

ARTICLES OF ASSOCIATION
OF
ASSOCIATION OF CREATORS AND PUBLISHERS OF SRI LANKA
(Company Limited by Guarantee and not having Share Capital)

DEFINITIONS

1.

A.

Except as otherwise provided herein, the Company shall be governed by the Companies Act No 07 of 2007 and Rules framed thereunder, Intellectual Property Act No 36 of 2003 and as each of them may be amended from time to time and every statute that may be substituted thereof. In these Articles, unless there is something in the subject or context inconsistent therewith:

- i. "Affiliated Society" means any of the societies in other countries, having objects similar to those of the Society, with which the Society is for the time being affiliated and with whom reciprocal representation agreements have been entered into.
- ii. "Author" shall be a natural person, of Sri Lankan or foreign origin and means:
 - a. in relation to a literary work, the author of the work;
 - b. in relation to a musical work, the composer.
- iii. "Ballet" means a dramatic/choreographic work having a story, plot or abstract idea, devised or used for the purpose of interpretation by dancing and/ or miming and includes country or folk dancing, and dance sequences.
- iv. "Board of Directors" means the Board/Governing Council for the time being of the Society, as constituted and authorized to act pursuant to these Articles and as per the provisions of the Companies Act, Intellectual Property Act No 36 of 2003, and as each of them may be amended from time to time and every statute that may be substituted thereof.
- v. "Broadcast" (including correlative term "Broadcasting") means communication to the public –
 - a. by any means of wireless diffusion, whether in any one or more of the forms of signs, sounds or visual images; or
 - b. by wire,and includes re-broadcast.
- vi. "Chief Executive Officer" means the chief executive officer or any other person by whatever name called who for the time being of the Company is in charge of the daily operations and administration and is the chief principal officer of the Company.
- vii. "Cinematograph film" means any work of visual recording and includes a sound recording accompanying such visual recording and "Cinematograph" shall be construed as including any work produced by any process analogous to cinematography including video films and/or television serials.

- viii. “Communication to the Public” means making any work available for being seen or heard or otherwise enjoyed by the public directly or by any means of display or diffusion other than by issuing physical copies of it, whether simultaneously or at places and times chosen individually, regardless of whether any member of the public actually sees, hears or otherwise enjoys the work so made available.

For this purpose, communication through satellite or cable or any other means of simultaneous communication to more than one household or place of residence including residential rooms of any hotel or hostel shall be deemed to be communication to the public.

- ix. “Companies Act” means the Companies Act No 07 of 2007 as amended from time to time or such other act or legislation as may be promulgated by the Central Government in total exclusion and substitution of the present Companies Act.
- x. “Composer” in relation to Musical Work, means the person who composes the music regardless of whether he records it in any form of graphical notation.
- xi. “Director” means a member of the Board of Directors.
- xii. “Distribution” means any distribution which may, pursuant to the Articles of Association and the rules made thereunder of the Company, be made amongst the members and affiliated societies out of the monies received, by the Society in respect of the exercise of the rights, license or authority granted by them to the Society; and “distributed” and “distributable” having corresponding meanings.
- xiii. “Distribution Scheme” shall mean the scheme as contained and framed pursuant to these Articles and the Rules made thereunder;
- xiv. “Dramatico-Musical Work” means an opera, operetta, musical play, revue, Ballet or pantomime, or plays consisting of any form of music and of words and music written expressly thereof.
- xv. “Sri Lanka” means the territory of Sri Lanka.
- xvi. “Literary Work” means lyrics or other literary works which have been written for the purpose of accompanying or being associated with any musical work including any translation thereof;
- xvii. “Mechanical Right” means and includes the right to reproduce a Literary Work and/or a Musical Work in any material form and/or in any media and/or electronic form by way of making Sound Recordings and/or Cinematograph Film of the Musical Works and/or Literary Works or parts thereof, the right to issue, lend or rent copies to the public not being copies already in circulation.

For clarity, it does not include the “Synchronization Right”.

- xviii. “Member” means “Author” or “Owner”, registered as such Member of the Society as per these Articles.
- xix. “Membership” means membership of the Society.
- xx. “Member’s Deed of Assignment” means the deed of assignment made between the Member and the Society (as the same shall be varied and/or amended from time to time)
- xxi. “Musical Work” without prejudice to the generality of the expression, includes:
- a. A work consisting of music and includes any graphical notation of such work

