

CONSTITUTION OF COPYRIGHT LICENSING LIMITED

This Constitution contains regulations relating to the conduct of the Company's affairs and must be read in conjunction with the Companies Act 1993

1. CONSTITUTION AND THE COMPANIES ACT 1993

The provisions of the Companies Act 1993 ("the Act") are amended, adopted, or modified by this constitution as provided below.

1.1 Definitions

In this constitution, the following definitions apply:

"Accounting Period" means a period of not more than 12 months ending on 31 December in any year or on such substituted date as may be adopted by the Company;

"Author Directors" means Directors appointed by shareholders holding Author shares;

"Author shares" means shares held by representatives of authors;

"Board" means the board of Directors of the Company from time to time;

"Company" means Copyright Licensing Limited;

"Distributable Fund" means the residue of funds remaining in respect of any Accounting Period pursuant to clause 9.1;

"non-profit company" means a company which is not carried on for the purposes of profit or gain to any shareholder at any time;

"Publisher Directors" means Directors appointed by shareholders holding Publisher shares;

"Publisher shares" means shares held by representatives of publishers;

"rightsholders" means those rightsholders identified as the owners of copyright works copied under licensing schemes administered by the Company or by overseas Reproduction Rights Organisations;

"shareholder" means any shareholder holding publisher or author shares.

Unless the context otherwise requires, words importing the singular include the plural and vice versa. Words of one gender include all other genders.

2 COMPANY OBJECTS & POWERS

The Company operates as a non-profit company and, subject to the provisions of Section 16 of the Act, has full capacity to carry on or undertake any business or activity, do any act, or enter into any transaction, both within and outside New Zealand required:

- 2.1 To acquire the reproduction and neighbouring rights in copyright works from rightsholders or their agents whether exclusive or non-exclusive;
- 2.2 To use all reasonable endeavours to exploit the reproduction rights in the copyright works in accordance with sound commercial practice and the normal procedures of Reproduction Rights Organisations;
- 2.3 To develop effective methods for conveyance of rights and fees between and among rightsholders and users;
- 2.4 To license users to make reproductions of extracts from the copyright works of the rightsholders represented by the Company and to collect fees for such reproduction on behalf of such rightsholders;
- 2.5 To carry out sampling surveys to identify rightsholders or agents of copyright works copied by users under licence to determine the distribution of licensing fees received to such rightsholders or agents;
- 2.6 To administer the funds and financial affairs of the Company on behalf of rightsholders PROVIDED THAT no portion of such funds shall be paid directly or indirectly by way of dividend, bonus or otherwise by way of profits to any shareholder of the Company;

- 2.7 To distribute licensing revenue to rightsholders or agents of copyright works as determined by sampling surveys or other means after deduction of reasonable administrative charges;
- 2.8 To invest and deal with the revenue of the company not immediately required in such manner as deemed appropriate;
- 2.9 To draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading, warrants and other negotiable or transferable instruments as deemed appropriate;
- 2.10 To promote and foster the interests of rightsholders of copyright works by whatever means deemed appropriate;
- 2.11 To adopt such means of raising awareness of copyright issues and advertising the services of the Company as deemed appropriate;
- 2.12 To enter into any arrangements with any government or authority, supreme, municipal, local or otherwise that may seem conducive to the company's objects and to obtain from any such government or authority any rights, privileges and concessions which the Company may think it desirable to obtain and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions;
- 2.13 To apply for, promote, and obtain any statute, order, regulation or other authorisation or enactment which may seem calculated directly or indirectly to benefit the Company's interests and to oppose any bills, proceedings, or applications which may seem calculated directly or indirectly to prejudice the Company's interests;
- 2.14 To subscribe to, become a member of or co-operate with any other Company, institution, association or organisation, whether incorporated or not, whose objects are altogether or in part similar to those of the Company;
- 2.15 To represent rightsholders or agents of copyright works in any proceedings before the Copyright Tribunal;
- 2.16 To recover, by legal proceedings or otherwise, any accounts payable to the Company;
- 2.17 To do all such things as are incidental or conducive to the attainment of the objects of the Company, either now or in the future, and to exercise the full rights, powers and privileges of the Company.

3. SHARES

The Company has issued 100 shares which are divided into 50 'Publisher shares' and 50 "Author shares" which have the same rights and privileges and are subject to the same restrictions.

All shares have a value of \$1.00 each.

4. TRANSFER OF SHARES

No share in the Company shall be sold or transferred by any shareholder without the written consent of all shareholders in the Company.

5. GENERAL MEETINGS

5.1 Annual General Meeting

An annual general meeting of shareholders shall be held once in each calendar year within six months from the end of each Accounting Period of the Company. All general meetings other than the annual general meeting shall be called extraordinary general meetings.

5.2 Resolution in lieu of meeting

A resolution in writing signed by all of the shareholders entitled to vote on that resolution at a general meeting is as valid as if it had been passed at a meeting of shareholders. Such a resolution may be signed without prior notice being given to shareholders.

