



**TORONTO
MUSICIANS'
ASSOCIATION**
LOCAL 149 CFM & AFM

TORONTO MUSICIANS' ASSOCIATION

**LOCAL 149 OF THE AMERICAN FEDERATION OF MUSICIANS OF THE UNITED STATES AND
CANADA**

2020

CONSTITUTION & BY-LAWS

(amended and revised as at January 3, 2020)



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CONSTITUTION

- 1 "Association" in this Constitution means the "Toronto Musicians' Association".
- 2 The members of this Organization constitute the "Toronto Musicians' Association."
- 3 (1) The Association is Local 149 of the American Federation of Musicians of the United States and Canada (AFM) and is subject to whatever laws of the AFM apply to this Local.
(2) Where a conflict arises in the laws of the Association and the laws of the AFM, the laws of the AFM shall prevail.

MEMBERS

- 4 (1) A person who conforms with the laws of the AFM and
 - (a) is an instrumental musician,
 - (b) is a vocalist,
 - (c) is an instrumental musician who is a music
 - i. librarian,
 - ii. arranger,
 - iii. copyist, or
 - (d) performs any musical service for a fee,is eligible for membership in the Association.
- (2) (a) A person under the age of sixteen years may be a member of the Association only if approved by the International Board of Directors of the AFM.
(b) Persons 20 years or younger may join the Local as a Youth Member, providing they have never been a member of any AFM Local. Such member shall be exempt from Federation and Local initiation fees, and is entitled to be a Youth member in only one Local.
 - i. Youth Members shall have all the rights and obligations that Regular Members have, and they shall be subject to all Federation and Local rules, regulations and By-laws.
 - ii. A Youth Member shall pay regular periodic dues as set by the Local, and work dues where applicable.

(3) A musician who is registered as a student in an accredited school, college or university may join the Local as a Student Member and remain in that classification until they are no longer a student at which time they will become a Regular Member with no additional cost. A Student Member shall be exempt from Federation and Local initiation fees, and is entitled to be a Student Member in only one Local.

i. Student Members shall have all the rights and obligations that Regular Members have, and they shall be subject to all Federation and Local rules, regulations and By-Laws.

ii. A Student Member shall pay regular periodic dues as set by the Local, and work dues where applicable.

(4) Honorary membership may be bestowed upon persons who have distinguished themselves by service to the Association or the musical profession in general.

OBJECTS

5 The objects of the Association shall be:

(a) to unite into one organization all persons who become members, to secure for the members improved wages, hours, working conditions and other economic advantages through collective negotiations and bargaining;

(b) to engage in cultural, fraternal, educational and charitable activities to further the interests of the Association directly or indirectly;

(c) to advance the contribution of the Association to the community and country;

(d) to promote the health and security of members and their families by providing facilities for their culture, education and recreation;

(e) to support the objects of the AFM as an affiliate;

(f) to protect and preserve the Association and to discharge its legal and contractual obligations;

(g) to receive, manage, invest, expend or otherwise use the assets of the Association to further and carry out its objects directly and indirectly.

OFFICERS

6 (1) The following shall be the officers of the Association:

(a) President

(b) Vice-President

- (c) Secretary
- (d) Treasurer
- (e) Seven (7) Directors.

(2) The Officers of the Association listed in Sub-paragraph (1) shall constitute the Board of Directors of the Association.

(3) The Officers of the Association shall be elected by the members as provided in the By-Laws of the Association.

FUNDS

7 (1) There shall be a General Fund, Contract Defence Fund and a Health, Education and Welfare Fund of the Association which shall be raised by admission fees, dues, fines, assessments and such other means as the Association may determine from time to time as provided in the By-Laws of the Association.

(2) The Health, Education and Welfare Fund and the General Fund of the Association held prior to the passing of this Constitution by the Toronto Musicians' Association shall continue to be included in the funds of the Association.

JURISDICTION

8 All of the following counties: York, Peel, Ontario, Simcoe, the area of Parry Sound west of an imaginary line running north and south 15 miles west of Highway 11, those portions of Durham County lying west of Highway 35, and all of Muskoka County except that portion that belongs to Local 682, Huntsville, Ontario, Canada.

TRUSTEES

9 The Trustees of the Association shall be the President, Vice-President, Secretary, Treasurer and one member of the Board of Directors appointed by the President.

10 (1) All property of the Association both real and personal shall be vested in the Trustees and may be dealt with by the Trustees as provided in the By-Laws.

(2) The Trustees may purchase property both real and personal with the General or Health, Education and Welfare Funds of the Association for the purposes of the Association as provided in the By-Laws.

CRESCENDO

11 (1) The official publication of the Association is Crescendo which shall be published as provided by the By-Laws.

(2) Any notice required by the By-Laws to be given to the members of the Association when published in Crescendo shall be deemed to have been received by all members.

BY-LAWS

12 (1) By-Laws shall be passed to provide for:

- (a) admission, expulsion and re-instatement of members of the Association;
- (b) duties, conduct and obligations of members;
- (c) meetings of the Association and Board of Directors, including notice, time, place, quorums, and rules of conduct;
- (d) delegates to the conventions of the AFM;
- (e) election of Officers of the Association;
- (f) duties and conduct of Officers;
- (g) committees;
- (h) claims of members, charges against members, penalties, fines, manner of hearing charges and appeals;
- (i) dues and assessments to be paid by members;
- (j) investment and use of funds, assets, and property of the Association;
- (k) minimum tariff of fees, adoption, publication, and amendments of the book, or the current published format equivalent entitled “Tariff of Fees”; and
- (l) conditions of employment for members.

