

THE COMPANIES ACTS 1985 to 1989  
COMPANY LIMITED BY GUARANTEE

5 = 141360

ARTICLES of ASSOCIATION  
of  
ENTERPRISE MUSIC SCOTLAND  
(as amended by Special Resolutions passed on 27 November 2004)

INTERPRETATION

1. In these Articles:-

"the Acts" means The Companies Acts 1985 to 1989 including any statutory modification or re-enactment thereof for the time being in force.

"the Articles" means the Articles of Association for the time being of the Company.

"the Seal" means the Common Seal of the Company.

"the Secretary" means any person appointed to perform the duties of the Company.

"Organisations" shall include associations, guilds, groups, clubs and corporate or unincorporate bodies.

Expressions referring to writing shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography, telex, telecopying, facsimile and other modes of representing or reproducing words in a visible form.

Words importing the singular number only include the plural number and vice versa.

Words importing the masculine gender include the feminine gender.

Unless the context otherwise requires, words or expressions contained in these Articles shall bear the same meaning as in the Acts or any statutory modification thereof in force at the date at which these Articles become binding on the Company.

MEMBERSHIP

2. The minimum number of members shall be two and the maximum number one hundred and fifty. Directors may increase the maximum number from time to time.

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SCT 11/04/2012 #757  
COMPANIES HOUSE

#### MEMBERSHIP SHALL COMPRISE:-

- 2.1. The subscribers to the Memorandum and Articles of Association of the Company; and
- 2.2. Those organisations dedicated to promote music in Scotland. Membership from this category shall not exceed 100. Application for membership shall be made in writing to the Directors who shall have power in their absolute discretion to accept or decline any application as they think fit and shall not be obliged to give reasons for refusing to grant membership; and
- 2.3. Individuals or organisations who are invited by the Directors to become members. Membership from this category shall not exceed 50.

An organisation registered as a member shall nominate a person to act as its representative at general meetings of the Company. A representative so nominated shall be entitled to attend all general meetings of the Company and to exercise the same powers on behalf of the organisation as that organisation could exercise if it were an individual member. Every member shall have the full rights attaching to membership of the Company as such rights are defined in the Acts.

Membership shall not be transferable.

#### TERMINATION OF MEMBERSHIP

3. Membership shall cease on the occurrence of any of the following events:-
  - 3.1. The resignation of the member. A member may resign from the Company by giving in writing to the Secretary at any time and membership shall cease on receipt of the notice.
  - 3.2. The bankruptcy, dissolution, liquidation, receivership or death, as the case may be, of the member.
  - 3.3. A resolution of the Directors being passed by a majority of at least three-fourths of the Directors present and voting at a meeting of the Directors of which not less than fourteen-day's previous notice specifying the intention to propose such resolution shall have been sent to the member whose removal is in question and to all the Directors. Notice of the general nature of the grounds on which such resolution is proposed shall be sent to the member whose removal is in question at least seven days before the meeting and he shall be entitled to be heard by the Directors at the meeting. On a member being removed under this Article, he shall forfeit all privileges of membership immediately.

#### GENERAL MEETINGS

4. The Company shall in each year hold a general meeting as its annual general meeting in addition to any other meetings in that year and shall specify the meeting as such in the notices calling it, and not more than fifteen months shall elapse between the date of one annual general meeting and that of the next, provided that so long as the Company holds its first annual general meeting within eighteen months of the date of its incorporation, it need not hold it in the year of its incorporation or in the following year. The annual general meeting shall be held at such time and place as the Directors shall appoint.

5. All general meetings other than annual general meetings shall be called extraordinary general meetings.
6. The Directors may, whenever they think fit, convene general meetings. They shall also, on the requisition of members representing not less than one-tenth of the total voting rights of all the members having, at the date of deposit of the requisition, a right to vote at general meetings, forthwith proceed to call an extraordinary general meeting or, in default, it may be convened by such requisitionists as provided by Sub-section 4 of Section 368 of the Companies Act 1985.

#### NOTICES OF GENERAL MEETINGS

7. An annual general meeting and a meeting called for the passing of a special resolution shall be called by twenty one days' notice in writing at the least and a meeting of the Company other than an annual general meeting or a meeting for the passing of a special resolution shall be called by fourteen days' notice in writing at the least. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given and shall specify the place, the day and the hour of meeting and, in case of special business, the general nature of that business and shall be given in manner hereinafter mentioned or in such other manner, if any, as may be prescribed by the Company in general meeting, to such persons as are, under Article 51 of these Articles entitled to receive such notices from the Company.

