

BY-LAWS

**BEING BY-LAWS RELATING GENERALLY TO THE
ORGANIZATION AND THE TRANSACTION OF THE AFFAIRS OF
SOCIETY OF COMPOSERS, AUTHORS AND MUSIC
PUBLISHERS OF CANADA
INCORPORATED UNDER PART II OF THE *CANADA CORPORATIONS ACT*
CONTINUED UNDER THE *CANADA NOT-FOR-PROFIT CORPORATIONS ACT***

JUNE 13, 2017

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BY-LAW NUMBER ONE

being a by-law relating generally to the
organization and the transaction of the affairs of

**SOCIETY OF COMPOSERS, AUTHORS AND MUSIC
PUBLISHERS OF CANADA**

incorporated under Part II of the *Canada Corporations Act*
continued under the *Canada Not-for-profit Corporations Act*

WHEREAS it is intended that the following principles apply to the organization and the transaction of the affairs of the Society:

1. The Society shall protect, preserve and promote the rights of its membership and those of foreign affiliated performing right societies whose rights it administers in Canada.
2. The Society shall ensure that it is wholly owned and controlled by its Members who are composers, lyricists, songwriters and publishers.
3. The Society shall ensure that its Board of Directors is composed only of Members.
4. The Society shall seek appropriate tariffs from all users of musical performing rights and enforce these as provided in the *Copyright Act*.
5. The Society shall license performing rights, collect royalties for those licences and distribute them in a cost effective manner.
6. The Society shall make fair and equitable distributions of the royalties collected.
7. The Society shall ensure that all of its Members are treated equally irrespective of the idiom, genre or style of music.
8. The Society shall ensure that it is open, accessible to its Members and that it will keep its membership informed as to its rules, policies and activities.
9. The Society shall review and work to improve copyright laws both in Canada and internationally.
10. The Society shall work to improve the status of its membership on both national and international levels.

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SECTION I

INTERPRETATION

1.01 Definitions:

In this By-law and all other By-laws and resolutions of the Society, unless the context otherwise requires:

- (a) "Act" means the *Canada Not-for-profit Corporations Act* S.C. 2009, c. 23 including the Regulations made pursuant to the Act, and any statute or regulations that may be substituted therefor, as amended from time to time.
- (b) "Articles" means the original or restated articles of incorporation or articles of amendment, amalgamation, continuance, reorganization, arrangement or revival of the Society.
- (c) "Auditor" of the Society means a public accountant, as defined in the Act, appointed for the Society.
- (d) "Board" or "Board of Directors" means the Board of Directors of the Society.
- (e) "By-Law" or "By-laws" means this By-law Number One and all other by-laws of the Society that are in force from time to time.
- (f) "Director" means a Writer Member and/or a Publisher Member that sits on the Board of Directors.
- (g) "Meeting of Members" includes an annual or annual meeting of Members and any special meeting of Members.
- (h) "Member" means a Writer Member and/or a Publisher Member of the Society.
- (i) "Officer" means the President and Chair of the Board, the first Vice-Chair of the Board, the second Vice-Chair of the Board, the Secretary, the Treasurer, the Past President and Chair of the Board and any other officer as the Board may from time to time determine as elected or appointed by the Board pursuant to Section XI hereof.
- (j) "Performing Right Royalties" for the purposes of Section VI (Nominations), Section VII (Election of Directors) and Section VIII, paragraph 8.05 (2) (Distribution of Royalties), unless otherwise stated, shall include royalties collected for any right under the *Copyright Act* of Canada or of any related or similar right whether under federal or provincial legislation or otherwise.
- (k) "Posthumous Successor" means the heirs, executors or administrators as the case may be, of the deceased Writer Member who is/are entitled to exercise the membership rights of a deceased Writer Member in accordance with the By-laws including the right to receive Performing Right Royalties from the Society.

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- (l) "Publisher Member" means an applicant who has met one of the conditions for membership in the Society as set out in paragraph (3) of section 3.03 hereof and whose application has been approved by the Board.
- (m) "Society" means Society of Composers, Authors and Music Publishers of Canada / Société Canadienne des auteurs, compositeurs et éditeurs de musique and its successors and assigns.
- (n) "Writer Member" means an applicant who has met one of the conditions for membership in the Society as set out in paragraph (2) of section 3.03 hereof and whose application has been approved by the Board.

1.02 General:

In the By-laws of the Society, words importing the singular number include the plural and vice versa and words importing gender include the masculine, feminine and neuter genders, and references to persons shall include individuals, corporations, partnerships, trusts and unincorporated organizations.

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SECTION II

TRANSACTION OF THE AFFAIRS OF THE SOCIETY

2.01 Registered Office:

Until changed in accordance with the *Act*, the registered office of the Society shall be in the City of Toronto, in the Province of Ontario.

2.02 Seal:

The seal of the Society shall be in the form impressed hereon and shall be kept at the registered office of the Society.

2.03 Financial Year:

Until otherwise ordered by the Board, the financial year of the Society shall end on the last day of December in each year.

2.04 Execution of Documents:

Contracts, documents or any written instruments requiring the signature of the Society shall be signed by any two persons each of whom is either an Officer or Director of the Society and, when so signed, shall be binding upon the Society without any further authorization or formality. The Board shall have the power from time to time by resolution to appoint one or more persons to sign on behalf of the Society to sign specific types of contracts, documents and written instruments. The Directors may authorize the grant of a power of attorney of the Society to any registered dealer in securities for the purposes of transferring the dealing with any stocks, bonds, and other securities of the Society. The seal of the Society may be affixed, when required, to contracts, documents and instruments in writing signed in accordance with this section 2.04.

2.05 Banking Arrangements:

The banking business of the Society shall be transacted with such financial institutions as may from time to time be designated by or under the authority of the Board. Such banking business or any part thereof shall be transacted under such agreements, instructions and delegations of powers as the Board may from time to time prescribe or authorize.

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SECTION III

CONDITIONS OF MEMBERSHIP

3.01 Members:

The membership of the Society shall consist of the applicants for incorporation of the Society and such other persons or corporations as are admitted to the membership of the Society on the application therefor in accordance with this By-law and acceptance by the Board of Directors.

3.02 Assignment:

It is a condition of membership that each Member assign, and each Member shall be deemed to have assigned, to the Society its interest and title in any performing rights it holds or may hold during its term of membership and the Society shall be empowered and instructed to collect any royalties relating to such rights and to remit such royalties to the Member in accordance with royalty distribution rules and regulations made under the By-laws, after deducting appropriate administration costs.

3.03 (1) Eligibility:

There are two (2) types of Members (a) Writer Members and (b) Publisher Members. To be eligible for membership, applicants must meet the following criteria:

(2) Writer Member:

An applicant for membership as a Writer Member shall meet one (1) of the following conditions before being considered for membership in the Society:

- (a) The applicant has written or co-written at least one (1) musical work or the lyrics of at least one (1) musical work that is published by a person or company that carries on business as a music publisher.
- (b) The applicant has written or co-written at least one (1) musical work or the lyrics of at least one (1) musical work that was recorded by a person or company that carries on business as a record company.
- (c) The applicant has written or co-written at least one (1) musical work or the lyrics of at least one (1) musical work that was or will be performed and that performance was or will be a performance that is licensed by the Society.
- (d) A Writer Member applicant includes any person who has acquired, by will or under any law, the right, title and interest of a deceased writer in any musical work otherwise qualifying under (a), (b), or (c) above.

