

**Articles of Association of the  
Cultural Commons Collecting Society SCE  
mit beschränkter Haftung (with limited  
liability) (C3S SCE)**

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## **Preamble**

The developments in digital markets and copyright law necessitate new forms of exploiting creative works, including the possibility of commercial utilisation of free licenses like Creative Commons. Lyricists and composers of musical works are joining together in a company that protects exploitation possibilities and, in view of the present market situation, also develops new possibilities of utilisation. The individual is not able to monitor all usages of his works and collect the income he or she is due, particularly in the digital age. The rights to be transferred to this company are administered for the parties involved and the income and remuneration received are distributed according to a equitable and transparent procedure.

### **§ 1 Name, domicile**

- (1) The co-operative society bears the name Cultural Commons Collecting Society SCE mit beschränkter Haftung (with limited liability) (C3S SCE).
- (2) The co-operative is domiciled in Düsseldorf.

### **§ 2 Purpose and object**

- (1) The purpose of the co-operative is to promote its members' economic, social and cultural activities and interests.
- (2) <sup>1</sup>The object of the co-operative is to administer in a fiduciary capacity the members' copyright authorisations that were entrusted to the co-operative by means of a framework collecting agreement, as well as to distribute the income generated to authorised persons. <sup>2</sup>The co-operative is not geared to self-economic profit-making.
- (3) Business operations are based on the authorisation given by the Deutsches Patent- und Markenamt (German Patent and Trade Mark Office) as supervisory authority in accordance with the Verwertungsgesellschaftengesetz (VGG – Collecting Societies Act).
- (4) <sup>1</sup>Non-members can use the services of the co-operative and participate in its activities.

### **§ 3 Principles of distribution**

- (1) <sup>1</sup>Distribution of profits made from exploitation of rights is to be effected depending on the actual application of a right. <sup>2</sup>In this process, technical possibilities for capturing rights

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and their exploitation will be used in all their extension and will be improved constantly. <sup>3</sup>Only in cases where the right for exploitation cannot be accounted for exactly is a generalised distribution admissible. <sup>4</sup>Profit made in the collecting process goes directly into joined funds for cultural and social work.

(2) <sup>1</sup>Every member holds one vote. <sup>2</sup>The economic importance of the rights that are let for collection by a member is limited to distribution on the basis of an exact account of right exploitation.

### **§ 4 Communication**

<sup>1</sup>Communication within the co-operative shall take place in German and in English. <sup>2</sup>When in doubt, the German version is decisive.

### **§ 5 Acquiring and ending membership**

(1) One can only become a member,

- a) as a natural person who is directly involved in the creative process through creation of the work or as a performer, or
- b) as a legal entity that only and directly represents the interests of natural persons who meet the requirements given under a).

(2) Anyone who does not meet the prerequisites of paragraph 1 can, with the consent of the administrative board, be admitted as an investing member. <sup>2</sup>Investing members are natural and legal entities or private companies that would not be considered for the use or provision of the cooperative's services. <sup>3</sup>Investing members have the same rights and obligations as the other members of the cooperative unless otherwise stipulated hereinafter.

(3) <sup>1</sup>To acquire membership requires an unconditional written declaration of joining on which the administrative board decides. <sup>2</sup>A refusal has to be justified and is only admissible if the membership form contains formal errors or if the requirements for membership given in the statutes are not met.

(4) Membership ends upon

- a) resignation,
- b) expulsion,
- c) transfer of all shares,
- d) death or liquidation of a legal entity or private company.

## **§ 6 Payment obligations**

(1) <sup>1</sup>The member's share in the cooperative amounts to 50 € (nominal value). <sup>2</sup>It is to be paid in full immediately.

(2) <sup>1</sup>The members must participate with at least one share. <sup>2</sup>With the permission of the administrative board, they may participate with further shares; the maximum possible is sixty.

(3) <sup>1</sup>The share capital is variable in accordance with the number of cooperative members. <sup>2</sup>Payments for the shares must total at least 30.000 €. <sup>3</sup>The share capital may not fall below 30.000 € upon repayment of membership shares (minimum capital).

(4) In case of insolvency of the cooperative, the members are not obligated to pay additional contributions.

