he remains a Member of the Society, subject to such restrictions as may be set out in the Affiliation Statement regarding the prior consent to be obtained from the Member by the Society with respect to certain uses of the Member's works.*

3.20 *A Publisher shall contribute to the Society the exclusive rights to authorize or prohibit the reproduction of the works that he publishes, in any material form, except on paper, and by any known or to be discovered means, including private copying, for the whole world and for as long as he remains a Member of the Society, to the extent that said Publisher has acquired such rights.*

3.21 *The contribution of rights to the Society by an Author Member or by a Publisher Member shall constitute an assignment of said rights for the purpose of the Administration thereof pursuant to the Copyright Act. The purpose of said contribution shall be to grant the Society a right, title or interest in the copyright in said works so as to enable the Society to take the necessary measures to exercise the rights contributed by the Members.*

3.22 *Except as regards to the aforementioned specific administration purpose within the meaning of the Act, such contribution to the Society shall be without prejudice to the assignments granted under a publishing contract.*

*3.23 The assignment of rights to the Society by an Author of Musical Works shall be made without prejudice to the right of the Publisher who withdraws from the Society to benefit from the assignment of rights that he obtained from such Author with respect to the commercial use of his works, including the Publisher's own right to authorize or prohibit the reproduction of the works and to collect his own share of copyright royalties.*

*3.24 The Board may pass a By-law concerning the possibility for a Member to restrict his contribution to the Society to certain classes of rights or to certain territories and concerning the obligation for the Society to obtain the consent of the Member before authorizing certain uses.*

*Such By-law may also provide for the right of a Member to modify the contribution made to the Society in his Affiliation Statement and the terms and conditions applicable to said right.*

*Such By-laws shall require the approval of the Members in accordance with section 4.22 of the Articles.*

### ***Withdrawal of a Member and Succession***

*3.25 A member may withdraw from the Society or modify the conditions of his membership only after an initial period of at least three (3) full calendar years has elapsed since he became a Member of the Society, under Article 3.15, or since the renewal date. Membership is automatically renewed every three (3) years, i.e., upon expiry of the three-year membership period. Any membership withdrawal or request under Article 3.24 in accordance with the Bylaws must be submitted in writing to the Society before the end of the abovementioned three-year period, i.e., before December 31, and will take effect on April 1 of the year following the abovementioned three-year period.*

*Notwithstanding the foregoing, in exceptional cases, a member who wishes to modify the membership conditions in accordance with the Bylaws during the aforementioned membership period may apply to the Authors' Commission (in the case of an author member) or to the Publishers' Commission (in the case of a publisher member) for recommendation to the Board for decision. (Amended – EGM of October 29, 2007)*

*3.26 Even after the withdrawal of a Member, the Society shall be entitled to continue to collect the royalties generated with respect to the membership period of such Member. Moreover, with respect to Artistic Works, the Society may continue to collect under any license issued during the membership period of the Member up until the end of the term of commercial use granted under such license.*

*3.27 The estate of a deceased Author Member shall be substituted during the liquidation period in all the rights and obligations of the deceased Author as an Author Member of the Society, except that the legal representative shall not be eligible to the Board as an Author Member.*

*The estate shall be represented during the liquidation by its liquidator, who shall execute a statement of affiliation to the Society.*

*3.28 At the end of the liquidation, the heir of the rights contributed to the Society, or one representative appointed by the heirs where there are more than one, may only become a Member or Members, as the case may be, by submitting (a) new Membership Application(s) in accordance with sections 3.7 and following of the Articles.*

*3.29 A Publisher Member who alienates, by sale, assignment or otherwise, rights that he has contributed to the Society shall cease to enjoy the rights of a Member in such capacity, except if he continues to meet the conditions for admission to the Society. The Board may determine the date of expiry of his membership, which may not be later than March 31 of the year following such alienation.*

*3.30 Any Person who acquires rights in the works of a Publisher Member, by death, purchase or otherwise, shall not become thereby a Publisher Member of the Society. Such Person may only become a Member by submitting a Membership Application and complying with sections 3.9 and following of the Articles.*

*The foregoing provision shall not apply where the legal person itself is the object of an acquisition or a take-over, in which case the Publisher shall continue to be a Member.*

*3.31 Pending the processing of the application of an acquirer, the Society shall continue to collect, and the acquirer shall continue to receive, the royalties levied with respect to the works in which rights have been acquired in accordance with section 3.30 of the Articles.*

*The foregoing shall also apply until March 31 of the year following the acquisition where the acquirer does not submit a Membership Application or is deemed inadmissible.*

*3.32 The Board may, for cause, withdraw membership from an Author or a Publisher. Such a decision shall be subject to approval by two-thirds of the Members of the Board and shall come into effect on the date determined by the Board.*

*3.33 In the cases provided for in sections 3.29, 3.30 and 3.32, the Society shall be entitled to continue to collect the royalties generated for the membership period of the Person concerned. With respect to Artistic Works, the Society may continue to collect under any license issued during the membership period of a Member until the end of the term of commercial use granted under such license.*

### **Sub-publishing**

*3.34 The Board may adopt a Policy concerning sub-publishing.*

*Contracts for the publishing and sub-publishing of a work whose Authors are Members of the Society shall explicitly provide that the exercise and the Administration, in all countries, of all the rights relating to the reproduction of the published works, inter alia the collection and distribution of the royalties generated by the exercise thereof, belong to the Society.*

### **Duties of the Members**

3.35 *In addition to the duties and obligations of a Member under the Articles and By-laws of the Society as well as under his Affiliation Statement, and without restricting the foregoing, the Member , inter alia,*

- a) *shall neither assign nor license the rights that he is to contribute to the Society, nor personally authorize or prohibit the reproduction of the Musical Works of which he is the creator or the Publisher or the commercial use of his Artistic Works, as the case may be, nor jeopardise the Administration, by the Society, of the rights that he has contributed to same;*
- b) *shall not share the Author's share, provided for in the publishing agreement and representing at least fifty percent of the copyright royalties, with an Enterprise that is a User of the Repertoire of the Society, for the sole purpose of obtaining a preferential treatment from such Enterprise in connection with his works;*
- c) *shall warrantee to the Society that the declared works are not tainted with infringement or unlawful use and shall mention the use of any element of the public domain in any declared work;*
- d) *shall cause to be added to the Repertoire of the Society, without any restrictions, as quickly as and to the extent possible, those of his works with respect to which a prior contract affected or limited, in whole or in part, the exercise of the rights of the Society;*
- e) *shall neither do nor undertake anything that could adversely affect the material or moral interests of the Society or its Members.*