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(3) Publisher Member:

An applicant for membership as a Publisher Member shall meet one of the following conditions before being considered for membership in the Society:

- (a) The applicant must establish that it owns at least five (5) copyright protected musical works written or co-written by a Writer Member of the Society or by a Canadian.
- (b) The applicant must establish that it is entitled by contract to receive the publisher's share of the performance credits of at least five (5) copyright protected musical works that were written or co-written by a Writer Member of the Society or by a Canadian.

In subparagraphs (a) and (b) of this paragraph (3) the applicant must establish its ownership by providing the Society with documents that establish the assignment of copyright of those musical works or the assignment of the right to receive any performance credits that may be attributed to a publisher's share of those five (5) musical works.

3.04 Applications:

Any eligible person desiring to apply for membership in the Society shall make application in such form and manner as the Board may from time to time in its sole discretion prescribe.

3.05 Term of Membership:

- (a) The term of membership shall be two (2) years, which membership may be renewed at the option of the Member, provided that such Member is a Member in good standing in accordance with the By-laws of the Society.
- (b) The membership of a Writer Member shall not terminate upon a Member's death but will continue as a Posthumous Successor and is otherwise subject to these By-laws.

3.06 Withdrawal:

Any Member may withdraw from membership in the Society at the end of the two (2) year term by delivering a written resignation to the Secretary of the Society not less than three (3) months before the end of any two (2) year term.

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SECTION IV

MEETINGS OF MEMBERS

4.01 Annual Meeting:

The annual meeting of the Members shall be held at such time and on such day in each year as the Board or President and Chair of the Board may from time to time determine, for the purpose of receiving the reports and statements required by the *Act*¹ to be placed before the annual meeting, electing or appointing Directors, or declaring Directors elected, appointing auditors and for the transaction of such other matters as may properly be brought before the meeting.

4.02 Other Meetings:

Special meetings of the Members for any purpose or purposes, unless otherwise prescribed by the *Act*, may be called by the Board or the President and Chair of the Board. Subject to the requirements of the *Act*², a special meeting of Members shall be called upon the written requisition of Members representing 5% of the votes that may be cast at a meeting of Members sought to be held.

4.03 Place of Meetings:

Meetings of Members shall be held at any location in Canada as determined by the Board or pursuant to section 4.05.

4.04 Notice of Meetings:

Notice of the time and place of a meeting of Members shall be given to each Member entitled to vote at the meeting

- (a) by telephonic, electronic or other communication facility to each Member entitled to vote at the meeting, during a period of twenty-one (21) to thirty-five (35) days before the day on which the meeting is to be held; or
- (b) by affixing the notice, no later than thirty (30) days before the day on which the meeting is to be held, to a notice board or the Society's website on which information respecting the Society's activities is regularly posted and that is located in a place frequented by Members.

Notwithstanding the foregoing, if a Member who is entitled to vote requests that a notice of a meeting of Members be provided by non-electronic means, notice of the meeting shall be given to such Member by mail, courier or personal delivery during a period of twenty-one (21) to sixty (60) days before the day on which the meeting is to be held.

¹ CNCA, Section 172(1)

² CNCA, Section 167

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In accordance with the requirements of the *Act*³, a special resolution of the Members is required to make any amendment to the By-laws of the Society to change the manner of giving notice to Members entitled to vote at a meeting of Members.

Notice of a special meeting of Members shall state the general nature of the matters to be considered at the meeting and sufficient information to enable the Members to form a reasoned judgment. All notices shall contain either a form of proxy or a statement of the Member's right to use a proxy at the meeting for which the notice is given. The auditors of the Society are entitled to receive all notices and other communications relating to any meeting of Members that any Member is entitled to receive.

Notice of a meeting of Members shall indicate that each member who is entitled to vote at that meeting may do so by means of the electronic voting system that the Society has made available for that purpose.

4.05 Meetings Without Notice:

A meeting of Members may be held at any time and place without notice provided all the Members are present in person or represented by proxy or waive notice of, or otherwise consent to, such meeting being held, and at such meeting any matters may be considered which the Society may transact at a meeting of Members.

4.06 Chairperson, Secretary and Scrutineers:

The President and Chair of the Board, or, in his/her absence, the first Vice-Chair of the Board or, in his/her absence, the second Vice-Chair of the Board of the Society shall be Chairperson of any meeting of Members. If no such Officer be present within fifteen (15) minutes from the time fixed for the beginning of the meeting, the Members present and entitled to vote shall choose one (1) of their number to be Chairperson. If the Secretary of the Society is absent, the Chairperson shall appoint some person, who need not be a Member, to act as Secretary of the meeting. If desired, one (1) or more scrutineers, who need not be Members, may be appointed by a resolution or by the Chairperson with the consent of the Members of the meeting.

4.07 Persons Entitled to be Present:

- (a) The only persons entitled to attend a meeting of Members shall be those Members entitled to vote thereat, the auditors of the Society and others, who, although not entitled to vote, are entitled or required under any provision of the *Act* or the Articles or By-laws to be present at the meeting. Any other person may be admitted only on the invitation of the Chairperson of the meeting or with the consent of the Members at the meeting.
- (b) A Member may attend any meeting of Members in person, by means of a telephonic, electronic or other communication facility that permits all participants to communicate adequately with each other during the meeting, if the corporation makes available such a communication facility, or by proxy in accordance with the provisions of section 4.10.

³ CNCA, Section 197(1)

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4.08 Quorum:

A quorum for the transaction of business at any meeting of Members shall be twenty-five (25) Members who are entitled to vote and are present in person or by proxy or by means of a telephonic, electronic or other communication facility that permits all participants to communicate adequately with each other during the meeting, if the corporation makes available such a communication facility.

4.09 Right to Vote:

At any meeting of Members, only those Members entitled to vote pursuant to these By-laws shall vote.

4.10 Proxies:

A Member entitled to vote at a meeting of Members may vote by proxy by appointing in writing a proxyholder, and one or more alternate proxyholders, who are not required to be Members, to attend and act at the meeting in the manner and to the extent authorized by the proxy and with the authority conferred by it subject to the requirements of the *Act*⁴.

In addition to voting personally or by proxy, every Member entitled to vote at a meeting of Members may vote by means of a telephonic, electronic or other communication facility, if the facility enables the votes to be gathered in a manner that permits their subsequent verification and permits the tallied votes to be presented to the Society without it being possible for the Society to identify how each Member voted.

4.11 Votes to Govern:

At any meeting of Members, every question shall, unless otherwise required by the *Act* or By-laws of the Society or by law, be determined by a majority of votes cast by Writer Members and a separate majority of votes cast by Publisher Members on the question.

4.12 Polls:

All voting shall be by show of hands in such manner as the Chairperson shall direct or by such other form of consensus appropriate to the communication facility used to collect votes, unless otherwise determined by the meeting.

4.13 No Casting Vote:

In case of an equality of votes at any meeting of Members either upon a show of hands or upon a poll or by such other form of consensus appropriate to the communication facility used to collect votes, the Chairperson of the meeting shall not, in addition to his/her original vote, be entitled to an additional or casting vote.