- but does not include any words or any action intended to be sing, spoken or performed with the music;
- b. Any combination of melody and harmony or either of them, printed, reduced to writing otherwise graphically produced or reproduced;
 - c. Any part of a musical work including any vocal or instrumental music recorded on the soundtrack of any film;
 - d. Any musical accompaniment to non- musical plays, dramatico-musical work including operas, operettas, musical plays, serials, documentaries, dramas, commentaries, recitations, audio books etc. accompanied by music;
 - e. Any words or music of monologues having a musical introduction or accompaniment;
 - f. Performance of any vocal or instrumental music either live or by any other means and modes in and/or through a soundtrack of film or in any other form of audio or video recording;
 - g. Any other words (or part of words) which are associated with a musical work (even if the musical work itself is not in copyright, or even if the performing rights and mechanical rights in the musical work are not administered by the Society)
- xxii. “Publisher Owner” means an Owner, who carries on the business of Music Publishing or an authorized licensee of literary and musical works by its Owner/s.
- xxiii. “Owner” means:
- a. Sri Lankan or foreign entities/persons, commonly referred to as Music Publishers, but by whatever name called, who have acquired, control or own the copyrights, in an existing Work, wholly or partially, in the Literary Works and/or the Musical Works created by Authors for any territory and term that is administered by the Society in any musical work or in any literary work which are or may be associated with a musical work; and
 - b. Authors who have retained, wholly or partially, the copyrights in their respective Literary and/or Musical Work/s.
- xxiv. “Performance” includes, unless otherwise stated, any mode of visual or acoustic presentation of the Works through any means whatsoever, including any means of presentation of sounds or images, or any combination of sounds or images, or representations thereof, and/or presentation by means of broadcasting, telecasting, webcasting and the like or the causing of the work to be transmitted to subscribers to a diffusion service and/or by the exhibition of a Cinematograph film, or by the use of sound recordings, and/or by any other means of communication, and references to “Perform” and “Performing” shall be construed accordingly;
- xxv. “Performing Right” means the right to perform and/or communication to the public of any Musical Works and/or Literary Works or parts thereof and would mean and include the right of performing in public, communicating to the public, broadcasting, telecasting, streaming, webcasting, netcasting and the like, and causing to be transmitted to subscribers to a diffusion services in all parts of the world, by any means and in any manner whatsoever by sound recording or cinematograph film, or by any other mode or medium, of exploitation, all Musical

Works or parts thereof and such words or part thereof as are associated therewith including (without prejudice to the generality of the expression “musical work” or “literary work”), the vocal and instrumental music in cinematograph films, the words and/or the music of monologues having musical introduction, and/or accompaniment, and the musical accompaniment in non-musical plays, dramatico- musical works including operas, operettas, musical plays, revues or pantomimes and Ballets, videos, plays, serials, documentaries, dramas, commentaries, recitations, audio books etc. accompanied by music and the right of authorizing any of such acts.

- xxvi. “Rules” means the Rules made under the Companies Act No 07 of 2007, Intellectual Property Act No 36 of 2003, Gazettes issued by Government and the rules made by the Society, which may be as amended from time to time.
- xxvii. “Seal” means the common seal of the Society.
- xxviii. “Secretary” means any person appointed to perform the duties of the Company Secretary under the Companies Act No 07 of 2007.
- xxix. “Society” and “Company” means The Association of Creators and Publishers of Sri Lanka (ACPOSL)
- xxx. “Synchronization Right” means the exclusive right to record and synchronize the Musical Work and/or Literary Work on the soundtrack of any Cinematograph Film and/or Audio-visual medium.
- xxxi. “Sound Recording” means a recording of sounds from which such sounds may be produced regardless of the medium on which such recording is made or the method by which the sounds are produced.
- xxxii. “Tariff Scheme” shall mean the scheme mentioned in the Article of Association (as may be amended from time to time)

INTERPRETATIONS

B.

- i. In these Articles expressions referring to writing shall be construed as including references to printing, lithography photography, and other modes of representing or reproducing works in a visible form.
- ii. Words importing the singular number include the plural number, and vice versa.
- iii. Words importing the masculine gender include the feminine.
- iv. Words importing persons include firm or company.
- v. Words or expressions not expressly defined herein and contained in these Articles shall bear the same meaning as in the Companies Act No 07 of 2007 or any statutory modifications made therein from time to time.
- vi. The interpretation of the provisions of these Articles shall be subject to any order passed by a court or any other authority.
- vii. The reference to the term “Articles” or “Articles of Association” herein shall exclude reference to any previous Articles or Articles of Association of the Society.

MEMBERSHIP

2. Number of Members

For the purpose of registration of the Society and enrolling members thereafter, the number of members is declared to be unlimited.

3. Who are Members

- i. All persons, who as on the date of the amendments of these Articles, (whether Authors or Publisher Owners), had been admitted as members of the Society in whatever capacity and class and who have executed their respective Member's Deed of Assignment with the Society as amended from time to time.
- ii. Any person who is admitted to membership pursuant to Article 5 and who has executed his/her/its respective Member's Deed of Assignment with the Society as amended from time to time.

4. Eligibility for Membership

The following persons shall be eligible for membership of the Society:

- i. Any Author or Publisher Owner of copyright in Musical Work and/or Literary Work;
- ii. any spouse, widow, child or other relative, next to kin, beneficiary under a will, personal or legal representative or a trustee of a deceased Author or Publisher Owner, so long as the copyright in the Musical and/or Literary Works of the deceased Author or Publisher Owner subsist under the Intellectual Property Act No 36 of 2003.

5. A. Application for Membership

- i. Any person who is eligible may apply to the Society for admission to membership. Such application shall be made in writing, signed by the applicant and shall be in such form as the Board shall from time to time prescribe. Each applicant shall submit such proof of work, evidence of eligibility and fulfilment of the qualifying
- ii. Each application shall be considered by the Board or in such other manner as the Board may from time to time direct. The Board shall have full and unrestricted power to refuse any application but must provide the applicant with a reason for such refusal.
- iii. No person may be admitted by the Society as a Member of any category (Author or Publisher Owner) unless he has fulfilled the qualifying criteria prescribed for that category in the Rules.
- iv. As soon as practicable after the qualifying criteria as prescribed by the Board and where necessary, approved, the Board shall subject to all requirements under the Companies Act and the rules made thereunder and the Rules framed by the Board having been fulfilled by the applicant, admit the applicant as a Member of the Society and the Society shall inform the applicant about his membership and his name having been duly added to the records of the Society. Only after the Board has approved the admittance of a member, the name of such a member shall be entered in the Register of Authors and Publisher Owners. Further, the Society shall issue to

the applicant a membership certificate in writing in such form as the Board may prescribe from time to time, signed by the Chairman of the Society.