(5) Upon resolution adopted by the general assembly, an entrance fee can be defined that will be allocated to the reserves.

(6) The general assembly can decide on rules for membership fees that obligate members to pay an annual contribution.

(7) For decisions that follow paragraph 5 and 6, the general assembly takes into account the interests of members and member applicants in need and of hardship cases.

## **§ 7 Framework collecting agreement**

(1) <sup>1</sup>The performance relationships between the cooperative and its members and the rightholders who are not members of the cooperative are governed in the framework collecting agreement. <sup>2</sup>The standard contract will be decided by the administrative board and the tariff commission with the consent of the general assembly.

(2) <sup>1</sup> Distribution of the license fees received will be carried out according to the distribution plan established by the administrative board according to a resolution proposal from the tariff commission. <sup>2</sup>The distribution plan may stipulate that the administrative board and the tariff commission are to find a consensual agreement about the balancing of claims that result from subsequently detected systematic errors of distribution, especially those due to the invalidity of a provision of the distribution plan. <sup>3</sup>The general principles of the distribution plan, especially those resulting from §§ 27 and 32 VGG are part of the articles of association.

(3) <sup>1</sup>If membership ends in accordance with § 5 paragraph 4, the cooperative is authorised to end the framework collecting agreement with the departing member or his heir at law through a decision of the administrative board to be communicated to the affected party in writing, unless this is opposed by an obligation to contract. <sup>2</sup>Without prejudice to § 12

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section 3 sentence 2 VGG the departing member and his successor receive their share from the distribution of royalties only to the extent with which claims for royalties arose during the time of membership.

### **§ 8 Members' rights and obligations**

(1) Members in accordance with § 5 paragraph 1 are specifically authorised

- a) to use the cooperative's services,
- b) to demand the remuneration decided upon by the administrative board,
- c) to take part in the general assembly and its decision-making,
- d) to demand at their own cost in a timely manner a copy of the annual financial statement, the management report – if required by law – and the report of the administrative board before approval of the annual financial statement by the general assembly,
- e) to inspect the summarised audit results during the general assembly,
- f) to request the convening of the general assembly or the announcement of decision-making if the statutory conditions are satisfied,
- g) to consult the minutes of the general assembly, and
- h) to consult the membership list.

(2) The investing members are authorised,

- a) to take part in the general assembly as observers,
- b) to demand copies at their own cost of the annual financial statement, the management report – if required by law – and the report of the administrative board,
- c) to inspect the summarised audit results during the general assembly,
- d) to consult the minutes of the general assembly, and
- e) to consult the membership list.

(3) The members are obligated

- a) to pay the payments stipulated for the share,
- b) to promote the interests of the cooperative in every way,
- c) to comply with the articles of association of the cooperative and to carry out the resolutions decided upon by the cooperative bodies,
- d) to use the facilities of the cooperative to a reasonable extent, and
- e) to communicate a change in address, including e-mail address.

## **§ 9 Resignation**

<sup>1</sup>Membership can be terminated by a written statement from the member. <sup>2</sup>The notice period is one year at the end of the fiscal year. <sup>3</sup>This notice period also applies for terminating shares taken on voluntarily.

## **§ 10 Transferring shares**

Shares can be transferred and sold individually or as a whole if the administrative board gives its consent and the acquirer is, or will become, a member.

## **§ 11 Expulsion of a member**

(1) Members can be expelled if

- a) they have been found guilty of a serious breach of their obligations, or
- b) they have not granted the rights to at least three works or performances within one year after joining the cooperative in accordance with § 5 paragraph 1; if the number of rights granted falls below three, the period of one year begins anew, or
- c) they act grievously against the cooperative's interests.

(2) <sup>1</sup>The administrative board decides on expulsion. <sup>2</sup>The member must be consulted unless his or her place of residence cannot be determined.

(3) The general assembly decides on expulsions of members of the administrative board and managing directors.

(4) <sup>1</sup>The administrative board's decision on expulsion can be appealed before the general assembly. <sup>2</sup>The appeal must be declared in writing to the cooperative within six weeks after receiving the decision on expulsion (cut-off period).