⁴ CNCA, Section 171(1)

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4.14 Adjournment:

The Chairperson at a meeting of Members may, with the consent of the Members of that meeting and subject to such conditions as the Members of that meeting may decide, adjourn the meeting from time to time and from place to place.

4.15 Written Resolutions:

A resolution in writing signed by every Member of the Society is as valid as if it had been passed at a meeting of the Members.

4.16 Errors, Omissions or Delays:

No error, omission or delay

- (a) in the giving of notice of any annual general or special meeting or any adjourned meeting of Members, or
 - (b) in the nomination or election process governing the nomination and election of Directors,
- shall invalidate such meeting or election or make void any proceedings taken as a result.

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SECTION V

BOARD OF DIRECTORS

5.01 Number of Directors:

The business and affairs of the Society shall be managed by a Board of Directors consisting of eighteen (18) Directors, nine (9) of whom shall be Writer Members and nine (9) of whom shall be Publisher Members. The Board shall be elected or appointed as the case may be in accordance with this By-law and the Articles.

The Board shall have the authority to appoint, from the Members, additional Directors provided that:

- (a) Any appointments are made in pairs, namely, one (1) Writer Member appointment and one (1) Publisher Member appointment, during the period between the date on which Directors are elected or declared elected and the date of the following annual meeting.
- (b) The term of office for such appointed Directors is limited to the term expiring at the next annual meeting of Members.
- (c) The maximum number of additional appointments by the Board at each election shall be six (6), subject to section 5.08 and, in any event, shall not be more than 1/3 of the number of Directors elected at the last annual meeting of Members.

5.02 (1) Qualification:

In addition to any qualifications provided by the *Act* and by this by-law or any of the other By-laws, the eighteen (18) Directors referred to in section 5.01 shall meet the qualifications set out in this section 5.02.

(2) Regional Representation:

The regional representation on the Board shall be as follows:

- (a) Three (3) Directors shall reside in the West. The "West" shall mean the provinces of Manitoba, Saskatchewan, Alberta, British Columbia, and the Northwest Territories, Yukon and Nunavut. Two (2) of these Directors shall be Writer Members and one (1) shall be a Publisher Member.
- (b) Six (6) Directors shall reside in the Province of Quebec. Three (3) of these shall be Writer Members and three (3) shall be Publisher Members.
- (c) Nine (9) Directors shall reside in the East. The "East" shall mean the Provinces of Ontario, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador. Four (4) shall be Writer Members and five (5) shall be Publisher Members.

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- (d) "Reside" shall mean (i) in the case of a Writer Member, the place where the Writer Member has his/her principal residence or, in the case of a Writer Member who no longer has a principal residence in Canada, the place of the Writer Member's previous Canadian address, and (ii) in the case of a Publisher Member, the principal place within Canada where the Publisher Member carries on business.

(3) Francophone Representation:

The Francophone representation on the Board shall be as follows:

- (a) Six (6) Directors shall be Francophone.
- (b) "Francophone" shall mean, in the case of a Writer Member, an individual who declares himself/herself a Francophone for the purposes of the nomination procedures and, in the case of a Publisher Member, a music publishing business that declares itself to be a publisher of Francophone music.

(4) New Classical Music and Audiovisual Music Representation:

The New Classical Music and Audiovisual Music representation on the Board shall be as follows:

- (a) One (1) Director shall be a writer of New Classical Music, one (1) Director shall be a writer of Audiovisual Music, and one (1) Director shall be a Publisher Member of New Classical Music.
- (b) "New Classical Music" and "Audiovisual Music" shall mean, in the case of a writer, a composer who declares himself/herself and is active as a New Classical Music writer or Audiovisual Music writer, respectively, and in the case of a publisher, an entity that declares itself and is active as a publisher of musical works created by New Classical Music writers.
- (c) "New Classical Music" for the purpose of this Section V of this By-Law shall include but is not limited to music that is referred to by the music community as serious music, electroacoustic music, contemporary classical music, concert music or experimental music and that excludes music otherwise included in popular genres.
- (d) "Audiovisual Music" for the purpose of this Section V of this By-Law shall include but is not limited to music that is referred to by the music community as music specifically created to accompany images, or a series of related images, in a synchronized relationship, including music forming part of film and television programs, video games and other visual representations.

(5) Music Other Than New Classical Music and Audiovisual Music Representation:

- (a) Five (5) Directors shall be writers of music other than New Classical Music and Audiovisual Music, at least one (1) of whom shall reside in the West, at least two (2) of whom shall reside in the East and at least two (2) of whom shall reside in Quebec.

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- (b) “Music Other than New Classical Music and Audiovisual Music” shall mean, in the case of a Writer, a Member who declares himself/herself a writer of music other than New Classical Music and/or Audiovisual Music and who creates music or songs including, but not limited to, pop, country, rock, blues, folk and jazz.
- (6) **In order to fulfil the requirements under paragraphs (2), (3), (4) and (5) of this section 5.02, the scrutineer shall be directed to count the votes in the following order:**
- (a) **Writer Votes:**
- (i) The two (2) writers designated pursuant to section 5.02(4)(a) irrespective of region, receiving the highest number of votes shall be declared elected, providing that both are not from the West or both are not from Quebec. In the event that two (2) writers designated as writers of New Classical Music and Audiovisual Music with the highest number of votes are both from the West or are both from Quebec, then, from those two, the writer with the highest number of votes shall be declared elected and a writer with the highest number of votes and designated as a writer of New Classical Music or Audiovisual Music, as the case requires, from another region shall be declared elected.
 - (ii) The five (5) writers designated writers of Music Other Than New Classical Music and Audiovisual Music with the highest number of votes, being at least one (1) from the West, at least two (2) from the East and at least two (2) from Quebec shall be declared elected.
 - (iii) The two (2) writers, irrespective of whether they are designated as New Classical Music, Audiovisual Music or Music Other Than New Classical and Audiovisual Music, who have the highest number of votes after those declared elected by virtue of items (i) and (ii) of this subparagraph (a) and who have the regional qualifications that are necessary to complete the writer representation shall be declared elected.

The elected Writer Members under subparagraph (a) of paragraph (6) of this section 5.02 are to include at least three (3) writers designated as Francophone with the highest number of votes.

In the event that this subparagraph (a) does not include at least three (3) Francophones then the required number of Francophones with the next highest votes and with the regional, New Classical Music, Audiovisual Music and music other than New Classical and Audiovisual Music qualifications required under paragraphs (2), (4) and (5) of this section 5.02 shall be declared elected.

- (b) **Publisher Votes:**
- (i) The publisher designated a publisher of New Classical Music, irrespective of region who has the highest number of votes shall be declared elected.

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- (ii) The publisher from the West with the highest number of votes shall be declared elected unless a publisher from the West is declared elected by virtue of item (i) of this subparagraph (b) above.
- (iii) The three (3) publishers from Quebec with the highest number of votes shall be declared elected unless a publisher from Quebec is declared elected by virtue of item (i) of this subparagraph (b) above, in which case the two (2) publishers from Quebec who have the highest number of votes shall be declared elected.
- (iv) The five (5) publishers from the East with the highest number of votes shall be declared elected unless a publisher from the East is declared elected by virtue of item (i) of this subparagraph (b) above, in which case the four (4) publishers with the next highest number of votes from the East shall be declared elected.