- v. The Society shall cause a statement to be prepared within 3 months of the end of the fiscal year containing the names of all those who have been admitted as members in the said fiscal year to be published at the time of the Annual General Meeting.
- vi. Persons eligible under Article 4(ii) and applying for membership need to submit in writing at the time of application, the necessary documents proving legal heirship as prescribed by the Board from time to time and in case there are more than one (1) legal heirs, an authorization letter together with instructions, if any, would need to be submitted to the Society, duly signed by all the legal heirs intimating to the Board the person so authorized amongst themselves to represent the legal heirs in the Society and attend and vote at any General Meetings of the Society and the person so authorized shall be entitled to exercise the same powers on behalf of all the heirs which he represents, as if all the heirs could exercise they were individual Members of the Society. The legal heirs are entitled to change such authorization not more than once in a fiscal year unless circumstances so demand and as approved by the Board. The legal heirs need to intimate the Society of such a change promptly.
- vii. Partnership firms applying for membership must submit, at the time of application:
 - a. A copy of the partnership deed; and
 - b. An authorization letter, duly signed by all partners designating one partner to represent the firm in the Society.

The authorized representative shall be entitled to exercise all rights and powers on behalf of the firm, including attending and voting at General Meetings, as if the firm were an individual member.

The partnership firm may change its authorized representative no more than once per fiscal year, unless exceptional circumstances arise, and such change is approved by the Board. Any such change must be promptly communicated to the Society in writing.

- viii. Corporate entities applying for membership shall, at the time of application, submit a written authorization letter duly signed by their Board of Directors. This letter must designate one individual authorized to represent the entity in all matters relating to the Society.

The authorized representative shall have the right to attend and vote at General Meetings of the Society and shall be entitled to exercise all powers on behalf of the corporate entity as if the entity were an individual member.

Corporate entity may change its authorized representative no more than once per fiscal year, unless exceptional circumstances arise and such change is approved by the Board. Any such change must be promptly communicated to the Society in writing.

B. Voting Eligibility of Members

- i. Associate Member
 - Duration of membership – New members/ those less than 1 year of continuous membership.
 - Works – 1-10 works
 - Not eligible for voting.

- ii. Full Member
 - Duration of membership – Members with more than 1 year of continuous membership.
 - Works – More than 10 works
 - Eligible for voting.

6. Membership Not Transferable

No Member shall be at liberty to transfer his membership or any rights or privileges attached to such membership to any other person, or to alienate, assign, sell, transfer, license or exercise himself any right (Performing Right and Mechanical Right) vested in the Society or controlled by the Society by virtue of and to the extent of the terms and conditions of the Member's Deed of Assignment.

7. Assignment of Copyright & Notification of Works

- i. Every Member shall, on admission and/or at any time thereafter, on request by the Society, give or cause to give by way of an Assignment to the Society, of his portion /share of all the rights as mentioned in Article 7(ii) below (in all of his/her/its Musical Works and/or Literary Works), past, present and future of which he/she/it is the Author or Publisher Owner to be exclusively administered on his/her/its behalf by the Society for World and for such other territories as so specified in the Deed of Assignment Agreement;
- ii. The rights to be given by a Member and which would be administered by the Society on behalf of the Member are:
 - a. the Performing Right;
 - b. the Mechanical Right (Optional);
 - c. the Right to Royalty in respect of (a) and (b) above
- iii. Assignment shall be for the territories that the member authorizes the Society for, but the assignment shall have to be for and in all of the works, past, present and future of which the Member is the Author or Owner.
- iv. Every assignment to the Society pursuant to this Article shall be in such form as the Board may from time to time prescribe and shall operate for and during the period of the member's Membership of the Society under these Articles;
- v. To the extent of and subject to the terms of the Member's Deed of Assignment every Member by virtue of his/her being admitted as a Member, gives/grants to the Society, for and during the period of Membership in his/her name or in that of the Society but at the Society's sole charge and expense, the sole power and authority:
 - a. To grant licenses on his/her/its behalf for the exercise of such rights (Performing Right, Mechanical Right - optional)
 - b. To collect fees, subscriptions, or monies whether for the use of any of the Member's Works, or by way of damages or compensation for the unauthorized use of such Works;
 - c. To institute and prosecute proceedings against all persons infringing the said rights (Performing Right, Mechanical Right - optional) and, if the Society in its discretion thinks fit, to defend or oppose any proceedings taken against any Member in respect of such rights and works, and to compound, compromise, refer to arbitration or submit to judgement in

- any proceedings, and generally to represent the Member in all matters concerning the said rights (Performing Right, Mechanical Right - optional);
- d. To protect generally the said rights (Performing Right, Mechanical Right - optional) in the Member's Musical and /or Literary Works; and
 - e. To delegate authority to do any acts as aforesaid to any foreign Society or affiliated Society or organization for the purpose of exercising and administering the said rights (Performing Right and Mechanical Right - optional) in such territories.
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- vi. When an Author member writes or composes any work for a Music Publisher and that Music Publisher is not a member of the Society then such Author shall be governed as per Rules of the Society.
 - vii. The Society may exercise and enforce the rights (Performing Right, Mechanical Right - optional) of the members of any Affiliated Societies pursuant to the terms of any contract(s) that now exists or which may hereafter be made between the Society and such Affiliated Societies.
 - viii. Every member at the time of his membership and thereafter from time to time, shall notify the Society through such forms as prescribed by the Society, details of all works in respect of which he/she/it is the Author and/or Publisher Owner. Every member shall also deposit with the Society, upon request by the Society, such further proofs and documents including a print or copy of each such work. The Society shall not be responsible for any loss or damage (financial or otherwise) sustained by any Member by reason of his/her/its failure to comply with the provisions of this Article.
 - ix. Every member at the time of his membership and thereafter from time to time, shall notify the Society through such forms as prescribed by the Society, details of all works in respect of which he/she/it is the Author and/or Publisher Owner. Every member shall also deposit with the Society, upon request by the Society, such further proofs and documents including a print or copy of each such work. The Society shall not be responsible for any loss or damage (financial or otherwise) sustained by any Member by reason of his/her/its failure to comply with the provisions of this Article.
 - x. In relation to Works not written or composed by an Author or Composer Member of the Society i.e., works first made or published outside Sri Lanka, the Publisher Owner Member may restrict the grant of rights to the Society or exclude any such Work or category of rights in any such Work from the grant of rights to the Society notwithstanding anything contained in this Article 7.