## **§ 12 Winding up membership**

(1) <sup>1</sup>Departure from the cooperative results in a winding up of membership between the departing member or his or her heir at law and the cooperative. <sup>2</sup>In case of transfer the winding up shall be omitted.

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(2) <sup>1</sup>Tax-loss carryforwards shall be deducted pro rata on the credit balance from the apportionment of assets and liabilities. <sup>2</sup>The resigning member has no claim to the reserves and other assets of the cooperative.

(3) <sup>1</sup>The approval of the annual financial statements is definitive for settlement between the resigning member and the cooperative. <sup>2</sup>The departing member is entitled to claim payment, subject to the provisions in paragraph 4, to the credit balance from the apportionment of assets and liabilities within a time period of one month after approval of the balance sheet, at the latest, however, within seven months after the end of the business year.

(4) <sup>1</sup>If, through the payment, the minimum capital would fall below its defined low point, payment of the credit balance from the apportionment of assets and liabilities is suspended; the payment of the membership shares repaid in the course of winding up all departing members will be reduced pro rata. <sup>2</sup>If the minimum capital again surpasses its defined low point, the suspended membership shares repaid in the course of winding up will become due to payment. Payment then takes place in the order of receipt of the termination.

(5) Die Auszahlung erfolgt in der Reihenfolge des Zugangs der Kündigung

(6) The credit balance from the apportionment of assets and liabilities shall be liable to the Cooperative for any default; for members that are not natural persons (legal entities and private companies), this particularly applies in the case of insolvency proceedings against the member.

(7) The member's participation in the distributions in accordance with § 7 paragraph 3 sentence 2 shall remain unaffected.

### **§ 13 The cooperative's governing bodies**

(1) The cooperative is managed under a one-tier system.

(2) The bodies are:

- a) general assembly,
- b) administrative board,
- c) managing directors,
- d) arbitration court,
- e) advisory board,
- f) tariff commission, and
- g) board of control.



## § 14 General assembly

(1) The general assembly is responsible for the duties it is assigned to in §§ 17 and 18 VGG or in a follow-on provision, specifically

- a) accepting the activity reports from the managing directors and the administrative board,
- b) discharging the managing directors and the administrative board,
- c) approving the annual financial statements,
- d) deciding about appropriating the net income for the year and offsetting the loss for the year,
- e) accepting the reports about the cooperative audit,
- f) amendments to the articles of association, and
- g) deciding about the resolution proposals from the tariff commission, according to § 22 paragraph 4.

(2) <sup>1</sup>The general assembly is convened by the administrative board by directly informing all persons who are eligible to participate, or by means of a notice in the form required in § 28, by complying with a notice period of 30 days between the date of dispatch of the notice referred to and the date of the opening of the general assembly. <sup>2</sup>In urgent cases, this notice period can, pursuant to Art. 56 of the EU Regulation No. 1435/2003 on the Statute for a European Cooperative Society (SCE), be reduced to 15 days. <sup>3</sup>The invitation must contain information on the company and the domicile of the SCE, on the place, date and time of the assembly, and, if applicable, on the type of general assembly. <sup>4</sup>In addition, the agenda indicating the subjects to be discussed and the proposals for decisions is to be attached. <sup>5</sup>The notifications will be deemed to be received if they are sent to the members at the last address known to the cooperative, unless a notification in accordance with the 2<sup>nd</sup> alternative of sentence 1 was chosen.

(3) <sup>1</sup>Annually, at least one general assembly is to be conducted in the first half of the year at which decisions are taken on the approval of the annual financial statements, the appropriation of profits or the compensation of losses and the discharge of the administrative board and managing directors. <sup>2</sup>Other general assemblies are to be convened if this is necessary in the interest of the cooperative.

(4) <sup>1</sup>Unless changes in the articles of association are announced, every properly convened general assembly is quorate. <sup>2</sup>For determining the presence of a quorum at a general assembly at which an amendment in the articles of association is announced, at least 50% of the total number of registered members entitled to vote at the time the assembly was convened must be present or represented at the time of voting. <sup>3</sup>If the minimum number according to sentence 2 is not achieved, another general assembly with the same agenda is quorate without consideration of sentence 2. <sup>4</sup>The invitation to this additional general assembly may be sent at the earliest on the day after the first general assembly that did not have the presence of a quorum due to not having achieved the minimum number of members, unless it was already sent at the same time as the invitation to the first general

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assembly. <sup>5</sup>In the latter case, the second general assembly is to be held at least 14 days and no more than 30 days after the first.