Provided that a meeting of the Company shall, notwithstanding that it is called by shorter notice than that specified in this Article, be deemed to have been duly called if it is so agreed in writing by all the members to attend and vote thereat.

8. 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 of that meeting.

#### PROCEEDINGS AT GENERAL MEETINGS

9. All business shall be deemed special that is transacted at an extraordinary general meeting and also all that is transacted at an annual general meeting with the exception of the consideration of accounts, balance sheets and reports of the Directors and auditors and the appointment of, and the fixing of the remuneration of the auditors.
10. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business. Save as herein otherwise provided, one-third of the total membership present in person shall be a quorum.
11. A Member shall not be entitled to appoint a proxy.
12. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case, it shall stand adjourned to the same day in the next week, at the same time and place and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, two members shall be a quorum.
13. The Chairman of the Directors shall preside as chairman at every general meeting of the Company or, if there is no such Chairman, or if he shall not be present within fifteen minutes

after the time appointed for the holding of the meeting, or is unwilling to act, the Directors present shall elect one of their number to be chairman of the meeting.

14. The Chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
15. Where under the provisions of Articles 12 or 14 hereof a meeting is adjourned for Seventy two hours or more, such notice of the adjourned meeting as is reasonable in the circumstances (not being less than seven days' notice in the case of an adjournment for ten days or more) shall be given to the members in the manner hereinafter mentioned.
16. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by such number of members present in person as represents not less than one-tenth of the members of the Company, and unless a poll is so demanded a declaration by the Chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost or not carried by a particular majority and an entry to that effect in the book of the proceedings of the Company shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against that resolution.
17. If a poll is demanded it shall be taken in such manner as the Chairman directs and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
18. Every member who being an individual is present in person or being an organisation is represented by a duly authorised representative not being himself a member entitled to vote, shall have one vote whether on a show of hands or on a poll. No votes may be given by proxy. In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall not be entitled to a second or casting vote and the subject matter must be discussed again until a majority vote is recorded.

#### DIRECTORS

19. The minimum number of Directors shall be two and the maximum number shall be 15. The Directors may however increase the maximum number at any time. A Director need not be a member of the Company.
20. The Directors of the Company shall comprise:
  - (a) those persons named as Directors in the incorporation documents lodged with the Registrar of Companies; and
  - (b) such other persons as may, from time to time, be co-opted as Directors by the board of Directors but so that the co-option of any such persons shall require the approval of the Company at the next succeeding annual general meeting of the Company; and
  - (c) such other persons as may be nominated by organisations (as such term is defined earlier in these Articles), one organisation being entitled to nominate in writing one person to serve as a

Director. An organisation may nominate another person to represent it as a Director by serving a notice in writing to that effect to the Secretary of the Company. In the event that the number of nominations exceeds the number of appointments to be made, as such number of appointments may be fixed by the Directors from time to time, a ballot shall be held for the purpose of determining who shall fill the vacancies. The ballot shall be conducted in accordance with the procedures laid down by the Directors.

Provided that:-

- (i) the composition of the Board of Directors as described above shall be such as to ensure that at any time the majority in number of Directors shall be those appointed in terms of Article 20(b) of these Articles; and
- (ii) the number of Directors appointed in terms of Article 20(c) shall not be less than one-third of the total number of Directors.

In the event that a Director appointed under paragraph (c) of this Article ceases to be a Director for the reason stated in paragraph (f) of Article 26 of these Articles, the Directors shall forthwith invite each of the organisations not already represented on the Board of Directors to nominate in writing a person to serve as Director. A ballot shall be held to determine the person to be appointed should there be more than one nomination. The same provisions as previously referred to for the conducting of a ballot. shall apply.

If for any reason any of the foregoing provisions of this article are not satisfied for a period in excess of twenty-one days, the Directors shall immediately procure that an Extraordinary General Meeting be convened.

#### CHAIRMAN

21. The Directors shall elect a chairman of their board and he shall take the chair at their meetings. If at any meeting the Chairman is not present, the Directors will choose one of their number to be chairman of their meeting.

#### BORROWING POWERS

22. The Directors may exercise all the powers of the Company to borrow money and to mortgage or charge its undertakings and property or any part thereof subject to such consents as may be required by law and to issue debentures, debenture stock and other securities whether outright or as security for any debt, liability or obligation of the Company.