8. Termination of Membership

i. By Death

On the death of the Member, his Membership shall cease and shall not be transmitted to any other person, but the rights (if any) already vested in the Society by the Member, or controlled by the Society by virtue of his membership, shall, subject to these Articles, remain so vested or controlled by the Society:

- a. for a period ending on the 31st day of March in the seventh year following the year in which the Member's death took place, unless within that period an election as mentioned in the following paragraphs (b) and (c) or (d) takes place, or
- b. if a legal heir shall be admitted to membership during such period, then for so long as such legal heir remains a Member or
- c. if a person is admitted during such period to membership of an affiliated Society in respect of the rights of the deceased Member, then up to the date of such election.
- d. if neither of the above paragraphs (b) and (c) takes place, then for successive periods of 7 years following the year in which the Member's death took place.

Any payment to which the Member would, if living have been entitled to in accordance with the Rules in respect of any period prior to the admission of such legal heir shall be made to the member's legal heir on their membership of the Society.

ii. By Liquidation

In the case of a member, being a company or a firm, its membership shall cease:

- a. in the case of a company, in the event of and upon the liquidation of such company (other than voluntary liquidation for the purpose of reconstruction), and
- b. in the case of a firm in the event of and upon, such firm ceasing to carry on business.

Upon such liquidation or cessation of business, the rights (if any), already vested in the Society by such company or firm, or controlled by the Society by virtue of the membership of such company or the firm, shall, subject to these Articles remain so vested or controlled for a period ending on the 31st day of March in the seventh year following the year in which the liquidation or cessation of business occurred. Any payments to which company or the firm would, if it had remained a member, have been entitled to in accordance with the Rules in respect of such period shall be made to the person entitled for the time being to receive debts due to the company or firm.

iii. By Expiry of Copyrights

The membership of any member shall ipso facto cease:

- a. upon the expiration of the longest period for which copyright subsists by virtue of statute in any country which is either a member of the Berne Union or a party to the Universal Copyright Convention or in any of the works in respect of which such member is entitled to participate in Distribution,

- b. in the case of any Member being an executor or administrator under a successor certificate/will upon his having disposed of all interest in all Performing Rights, Mechanical Rights & Synchronization Rights which may have vested in him as such as an executor or administrator.

iv. **By the Board of Directors and Members in a General Meeting**

The Board shall be entitled to terminate membership of any member in the following manner:

- a. if any member who acts contrary to the interest or prejudice of the Society or otherwise does any act or acts detrimental to the interests of the Society and/or commits any breach or violation of any of the Articles under the Articles of Association of the Society or the Rules made from time to time, the Board shall be entitled to determine and/or terminate his membership of the Society by passing or adopting a resolution with simple majority of the Board members.
- b. For Publisher Owners, only after the resolution of the Board determining or terminating the membership of any Member concerned is approved in a General Meeting as aforesaid, shall that person concerned cease to be a Member of the Society with immediate effect.

v. **By the Member**

Any member may by giving two months' notice in writing to the Society, surrender/relinquish/terminate his membership without any reason.

vi. **By an Act of Member**

The membership of any member shall ipso facto cease on institution by such member of a suit, court claim or court proceedings against the Society.

9. Pending Proceedings, Continuation of Control of Rights

If any proceedings have been instituted by or against the Society in respect of a member's works, either in the name of the Society or of the Member, and such Member ceases to be a Member during the pendency of the proceedings, any rights which are the subject of such proceedings and which had been so vested in the Society by such member or are controlled by the Society by virtue of his membership, shall remain so vested or controlled until such proceedings are finally disposed of.

10. Cessation of Membership – Termination of Rights, Privileges, etc.

Subject to the provisions of Articles 8 & 9, all rights, privileges and obligations of membership shall cease on the date of cessation of membership. In particular, but without prejudice to the generality of the foregoing, the Member concerned shall cease to have any claim upon the assets of the Society, and shall not be entitled to participate in any distributions, save as to any payment to which he may be entitled to in accordance with the Articles & Rules in respect of any period prior to the cessation of membership.

GENERAL MEETINGS

11. Annual General Meetings

The Society shall in each year hold a General Meeting as its Annual General Meeting of all Members, in addition to any other meetings in that year, and shall specify the meeting as such in the notice calling it. The Annual General Meeting shall be called by the Company within a period of six months from the date of ending of its financial year or fifteen months from the date of last Annual General Meeting of the Society whichever is earlier. The Annual General Meeting shall be held at such time and place as the Board shall determine.

12. Extraordinary General Meeting

A General Meeting other than Annual General Meeting of the Members shall be called Extraordinary General Meeting (EGM).