(5) <sup>1</sup>Every full member has one vote, regardless of the number of his or her shares and the amount of repertoire rights transferred; the investing members have no right to vote in the general assembly. <sup>2</sup>Members can also submit their vote electronically. <sup>3</sup>In this case, the casting of the vote is carried out using an electronic process that ensures the transparency and verifiability of the members' voting. <sup>4</sup>The specific voting procedure will be determined by the administrative board.

(6) <sup>1</sup>Members entitled to vote can issue proxy voting powers as long as the authorization does not lead to a conflict of interests. <sup>2</sup>No representative, however, may represent more than ten members.

(7) <sup>1</sup>The general assembly decides with the majority of the votes cast – simple majority of votes – unless, exceptionally, a larger majority has been defined; abstentions are disregarded. <sup>2</sup>Elections take place with the majority of the votes of the members present; abstentions have the same effect as »no« votes. <sup>3</sup>In case of more than two alternatives to agree or decide on, the voting process will be carried out by approval voting. <sup>4</sup>If in this way no clear result is obtained, a run-off election will be conducted.

(8) <sup>1</sup>The general assembly determines the chairperson of the assembly upon proposal of the administrative board. <sup>2</sup>The proposal can only be rejected if an alternative proposal of  $\frac{2}{3}$  of the votes cast is accepted.

(9) <sup>1</sup>The general assembly is broadcasted as a livestream for members only. <sup>2</sup>On confirming their participation via livestream, members are counted as participating and are allowed to vote electronically acc. to paragraph 5. <sup>3</sup>Technical prerequisites for this, especially for ensuring the authenticity of the broadcast, determining the participants and entering votes are set by the administration board in a regulation for the use of online services by the C3S SCE according to the current technical standards.

(10) <sup>1</sup>Participation in votes and elections can be in written form as well, provided the members are given this possibility in the invitation to the general assembly. <sup>2</sup>In the invitation, the motions or election proposals to be decided on in written form have to be listed in complete form, as well as uniform voting or electoral documents provided. <sup>3</sup>Written voting or electoral documents that have not arrived before the official opening of the respective general assembly are disregarded. <sup>4</sup>After having exploited the right to vote in written form it is not possible to withdraw or change a vote. <sup>5</sup>If a quorum has to be constituted for a vote or election, voting or electoral documents have to be present in written form according to a deadline in the same way as if the member was present for the corresponding agenda item.

(11) The decisions will be entered in the minutes in accordance with § 47 German Cooperative Societies Act (GenG) and Art. 62 SCEVO.

## § 15 Regionalisation

<sup>1</sup>Once the cooperative has more than 2.500 members, it is intended to form regional assemblies. <sup>2</sup>The administrative board is to draw up proposed articles of association for the general assembly as soon as the number of members exceeds 2.500.

## § 16 Administrative board

(1) <sup>1</sup>The administrative board manages the cooperative, defines the principles of its activity and supervises their implementation. <sup>2</sup>The administrative board is to convene a general assembly when this is expressly stated in these articles of association or is otherwise necessary in the interest of the cooperative. <sup>3</sup>The administrative board ensures that the required ledgers are kept. <sup>4</sup>The board can, either by itself or by individually appointed members from its ranks, at any time inspect and review the accounts and correspondence of the cooperative as well as the state of the cooperative fund and the inventories of securities and goods. <sup>5</sup>The administrative board is responsible for determining the number of managing directors as well as appointing and dismissing them.

(2) <sup>1</sup>The members of the administrative board are selected and recalled by the general assembly. <sup>2</sup>The administrative board consists of at least five members to be elected by the general assembly. <sup>3</sup>The general assembly determines the number of members of the administrative board before the election. <sup>4</sup>Investing members may make up at most one quarter of the members of the administrative body.