The elected Publisher Members under items (i) to (iv) of this subparagraph (b) are to include at least three (3) publishers designated as Francophones with the highest number of votes.

In the event that this subparagraph (b) does not include at least three (3) Francophones then the required number of Francophones with the next highest votes and with the regional, New Classical Music and Music Other than New Classical Music and Audiovisual Music qualifications required under paragraphs (4) and (5) of this section 5.02 shall be declared elected.

5.03 Non-Eligibility:

In addition to any eligibility provision or restriction provided by law, there shall not be eligible for election to the Board of Directors:

- (a) as a representative of a Publisher Member, more than one (1) representative from any group of affiliated Publisher Members (for the purposes hereof "affiliated" means a group of two [2] or more publishing business controlled through stock ownership by any one [1] of such group or all of which are either directly or indirectly controlled by any other person, co-partnership, firm, association or corporation);
- (b) a Member who has had an assignment of bankruptcy filed by or against him/her/it; a Member who has been adjudicated an undischarged bankrupt; a Member who has had a receiver, trustee or liquidator appointed over his/her/its assets; or a Member who has had an assignment made for the benefit of his/her/its creditors (for the purposes of this section, Member means an individual who is a Writer Member, a Publisher Member or the representative of a Publisher Member);
- (c) both a Writer Member and a representative of a Publisher Member that is owned or controlled, in whole or in part, either directly or indirectly by that Writer Member (in the event that both are nominated, one [1] shall decline the nomination); and

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- (d) as a representative of a Publisher Member, any person who is neither a Canadian citizen nor has his/her/its principal residence in Canada.

5.04 Termination of Publisher Member Directors:

In the event that a Director who is a representative of a Publisher Member ceases to represent a publishing company or ceases to be a Canadian citizen and ceases to have a principal residence in Canada, the office of that Director shall be vacated forthwith. In the case of such vacancy, section 5.08 of this By-law shall apply.

5.05 Election and Term:

The elected Directors shall hold office for a term of three (3) years. The appointed Directors, if any, shall serve a term that is co-terminal with the term of the departing or deceased Director.

5.06 Vacation of Office:

The office of a Director shall be vacated upon the occurrence of any of the following events:

- (a) if a receiving order is made against him/her or if he/she makes an assignment under the *Bankruptcy Act* or if he/she is adjudicated a bankrupt, or if a receiver, trustee or liquidator has been appointed over the assets of the Director, or an assignment has been made for the benefit of creditors of that Director;
- (b) if he/she becomes mentally incompetent or becomes incapable of carrying out the duties of a Director of the Society;
- (c) on death; or
- (d) if by notice in writing to the Secretary of the Society, he/she resigns his/her office.

5.07 (1) Removal of Officers by Board:

An Officer shall cease to hold office if and when a motion to remove that person from office is approved by a two-thirds (2/3) majority of the votes cast by the Writer Directors in the case of the removal of a Writer Officer or by a two-thirds (2/3) majority of the votes cast by the Publisher Directors in the case of the removal of a Publisher Officer.

(2) Removal of Officers or Directors by Members:

Subject to the requirements and applicable procedures of the *Acts*:

- (a) A special meeting of Members shall be called to consider the removal of a Writer Officer or Director upon requisition signed by one hundred and fifty (150) Writer Members entitled to vote and who reside in "the West" and three hundred (300) Writer Members entitled to vote and who reside in the Province of Quebec and four hundred and fifty (450) Writer Members entitled to vote and who reside in "the East".

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- (b) A special meeting of Members shall be called to consider the removal of a Publisher Officer or Director upon requisition signed by one hundred and fifty (150) Publisher Members entitled to vote and who reside in "the West" and three hundred (300) Publisher Members entitled to vote and who reside in the Province of Quebec and four hundred and fifty (450) Publisher Members entitled to vote and who reside in "the East".

"The West" and "the East" shall have the meaning as defined in paragraph (2) of section 5.02.

- (c) An Officer or Director shall cease to hold office if and when at an annual or special meeting a motion requesting removal of that person from office is approved by a majority of the votes cast by the Writer Members in the case of the removal of a Writer Director or Officer or by a majority of votes cast by the Publisher Members in the case of the removal of a Publisher Director or Officer.

5.08 Vacancies Replaced:

- (a) Subject to paragraph (b) below, in the event of a vacancy on the Board of Directors, the nominee with the next highest number of votes from the immediately preceding election who fulfils the qualifications provided in section 5.02, of the Director to be replaced shall be appointed by the Board of Directors to fill that vacancy. In the event that a suitable nominee is unavailable, the Directors representing the Writer Members shall appoint a replacement from the Writer Member membership who fulfils the qualifications provided in section 5.02, of the Writer Director to be replaced and the Directors representing the Publisher Members shall appoint a replacement from the Publisher Member membership who fulfils the qualifications provided in section 5.02, of the Publisher Director to be replaced.
- (b) The Board of Directors may not fill a vacancy resulting from:
 - (i) an increase in the maximum number of Directors provided for in the Articles; or
 - (ii) a failure of the Members to elect the minimum number of Directors provided for in the Articles.

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SECTION VI

NOMINATIONS

6.01 Nominating Committee:

Candidates for the elected Board of Directors shall be nominated in the following manner:

- (a) **Writer Nominating Committee:** A Writer's Nominating Committee consisting of at least three (3) but no more than five (5) Writer Members who have received Performing Right Royalties from the Society in the preceding calendar year shall be elected by the Writer Members of the Board at the Board of Directors' meeting that is held at least six (6) months before the annual meeting at which the Board of Directors is declared elected. The Writer Members of the Board shall designate one (1) of those so elected as Chairperson. No member of the Nominating Committee shall be eligible to stand as a candidate for the Board of Directors.
- (b) **Publisher Nominating Committee:** A Publisher's Nominating Committee consisting of at least three (3) but no more than (5) Publisher Members who have received Performing Right Royalties from the Society in the preceding calendar year shall be elected by the Publisher Members of the Board at the Board of Directors' meeting that is held at least six (6) months before the annual meeting at which the Board of Directors is declared elected. The Publisher Members of the Board shall designate one (1) of those so elected as Chairperson. No member of the Nominating Committee shall be eligible to stand as a candidate for the Board of Directors.

6.02 Procedure for Nominations:

Each Nominating Committee of the Board shall select and nominate from the general membership who have earned Performing Right Royalties from the Society in the preceding year, at least two (2) candidates for each position as Writer Directors and at least two (2) candidates for each position as Publisher Directors to be elected to the Board of Directors.

- (a) **Writers:** The Writers Nominating Committee shall nominate at least eighteen (18) candidates who are Writer Members, of whom at least two (2) shall be designated as "New Classical Music", at least two (2) shall be designated as "Audiovisual Music", at least ten (10) shall be designated as writers of "Music Other Than New Classical Music and Audiovisual Music", at least six (6) shall be designated as "Francophone", at least four (4) shall reside in "the West", six (6) shall reside in Quebec and at least eight (8) shall reside in "the East".
- (b) **Publishers:** The Publishers Nominating Committee shall nominate at least eighteen (18) candidates who are Publishers Members of whom at least two (2) shall be designated as "New Classical Music", at least six (6) shall be designated as "Francophone", at least two (2) shall reside in "the West", at least six (6) shall reside in Quebec and at least ten (10) shall reside in "the East".