13. Right to Convene Annual General Meeting and Extraordinary General Meetings

The Board shall convene an Annual General Meeting every year as per Article 11 above. The Board may, whenever it thinks fit, convene an Extra-ordinary General Meeting. The Extra-ordinary General Meeting can also be convened on a requisition, or in default, may be convened by such requisitionists, as prescribed under the provisions of the Companies Act.

14. Notice of General Meetings

An Annual General Meeting or an Extra-ordinary General Meeting shall be called by giving 15 clear days' notice in writing and shall be as per the provisions of Companies Act or if required by shorter notice in accordance with the provisions of the Companies Act. The Notice shall be exclusive of the day on which it is served or deemed to be served as of the day on which it is given. The Notice shall specify the place, date and time of the meeting and where there is special business, the nature of that business as required under the provisions of the Companies Act.

15. Accidental Omission of Notice

The Accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by any Member entitled to receive notice shall not invalidate the proceedings at that meeting.

16. Business of General Meetings

- i. The following Ordinary business shall be transacted at every Annual General Meeting:
 - a. the consideration of the accounts and balance sheet and the report of the auditors thereon;
 - b. the reports of the Board;
 - c. appointment and fixing of the remuneration of the auditors;
- ii. Over and above the items as provided under the Companies Act No 07 of 2007 requiring a special resolution, the following items ("Reserved Items") shall be

required to be passed as a special resolution at the AGM/EGM:

- a. Amendment, alteration or substitution of Memorandum of Association and/or Articles of Association;
- b. Change of company name

Further, for the above-mentioned Reserved Items to be considered to have been passed, except for the Reserved Item mentioned in Article 16(ii) above, the same shall also require prior approval of 3/4th majority of the Board of Directors.

All other matters/resolution shall only require a simple majority of votes to be passed.

All business that is transacted at an Extraordinary General Meeting shall be deemed to be Special Business.

17. Quorum

No business shall be transacted at any General Meeting unless a quorum of 20 Members is present at the time when the meeting proceeds to business.

18. Adjournment for lack of Quorum

If, within one hour after the time appointed for the meeting, a quorum is not present, the meeting,

- i. if convened upon the requisition of Members, it shall be dissolved;
- ii. in any other case, the members present shall be the quorum or it shall stand adjourned to such other day and at such other time and place as the Board may determine, and if at the adjourned meeting a quorum is not present within one hour after the time appointed for the meeting, the members present shall be the quorum.

19. Adjourned Meetings

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 original meeting. 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.

20.

A. Chairman of the Society & Board

- i. The Chairman of the Society & Board shall be appointed (from within the Nine Directors elected to the Board) by a show of hands of all members of the Society present and voting during a General Meeting. In event of a demand for Poll by Ballot to appoint the Chairman of the Society & Board, the Poll by Ballot shall be conducted on the basis of the “one man one vote” formula and by a simple majority.
- ii. Any member of the Society eligible for appointment to the Board of Directors of the Society shall be eligible to stand for election of Chairman of the Society & Board and may nominate himself/ herself as a candidate.
- iii. The Chairman of the Society shall be elected for a period of 2 years commencing from the date of his/her Election during a meeting of the Society. However, the Chairman is eligible to be re-elected as Chairman.

B. Chairman of the Meeting

- i. The Chairman of the Society and Board shall preside as Chairman at every General Meeting of the Society. In the event of the absence of the Chairman of the Society from a Meeting, the election of a Chairman for that Meeting shall be way of show of hands. If a Poll is demanded by the members present and voting at every Meeting, the Poll by Ballot shall be conducted on the basis of the “one man one vote” formula to elect a Chairman from among the Directors of the Board for that Meeting.
- ii. The Chairman shall have the right to vote in his individual capacity in the Meetings.

VOTES OF MEMBERS

21. Votes of Members

- i. Subject to these Articles, each Full Member shall have voting power and cast his/her/its vote at General Meetings. No member shall be entitled to vote unless he is present in person. Thus, no member of the Society entitled to attend and vote at a meeting of the Society shall be entitled to appoint another person as a proxy to attend and vote at the meeting on his/her/its behalf.
- ii. Votes are to be given personally in the case of individuals; in relation to firms, companies or body corporates, votes may be given as provided by these Articles and/or by a representative duly authorized by the respective firm, company or body corporate and intimated to the Society (along with all supporting documents as may have been demanded by Society) while applying for membership or any changes made thereafter.

- iii. The voting eligibility for the category of “Publisher Member” shall be determined by their repertoire range owned by the member as below;
 - a. 0 -50 – No vote
 - b. 50-100 – One votes
 - c. 100 < – Two votes
- iv. In the case of legal heirs, the authorized representative shall not have a vote at AGM or EGM.
- v. If any Member entitled to vote be mentally unsound or *non-compos mentis*, the vote on his behalf shall be cast by his legal guardian or legal representative.

BOARD OF DIRECTORS

22. Composition of Board of Directors

- i. Subject to the applicable provisions of the Companies Act and any other applicable law, the Society shall constitute the Board of Directors.
- ii. Members of the Society who satisfy the following criteria shall be eligible for appointment to the Board of Directors:
 - a. Publisher Owner: they should have 500 Sri Lankan Musical & Literary works published and/or contained on the sound track of Sri Lankan Cinematograph Films/ Teleserials or have 500 Sri Lankan Musical & Literary works published and/or contained on any medium.
 - b. For a Composer he/she should have a minimum of 100 Sri Lankan Musical Works published and/or contained on the soundtrack of Sri Lankan Cinematograph Films/ Teleserials or have a minimum of 100 Sri Lankan Musical Works.
 - c. For an Author he/she shall have a minimum of 100 musical works published.
- iii. The Board may appoint Committees, etc. as it desires fit for various purposes of management and frame terms of reference and/or rules and regulations to that effect for them.