### **Declaration of Works**

3.36 *All Author Members shall declare to the Society the works created by them, and all Publisher Members shall declare to the Society the works published by them. Such Declaration shall form the basis for the distribution of royalties among the Members of the Society exclusively.*

3.37 *The Declaration of Works shall be made concurrently with the Affiliation Statement of the Member, and thereafter, as soon as the work is created, or, in the case of a Publisher Member, as soon as he acquires rights in a work.*

3.38 *Failure by a Member to make such Declaration in accordance with the Articles, By-laws or Policies of the Society may result in the works not being considered for the distribution of royalties by the Society. The Society may grant a time extension inter alia to the estate of a deceased Author or to a Person who has acquired the rights of a Publisher.*

3.39 *Any declaration bearing a false, purported or bogus signature shall be annulled and the Board may exclude the work from the distribution of royalties.*

3.40 *The Board may determine in a By-law, approved by the Members in accordance with section 4.22 of the Articles, the requirements relating to the execution of Declarations of Works.*

3.41 *Prior to accepting a Declaration of Works, the Society may require from the signatory any evidence that it deems appropriate concerning the contents of the Declaration, including any signing authority.*

3.42 *The Society shall not be held liable, in any event, for the statements made in any Declaration of Works, but the signatory thereof shall be answerable to the Society and to third Persons for the originality of his work and for his rights therein.*

3.43 *The Board may refuse the Declaration of Works concerning a work of joint authorship where one of the joint Authors carries out an activity, in any capacity whatsoever, for an Enterprise that is a User of the Repertoire of the Society, and the Society may take all appropriate measures flowing from such refusal, including with respect to royalties.*

### ***Individual Rights of Members***

3.44 *The Board shall adopt a Policy of the Society concerning the collection, treatment, storage, protection, use of and access to the personal information concerning applicants and Members.*

3.45 *A Member of the Society shall be entitled to the protection of the personal information disclosed to the Society in his regard. A Member shall be entitled inter alia to the confidentiality of his distribution statements and to access the list of works declared under his name.*

3.46 *A Member may consult at the head office of the Society, personally and confidentially, the minutes of the general meetings of the Members and the minutes of the meetings of the Board. Any violation of this duty of confidentiality shall expose the Member to the withdrawal of his status, without prejudice to the right for the Society or another Member to ask for judicial compensation for the damages caused to the Society or the Member, as the case may be, as a result of such violation.*

3.47 *The Board may adopt a Policy concerning the exercise of said right, recognizing a right of access to other books and documents of the Society, and concerning the conditions for the exercise of such right.*

3.48 *The Board may adopt a Policy concerning the management of disputes.* (Amended – AGM / EGM of June 13, 2006)

## **ARTICLE 4: GENERAL MEETINGS OF THE MEMBERS**

### **Composition of the General Meeting**

4.1 *The general meeting shall consist of all the Members of the Society who have received from the Society during the previous calendar year royalties totalling at least \$100 in the case of an Author and \$1000 in the case of a Publisher. Such Authors and Publishers shall be considered “Voting Members” for the following financial year.*

4.2 *Non-voting Member shall not be called to attend general meetings.*  
(Amended – EGM of March 26, 2009)

4.3 *An Author Member who has received from the Society at least \$100 in royalties during the previous calendar year may give one vote plus one vote for every complete sum of \$100 received up to a total maximum of twenty votes.*

4.4 *A Publisher Member who has received from the Society at least \$1000 in royalties during the previous calendar year may give one vote plus one vote for every complete sum of \$1000 received, up to a total maximum of twenty votes.*

### **General Provisions Applicable to all General Meetings**

4.5 *The Voting Members, the Auditor, the General Manager, the Directors appointed by the SPACQ and the SACEM and such other Persons as may be authorized or required to attend the meeting under a legislative or regulatory provision may attend a general meeting. Any other Person may only be admitted at the invitation of the Board. The right to attend shall not per se confer the right to vote.* (Amended – EGM of March 26, 2009)

4.6 *Unless otherwise provided, the decisions at a general meeting shall be taken by the majority of votes cast by show of hands. No Voting Member may be represented, except in the cases of specifically authorized representation provided for under section 4.7 of the Articles. Proxies of Voting Members or authorized representatives of Voting Members shall not be accepted save in the case provided for in section 4.26 of the Articles.* (Amended – EGM of March 26, 2009)

4.7 A Publisher that is a legal person shall be represented by its representative designated in accordance with the By-law passed under section 3.16 of the Articles; a deceased Author shall be represented by the liquidator in accordance with section 3.28 of the Articles; the heirs of a deceased Author shall be represented by a representative designated in accordance with section 3.28 of the Articles; a Member who is a minor of less than fourteen years of age shall be represented in accordance with the By-law passed under section 3.16 of the Articles.

4.8 Unless otherwise provided, general meetings shall be called and the agenda thereof shall be drawn up by the Board.

4.9 Minutes of a general meeting shall be drawn up by the Secretary, signed by the Secretary and the President of the Society and approved at a subsequent general meeting. Said minutes shall be kept in a book at the head office of the Society.

4.10 General meetings shall be chaired by the President of the Society. The Board may however designate another Person to chair the proceedings at a general meeting. If such Person is not a Member of the Society, he shall not be entitled to take part in the proceedings or to vote. Under no circumstances shall the chairperson have the casting vote.

4.11 **Voting** Members shall be called to the meeting by a notice accompanied by an agenda sent to their last address provided to the Society, which Members shall be responsible for keeping up to date. (Amended – EGM of March 26, 2009)

4.12 The Board may adopt a Policy setting out rules of procedure, consistent with the Articles and By-laws, for the holding of general meetings.

### **Annual General Meetings**

4.13 The annual general meeting shall be held at the time and place determined by the Board.

4.14 A notice of the annual general meeting shall be given to the Voting Members at least thirty days prior to the date set for holding the meeting. Where a Voting Member wishes to add a question to the agenda, such Member shall apply therefore to the President of the Society at least fourteen days before the meeting. If the President of the Society deems such addition appropriate, the other Voting Members shall be notified thereof before the meeting.