5.3 Notice of Meeting

Except where a resolution in writing is made in lieu of such meeting, 14 days' notice of any annual general meeting and 21 days notice of any extraordinary general meeting shall be provided to shareholders specifying the place, date and hour of the meeting and the general nature of any business to be transacted.

5.4 Voting

At any general meeting each shareholder (or representative of a shareholder) shall have one vote.

6 DIRECTORS

6.1 Number of Directors

Unless and until otherwise determined by the Company in general meeting, the Board shall consist of six Directors, three being appointed by shareholders holding Publisher shares and three being appointed by shareholders holding Author shares.

6.2 Non-Voting Expert Director

The Board shall have the power to appoint an additional non-voting expert Director if required. Any Director so appointed may be removed by the Board at any time.

6.3 Term of Office

Each Director shall hold office for a period of two years from the date of their appointment (at which time they shall, if they wish, offer themselves for re-election) or until vacation of office pursuant to section 157 of the Act.

6.4 Directors' Indemnity and Insurance

The Company is expressly authorised to indemnify any Director or employee of the Company for any of the matters provided in section 162(3) and (4) of the Act. In addition, the company is expressly authorised to effect insurance for any and all Directors and employees of the Company provided that:

- (a) The Board gives its prior approval as required by section 162(5) of the Act;
- (b) The Directors who vote in favour of authorising insurance are forthwith entered into the interest register in accordance with section 162(6) and (7) of the Act.

7 PROCEEDINGS OF THE BOARD

7.1 Chairperson

The Board shall at the first meeting in each year elect from one of its number a chairperson for its meetings for that year. If no chairperson has been elected or if at any meeting the chairperson is not present within five minutes after the time appointed for the meeting, the Directors present may choose one of their number to be chairperson of the meeting.

7.2 Quorum

The quorum necessary for the transaction of business by the Board shall be at least two of the Publisher Directors and two of the Author Directors.

7.3 Voting entitlements

A Director may, when exercising powers or performing duties as a Director, act in a manner which he or she believes is in the best interests of the shareholder or shareholders whom they represent, even though it may not be in the best interests of the Company.

8 ACCOUNTS

The Board shall cause to be kept such accounting and other records as are required by the Act. Full financial statements will be prepared within five months from the end of each Accounting Period and laid before the Company in general meeting.

9 RECEIPT AND ALLOCATION OF MONIES

9.1 Application of monies

In each Accounting Period, all monies received by the Company on behalf of rightsholders together with all income arising from the investment of any such monies, shall be held and applied as follows:

- (a) in payment of all proper and reasonable expenses of the Company of and incidental to the collection, allocation and distribution of such monies and any other amounts properly chargeable by the Company;
- (b) if the Board so determines, such amounts not exceeding two per centum of all such monies received as the Board may consider proper for cultural and/or social purposes or for such other purposes as the Board shall in its absolute discretion think conducive to the interests of rightsholders represented by the Company;
- (c) any surplus then remaining shall become part of the Distributable Fund for that Accounting Period which shall be allocated and distributed to rightsholders in accordance with a method of entitlement to be fixed from time to time by the Board.

9.2 Entitlement

- (a) Any method of entitlement fixed by the Board shall comply with the terms and conditions of any agreement in force from time to time between the Company and any mandated rightsholder or Reprographic Rights Organisation.
- (b) Allocations and distributions, when made by the Board, shall be final and binding except that the Board shall be at liberty to consider and, if thought fit, to admit any claims made by any interested persons within two years of the date of the allocation or distribution concerned.

9.3 Time of Distribution

Monies allocated to rightsholders from the Distributable Fund in respect of any Accounting Period shall be distributed to rightsholders as soon as practicable after allocation. To the extent that payment of any such allocation has not been effected, the unpaid balance shall be treated as a liability of the Company in its annual accounts for a period of five years (or longer period as determined by the Board) from the end of the Accounting Period in which the monies were received.

9.4 Reallocation of Undistributed Funds

All monies held as part of a Distributable Fund for any Accounting Period shall be held upon trust for a period of five years from the end of the Accounting Period in which the monies were received, or such further period as the Board may in its discretion determine.

At the expiration of the five year period (or longer period as determined by the Board) after every effort has been made to correctly identify and locate the rightsholders to whom monies have been allocated, any undistributed funds shall be transferred to the Undistributed Fund for reallocation and distribution where the Board considers that the information available to the company is insufficient to enable an equitable and accurate distribution.

10 NOTICES

A notice may be served by the Company on a shareholder or Director by personal delivery or by post to the last known address of the person or, with the consent of the person, by facsimile.

11 WINDING UP

In the event that the Company may cease its activities and be wound up, any available funds or surplus arising from any sale of assets or property after settlement of all liabilities shall be disposed of in such a manner as agreed by the Board PROVIDED THAT such funds or surplus will not, whether by way of money, property or otherwise howsoever, be paid to or distributed to shareholders.

12 ALTERATION TO CONSTITUTION

The Company may alter this Constitution pursuant to the Companies Act 1993 provided however that no such amendment enables the Company to amend clauses 2.6 or clause 11 prohibiting pecuniary gain to shareholders.