(3) <sup>1</sup>The period of office of the members of the administrative board lasts until the election of successors at the ordinary general assembly that takes place three years after the election. <sup>2</sup>Should members depart before the end of their period of office, the administrative board shall consist only of the remaining members until the next ordinary general assembly, during which replacement members are to be elected. <sup>3</sup>Earlier by-elections by an extraordinary general assembly are necessary only if the number of members of the administrative board falls below five or the number of investing members exceeds one quarter of the number of members of the administrative board.

(4) <sup>1</sup>The meetings of the administrative board shall be convened by the chairperson of the administrative board in text form with a notice period of at least one week. <sup>2</sup>The members of the administrative board and the managing directors can demand at any time that a meeting be convened. <sup>3</sup>A meeting of the administrative board is to take place at least once every quarter.

(5) <sup>1</sup>The administrative board is quorate if at least half of its members participate in the adoption of resolutions. <sup>2</sup>The administrative board can adopt resolutions in writing, by telephone and electronically if no member of the administrative board objects to the adoption of resolutions.

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(6) <sup>1</sup>Contracts of members of the administrative board with the cooperative, particularly supply and service agreements, require the consent of the entire administrative board to be valid. <sup>2</sup>Handling these contracts is to be supervised by the administrative board and information is to be provided on this to the general assembly.

(7) <sup>1</sup>The administrative board decides with the majority of the votes cast – simple majority of votes – unless, exceptionally, a larger majority has been defined; abstentions are disregarded. <sup>2</sup>Elections take place with the majority of the votes of the members present; abstentions have the same effect as »no« votes. <sup>3</sup>In case of more than two alternatives to agree or decide on, the voting process will be carried out by approval voting. <sup>4</sup>If in this way no clear result is obtained, a run-off election will be conducted.

### **§ 17 Managing directors**

(1) <sup>1</sup>The managing directors conduct the business of the cooperative. <sup>2</sup>Tasks assigned by law to the administrative board cannot be transferred to the managing directors.

(2) <sup>1</sup>The administrative board appoints two or more managing directors. <sup>2</sup>If the management – for whatever reason – consists of one managing director only, the administrative board must appoint at least one additional managing director within three months. <sup>3</sup>Members of the administrative board can be appointed to be managing directors as long as the majority of posts available is not filled by managing directors.

(3) <sup>1</sup>The regular term of office of the managing directors is three years. <sup>2</sup>Managing directors can be dismissed at any time by the administrative board by simple majority.

(4) <sup>1</sup>The managing directors can also take decisions in writing, by telephone and electronically. <sup>2</sup>They are only jointly authorised to conduct business and to represent the cooperative; the administrative board can issue sole powers of representation to individual managing directors. <sup>3</sup>Managing directors who are authorised to represent the cooperative jointly can authorise individual managing directors to execute certain transactions or certain types of transactions. <sup>4</sup>If the cooperative has only one managing director, he is the sole representative of the cooperative.

### **§ 18 Assembly of the rightholders**

In advance of every general assembly, an assembly of the rightholders shall take place. Invitations are extended by the managing directors in consultation with the administrative board. At this assembly, chaired by the chairperson of the administrative board or his deputy, the management presents the annual report and provides information to the rightholders.

## **§ 19 Complaint procedure**

(1) <sup>1</sup>Rightholders, members and other collecting societies that have their rights represented in the form of a representational agreement or a reciprocity agreement can file a complaint against decisions taken by the C3S SCE or if legitimate interests are violated.

<sup>2</sup>Same applies to holders of rights that are in the field of activity of the C3S SCE, provided the subject of complaint is taking over the representation of rights.

(2) Subjects of complaint can be in particular:

- a) taking over or ending the representation of rights or withdrawal of rights,
- b) conditions for membership and representation,
- c) collecting, administrating and distributing royalties from rights,
- d) withdrawals from revenues,

(3) <sup>1</sup>Complaints have to be submitted in written form and addressed to the administrative board. <sup>2</sup>The administrative board can redress a complaint. <sup>3</sup>Should the administrative board be unable to redress, it is possible to file another complaint to the arbitration court (cf. § 20)

(4) <sup>1</sup>The C3S returns its decisions over complaints in written form. <sup>2</sup>If a complaint is not redressed, the decision has to be justified.