(Amended – EGM of March 26, 2009)

4.15 Ten Voting Members present shall constitute the quorum of the annual general meetings.

4.16 *At the annual general meeting, the Voting Members shall approve the financial statements laid before them by the Person appointed by the Board. They shall elect an Auditor to hold office until the close of the following annual general meeting. They shall deal with any matter determined by the Board or provided for by the Act, the Articles or the By-laws.*

4.17 *In election years, the chairperson shall announce the candidates elected to the Board at the annual general meeting.*

4.18 *The Auditor of the Society shall prepare the audited annual financial statements of the Society in accordance with generally accepted accounting principles and shall lay them before the Board in advance of the annual general meeting.*

### **Special General Meetings**

4.19 *In the course of the year, the Board may call a special general meeting to discuss business other than that to be transacted during the annual meeting, as well as an extraordinary meeting. Two percent of the Voting Members of the Society shall constitute the quorum of such a special general meeting.*

4.20 *A special general meeting shall be called upon the requisition of ten percent of the Voting Members of the Society. The Board shall cause such meeting to be called within a reasonable period of time. Ten percent of the Voting Members of the Society shall constitute the quorum of such a special general meeting.*

*If the quorum required for a special general meeting is not attained on the date specified in the notice of the meeting, there shall be no obligation for the Board to put off such meeting to a later date or to call another one.*

4.21 *A notice of a special general meeting shall be given to the Voting Members at least fourteen days before the date set for holding the meeting and shall clearly specify the matter on the agenda, as well as who requested the meeting, where applicable. No other matter may be placed on the agenda of such a meeting.* (Amended – EGM of March 26, 2009)

## **Extraordinary General Meetings**

4.22 *An extraordinary general meeting shall be called to transact the following business:*

- a) *an amendment to the Articles, the ratification of a By-law passed by the Board, the amendment or repeal of a By-law;*
- b) *a variation of the objects of the Society, an amendment to another provision of its Letters Patent, or a change in its name or its head office;*
- c) *the passing, amendment or repeal of the Borrowing By-law provided for in section 6.34 of the Articles;*
- d) *removal of the current Auditor.*

4.23 *Extraordinary general meetings shall be called by the Board.*

4.24 *On the requisition of at least ten percent of the Voting Members addressed to the Board, the Board shall call an extraordinary general meeting within a time period not exceeding six months. The requisition to the Board shall include the specific proposals to be submitted.*

4.25 *The notice of the extraordinary general meeting shall include the text of the proposals to be submitted. It shall be given to the Voting Members at least thirty days before the meeting.*

(Amended – EGM of March 26, 2009)

4.26 *A Voting Member may direct another Voting Member, through a proxy established in accordance with the form provided therefor by the Society along with the notice of the meeting, to register his vote at an extraordinary general meeting.*

4.27 *Five percent of the Voting Members of the Society shall constitute the quorum of an extraordinary general meeting. The Voting Members who have handed in a proxy in accordance with section 4.26 of the Articles shall be counted to determine the quorum.*

4.28 *In the cases provided for in paragraphs (a) and (b) of section 4.22, the Board may, during the meeting, amend the stated proposals and add any other related proposal, including proposals to amend other provisions of the Articles and By-laws, provided that the nature of the changes stated in the notice of the meeting are not substantially modified.*

4.29 *The majority required for acceptance of the proposals on the matters mentioned in section 4.22 shall be two-thirds of the votes cast by show of hands.*

4.30 As regards to the matters mentioned in paragraphs (a) and (b) of section 4.22, the proposal, in addition to requiring approval by the Voting Members, shall require a favourable vote cast beforehand by eight Directors at a meeting of the Board.

4.31 Where an Auditor is removed from office, the Voting Members shall, by a majority of the votes cast, appoint another Auditor for the remainder of the term.

4.32 No approval or amendment of the provisions of the Articles shall be implemented or applied before approval has been given by the Minister of Industry (Canada).

## **ARTICLE 5: COMPOSITION OF THE BOARD AND ELECTION OF BOARD MEMBERS**

### **Composition of the Board**

5.1 The Board shall consist of eleven Directors, of which nine shall be elected by the Members and two shall be appointed.

5.2 Five elected Directors shall be elected from among the Author Members. Four elected Directors shall be elected from among the Publisher Members. In the case of a Publisher that is a legal person or a partnership, the Director shall be the representative designated by the Publisher in accordance with the Articles and By-laws.

5.3 One Director shall be appointed by the board of directors of the SPACQ from among the Authors that are both Members of the SPACQ and Author Members of the Society.

5.4 One Director shall be appointed by the board of directors of the SACEM from among the music Publishers that are Members of the SACEM, and the Publisher so appointed shall be represented by his designated representative at the SACEM.

5.5 The foregoing appointment rights belong respectively to the SACEM and the SPACQ personally. Said rights may not be withdrawn from the SACEM and the SPACQ. They may not be assigned or otherwise delegated, and they include the right of removal.

5.6 The SPACQ and the SACEM shall appoint their respective Director for such term as they may determine.

5.7 The number of Directors who are Authors and the number of Directors who are Publishers shall always be in the proportion established in section 5.2 of the Articles.

5.8 *The Board and the general meeting of the Members may not amend sections 3.3, 5.3, 5.4, 5.5, 5.7, 5.8 or 6.18 of the Articles without the written consent of the SPACQ and the SACEM.*

5.9 *Among the elected Directors who are Authors, two shall be elected from among songwriters and two shall be elected from among composers.*

*A songwriter shall be eligible where he has a repertoire of at least ten recorded songs that have been or are being used for a commercial purpose, and where he has received in the past from the Society or from the SODRAC royalties in excess of one thousand dollars in the course of a year.*

5.10 *No more than one Director shall be elected from among composers whose residence is not the same as a majority of the Members of the Society. The term "residence" has the meaning ascribed thereto in the Taxation Act (R.S.Q. ch. I-3).*

5.11 *Among the four Directors elected from among those Members who are Publishers:*

- a) *there shall not be more than one film and/or television music Publisher;*
- b) *there shall not be more than one representative of a multinational or of a legal person controlled by a multinational;*
- c) *there shall not be more than one Publisher Member*
  - *held, in whole or in part, by an Author or controlled by an Author,*

*or*

  - *who is also a producer or a record company and whose main activity is not publishing.*

## **Qualifications Required of Directors**

*5.12 Voting Members who are either Authors or Publishers and who are Canadian citizens having their principal residence in Canada shall be eligible to the Board.*

*Where a Publisher is a legal person or a partnership, such Publisher's eligibility shall be subject to its head office being situated in Canada and its designated representative being a Canadian citizen having his principal residence in Canada.*

*5.13 The following shall not be eligible to the Board:*

- a) more than one Publisher among two or more Publishers of which one is controlled by the other, or that are controlled by the same Person, or that belong to the same Group; where two such Publishers are candidates, one of them shall withdraw its candidacy;*
- b) a Person who has presented a request for an assignment or has been the subject of a request for an assignment as a result of a bankruptcy, who has been declared bankrupt or whose assets have been entrusted to a receiver, a trustee or a liquidator instructed to proceed with the liquidation thereof, or whose assets have been assigned for the benefit of his creditors generally;*
- c) an employee, consultant or director of another collective society for the Administration of reproduction or neighbouring rights;*
- d) the representative of a Member who is a minor, a heir or the designated representative of the heirs of a deceased Author or Member, or the liquidator of an estate.*