BY-LAWS

6.03 Incumbent Directors:

The Nominating Committees shall automatically regard each incumbent Director as a candidate for re-election unless the incumbent Director is ineligible under this By-law or otherwise instructs in writing.

6.04 Consent to Stand:

The Nominating Committees shall secure the written consent of each candidate nominated by them.

6.05 Nomination by Petition:

Subject to the requirements of the *Act*, in any election for the Board of Directors, the Nominating Committees shall include, in addition to those nominees selected, any person eligible to be a Director who has received Performing Right Royalties from the Society in the previous calendar year and who is nominated by a proposal signed by twenty-five (25) or more of the Members of the Society who are entitled to vote for the Director whose name appears on the proposal. Any proposal nominating a candidate must be submitted to the Society in writing ninety (90) to one hundred and fifty (150) days before the anniversary of the previous annual meeting of Members.

BY-LAWS

SECTION VII

ELECTION OF DIRECTORS

7.01 Frequency:

Elections for the Board of Directors shall take place every three (3) years in accordance with Sections V, VI and VII, and Directors shall be declared elected at the first and thereafter every third annual meeting.

7.02 Scrutineers:

The Board of Directors shall appoint a trust company, professional scrutineers, or a firm of chartered accountants to act as a scrutineer in the election of the Board of Directors.

7.03 Candidate Lists:

- (a) The Nominating Committees shall prepare a list containing the names of Writer Member candidates and a list containing the names of Publisher Member candidates and that show the particular designation, as provided for in Section V, of the nominee and the minimum and maximum number of candidates that may be voted for by the Member.
- (b) The notice described in section 4.04, when given for the purpose of electing Directors, will contain instructions for each voting Member on how to elect the candidates on the applicable list as Directors, using the electronic voting system that the Society has made available for that purpose.
- (c) All votes that are cast through the electronic voting system must be cast no later than midnight on the date specified in the instructions. Votes that are received after that date by such means shall not be counted.
- (d) For greater certainty, only the Writer Members who are voting Members may vote for the writer candidates, and only the Publisher Members who are voting Members may vote for the publisher candidates.

7.04 Certification of Elected:

The scrutineer, after canvassing the vote, shall by written certificate presented to the President and Chair of the Board not later than the date fixed for the annual meeting at which the Board of Directors is declared elected, certify the names of the elected candidates.

7.05 Voting Information:

Any information that may indicate how a particular Member or Members voted or how a particular Member or Members' votes were weighted shall remain strictly confidential to the scrutineer.

BY-LAWS

7.06 (1) **Voting Rights:**

Voting rights of all Members

- (a) in elections of Directors, a Writer Member may only vote for Writer Member candidates and the Writer Member vote is non-transferable and a Publisher Member may only vote for Publisher Member candidates, and
- (b) for all other purposes in this By-law shall be determined according to paragraphs (1), (2) and (3) of this section 7.06, subject to the limitations that no Writer Member shall have a vote with a weight that has a value of more than twenty (20) votes and no Publisher Member shall have a vote with a weight that has a value of more than ten (10) votes.

(2) **Members:**

- (a) **Writer Members:** Each Writer Member who has received Performing Right Royalties from the Society in the preceding calendar year shall have one (1) vote plus one (1) vote for every five hundred dollars (\$500) or part of each five hundred dollars (\$500) received in that preceding calendar year that is in excess of the first five hundred dollars (\$500) received.
- (b) **Publisher Members:** Each Publisher Member who has received Performing Right Royalties from the Society in the preceding calendar year shall receive one (1) vote plus one (1) vote for every one thousand dollars (\$1000) or part of each one thousand dollars (\$1000) received in that preceding calendar year that is in excess of the first twenty-five hundred dollars (\$2500) received.
- (c) **Posthumous Successors:** Each Posthumous Successor shall be entitled the same voting rights as a Writer Member set out in paragraph (a) above.
- (d) **No Royalties:** A Member who has earned no Performing Right Royalties from the Society in the calendar year preceding the election shall not be entitled to vote in the election of Directors that immediately follows that year nor be entitled to vote for any other purposes provided in these By-laws.

(3) **Voting Rights: Posthumous Successors:**

A Posthumous Successor shall have the same voting rights as the deceased Writer Member, but shall not be entitled to stand as a candidate for election to the Board of Directors of the Society.

BY-LAWS

SECTION VIII

MEETINGS OF THE BOARD OF DIRECTORS

8.01 (1) Calling of Meetings:

Meetings of the Board shall be held from time to time at the call of the Board or the President and Chair of the Board or Secretary of the Society. Notice of the time and place and agenda of every meeting so called shall be given to each Director not less than fourteen (14) days before the time when the meeting is to be held, except that no notice of a meeting shall be necessary if all the Directors are present or if those absent waive notice of or otherwise signify their consent to such meeting being held.

(2) Regular Meetings:

The Board shall hold regular meetings at least four (4) times a year.

(3) Notice:

Where notice of a meeting of the Board is given by mail or by electronic means, it shall be given to each Director not less than fourteen (14) days before the day on which the meeting is to be held.

(4) Participation by Telephone or Other Communication Facilities:

Where all the Directors participating in that meeting have consented thereto (either before or after the meeting), a Director may participate in a meeting of Directors or of any committee of Directors by means of such telephone or other communications facilities as permit all persons participating in the meeting to hear each other, and a Director participating in a meeting by such means shall be deemed for the purposes of the *Act* to be present at that meeting.

8.02 First Meeting of New Board:

Provided a quorum of Directors is present, each newly-elected Board may without notice hold its first meeting immediately following the annual meeting of Members at which such Board is declared elected, subject to the waiver of notice set out in section 8.01(1).

8.03 Place of Meeting:

Meetings of the Board shall be held at the registered office of the Society or elsewhere in Canada.

8.04 Chairperson:

The President and Chair of the Board or, in his/her absence, the first Vice-Chair of the Board or, in his/her absence, the second Vice-Chair of the Board, shall Chair any meeting of Directors; and, if no such Officer is present, the Directors present shall choose one (1) of their number to be Chairperson.

BY-LAWS

8.05 (1) **Votes to Govern:**

At all meetings of the Board, every question shall be decided by a majority of the votes cast on the question; except as may be otherwise specifically provided by law, Articles or these By-laws. In the case of an equality of votes, the Chairperson shall not, in addition to his/her original vote, be entitled to an additional or have a casting vote.

(2) **Distribution of Royalties:**

Any rule or regulation passed or enacted by the Board which relates to or establishes the amount, system or method of distributing Performing Right Royalties to Members shall require a favourable vote of three-quarters (3/4) of the Directors present at the Board meeting.

8.06 **Special Meetings:**

Special meetings of the Board may be called by the Executive Governance Committee or at the request of at least five (5) Writer Member Directors and five (5) Publisher Member Directors in good standing. At least five (5) days notice shall be given, by telephone or by electronic means, of the date, time, place and agenda for a special meeting. No items may be added to the agenda circulated for a special meeting.

8.07 **Quorum:**

At all meetings of the Board, the presence of ten (10) Directors, five (5) of whom shall be Writer Members and five (5) of whom shall be Publisher Members, shall be necessary and sufficient to constitute a quorum for the transaction of business.