POWERS AND DUTIES

23. General Powers vested in the Board

- i. The affairs and operations of the Society shall be conducted and managed by the Board as per the provisions of the Companies Act No 07 of 2007. The Board shall exercise all such powers within the purview of the Memorandum and Articles of Association of the Society, required to be exercised by the Society in General Meeting, and to such rules and regulations, being not inconsistent with the aforesaid statutes, as may be prescribed by the Society in the General Meeting.
- ii. All decisions to be taken by the Board will be taken on the basis of a simple majority,

excluding decisions relating to the Reserved Items set out at Article 16 (ii) which shall be subject to 3/4th Majority of Board Members approving such decision/resolution.

24. Appointment of Committees

The Board may appoint a Committee(s) by whatever name called, for such purposes and with such powers, authorities and directions under Terms of Reference (not exceeding those vested in or exercisable by the Board under these Articles) and for such period and subject to such conditions as it may think fit with all such functions being recommendatory and subject to approval of the Board.

25. Execution of Cheques, etc.

All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for monies paid to the Society, shall be signed, drawn, accepted, endorsed or otherwise executed, by the Chairman and the nominated Directors.

26. Distribution of Receipts – General Purpose

The Distribution of Receipts of the Society shall be implemented in accordance with the Distribution Policy approved by the Board of the Society.

In relation solely to any Musical Work and Literary Work written or composed by Author Members of the Society:

- i. The Society shall license, collect and distribute for all utilization (as per the section 25 of Intellectual Property Act No 36 of 2003) in exercise of the copyright, license or authority assigned to the Society by its members and affiliated societies or exercise the same as per law.
- ii. All such royalties received or collected by the Society shall be distributed in the ratio of:
 - a. Relevant Publisher Owner of the relevant Literary and/ or Musical Work: 50%;
 - b. Relevant Author Member of Literary Work: 25%; and
 - c. Relevant Author Member of Musical Work: 25%.
- iii. It is clarified that the Society shall only distribute Royalties, as payable under these Articles, directly, in the name and to the account of the relevant Author/Composer/Publisher Owner of the Society or their legal heir and to no other third person or entity.
- iv. As the case may be royalty shall be paid as stated in (i) and (ii) and to no other person or entity unless otherwise directed by a Court Judgement of a Final Nature with no possibility of Appeal against such Judgement.
- v. Such consideration in the nature of royalties shall be paid to members after meeting the expenses of the company incurred in the exercise of the rights assigned to it as per the Intellectual Property Act No 36 of 2003 or in otherwise carrying out the operations of the Society. Such expenditure shall first be met from any revenue which the Society may receive from any sources other than from the exercise of the

authorized rights; the balance, if any, shall be charged against the receipts from the exercise of such rights.

- vi. Royalties payable to the Members by the Society shall constitute an over-riding or prior charge on the copyright fees collected by the Society and the Society is entitled to no profit or gain out of the receipts from the exercise of rights assigned to it.

The Society shall not discriminate in relation to the payment of royalties to its members and shall publish transparent distribution policies.

27. Appointment of Chief Executive Officer

- i. The Board shall, from time to time, appoint any person, not being a Member of any Society either as a Music Publisher or as an Author, as Chief Executive Officer of the Society for such term and at such remuneration as it may think fit, and (subject to any contract entered into between the Society and such Chief Executive Officer) may from time to time remove and appoint some other person as Chief Executive Officer in his place. The Chief Executive Officer so appointed shall be holding the position of a principal officer of the Society/ Company under the Rules as applicable. Such person shall be required to act under the control, supervision and directions of the Board of Directors as executor of the decisions of the Board.
- ii. The Chief Executive Officer shall continue to hold office until such time as simple majority of Members of the Board present and voting in a meeting of the Board decide on the removal or suspension of the CEO. The mode of removal or suspension of the Chief Executive Officer shall be subject to simple majority of Members of the Board present and voting in a meeting of the Board and thereafter the removal or suspension of the Chief Executive Officer shall be subject to 3/4th majority of Members of the Board present and voting in a meeting of the Board.

28. Powers of Chief Executive Officer

The Board may delegate to the Chief Executive Officer and/or any other officer all such of its administrative powers as aforesaid as it may deem necessary for the full and proper administration of the affairs of the Society. Further to such delegation, subject always to prior written approval of the applicable Legal Committee in each case, the Chief Executive Officer is fully authorized to institute legal proceedings, execute and make all deeds, affidavits, complaints, suits, power of attorney, assignments and assurances and all such legal documents and do all such acts for and on behalf of the Society for the proper and effective administration and enforcement of the copyright and rights of the Society's members.

29. Payment of Expenses & Liabilities

The Board shall pay and defray the expenses and liabilities of the Society, incurred in the exercise or enforcement of the rights vested in or controlled by the Society, out of the monies received by the Society in respect of the exercise or enforcement of such rights.

30. Borrowing Power

The Board may from time to time, borrow, raise or secure the payment of such sum or sums of money as it may deem requisite for any purpose which it may deem expedient in the interests of the Society, but not so as to charge any right or interest of any Member in respect

of his works.

31. Alteration of Memorandum & Articles of Association and Rules

The Board may and from time to time alter/amend the Memorandum of Association and the Article of Association and the Rules of the Society in the manner so laid down in these Articles.