*5.14 An Author Member and a Publisher Member that belongs, in whole or in part, to such Author Member or is controlled by him, shall not be both eligible to the Board. Where both are candidates, one of them shall withdraw his candidacy.*

*5.15 Where, during his term, a Director ceases to meet the eligibility requirements or becomes ineligible, or where the rule set out in section 5.10 concerning the residence of Directors is no longer complied with, the Board, after having ascertained the facts, shall take such measures as it deems appropriate.*

*5.16 Where a Director who is the designated representative of a Publisher ceases to represent said Publisher, his office of Director shall become vacant, and it shall be for the Publisher represented until then by such Person, and not for the Board, to fill the vacancy, provided that the new representative meets the eligibility requirements applicable to his predecessor.*

5.17 *Elections of the Board members shall take place every three years.*

5.18 *The Directors shall be declared elected for a term of three years at the annual general meeting. They shall remain in office until the closure of the following annual general meeting at which their successors are declared elected.*

5.19 *The voting rights of the Members and the number of votes that they may give to elect the Directors shall be the same as those established for votes at a general meeting under section 4.3 of the Articles, except that the Authors shall vote only for the Directors who are Authors and the Publishers shall vote only for the Directors who are Publishers.*

5.20 *Elections to the Board shall be by secret ballot. Any Person who takes part in the electoral procedure, in any capacity whatsoever, shall have the duty to ensure the confidentiality of the vote as well as that of the personal information that is disclosed to him in the execution of his duties.*

5.21 *The Society shall have exclusive authority to send to the Members, in accordance with the instructions of the Board, a summary presentation of the candidates and any other correspondence relating to the elections.*

5.22 *All correspondence sent to the Members shall be sent to them at their last address provided to the Society, which the Members shall be responsible for keeping up to date, in accordance with the Policy established by the Board.*

### **Duties during Elections**

5.23 *The Board shall ensure the application of the provisions concerning the elections. The Board shall have inter alia the duty to refuse any candidacy that is inconsistent with the Articles and By-laws.*

5.24 *The Board shall appoint the Election Supervisor and shall determine his duties. The Board may hire a firm of external professionals to act in such capacity.*

5.25 *The Board may appoint an Electoral Committee in order to assist the Board in the co-ordination of the elections.*

5.26 *A committee responsible for the nomination of Authors, known as the "Authors' Nominations Committee", comprised of two Voting Members who are Authors, shall be established by the Board in agreement with the Authors concerned at least six months before the annual general meeting. The Board shall appoint one of the two as chairperson of the Committee.*

5.27 A committee responsible for the nomination of Publishers, known as the “Publishers’ Nominations Committee”, comprised of two Voting Members who are Publishers, shall be established by the Board in agreement with the Publishers concerned at least six months before the annual general meeting. The Board shall appoint one of the two as chairperson of the Committee.

5.28 No Member of either nominations committee may stand as a candidate in the election.

### **Electoral Procedure**

5.29 The Authors’ Nominations Committee shall send to the Voting Members who are Authors, at least ninety days before the annual general meeting, a Nomination Application Form inviting them to put themselves forward as candidates in the election of Members of the Board of Directors, in either the Songwriter category, the Composer category or the Author category.

5.30 No such form shall not be considered unless it is signed by the candidate and five Voting Members who are Authors and returned prior to the closing date specified by the Authors’ Nominations Committee, such date being no less than sixty days in advance of the holding of the annual general meeting.

The Authors’ Nominations Committee may also propose Author candidates by signing a Nomination Application Form together with the author candidate. (Amended – AGM / EGM of June 13, 2006)

5.31 The Publishers’ Nominations Committee shall send to the Voting Members who are Publishers, at least ninety days before the annual general meeting, a Nomination Application Form inviting them to put themselves forward as a candidates in the election of Members of the Board of Directors as Publishers.

5.32 No such form shall not be considered unless it is signed by the candidate and five Voting Members who are Publishers and returned prior to the closing date specified by the Publishers’ Nominations Committee, such date being no less than sixty days in advance of the holding of the annual general meeting.

The Publishers’ Nominations Committee may also propose Publisher candidates by signing a Nomination Application Form together with the publisher candidate. (Amended – AGM / EGM of June 13, 2006)

*5.33 All candidates shall produce a sworn statement, in the form established by the Society, concerning the rules set out in the Articles and By-laws with respect to the composition of the Board and the qualifications required of Directors.*

*Any false statement in this respect shall invalidate the candidacy as well as the election of the candidate concerned to the Board, where applicable.*

*5.34 The nomination form and the sworn statement to be signed by the candidate, as well as the ballot model, shall be established in a Policy of the Board.*

*5.35 The nominations committees shall report to the Board all the candidacies received along with the necessary information to enable the Board to determine the consistency of such candidacies with the Articles and By-laws.*

*The Board shall establish the final list of eligible candidates. If a candidacy is refused, the Member whose candidacy has been refused shall be informed thereof.*

*5.36 If the number of eligible candidates is insufficient to fill the vacancies being put to an election, the Board shall solicit the candidacy of other Members in order to obtain the sufficient number.*

*In case of an absolute impossibility to obtain the required number, the Board shall appoint an eligible Member and shall cause such nomination to be ratified at the annual general meeting. Such Person shall be considered as an elected Director.*

*5.37 The Authors' Nominations Committee shall prepare a ballot identifying the author candidates and the category in which they are running. The Publishers' Nominations Committee shall prepare a ballot identifying the publisher candidates and mentioning, where applicable, the information contemplated in section 5.11 of the Articles.*

*5.38. The Authors' Nominations Committee shall ensure that the ballot is sent, according to the method determined by the Board, to the Voting Members who are Authors, at least thirty days before the annual general meeting, along with instructions for the return of the ballot prior to the annual general meeting.*

*The Voting Members who are Authors shall vote for the five offices of Author Directors.*

5.39 *The Publishers' Nomination Committee shall ensure that the ballot is sent, according to the method determined by the Board, to the Voting Members who are Publishers, at least thirty days before the annual general meeting, along with instructions for the return of the ballot prior to the annual general meeting.*

*The Voting Members who are Publishers shall vote for the four offices of Publisher Directors.*

5.40 *The Electoral Supervisor may, in his sole judgement, decide to replace a lost, misplaced or destroyed ballot.*

5.41 *Voting Members shall vote by returning their ballot within the time allotted by the Board. Any ballot received after the time limit established by the Board shall not be taken into account.*

5.42 *The Electoral Supervisor shall collect the ballots and count the votes. Immediately after having counted the votes, the Electoral Supervisor shall report the result in writing to the President of the Society.*