#### POWERS AND DUTIES OF DIRECTORS

23. The business of the Company shall be managed by the Directors, who may pay all expenses incurred in promoting and registering the Company and may exercise all such powers of the Company as are not, by the Acts or by these Articles, required to be exercised by the Company in general meeting, subject nevertheless to the provisions of the Acts or these Articles and to such regulations being not inconsistent with the aforesaid provisions, as may be prescribed by the Company in general meeting; but no regulations made by the Company in general meeting shall invalidate any prior act of the Directors which would have been valid if that regulation had not been made.

24. All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for moneys paid to the Company, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as the Directors shall from time to time by resolution determine.
25. The Directors shall cause minutes to be made in books provided for the purpose:-
- (a) of all appointments of officers made by the Directors; and
  - (b) of the names of the Directors present at each meeting of the Directors and of any committee of the Directors; and
  - (c) of all resolutions and proceedings at all meetings of the Company and of the Directors, and of committees of Directors.

#### DISQUALIFICATION OF DIRECTORS

26. The office of Director shall be vacated if:-
- (a) the Director becomes bankrupt or makes any arrangements or composition with his creditors generally;
  - (b) the Director becomes prohibited from being a Director by reason of any order made under Sections 2, 3, 4 and 6 of the Company Directors' Disqualification Act 1966;
  - (c) the Director becomes of unsound mind;
  - (d) the Director resigns his office by notice in writing to the Secretary of the Company;
  - (e) the Director ceases to represent the organisation by whom he was nominated to represent them;
  - (f) the organisation which he represents ceases to exist or ceases to be a member of the Company;
  - (g) the Director is directly or indirectly interested in any contract with the Company and knowingly fails to declare the nature of his interest in manner required by Section 317 of the Companies Act 1985 or accepts remuneration or other benefit in contravention of Clause 4 of the Memorandum of Association.

A Director shall not vote in respect of any contract in which he is interested or any matter arising thereout, and if he does so vote, his vote shall not be counted.

27. The provisions of Section 293 of the Companies Act 1965 shall not apply to the Directors of the Company.

## ROTATION OF DIRECTORS

28. At the third annual general meeting of the Company and at the annual general meeting in every subsequent year, one fifth of the Directors for the time being, or if their number is not five or a multiple of five, then the number nearest one fifth, shall retire from office.
29. The Directors to retire in every year shall be those who have been longest in office since their appointment, last election or co-option, but as between persons who became Directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.
30. "A retiring director shall be eligible for re-election unless he is a co-opted director elected under article 20(b) and has served for a continuous period of nine years or is a representative director elected under article 20(c) and has served for a continuous period of six years. A retiring director having served for the maximum continuous period shall not be eligible for re-election for a period of one year following the Annual General Meeting at which office is demitted. The Chairman of the Board of Directors shall be eligible to serve as Chairman for a maximum continuous period of three years from the Annual General Meeting at which the appointment is made. No director will be eligible to serve continuously for more than nine years under any circumstances."

Approved: 26<sup>th</sup> November 2011

## PROCEEDINGS OF DIRECTORS

31. The Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit. The Secretary on the requisition of two Directors shall, at any time, summon a meeting of the Directors. Questions arising at any meeting shall be decided by a majority of votes. In the case of an equality of votes, the Chairman shall not have a second or casting vote and the subject matter must be discussed again until a majority vote is recorded.
32. The quorum necessary for the transaction of the business of the Directors may be fixed by the Directors, and unless so fixed shall be six. Of the number so fixed one-half shall represent those co-opted by the Directors in terms of Article 20(b) and one-half those nominated by organisations in terms of Article 20(c) of these Articles. No business may be transacted at a meeting of Directors without a quorum constituted as above being present.
33. The continuing Directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the Articles of the Company as the necessary number of Directors, the continuing Directors or Director may act for the purpose of increasing the number of Directors to that number, or of summoning a general meeting of the Company, but for no other purpose.
34. The Directors may delegate any of their powers to committees consisting of not less than three Directors with a quorum of two. Any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the Directors.

35. The Directors may invite a person or persons with specialist knowledge on a subject to be discussed and who may not be a Director to attend and speak at a meeting of Directors or at a committee meeting on the relevant matter. Such a person or persons (unless they are Directors) shall not be entitled to vote on the business being transacted.
36. A committee may elect a chairman of its meetings. If no such chairman is elected, or if at any meeting the chairman is not present, the Directors present may choose one of their number to be chairman of the meeting.
37. A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the Directors present and, in the case of an equality of votes, the Chairman shall have a second or casting vote.
38. All acts bona fide done by any meeting of the Directors or of a committee of Directors, or by any person acting as a Director, shall notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.
39. A resolution in writing, signed by all the Directors for the time being entitled to receive notice of a meeting of the Directors, shall be valid and effectual as if it had been passed at a meeting of the Directors duly convened and held.