8.08 **Written Resolutions:**

A resolution in writing signed by all of the Directors of the Society is as valid as if it had been passed at a meeting of the Board.

8.09 **Delegation of Powers:**

Subject to the requirements of the *Act*, the Board of Directors shall have the power to delegate authority for specific matters to the Executive Governance Committee, to any of its established Committees, or to any Officer or the Chief Executive Officer of the Society provided that any authority delegated by the Board is not further delegated without the prior permission of the Board.

8.10 (1) **Committees:**

The Board may establish committees from time to time in order to conduct its business. No committee shall have the power to act for or on behalf of the Society or otherwise commit or bind the Society to any course of action without the Board's Approval. Committees shall only have the power to make recommendations to the Board, as the Board may from time to time, direct.

BY-LAWS

(2) Appointment:

The Board may from time to time appoint such committee as it deems necessary or appropriate for carrying out the objects of the Society and for such term at such remuneration and with such powers as it sees fit. Any such Committee may formulate its own rules of procedure, subject to such regulations or directions as the Board may from time to time make.

(3) Removal:

The Board may, by resolution passed by at least two thirds (2/3) of the votes cast thereon, at a meeting of the Board, remove any committee member before the expiration of his/her term of office as such and may, by majority vote, elect any person in his/her stead for the remainder of his/her term.

8.11 Executive Governance Committee:

The Executive Governance Committee shall consist of the President and Chair of the Board, Past President and Chair of the Board, first Vice-Chair of the Board, second Vice-Chair of the Board, Secretary and Treasurer of the Society. The Board of Directors shall have the authority to appoint additional members to the committee from the Directors of the Board of Directors, upon any condition it sees fit, provided all Executive Governance Committee members referred to above, consent. The maximum number of members of the Executive Governance Committee shall be eight (8). The Executive Governance Committee shall observe the following procedures:

- (a) **Calling and Notice:** Meetings of the Executive Governance Committee shall be held at the call of the President and Chair of the Board or at the request of at least two (2) Members of the Executive Governance Committee. At least five (5) days notice shall be given, by telephone or by electronic means, of the date, time, place and agenda for meetings of the Executive Governance Committee.
- (b) **Special Meetings and Telephone Meetings:** In emergencies, special meetings of the Executive Governance Committee may be called at two (2) days notice, by telephone or by electronic means, or the Executive Governance Committee may conduct a special meeting by telephone conference call in accordance with the rules established by the Executive Governance Committee providing all committee members consent either generally or in respect of a particular meeting and providing that all persons participating in the meeting can hear each other.
- (c) **Sub-Committees:** The Executive Governance Committee may establish sub-committees from time to time in order to conduct its business more effectively.
- (d) **Quorum:** A quorum for all meetings of the Executive Governance Committee shall be a majority of its members.

BY-LAWS

8.12 Standing Committees:

Standing Committees of the Society shall be established by the Board. The Executive Governance Committee may also establish standing subcommittees. The costs of all Standing Committees shall be clearly identified in the annual budget of the Society. Motions to establish Standing Committees must include specific terms of reference in accordance with paragraph (1) of section 8.15. These terms of reference may be amended subsequently, by approval of an appropriate motion by the respective appointing body.

8.13 Ad Hoc Committees:

Ad Hoc Committees may be appointed from time to time by approval of a motion at a meeting of the Board or any Standing Committee of the Society. If terms of reference are not included in the motion to establish an Ad Hoc Committee, the Committee shall draw up its own terms of reference and submit these to its appointing body for approval.

8.14 Compensation Committee:

- (a) A Compensation Committee shall be established by the Board. It shall be made up of not fewer than three (3) Directors the majority of whom are not Officers of the Society. If terms of reference are not included in the motion to establish the Compensation Committee, the Compensation Committee shall draw up its own terms of reference and submit these to its appointing body for approval.
- (b) The Compensation Committee shall review and recommend the total compensation of the members of the Board and members of the committees of the Board.

8.15 (1) Terms of Reference for All Committees:

Terms of reference for all committees shall include the following:

- (a) the status of the committee (standing or ad hoc);
- (b) the type of committee (discussion, working, combination, task force, etc.);
- (c) the overall purpose;
- (d) any specific directives defining goals and tasks;
- (e) the relationship to any other overlapping activities of the Society;
- (f) the composition, including statements on any designated observers, whether Officers are appointed as full or associate members and any authority granted to the chair to co-opt other Members;
- (g) the assignment of any staff as associate members;
- (h) any special mode of operation (such as meetings only by telephone);

BY-LAWS

- (i) an upper limit of expenses the committee can incur;
- (j) the preferred time and method of reporting;
- (k) the terms of office for members and whether successive terms are permitted;
- (l) the method for the election of new members and for filling casual vacancies; and
- (m) the method of election of the chair.

(2) Additional Committee Members:

Each committee may recommend to the Board of Directors the addition of up to two (2) members, provided they are Members but not Directors, to advise but not vote on committee matters. Any such members are entitled only to an attendance fee.

(3) Convening:

Meetings of committees shall be called by the chairperson. If no chairperson is designated, the chairperson whose name appears first on the list of Members shall convene the first meeting, and the committee shall then elect its own chair.

(4) Telephone Meetings:

The business of committee may be conducted by telephone conference calls, in accordance with the rules of order established by the committee, providing all committee members consent either generally or in respect of a particular meeting and providing that all persons participating in the meeting can hear each other.

(5) Quorum:

A quorum for all committees shall be a majority of its members.

8.16 Term of Service:

Subject to the requirements of the *Act* and these By-laws, all Officers, committee members and elected Directors shall continue to hold office until their successors are elected or appointed.

8.17 Resignation:

All Officers, Directors and committee members may resign their positions by writing a letter of resignation to the President and Chair of the Board or the Secretary of the Society.

8.18 Conflict of Interest:

No Director, Director's employer or entity with whom the Director has a material interest, may enter into any agreement or business arrangement with the Society without first promptly disclosing his/her interest and the nature of the agreement or business arrangement to the Board of Directors and receiving its approval to do so. In such a case, such Director may not vote on that matter.

BY-LAWS

8.19 Confidentiality:

All matters, including but not limited to written communication, raised or discussed at a meeting of the Board of Directors or during any committee meeting shall be considered confidential. A Director is prohibited from disclosing to persons other than another Director, such confidential information, except as required by law.

BY-LAWS

SECTION IX

DIRECTOR'S REMUNERATION

9.01 Annual Remuneration:

Directors and Officers may be paid an annual compensation as shall from time to time be authorized by resolution of the Board of Directors.

9.02 Remuneration for Meetings:

Directors and Officers may be paid for attendance at meetings of the Board, and committees of the Board, such reasonable remuneration as shall from time to time be authorized by resolution of the Board of Directors. Directors and Officers shall be paid their travelling and other out-of-pocket expenses properly incurred by them in attending meetings of the Board and committees of the Board.

BY-LAWS

SECTION X

POWERS OF THE BOARD OF DIRECTORS

10.01 General Powers:

The Board shall manage the affairs of the Society. In addition to the powers and authorities by these By-laws expressly conferred upon it, the Board may exercise all such powers of the Society and do all such other acts and things as the Society is by its Articles, the By-laws, or otherwise authorized to exercise and do.