5.43 *In determining which candidates are elected, the Electoral Supervisor shall give priority, in the case of Authors, firstly to the number of votes, secondly to the Songwriter or Composer category, and thirdly to the residence.*

*In the case of Publishers, priority shall be given to the number of votes for the purpose of the rules set out in section 5.11.*

5.44 *The President of the Society shall announce the elected candidates at the annual general meeting.*

## **ARTICLE 6:           MANAGEMENT OF THE SOCIETY**

6.1 *The Board shall meet periodically at the request of the President or the General Manager.*

*The Board shall be called with diligence by the President or the General Manager at the written request of at least seven members of the Board.*

6.2 *The meetings of the Board shall take place in the City of Montreal.*

6.3 *Notice of the meeting shall be given to each Director and, except under exceptional circumstances, at least fourteen days before the date of the meeting.*

*A newly elected Board may however hold its first meeting immediately after the annual general meeting at which the Directors are declared elected.*

6.4 *Seven Directors, of which at least two are Authors and two are Publishers, shall constitute the quorum of a meeting of the Board.*

6.5 *The General Manager shall be notified of all callings of the Board and shall attend the meetings of the Board.*

6.6 *The President or, in his absence, one of the two Vice-Presidents, shall chair the meetings of the Board. In the absence of the former, the Directors present shall choose one Director from among them to chair the meeting.*

6.7 *The decisions of the Board shall be made by resolutions duly passed at a meeting of the Board. However, a written resolution signed by all the Directors of the Society shall be valid as if it had been passed at a meeting of the Board.*

6.8 *Unless otherwise provided, the decisions of the Board shall be made by a majority of the Directors present at the meeting. The vote shall be given by a show of hands.*

6.9 *Each of the eleven Directors has a right to vote and may not abstain from voting except in the situations contemplated by sections 6.29 and 6.30 of the Articles.*

6.10 *The President of the Society or the chairperson of the meeting of the Board shall not have a casting vote in the event of an equality of votes on a proposal. The proposal shall then be deemed to have been rejected.*

6.11 *The minutes of each meeting, as well as the extracts that may be delivered thereof, shall be signed by the President or the first Vice-President, and the Secretary. If requested by a Director, the minutes shall specify for each Director his name and the way in which he voted.*

6.12 *The minutes of a meeting shall be approved, after having been read, at the following meeting and shall be recorded in a book kept for that purpose at the head office of the Society.*

6.13 *The Board may deliberate in secret session whenever it deems necessary to do so for reasons that shall be stated in the minutes.*

6.14 (...)

6.15 *The Directors and Officers of the Society shall not be remunerated in such capacity.*

*They may be reimbursed for the expenses and costs reasonably incurred in the execution of their duties in accordance with the policies and procedures established by the Board.*

### **Vacancy in the Board**

6.16 *The Board may declare vacant the office of a Director who is absent, for no valid reason, from three meetings of the Board in the course of a financial year.*

6.17 *If an office of elected Director becomes vacant, for any reason whatsoever, the Board shall fill such office, according to the number of votes obtained in the election of the Directors, within the same category of Members, taking into account the Articles and By-laws, particularly sections 5.9, 5.10, 5.11, 5.12 and 5.13 of the Articles. The Board shall appoint a replacement until the end of the term of the vacated office.*

6.18 *If the office of a Director appointed by the SPACQ or the SACEM becomes vacant, the SPACQ or the SACEM, as the case may be, shall proceed to appoint the replacement, in compliance with the requirements set out in sections 5.3 or 5.4 of the Articles.*

6.19. *Meetings of the Board may be held even if the vacancy in an office of appointed or elected Director has not yet been filled, provided that there is quorum.*

### **Duties of the Directors including the Officers**

6.20 *Sections 6.21 to 6.31 of the Articles apply to all the Directors of the Society, including the Directors in the execution of their duties as Directors and as Officers of the Society.*

6.21 *No Director shall act on behalf of the Board without a resolution of the Board authorizing him thereto.*

6.22 *No Director shall have any administrative relationships with the employees of the Society, nor obtain disclosure of or access to information or files of the Society, without a written authorization given by the General Manager.*

6.23 *The status of Director does not give any rights to access the files or books of the Society other than those granted to the other Members of the Society under the Policies established by the Board.*

6.24 *The information obtained by a Director owing to his duties on behalf of the Society shall be confidential. No Director shall use such information for his own profit or for that of a third Person.*

6.25 *A Director shall act with honesty and loyalty in the interest of the Society.*

6.26 *A Director shall endorse the principles advocated by the Society, promote the Society and favour the affiliation of Authors and Publishers as Members of the Society.*

6.27 *No Director shall defend the interests of the category of Members to which he belongs, or those of the group of Members that has specifically appointed him, or those of the majority of the Members to whom he owes his election.*

6.28 *A Director shall avoid placing himself in any situation where his personal interest would be in conflict with his obligations as a Director. A Director shall declare and cause to be recorded in the minutes of a meeting of the Board, any interest he has in an Enterprise or association that may place him in a situation of conflict of interest and any right he may set up against it, indicating the nature and value thereof, where applicable.*

6.29 *A Director shall abstain from voting on a proposal where he is in a situation of conflict of interest and shall withdraw from the meeting of the Board during the proceedings leading to the matter at issue. If said Director votes, his vote shall not be counted.*

6.30 *It is the duty of a Director who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the Society to declare his interest at a meeting of the Board.*

*In the case of a proposed contract, said declaration shall be made at the meeting of the Board at which the question of entering into the contract is first taken into consideration, or, if the Director is not at the date of that meeting interested in the proposed contract, at the next meeting after he becomes so interested. In a case where the Director becomes interested in a contract after it is made, the declaration shall be made at the first meeting held after the Director becomes so interested.*

*A general notice given by a Director to the effect that he is a shareholder or otherwise interested in any other company or is a member of a specified firm and is to be regarded as interested in any contract made with such other company or firm shall be deemed to be a sufficient declaration of interest in relation to any contract so made.*

*No Director shall vote in respect of any contract or proposed contract in which he is so interested as aforesaid and if he does so vote, his vote shall not be counted.*

6.31 *The Board may adopt a Policy on ethics setting out other rules of conduct applicable to the Directors in addition to the duties described above. Said Policy may provide for sanctions in the case of a violation of such rules, including the exclusion of the Director from the Board and his replacement by the Board.*

### ***Powers and Duties of the Board***

6.32 *The Board, with the support and assistance of the Executive Board and the General Manager, shall conduct the affairs of the Society and shall have powers of full administration for such purpose.*

*The Board shall establish the major orientations of the Society and shall implement the decisions of the general meeting of Members.*