#### SECRETARY

40. The Secretary shall be appointed by the Directors for such term, either without remuneration or at proper and reasonable remuneration and upon such conditions as they may think fit and any secretary so appointed may be removed by them.
41. A provision of the Acts or these Articles authorising a thing to be done by or to a Director and the Secretary shall not be satisfied by its being done by or to the same person acting both as Director and as, or in place of the Secretary.

#### EXECUTION OF DOCUMENTS

42. If the Company has a seal it shall only be used with the authority of the Directors who may determine who shall sign any document to which the seal is affixed and unless otherwise determined it shall be signed by a Director and by the Secretary or second Director. If the Company has no seal the rules for the execution of any document as contained in Section 36B in the Companies Act 1989 or any subsequent amending legislation shall apply.

#### ACCOUNTS AND AUDIT

43. The Directors shall cause proper books of account to be kept with respect to:-
  - (a) all sums of money received and expended by the Company and the matters in respect of which the receipt and expenditure takes place;
  - (b) all sales and purchases of goods by the Company; and



(c) the assets and liabilities of the Company.

44. Proper books shall not be deemed to be kept if there are not kept such books of account as are necessary to give a true and fair view of the state of the Company's affairs and to explain its transactions.
45. The books of account shall be kept at the registered office of the Company, or, subject to Section 222 of the Companies Act 1985, at such other place or places as the Directors think fit and shall always be open to the inspection of the Directors.
46. The Directors shall from time to time determine whether and to what extent and at what time and places and under what conditions or regulations the accounts and books of the Company or any of them shall be open to the inspection of members not being Directors and no member (not being a Director) shall have any right of inspecting any account or book or document of the Company except as conferred by statute or authorised by the Directors or by the Company in general meeting.
47. The Directors shall from time to time in accordance with the Statutes cause to be prepared and to be laid before the Company in general meeting such profit and loss accounts, balance sheets, group accounts (if any) and reports as are referred to in those sections.
48. A copy of every balance sheet (including every document required by law to be annexed thereto) which is to be laid before the Company in general meeting, together with a copy of the auditors' report, shall not less than twenty one days before the date of the meeting be sent to every member of the Company. Provided that this article shall not require a copy of the documents to be sent to any person of whose address the Company is not aware.
49. Auditors shall be appointed and their duties regulated in accordance with the Acts.

#### NOTICES

50. A notice may be given by the Company to any member either personally or by sending it by post to him or to his registered address, or (if he has no registered address within the United Kingdom) to the address, if any, within the United Kingdom supplied by him to the Company for the giving of notices to him. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice and to have been effected in the case of a notice of a meeting at the expiration of forty eight hours after the letter containing the same is posted, and in any other case at the time at which the letter would be delivered in the ordinary course of post.
51. Notice of every general meeting shall be given in any manner previously authorised to:-
  - (a) every member except those members who (having no registered address within the United Kingdom) have not supplied to the Company an address within the United Kingdom for the giving of notices to them;
  - (b) every person being a legal personal representative or a trustee in bankruptcy of a member where the member but for his death or bankruptcy would be entitled to receive notice of the meeting;

(c) the auditors for the time being of the Company; and

(d) the Directors of the Company.

No other person shall be entitled to receive notices of general meetings.

#### WINDING UP

52. The provisions of Clause 7 of the Memorandum of Association relating to the winding up or dissolution of the Company shall have effect and be observed as if the same were repeated in these Articles.

#### INDEMNITY

53. (a) Subject to the provisions of Section 310 of the Companies Act 1985 every Officer, Agent and Auditor for the time being of the Company shall be entitled to be indemnified out of the assets of the Company against all losses or liabilities which he may sustain or incur in or about the execution of the duties of his office or otherwise in relation thereto including any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgement is given in his favour or in which he is acquitted or in connection with any applications under Sections 144 (3) and (4) or 727 of the Companies Act 1985 in which relief is granted to him by the Court, and such indemnity shall extend to the former Officers, former Agents and former Auditors of the Company.
- (b) The Directors shall have power to purchase and maintain for any Director, Officer or Auditor of the Company insurance against any such liability as is referred to in Section 310 (as amended) of the Companies Act 1985.

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#### NAMES AND ADDRESSES OF SUBSCRIBERS

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Date: 9 November 1992

Witness to the above signatures:-  
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Music Officer, Scottish Arts Council