## **§ 20 Arbitration court**

(1) <sup>1</sup>All conflicts resulting from the membership relations between cooperative members and the cooperative, between members of the cooperative and bodies of the cooperative and/or between bodies of the cooperative among themselves will be definitively decided by an arbitration court to the exclusion of the ordinary courts of law. <sup>2</sup>Those decisions are exempt that by rights may not be allocated to an arbitration court for decision.

(2) <sup>1</sup>The administrative board decides on an arbitration regulation defining the constitution of the arbitration court and its procedure. <sup>2</sup>The text of the arbitration regulation is to be approved by the general assembly.

(3) <sup>1</sup>This does not affect the possibility of invoking an arbitration board to be established to clarify legal issues involving licencing, protecting rights by the cooperative and license fee claims. <sup>2</sup>Further details are to be stipulated in the framework collecting agreement.

## § 21 Board of control

(1) <sup>1</sup>All members of the administrative board, excluding the managing directors, are responsible for the board of control. <sup>2</sup>This includes the oversight over the managing directors' actions and task completion. <sup>3</sup>The board of control holds at least one meeting per quarter. <sup>4</sup>It accounts for its actions on every statutory general assembly. <sup>5</sup>The report of actions contains statements acc. to § 21 paragraph 3 VGG, regarding

- a) the participation of authorized representatives in the collecting society,
- b) the amount paid in royalties or other payments that have been made by the collecting society in the completed fiscal year,
- c) the amount they have received as the ones entitled by the collecting society in the completed fiscal year, and
- d) the form and scope of an actual or possible conflict between its personal interests and the interests of the collecting society as well as its obligations to the collecting society and to another natural person or legal entity.

(2) The general assembly can issue further authorities to the board of control.

## § 22 Tariff commission

(1) <sup>1</sup>The cooperative establishes a tariff commission. <sup>2</sup>It consists of 15 persons who work in an honorary capacity. <sup>3</sup>It is composed as follows:

- a) 5 members are elected by the assembly of the rightholders for a term of three years.
- b) 10 members are elected by the general assembly for a term of three years.

(2) Only full members (§ 5 paragraph 1 of the articles of association), or legal representatives of rightholding legal persons who have concluded a framework collecting agreement with the company, can become members of the tariff commission.

(3) <sup>1</sup>The term of office of the tariff commission ends with the new election of its members. <sup>2</sup>Re-election is admissible.

(4) The tariff commission works out the following resolution proposals for the general assembly:

- a) Preparing, modifying and amending the distribution plans for the various rights to be exercised by the cooperative, specifically within the scope of the process in accordance with § 7 paragraph 2 sentence 1,
- b) Establishing tariff in accordance with §§ 38, 39 VGG, concluding contracts with the users and general agreements in accordance with §§ 34, 35 VGG,
- c) Concluding reciprocal agreements with other collecting societies,

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d) Conducting legal actions in fundamental issues, applying to the arbitrating board in accordance with § 124 VGG and contesting its decisions.

(5) <sup>1</sup>The members of the tariff commission present their resolution proposals to the administrative board, which introduces them to the agenda of the general assembly. <sup>2</sup>They have the right to attend, to make proposals and to speak at the general assembly. <sup>3</sup>Upon their appointment, the members of the tariff commission are to receive in writing their corporate responsibilities according to § 24 of the articles of association.

(6) <sup>1</sup>The tariff commission convenes at least once a year for a meeting. In addition it convenes when the majority of its members, or its chairperson, or his or her deputy requests to do so. <sup>2</sup>For participation in meetings, the members of the tariff commission receive travel expenses and a daily allowance on the basis of rules on reimbursement to be decided by the administrative board.

(7) <sup>1</sup>The tariff commission is quorate if at least half of its members are present. <sup>2</sup>It decides with the majority of the votes cast – simple majority of votes – unless, exceptionally, a larger majority has been defined; abstentions are disregarded. <sup>3</sup>Elections take place with the majority of the votes of the members present; abstentions have the same effect as »no« votes. <sup>4</sup>In case of more than two alternatives to agree or decide on, the voting process will be carried out by approval voting. <sup>5</sup>If no clear result is obtained in this way, a run-off election will be conducted. <sup>6</sup>Passing of resolutions electronically is admissible.

(8) <sup>1</sup>The tariff commission elects for its term of office a chairperson and a deputy from amongst its members. <sup>2</sup>Re-election is admissible.