*The Board shall authorize the expenses of the Society, shall decide to deal, contract, transact and arbitrate on behalf of the Society and shall decide to perform all acts of administration generally.*

6.33 *Without limiting the generality of the foregoing, and in addition to the powers provided for by the Act, the Articles and the By-laws, the Board may:*

- a) *pass the necessary By-laws and amendments to the Articles and By-laws, and submit them to the Members;*
- b) *adopt Policies designed to fulfil the objects of the Society or to implement the Articles and By-laws or the decisions of the Board;*
- c) *establish the dates of distribution of the royalties to the Members;*
- d) *establish the administrative fees retained from the royalties collected for the Members, which may vary from one case to another;*
- e) *establish, for each class of rights, the principles and terms and conditions of distribution of the collected royalties;*
- f) *accept any contract for the Administration of copyright;*
- g) *acquire and alienate, by gratuitous title or by onerous title, both movable and immovable property;*
- h) *designate the Persons who shall be authorized, on behalf of the Society, to endorse titles or instruments or to sign bills, notes, receipts, acceptances, checks, discharges, contracts and documents;*
- i) *decide on the creation of any committee or commission to assist the Board in its conduct of the affairs of the Society;*
- j) *fix the remuneration of the Auditor and fill any casual vacancy in the office of Auditor, except where the Auditor is removed by a decision of the Members;*
- k) *establish any fund dedicated to objectives that are consistent with the fulfilment of its objects.*

6.34 *When authorized by a By-law, passed by the Directors and sanctioned by at least two-thirds of the votes cast at an extraordinary general meeting, the Board may:*

- a) *borrow money upon the credit of the Society;*
- b) *limit or increase the amount to be borrowed;*
- c) *issue obligations, debentures or other securities of the Society and pledge or sell such obligations, debentures or other securities for such sums and at such prices as may be deemed expedient;*
- d) *secure any such obligations, debentures or other securities, or any other present or future borrowing or liability of the Society, by mortgage, hypothec or pledge of all or any currently owned or subsequently acquired real and personal, movable and immovable, property of the Society, and the undertaking and rights of the Society.*

*The Borrowing By-law may provide for the delegation of such powers by the Directors to such Officers or Directors of the Society to such extent and in such manner as may be set out in the By-law.*

*Nothing in this section limits or restricts the borrowing of money by the Society on bills of exchange or promissory notes made, drawn, accepted or endorsed by or on behalf of the Society.*

6.35 *The Board shall ensure that all books, registers and documents of the Society prescribed by the Act, the Articles and the By-laws are kept in a timely and appropriate manner.*

## **ARTICLE 7: EXECUTIVE BOARD, OFFICERS AND GENERAL MANAGEMENT**

### **Executive Board**

7.1 *The Executive Board shall be comprised of the Officers of the Society, being the President, the Author Vice-President, the Publisher Vice-President, the Treasurer and the Secretary of the Society.*

7.2 *The Officers shall be elected from among the Members of the Board at the first meeting of the Board following the annual general meeting at which the Directors are declared elected.*

7.3 *The Directors appointed by the SPACQ and by the SACEM shall be entitled to vote in the election of the Officers but shall not be eligible for the office of President.*

7.4 *Where the President is an Author, the first Vice-President shall be a Publisher, and vice-versa.*

7.5 *During the first three years following the first annual general meeting of the Society, the President of the Society shall be an Author. Thereafter, no Person, whether he is an Author or a Publisher, shall be elected as President unless he wins the vote of eight of the eleven Directors.*

7.6 *The Executive Board shall ensure, between meetings of the Board, with the support and assistance of the General Manager, that the decisions of the Board are implemented and that the appropriate decisions are made for the conduct of the affairs of the Society. The President shall report thereon to the Board.*

7.7 *The Executive Board may hold a meeting provided that at least three Officers are present. The General Manager shall attend the meetings. The meetings may be held by conference call, videoconference or any other similar technical means.*

7.8 *Any Officer of the Society may at any time be removed from office and replaced by the Board. Otherwise, each Officer appointed by the Board shall remain in office until his successor has been appointed. The President shall not be removed from office unless eight of the eleven Directors vote therefor.*

7.9 *The Board may, from time to time, vary the powers given and the duties assigned to an Officer.*

## **Duties of the Officers**

*7.10 The President of the Society shall chair the Board and the Executive Board and shall represent them.*

*The President shall ensure, generally, that the various bodies, the Officers and the General Manager carry out their duties. The President shall be a Member ex officio of all the committees of the Board.*

*The President shall report to the Board and the general meeting on the conduct of the affairs of the Society. The President shall act as main spokesperson on behalf of the Society in its dealings with third Persons.*

*In addition, the President shall exercise such powers as may be granted and carry out such duties as may be assigned to him by the Board from time to time.*

*7.11 The first Vice-President shall assist the President in the execution of his duties and, in case of absence or legal incapacity of the President, the Vice-President shall replace him on an interim basis.*

*In case of absence or legal incapacity of the first Vice-President, the second Vice-President shall replace him on an interim basis.*

*The President shall not be replaced for a period exceeding six months. After such period, the Board shall proceed with the election of a new President.*

*In addition, the two Vice-Presidents shall exercise such powers as may be granted and carry out such duties as may be assigned to them by the Board or the President.*

*7.12 The Secretary shall keep the seal, the books and the registers of the Society.*

*The Secretary shall attend the meetings of the Board and the general meetings and shall cause minutes thereof to be drawn up.*

*The Secretary shall sign, together with the President or the first Vice-President, the official documents of the Society. The Secretary shall receive and sign the correspondence of the Board and the Executive Board.*

*The Secretary shall ensure that the notices of general meetings and of meetings of the Board are given.*

*In addition, the Secretary shall execute such other duties as may be assigned to him by the Board or the President.*

*7.13 The Treasurer shall ensure that the financial situation of the Society is accurately reported to the Board.*

*The Treasurer shall monitor, with the support and the assistance of the General Manager, all of the income and expenses, investments and cash flows of the Society as well as the status of the various bank accounts of the Society.*

*7.14 An Officer or a Director may resign from office by giving a notice of resignation to the President of the Society.*

*7.15 Every Director or Officer of the Society and his heirs, executors, liquidators, estate and assigns shall be indemnified and saved harmless out of the funds of the Society, from and against,*

- a) all costs, charges and expenses whatever that such Director sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him, for or in respect of any act, deed, matter or thing whatever, made, done or permitted by him, in or about the execution of the duties of his office, and*
- b) all other costs, charges and expenses that he sustains, or incurs, in or about or in relation to the affairs of the Society, except such costs, charges or expenses as are occasioned by his own gross negligence or wilful omission.*