32. Minutes

The Board, and/or any other Committees shall cause minutes to be duly made in books for the purpose:

- i. For Appointments: of all appointments of officers made by the Board, or Committees;
- ii. For Board/Committee Meetings: of the names of the Directors present at such meeting of the Board, and/or of any Committee or Sub-Committee thereof and shall sign his name in a book to be kept for that purpose;
- iii. For General Meetings: of the names of the Members present at General Meetings of the Society, and shall enter their name and affix their signature in a book to be kept for that purpose;
- iv. For Minutes of General Meetings: of all discussions and decisions, resolutions and proceedings of all such General Meetings and any such minutes of any such meeting of the Society, if purporting to be signed by the Chairman of such meeting or by the Chairman of the next succeeding meeting, shall be receivable as prime facie evidence of the matters stated in such minutes;
- v. For Minutes of Board/Committee Meetings: of all discussions and decisions, resolutions and proceedings of all such meetings of the Board, and/or of any Committee or Sub-Committee and any such minutes of any meeting of the Society, of the Board, or of any Committee or Sub-Committee, if purporting to be signed by the Chairman of such meeting or by the Chairman of the next succeeding meeting, shall be receivable as prime facie evidence of the matters stated in such minutes.

DISQUALIFICATION OF DIRECTORS

33. Vacation of Office of Director

The office of Director shall be vacated;

- i. if the Director ceases to be a Member; or, in the case of a Director appointed as the nominee/representative of a company or firm and if such company or firm ceases to be a Member;
- ii. if in the case of a Director appointed on behalf of a company or a firm, the Director ceases to hold the qualification required for such nominees pursuant to Article 24;
- iii. if the Director becomes bankrupt or makes any arrangement or composition with his creditors generally;
- iv. if the Director becomes prohibited from being a Director by reason of any order made under Section 202 of the Companies Act No 07 of 2007.
- v. if the Director becomes of unsound mind;

- vi. if the Director, by notice in writing to the Chairman or the Secretary of the Society, resigns his office;
- vii. if the Director absents himself from 3 consecutive meetings of the Board without obtaining leave of absence from the Board.
- viii. if the Director, or if a company or firm of which the Director is the nominee/representative, is directly or indirectly interested in any contract with the Society or participates in the profits of any contract with the Society, other than a contract in respect of any musical and/or literary work in the copyright of which such Director, limited company or firm is interested. Provided however, that a Director shall not vacate his office by reason of his entering into contracts with or done any work for the Society, if he shall have declared the nature of his interest or the nature of the interest of such company or firm in manner required under the Companies Act. But the Director shall not vote in respect of any such contract or work or any matter arising therefrom; and if he does so vote, his vote shall not be counted.

34. Terms of Office of Directors

The provisions of the Companies Act No 07 of 2007 shall govern the term of office of Directors and their re-election.

35. Removal of Director

The Society may, in a General Meeting, by way of Ordinary Business, of which notice has been given in accordance with Section 206 of the Companies Act No 07 of 2007, remove any Director before the expiration of his period of office subject to these articles. In case of vacancy caused by way of removal or retirement and/or for any reason of a Director shall be filled only by a nominee chosen by the Author Member or Publisher Owner (as the case may be) whose nominee has been removed or his/her term has expired or retired, etc.

36. Filling vacancy caused by removal

The Society may, in a General Meeting, by Special Resolution appoint any other person so qualified in place of any Director removed from office subject to requirements enumerated in the Articles. However, the person so appointed shall always have the same footing or qualification as Author or Owner as the Director in whose place he is being appointed and shall be subject to retirement at the same time as his immediate predecessor in office would have been.

PROCEEDINGS OF THE BOARD

37. Meetings & Voting

- i. The Board may meet together for the dispatch of business, adjourn or otherwise regulate its meetings as it thinks fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes, the Chairman of the meeting shall have a second or casting vote. Meetings shall be called as per provisions of the Companies Act.
- ii. The Board Meeting can be called by the Chairman, or on the requisition of 5 (five)

- Director/s to the Secretary.
- iii. Notice of the Board meeting needs to be given to all the Directors at their last known and registered address at least 7 (seven) days in advance. However, Chairman may call and convene an urgent Board meeting by giving 24 hour notice of the same.
 - iv. The Quorum necessary to transact any business at the Board meetings shall be 5 (five) Directors.
 - v. If, within half an hour after the time appointed for the meeting, a quorum is not present, the members present shall be the Quorum or it shall stand adjourned to such other day and at such other time and place as the Chairman of the Board may determine; if at the adjourned meeting a quorum is not present within half an hour after the time appointed for the meeting, the Members present shall be the quorum.

38. Validation of Appointment of Directors

All acts done by any meeting of the Board or of any Committee or by any person acting as a Director, shall, notwithstanding that it may afterwards be discovered that there was some defect in the appointment of any such Director or persons acting as aforesaid, and that they or any of them were disqualified, shall be as valid as if every such person had been duly appointed and was qualified to be a Director.

39. Secretary

The Secretary shall be appointed by the Board for such term and at such remuneration and upon such terms and conditions, as it may think fit; and any Secretary so appointed may be removed by the Board and any other person be appointed in his place. The Secretary shall be the Secretary of the Society as required under the provisions of the Companies Act.

THE SEAL

40. Method of Affixing Seal

The seal of the Society shall not be affixed to any instrument except by the authority of a resolution of the Board, and in the presence of at least two Directors and the Secretary or such other person as the Board may appoint for the purpose; and such two Directors and Secretary or other person as aforesaid shall sign every instrument to which the seal of the Society is so affixed in their presence.