10.02 Express Powers:

Without prejudice to the general powers conferred by section 10.01, and the other powers conferred by the Articles and by these By-laws, it is hereby expressly declared that the Board shall have the following powers:

- (a) to formulate such regulations consistent with the *Act*, the Articles and these By-laws as are in the best interests of the Members of the Society;
- (b) to remove any and all Officers for cause;
- (c) to expend money necessary for the operation of the affairs of the Society;
- (d) to determine which of the Directors or Officers of the Society shall be authorized on the Society's behalf to sign bills, notes, receipts, acceptances, endorsements, cheques, releases, contracts and documents; and
- (e) to designate and appoint, by resolution adopted by a majority of the Directors then in office, one (1) or more committees, each of which shall consist of two (2) or more Directors, which committees, to the extent provided in said resolution, shall have and exercise the authority of the Board in a particular aspect of the management of the Society.

10.03 Effect of By-laws:

Subject to the *Act* and to the provisions of section 10.04, and except for any By-law enacted, repealed or amended pursuant to section 13.01, no resolution or policy passed or enacted by the Board, or any other action taken by the Board, requires confirmation or ratification by the Members of the Society in order to bind the Society.

10.04 Rules and Regulations:

The Board may prescribe such rules and regulations not inconsistent with these By-laws relating to the management, operation and the conduct and procedure relating to nominations and elections of the Society as they deem expedient, provided that such rules and regulations shall have force and effect only until the next annual meeting of the Members of the Society when they shall be confirmed by a majority vote of Writer Members and a separate majority vote of Publisher Members, either present or by proxy and if not confirmed, cease to have force and effect.

BY-LAWS

SECTION XI

OFFICERS

11.01 Election of Officers:

The Officers of the Society shall consist of a President and Chair of the Board, a first Vice-Chair of the Board, a second Vice-Chair of the Board, a Secretary, a Treasurer and a Past President and Chair of the Board and such other Officers as the Board may determine, who shall be elected from among the members of the Board by the first Directors prior to the first annual meeting of Members or by the Board at the first Board meeting following the annual meeting. One (1) person may hold more than one (1) office, except the President and Chair of the Board who may not hold the office of Secretary.

11.02 Term of Office and Removal:

The term of office of Officers elected by the Board shall be settled by the Board from time to time. The Board may remove at any time at its pleasure any Officer of the Society. Otherwise, each Officer appointed by the Board shall hold office until his/her successor is appointed.

11.03 President and Chair of the Board:

The President and Chair of the Board shall have the general management and direction, subject to the authority of the Board, of the organization and transaction of the affairs of the Society together with such other powers and duties as the Board may prescribe. He/she shall:

- (a) preside at all meetings of the Members, the Board and the Executive Governance Committee;
- (b) see that all orders and resolutions of the Board are carried into effect;
- (c) submit a report of the operations of the Society for the fiscal year to the Board and the Members at their respective annual meetings;
- (d) report to the Board all matters within his/her knowledge which the interest of the Society may require to be brought to their attention;
- (e) be an ex-officio member of all Board committees whereby he/she may attend and participate in all Board committees but will not have the right to vote;
- (f) have general supervision and direction of the Officers of the Society elected from among the members of the Board and see that their duties are properly performed; and
- (g) have all the general powers and duties usually incident to the Office of the President and Chair of the Board.

BY-LAWS

11.04 Vice-Chairs of the Board:

During the absence, disability or refusal to act of the President and Chair of the Board, his/her duties shall be performed and his/her powers shall be exercised by the first Vice-Chair of the Board or if he/she is absent, disabled or refuses to act, the President and Chair of the Board's duties shall be performed and his/her powers shall be exercised by the second Vice-Chair of the Board. The Vice-Chairs of the Board shall have such other powers and duties as the Board or the President and Chair of the Board may prescribe.

11.05 Secretary:

The Secretary shall attend and keep full minutes of all meetings of Members and the Board and shall enter or cause to be entered in books kept for that purpose minutes of all proceedings thereat. He/she shall give or cause to be given, as and when instructed, all notices to Members and Directors. He/she shall be the custodian of the corporate seal of the Society and of all books, papers, records, documents and other instruments belonging to the Society except when some other Officer or agent has been appointed for that purpose. The Secretary shall perform such other duties as the Board or the President and Chair of the Board may prescribe.

11.06 Treasurer:

The Treasurer shall have the custody of the funds and securities of the Society, shall keep full and accurate account of receipts and disbursements in books belonging to the Society, and shall deposit all monies and other valuable effects in the name and to the credit of the Society in such depositories as may be designated by the Board. The Treasurer shall disburse the funds of the Society as may be ordered by the Board, taking proper vouchers for such disbursements and shall render to the President and Chair of the Board and to the Board, at the regular meetings of the Board, or whenever they may require it, an account of all transactions he/she has recorded as Treasurer and of the financial condition of the Society. At the annual meeting of the Members, he/she shall deliver more sureties, if any, as the Board shall determine for the restoration to the Society, in case of his/her death, resignation or removal from office, of all books, papers, vouchers, money or other property of whatever kind in the Treasurer's possession belonging to the Society.

11.07 Past President and Chair of the Board:

The Past President and Chair of the Board shall perform all specific duties that are assigned by the President and Chair of the Board or required by the Board of Directors.

11.08 Chief Executive Officer:

The Board may, from time to time, appoint a Chief Executive Officer and may delegate to that person the authority to manage and direct the business and offices of the Society, including the right to appoint executive managers such as vice-presidents who are not Officers under these By-laws, as the Board of Directors may, from time to time, determine. The Chief Executive Officer shall report on the affairs of the Society as may be required from time to time by the Board of Directors.

BY-LAWS

11.09 Duties and Powers of Other Officers:

The Board may appoint such other Officers of the Society with such authority as the Board may determine to be appropriate. Any of the powers and duties of an Officer to whom an assistant has been appointed may be exercised and performed by such assistant, unless the Board or the President and Chair of the Board otherwise directs.

11.10 Variation of Duties:

From time to time the Board may vary, add to or limit the powers and duties of an Officer.

11.11 Agents and Attorneys:

The Board shall have power from time to time to appoint agents or attorneys for the Society in or out of Canada with such powers of management or otherwise (including the power to appoint) as may be thought fit.

11.12 Delegation of Authority:

Subject to the requirements of the *Acts*, the Board of Directors shall have the power to delegate authority for specific matters to the Executive Governance Committee, to any of its established committees or to any Officer or the Chief Executive Officer of the Society, provided that any authority delegated by the Board is not further delegated without the prior permission of the Board.

11.13 Vacancies:

If the office of President and Chair of the Board, Vice-Chair(s) of the Board, Secretary, Treasurer or any other office becomes vacant by reason of death, resignation, disqualification or otherwise, the Board may choose a successor or successors from among the members of the Board who shall hold office for the remainder of the unexpired term.

BY-LAWS

SECTION XII

FINANCIAL AND AUDITING

12.01 Books and Records:

The Board shall ensure that all necessary books and records of the Society required by the By-laws or by any applicable law are regularly and properly kept.