*The Society shall authorize an agreement to be entered into with an insurer in order to provide such indemnification.*

## **General Manager**

*7.16 The General Manager shall be hired by the Board and shall report to the Board, to which the General Manager shall provide accurate and complete reports. Under the ultimate authority of the Board, the General Manager shall manage and supervise the day-to-day affairs of the Society.*

*The General Manager shall be responsible for the human, physical and financial resources and for the expenses of the Society, for the dealings of the Society with its Members, the foreign societies and the users of the Repertoire, for the collection and the distribution of the royalties among the Members, as well as for the accounting of the Society.*

*The General Manager shall supervise, co-ordinate, support and implement the internal or external activities, operations, decisions, work and initiatives of the Society, the Board, the Executive Board, the Officers and the other bodies of the Society. The General Manager himself, or his representative, shall attend all the meetings of the committees, commissions and other bodies of the Society.*

*The General Manager shall exercise such other powers as may be given and execute such other duties as may assigned to him by the Board or the Officers.*

*7.17 No Member of the Society may hold the office of General Manager.*

*The General Manager shall not have any arrangement, dealings or special agreement with the Members of the Society, nor with the staff of the Society or the Enterprises that are Users of the Repertoire of the Society.*

## **ARTICLE 8: COMMITTEES AND COMMISSIONS**

### **Committees**

*8.1 The permanent or special committees of the Society shall be created by the Board, which shall appoint the chairpersons thereof. The terms of reference and duration, as well as the types of tasks entrusted with and the general objective pursued by such committees shall be specified by the Board.*

*Said elements may be varied subsequently by the Board.*

*As the Board deems appropriate, one or several Directors may sit on such committees.*

8.2 *Each committee shall draw up minutes of its sessions, signed by the chairperson of the committee and made available to the Board.*

### **Commissions**

8.3 *The commissions shall be permanent or special advisory bodies. They shall not interfere with the management of the Society.*

8.4 *The general mission of the Authors' Commission and the Publishers' Commission shall be respectively to ensure the liaison between the members of the College of Authors and the Board and between members of the College of Publishers and the Board.*

*Such commissions shall identify and discuss the problems of the Author Members or the Publisher Members of the Society, as the case may be, as well as the matters submitted by the Board. The commissions shall recommend appropriate solutions to the Board.*

8.5 *The Board may establish two distinct Authors' Commissions, i.e. one for the Authors of Musical Works and one for the Authors of Artistic Works.*

8.6 *The Authors' Commission shall consist of Author Members, of one Director that is an Author, appointed to the Commission by the Board, and of the General Manager or, of any individual the General Manager wishes to delegate this power from time to time. The Director that is an Author shall act as chairperson of the Commission. (Amended – AGM / EGM of June 13, 2006)*

8.7 *The Publishers' Commission shall consist of Publisher Members, of one Director that is a Publisher, appointed to the Commission by the Board, and of the General Manager or, of any individual the General Manager wishes to delegate this power from time to time. The Director that is a Publisher shall act as chairperson of the Commission. (Amended – AGM / EGM of June 13, 2006)*

8.8 *The Board may decide on the creation of other commissions, determine their powers and duties and designate the Directors who shall sit thereon.*

8.9 *A commission shall draw up minutes of its meetings signed by its chairperson.*

8.10 *A commission shall report to the Board and shall draw up minutes that it shall lay before the Board.*

8.11 *A meeting of a committee or a commission shall be called by the chairperson thereof, by the General Manager or at the request of the Board.*

8.12 *A Member of a committee or a commission may resign from office by giving a notice of resignation to the chairperson of the committee or the commission.*

## **ARTICLE 9: ADMINISTRATIVE PROVISIONS**

9.1 *Where the provisions of the Articles and the By-laws require a notice to be given to a Director or a Member, such notice shall be given in writing and may be sent by mail at the last address of the Director or the Member appearing in the records of the Society. The notice shall be deemed to have been given at the time of mailing thereof.*

9.2 *The Board may adopt a Policy to determine the methods for the transmission of notices, including notices of meetings or any communication between the Society and a Member, inter alia by facsimile machine or electronic mail.*

9.3 *The Members and the Directors shall update any address provided by them to the Society in order to enable the Society to communicate with them.*

9.4 *Any bona fide error, omission or delay in the transmission of a notice of a general meeting, in the process relating to the nomination of candidates running for the office of Director and the election of Directors or in any other procedure, shall not have the effect of invalidate the meeting, election or procedure, nor shall it render null the measures taken.*

9.5 *A written waiver of a notice by a Member or a Director shall be tantamount to the giving of the notice required by the Articles and By-laws, regardless of whether such waiver is given before or after the prescribed time period.*

## **ARTICLE 10: TRANSITIONAL AND INTERIM PROVISIONS**

10.1 *The provisions of this article 10 of the Articles shall apply, notwithstanding any contrary provision contained in the Articles and By-laws, for an interim period beginning upon the issue of the Letters Patent and ending at the first annual general meeting.*

10.2 *The three applicants for the incorporation of the Society shall act as Directors of the Society for the sole purpose of organising the election of the Directors and the annual general meeting, as well as to ensure the transition between SODRAC Inc. and the Society. They may be removed and replaced by the Founding Members of the Society, namely the SACEM and the SPACQ.*

10.3 *The first President of the Society need not be an elected Director.*

10.4 *The first annual general meeting of the Society shall be held within eighteen months following the issue of the Letters Patent.*

10.5 *The time periods and procedures for the first election of the Directors shall be determined by the Board.*

10.6 *Any Author or Publisher who was bound by a contract with SODRAC Inc. concerning Musical Works or Artistic Works on the date fixed by the Board shall be deemed admissible as an Author Member or as a Publisher Member of the Society. However, such Person shall sign the Affiliation Statement within the time allotted by the Board in order to be admitted as a Member on the date fixed by the Board. Such Person shall become a Member even where his contribution is to be made at a future date pursuant to the Affiliation Statement.*

10.7 *The Declarations of Works that have been accepted by SODRAC Inc. shall be deemed accepted by the Society.*

10.8 *The Authors' Commission and the Publishers' Commission of SODRAC Inc. shall act as the Authors' Commission and the Publishers' Commission respectively under sections 3.7 and 3.9 of the Articles, until the Board otherwise decides.*

*The Authors' Commission shall act in relation to both Musical Works and Artistic Works, until the Board otherwise decides, inter alia by establishing two distinct commissions.*

10.9 *The data of SODRAC Inc. shall be used by the Society to determine which Persons qualify as Voting Members of the Society.*