ACCOUNTS

41. Accounts to be kept

The Board shall cause proper books of accounts to be kept with respect to:

- i. all sums of money received and expended by the Society and the matters in respect of which the receipt and expenditure takes place; and
- ii. the assets and liabilities of the Society.

42. Books of Accounts

The books of accounts shall be kept at the registered office of the Society, or at such other place or places in Sri Lanka as the Board thinks fit, and shall be open to the inspection of the Directors.

43. Inspection of Books of Accounts

The Board shall from time to time determine whether, and to what extent, what times and places, under what conditions and regulations, the accounts and books of the Society shall be open to the inspection of Members not being Directors, except as conferred by statute or by the members of the Society in General Meeting.

44. Accounts Balance Sheet & Report

The Board shall from time to time, in accordance with the provisions of the Companies Act, cause to be prepared and to be laid before the Society in General Meeting, such accounts, balance sheets and reports as are referred to in those Sections.

45. Copies of Balance Sheet & Report

A copy of every balance sheet (including every document required by law to be annexed thereto) which is to be laid before the Society in General Meeting, together with a copy of the Auditor's report, shall not less than twenty-one days before the date of the meeting, be sent to all such Members as are entitled to receive the notices of General Meetings of the Society provided that this Article shall not require a copy of these documents to be sent to any person of whose address the Society is not aware.

The CEO and/or the Secretary shall be responsible to adhere to this requirement and shall be liable for non-compliance.

AUDIT

46. Auditor to be appointed

Auditors shall be appointed, and their duties regulated in accordance with the provisions of the Companies Act.

NOTICES

47. Method of giving Notice

A notice may be given by the Society to any Member personally, by sending it by post to him to his last known registered address, or (if he has no registered office within Sri Lanka) to the address (if any) within Sri Lanka supplied by him to the Society or by any electronic means for the going of notice to him.

48. Notice of General Meeting

Notice of every General Meeting shall be given in the same manner hereinabove authorized to

- i. every member who is entitled to vote except those who (having no registered address within Sri Lanka) have not supplied to the Society an address within Sri Lanka for the giving of notices to them and
- ii. the Auditors for the time being of the Society. No other person shall be entitled to receive notices of General Meetings.

INDEMNITY

49. Directors & Officers Entitled to Immunity

The Directors, Chief Executive Officer, Auditors, Secretary, and other Officers for the time being of the Society, and the trustees (if any) for the time being, acting in relation to any of the affairs of the Society, and each one of them and their heirs, executors and administrators, shall be indemnified and secured harmless out of the assets and property of the Society from and against all actions, claims, proceedings, costs including legal expenses, charges, losses, damages and expenses which they or any of them, their or any of their heirs, executors, or administrators, shall or may incur or sustain by or by reason of any act done, concurred in or omitted in or about the execution of their duty, or supposed duty, in their respective offices or trusts, except such (if any) as they shall incur or sustain by or through such person's proven personal willful neglect or default respectively, and none of them shall be answerable for the acts, receipts, neglects or defaults of the other or others of them, or for joining in any receipt for the sake of conformity or for any bankers or other persons with whom any monies or effects belonging to the Society shall be lodged or deposited for safe custody, or for insufficiency or deficiency of any security upon which monies of or belongings to the Society shall be placed out or invested, or for any other loss, misfortune or damage which may happen in the execution of their respective offices or trusts, or in relation thereto, unless the same shall happen by or through such persons proven personal willful neglect or default respectively. It is clarified that Directors representing Publisher Owners and/or Author Members shall be eligible for Indemnification by the Society only during the term and subsistence of their Music Publisher Company or individual's membership of the Society respectively.

Any action, civil and/or criminal, against past or present Directors and/or the Chief Executive Officer and/or other Company Executives/Officers for any matter related the Company Administration (including licensing, distribution, documentation, accounting and other matters) can be initiated only subject to majority resolution of more than $\frac{3}{4}$ of the total strength of the Board of Directors present and voting in person at such meeting of the Governing Council.

WINDING UP

50. Procedure on Winding up

In the event of and upon the winding up of the Society, whether voluntary or otherwise, at any time, the assets of the Society, (other than the Rights vested in or controlled by the Society pursuant to these Articles), any sums distributable in accordance with the Rules shall, in so far as they are available for the purpose, be apportioned among the persons who are members at the date of such winding up, in the proportion in which such Members received distributions from the Society in respect of the year ending on the 31st day of March immediately prior to such winding up and the rights (if any) vested in the Society by a Member, or controlled by the Society by virtue of his membership, shall revert to such Member or his personal representative.

51. No waiver of rights

Notwithstanding anything contained to the contrary under these Articles, no provision in these Articles shall prevent any Member to surrender/relinquish/terminate his membership without any reason by giving two months' notice in writing to the Society as permitted under Article 8 (v), and no provision of these articles will be held against the interests/ rights of such member after his surrendering /relinquishing /termination of his membership.

52. Applicability of the Companies Act

Except as otherwise provided herein, the Company shall be governed by the Companies Act No 07 of 2007 and the Rules made thereunder as may be amended from time to time and every statute that may be substituted thereof. The provisions of these Articles of Association shall be subject to the provisions of Companies Act No 07 of 2007.

The Company shall also be governed by the provisions of the Intellectual Property Act No 36 of 2003. In case of conflict between IP Act / Rules and Companies Act / Rules the provisions of Companies Act / Rules will prevail.