(9) <sup>1</sup>Minutes are to be kept on the meetings; they are to be signed or initialed by the chairperson and the minute taker. <sup>2</sup>The minutes are deemed to be approved if not contested by a member of the tariff commission within three weeks after being sent.

(10) <sup>1</sup>Until a tariff commission has been established, its tasks are a matter of the general assembly. <sup>2</sup>The cooperative will establish a tariff commission as soon as deeds of assignment have been concluded and the assembly of the rightholders exists.

### **§ 23 Other advisory boards**

<sup>1</sup>The general assembly can resolve the formation of other advisory boards that advise the bodies. <sup>2</sup>In the resolution it is to be specified how the advisory board is composed and what topics it addresses.

## **§ 24 Common provisions for the bodies**

(1) No one can exercise the right to vote for him- or herself or for another if a resolution is being adopted on whether he or she or the member represented is to be discharged or to be relieved of a liability, or whether the cooperative is intending to assert a claim against him or her or the member represented.

(2) <sup>1</sup>If matters of the cooperative are advised upon which affect the interests of a member of the administrative board of a managing director, his spouse, his parents, children and siblings or a person represented by him by virtue of law or power of attorney, the member affected may not participate in the consultation. <sup>2</sup>However, the member is to be heard before the resolution is adopted.

(3) <sup>1</sup>The members of the bodies are to apply the requisite level of diligence of the management of a cooperative when conducting their business. <sup>2</sup>They are to maintain secrecy about confidential information and secrets of the cooperative, especially trade and business secrets that have become known to them through their activity for the cooperative. <sup>3</sup>Members of the bodies who infringe on said duties are liable jointly and severally to compensate for damages arising from that. <sup>4</sup>If there is a dispute as to whether they have applied the requisite level of diligence of the management of a cooperative, they bear the burden of proof.

(4) Further obligations of bodies to the collecting society, especially regarding employment contracts, remain unaffected.

## **§ 25 Annual financial statement, reimbursement, allocation to reserves and appropriation of net income**

(1) <sup>1</sup>The annual financial statement and the management report are to be presented to the general assembly immediately after they have been prepared. <sup>2</sup>The general assembly decides on the approval of the annual financial statements and the appropriation of profits or covering of losses.

(2) If a loss, that is not covered by half of the total amount of the assets and the reserves, arises during the preparation of the annual or semi-annual balance sheet, or is to be assumed upon exercising professional judgment, the administrative board is to immediately convene a general assembly and communicate this issue.

(3) <sup>1</sup>The administrative board decides on paying back a reimbursement before drawing up the balance sheet. <sup>2</sup>Members have a legal claim to the reimbursement decided upon in this way.



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(4) <sup>1</sup>The statutory reserve serves the cooperative to cover losses. <sup>2</sup>At least 20% of the annual net income is to go into this until at least 100% of the total of the shares have been reached. <sup>3</sup>This is to be decided on by the general assembly.

(5) <sup>1</sup>Other revenue reserves may be established in addition to the statutory reserve. <sup>2</sup>The administrative board decides on their use.

(6) The general assembly decides on the profit or loss resulting from the approval of the annual financial statement.

(7) Relating to the annual net income, the general assembly is free to decide in favour of a profit carried forward, allocation to the reserves or providing a return on the credit balance, whereby payment can also occur in shares.

(8) A payment takes place only when the assets are fully replenished.

### **§ 26 Limitation of claims**

<sup>1</sup>Claims to the payment of profits, reimbursements and credit balances become time-barred two years after they have fallen due. <sup>2</sup>The sums will be allocated to the reserves.

### **§ 27 Winding-up**

<sup>1</sup>The decision on winding up the cooperative can only be taken at a general assembly convened exclusively for this purpose. <sup>2</sup>When winding up the cooperative the net assets will be distributed among the members according to the assets.

### **§ 28 Announcements**

<sup>1</sup> Announcements that are mandatory to publish – unless otherwise required by law – are made under the company name of the cooperative in the *Musikforum*, the bulletin of the Deutscher Musikrat (German Music Council). <sup>2</sup>Announcements according to § 56 VGG are published on the cooperative's website.