#### **ARTICLE 11: DISSOLUTION OF THE SOCIETY**

11.1 *Dissolution of the Society may be resolved by a unanimous vote of the eleven Members of the Board approved by three-quarters of the votes cast at an extraordinary meeting of the Members, held in accordance with sections 4.22 and following of the Articles, except that proxies shall not be allowed at such a meeting.*

11.2 *In the case of the dissolution or winding-up of the Society, any remaining property of the Society, after payment of its debts, shall be distributed to one or several not-for-profit organisations in Canada that fulfil objects analogous or similar to those of the Society.*

11.3 *If the dissolution is voted, the winding-up shall be carried out by the Board assisted by the General Manager.*

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**BY-LAW NO 1 CONCERNING REQUIREMENTS APPLICABLE TO MEMBERSHIP APPLICATIONS, REPRESENTATION AND DECLARATIONS OF WORKS**

1. *This By-law is passed pursuant to sections 3.16 and 3.40 of the Articles of the Society and is subject thereto in all respects.*
2. *The Author's Membership Application Form and the Publisher's Membership Application Form shall be established by the Society. No Membership Application shall be considered unless it is submitted on an Author's Membership Application Form or a Publisher's Membership Application Form, as the case may be.*
3. *An applying Publisher that is a physical person who does business under a corporate name other than his full name shall provide the Registration Certificate delivered by the Inspector General of Financial Institutions.*
4. *An applying Publisher that is a legal person or a partnership shall provide the Registration Certificate issued by the Inspector General of Financial Institutions where said applicant does business in the Province of Quebec. If said applicant does not do business in the Province of Quebec, the applicant shall provide an equivalent certification from the proper authority of another Canadian province or from a foreign authority.*
5. *A Publisher shall promptly update said documents, inter alia by notifying the Society of any change in the directors, shareholders, head office or corporate names or partners.*
6. *An applying Publisher that is either a legal person or a partnership shall provide an extract of minutes duly signed including a resolution of the corporation or a proxy signed by the partners, as the case may be, designating the physical person proposed as its representative in its dealings with the Society.*

*If said Person is not the legal representative of the Publisher, said Person shall not represent the Publisher unless he holds a management position with the Publisher.*

*The Publisher may, subject to the same requirements, modify such designation, inter alia in the case of death or resignation of the representative.*

7. *Such designated representative of the Publisher shall sign, where applicable, the Affiliation Statement and any other legal document in its dealings with the Society.*

8. *Execution of the Declaration of Works Form established by the Society shall be mandatory.*
9. *Where an Author is a Member of the Society, the Declaration of Works Form may be signed by the Author himself or by his Publisher on his behalf upon presentation of his publishing contract.*
10. *Where a Publisher is a Member of the Society, the Publisher's representative, designated in accordance with the Articles and By-laws, shall sign the Declaration of Works Form. No Declaration of Works Form shall be completed under a name or corporate name other than that appearing on the Publisher's Membership Application and Affiliation Statement. The Publisher shall file a copy of the contract for the publishing of the declared works.*
11. *Any membership applicant under fourteen years of age shall cause his Membership Application to be signed by his legal representative. The same requirement shall apply to such applicant's Affiliation Statement, Declarations of Works and any other legal document.*
12. *No representative of a Member shall sign, on behalf of such Member, Applications and Declarations and Statements filed with the Society unless such representative is entitled to represent such Member in accordance with section 4.7 of the Articles.*
13. *With respect to Musical Works and Artistic Works, the Author or the Publisher shall, in his Affiliation Statement, indicate to the Society the Person that he designates to grant an authorization on his behalf. Such designation shall bind the Member towards the Society and any third Person to whom the Society has issued a license after having obtained an Authorization from the designated Person.*
14. *The Board may add to or depart from this By-law for purposes of good administrative management, in keeping with the essential principles of this By-law. If such situations require formal changes to the By-law, such changes shall be submitted for ratification at the following general meeting of the Members.*

**BY-LAW NO 2 CONCERNING RESTRICTIONS  
ON MEMBER CONTRIBUTIONS**

- 1 *This By-law is passed pursuant to section 3.24 of the Articles and is subject thereto in all respect.*
- 2 *The contribution of a Member to the Society with respect to Musical Works may exclude certain territories other than Canada, where the Member has entrusted another collective society for the Administration of copyright, operating in such territories, with the management thereof.*
- 3 *Except where the Society has entered or will enter into a general licensing agreement with one or more users, or representatives of users, or where a Tariff covers or will cover the synchronization or use, the contribution of a Member may exclude, subject to compliance with the terms and conditions set forth herein, any or all of the following synchronization rights:*
  - (i) *the inclusion of a pre-existing musical work in a cinematographic production initially intended for any distribution market or distribution method, whether analogue or digital; and*
  - (ii) *the inclusion of a pre-existing musical work in an advertising message.*

*In the event that such exclusion is requested by a Publisher who is a member of the Society, said Publisher, while he/she is a member, shall be responsible for issuing the license wholly on behalf of the songwriters or composers who are members of the Society and who have assigned their copyright with respect to the work subject to the present limitation. It shall also be the responsibility of said Publisher, and not that of the Society, to collect the royalties and to distribute the respective portions thereof to the songwriters and composers.*

*In all cases, in order to benefit from this limitation, the Member shall include in the license an appropriate contingency clause with respect to any subsequent reproduction entirely reserved for SODRAC.*

*In addition, the Member must provide a copy of this license to the Society upon the expiration of the license and, in the case of a publisher, to the Society as well as to the songwriters and composers. (Amended – EGM of March 26, 2009)*

- 4 *The contribution of a Member may exclude the right to copy for a private purpose, provided that the Member provides evidence that he has already*

*entrusted another collective society for the Administration of copyright with the Administration of said right.*

- 5 *No Publisher shall be considered as a collective society for the Administration of copyright.*
- 6 *In exceptional cases, the Board may also grant a specific authorization to restrict the contribution of a Member. Such authorization may be withdrawn upon written prior notice of three months.*
- 7 *A Member who joins the Society in connection with his Artistic Works may, in his Affiliation Statement, indicate for which classes of commercial use he requires that the Society obtain his prior consent before issuing a license.*
- 8 *The same rules of Administration, collection and distribution of royalties shall apply to the restricted contributions covered by this By-law and to the contributions governed by the Articles as a result of the affiliation. The Board may adopt special management charges applicable in relation to restricted contributions.*
- 9 *A Member may, subject to the same requirements and time periods as those set out in section 3.5 of the Articles, modify his contribution, in accordance with sections 2, 3 and 4 of this By-law.*
10. *A Member who joins the Society with respect to his Artistic Works may also, subject to the same requirements and time periods, vary the reservations set out in his Affiliation Statement as regards to the requirement for his prior consent in relation to certain uses.*