12.02 Appointment of Auditor:

The books, accounts and records of the Secretary and Treasurer shall be audited at least once each year by a duly qualified accountant. The Members shall, at each annual meeting, appoint an auditor, to hold office until the close of the next annual meeting of Members, at such remuneration as may be fixed by the Board; provided, however, that a Director, Officer or employee of the Society shall not occupy the office of auditor. The Board may fill any casual vacancy in the office of auditor until the Members appoint a replacement at the next annual meeting.

12.03 Removal of Auditor:

The Members may, by resolution passed by at least two-thirds (2/3) of the votes cast thereon, at a special meeting of the Members called for the purpose, remove any auditor before the expiration of its term of office and may, by majority vote, elect any person in its stead for the remainder of its term.

12.04 Annual Financial Statements:

The auditor of the Society shall prepare annual audited financial statements of the Society in accordance with generally accepted accounting principles consistently applied and shall submit such statements to the Board and to the annual meeting of Members within six (6) months after the end of the financial year to which the statements relate.

The Society may, instead of sending copies of the annual financial statements and related documents referred to in the *Act* to the Members, publish a notice to its Members stating that the annual financial statements and related documents are available on the Society's website and at its registered office and any Member may, on request, obtain a copy free of charge at the registered office or by prepaid mail.

12.05 Inspection of Records:

Subject to section 12.06, the books and records of the Society may be inspected by any Director.

12.06 Confidentiality:

The Society shall at all times keep confidential any information relating to the earnings of individual Members or any financial information reported by licensees.

9 CNCA, Sections 172(1) and 175(2)

BY-LAWS

12.07 Borrowing Power:

Subject to the By-laws, the Board of Directors may, from time to time, on behalf of the Society:

- (a) borrow money upon the credit of the Society;
- (b) issue, reissue, sell or pledge bonds, debentures, notes or other evidences of indebtedness or guarantee of the Society, whether secured or unsecured;
- (c) to the extent permitted by the *Act*, give a guarantee on behalf of the Society to secure performance of any present or future indebtedness, liability or obligation of any person; and
- (d) mortgage or otherwise create a security interest in all or any currently owned or subsequently acquired real or personal, movable or immovable, property of the Society including book debts, rights, powers, franchises and undertakings, to secure those bonds, debentures, notes or other evidences of indebtedness or guarantee or any other present or future indebtedness, liability or obligation of the Society.

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.

12.08 Certification of Documents:

The Executive Governance Committee shall have authority to appoint any member of the Board of Directors, or any staff member, to certify a specific document.

BY-LAWS

SECTION XIII

BY-LAWS

13.01 By-laws:

- (a) The Directors may, by resolution, make, amend or repeal any by-laws that regulate the activities or affairs of the Society, except in respect of matters referred to in subsection 197(1) of the *Act*.
- (b) The Directors shall submit the by-law, amendment or repeal to the Members at the next meeting of the Members, and the Members may, by ordinary resolution, confirm, reject or amend the by-law, amendment or repeal.
- (c) Subject to the *Act*, the by-law, amendment or repeal is effective, in the form in which it was confirmed, from the date of the resolution of the Directors.
- (d) The by-law, amendment or repeal ceases to have effect if it is not submitted by the Directors to the Members or if it is rejected by the Members.
- (e) If a by-law, an amendment or a repeal ceases to have effect, a subsequent resolution of the Directors that has substantially the same purpose or effect is not effective until it is confirmed, or confirmed as amended, by the Members.

BY-LAWS

SECTION XIV

INDEMNITIES TO DIRECTORS AND OFFICERS

14.01 Indemnity:

Every Director and Officer of the Society and their heirs, executors and administrators, and estate and effects (individually and collectively, the Indemnified Party), shall from time to time and at all times be indemnified and saved harmless out of the funds of the Society from and against;

- (a) all costs, charges and expenses whatsoever that such Indemnified Party sustains or incurs, including any amount paid to settle an action or satisfy a judgment, in respect of any civil, criminal, administrative, investigative or other suit or proceeding that is brought, commenced or prosecuted against him/her for or in respect of any act, deed, matter or thing whatsoever made, done or permitted by him/her in or about the execution of the duties of his/her office; and
- (b) all other costs, charges and expenses that he/she sustains or incurs in or about or in relation to the affairs of the Society;

provided that the Indemnified Party:

- (i) acted honestly and in good faith with a view to the best interests of the Society or, as the case may be, to the best interests of the other entity for which the Indemnified Party acted as Director or Officer or in a similar capacity at the Society's request; and
- (ii) in the case of criminal or administrative proceeding that is enforced by a monetary penalty, had reasonable grounds for believing that his/her conduct was lawful.

The Society empowers to enter into an appropriate arrangement with insurers to provide the indemnity contained in this section.

BY-LAWS

SECTION XV

NOTICES

15.01 By Mail or By Electronic Means:

Whenever, under the provisions of the *Act*, the Articles or the By-laws, notice is required to be given to any Director or Member, such notice is sufficiently given if delivered personally or delivered by mail to his/her address as it appears on the books of the Society or if sent by any means of wire, wireless or any other form of transmitted or recorded communication including electronic communication. Notice shall be deemed to have been given of a mailed document on the day it is deposited in a post office or public letter box. A notice sent by any means of wire or wireless or any other form of transmitted or recorded communication shall be deemed to have been given when delivered to the appropriate communication company or agency of its representative for dispatch.

15.02 Waiver:

Whenever any notice is required to be given under the provisions of the *Act*, the Articles or the By-laws, a waiver thereof in writing, signed by the person or persons entitled to the notice, whether given before or after the time required, shall be equivalent to notice.

BY-LAWS

SECTION XVI

DISPUTE RESOLUTION

- 16.01** If a dispute or controversy among Members, Directors, Officers or Committee members of the Society concerning the interpretation of the Articles or By-laws is not resolved in private meetings between the parties, then such dispute or controversy shall be settled by a process of dispute resolution as follows to the exclusion of such persons instituting a law suit or legal action:
- (a) the dispute shall be settled by arbitration before a single arbitrator, in accordance with the *Arbitration Act*, 1991 (Ontario) or as otherwise agreed upon by the parties to the dispute. All proceedings relating to arbitration shall be kept confidential, and there shall be no disclosure of any kind. The decision of the arbitrator shall be final and binding and shall not be subject to appeal on a question of fact, law or mixed fact and law; and
 - (b) all costs of the arbitrator shall be borne by such parties as may be determined by the arbitrator.

BY-LAW NUMBER TWO

being a by-law relating generally to
authorize an application for Supplementary Letters Patent

**SOCIETY OF COMPOSERS, AUTHORS AND MUSIC
PUBLISHERS OF CANADA**

incorporated under Part II of the *Canada Corporations Act*

BE IT ENACTED as a By-law of the Society of Composers, Authors and Music Publishers of Canada (herein called "SOCAN") that:

The objects of SOCAN are changed to read:

- (a) The collective administration of performing rights in dramatico-musical or musical works including performance in public and communication to the public by telecommunication or by any other means.
- (b) The collective administration of any other right under the *Copyright Act* of Canada or of any related or similar right whether under federal or provincial legislation or otherwise.
- (c) The provision of a service to or with any other person, organization or entity in connection with the collective administration of any right mentioned in (a) or (b) above.
- (d) The doing of all things incidental or conducive to the attainment of these objects.