DISSOLUTION

13 (1) The Association may be dissolved at any time if nine-tenths of the existing membership give written consent to a proposed plan of dissolution.

(2) The proposed plan of dissolution shall set out the proposed division of funds and assets of the Association on dissolution.

AMENDMENT TO CONSTITUTION OR BY-LAWS

14 (1) The Constitution or By-Laws of the Association may be amended or revoked provided that:

- (a) A notice of motion in writing is submitted to and received by the Secretary at or before any General Meeting, and

- (i) such notice sets out clearly the proposed amendment or revocation, and
- (ii) such notice is signed by ten (10) members in good standing, and
- (iii) such signatures have the appropriate printed names adjacent thereto;

(b) The notice of motion is published in the next issue of the Crescendo; and

(c) The motion is approved by two-thirds of the members voting at the following General Meeting.

(2) A notice of motion may also be submitted by the Board of Directors, subject to Article 14(1)(b).

(3) Notwithstanding any provision of the By-Laws as to a quorum at a meeting of the Association, where an amendment to the Constitution or By-Laws or a revocation of any part of the Constitution or By-Laws is to be voted on at a meeting, the meeting shall not be competent to vote on the proposed amendment or revocation unless at least twenty-one (21) of the members eligible to vote are in attendance at the meeting.

REVOCATION

15 The Constitution of the Association heretofore in force is repealed.

BY-LAWS

MEMBERS

- 1 (1) A person who wishes to become a member of the Association shall:
 - (a) sign the application as supplied and determined by the AFM,
 - (b) deliver the application with the admission fee to the Association.
- (2) The admission fee is \$160.00 plus the prime international initiation fee of the AFM.
- (3) Notwithstanding the provisions of Sub-Paragraph (1), where the applicant signs an agreement to pay the balance of the admission fee within two months, the application may be accepted with \$120.00. The Board of Directors may rescind the application if the balance is not paid within two months from the application date.
- (4) A musician is not required to pay the annual dues of the quarter in which application is made.
- (5) A musician joining the Association on or after the fifteenth day of the last month of the quarter is granted the dues of the next quarter.
- 2 Persons who have attended an orientation session and have met all the requirements of the AFM and this Constitution and By-Laws shall be admitted as members and be issued a membership card.
- 3 When a person is accepted as a member, the member shall read and sign the following oath before a member of the Board of Directors: "I do solemnly promise and swear that I will support the Constitution and By-Laws of the Toronto Musicians' Association, and submit to its mandates and obey all laws emanating therefrom; also the By-Laws of the American Federation of Musicians of the United States and Canada. To all this I pledge my most sacred word of honour."
- 4 Until initiated, and the full initiation fee has been paid, no applicant shall act as Contractor or Leader.
- 5 Where an application for membership is rejected or withdrawn, the Board of Directors may refund the admission fee if the applicant has not played any engagements during the period of time since the date of application.
- 6 Where the Board of Directors recommends to a General Meeting that a person be admitted as an Honourary Member, the person shall be admitted if the admission is approved by two-thirds of the members at the General Meeting.
- 7 (1) A member who has been a member of the Association continuously for,

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(a) 35 years or more and is at least 65 years of age shall be a Life Member, and shall continue to be a member for life so long as the member complies with the Constitution and By-Laws.

(b) 20 years and is at least 70 years of age shall be eligible to apply for recognition as a Senior Member.

(c) 25 years and is at least 65 years of age shall be eligible to apply for recognition as a Senior Member.

(2) A member's status shall be determined by the accumulated total years of paid membership.

8 All matters relating to travelling musicians are governed by the By-Laws of the AFM.

9 (1) A member may request to resign as a member in good standing by submitting such request in writing for consideration by the Board of Directors, during a quarter in which the member is paid up and clear of all indebtedness to the Association. (For reinstatement fee refer to Article 14 (3).)

(2) When a member resigned "in good standing" has acted in a manner detrimental to the interests of the Association, this status may be revoked by the Board of Directors after a hearing.

DUES

10 (1) Effective January 1st, 2014 the annual dues payable by members are:

(a) \$255.00 paid in four equal quarterly instalments of \$63.75 payable in January, April, July and October,

or

(b) \$235.00 when paid in full before the 31st day of January.

NOTE: The annual dues include Federation per capita tax as required by the AFM By-Laws.

(2) Life Members: Life members are required by the Federation to pay full Federation per capita dues and 25% of the Local's regular annual dues and assessments.

(3) (a) When dues are not paid as required by sub-paragraph 10(1)(a) before the last day of the quarter in which the instalment is payable, the member shall be suspended and must comply with Article 14 of these By-Laws.

(b) A member suspended for non-payment of dues shall be automatically expelled for such non-payment after 6 months.

WORK DUES

- 11 (1) All engagements in the jurisdiction of the Association are subject to work dues based on the minimum basic fee in the Tariff of Fees. All negotiated Local, National and International Agreements are subject to work dues based on the minimum basic fee as per the applicable agreement. AFM By-Laws provide a requirement that a percentage be submitted to the Federation, known as Federation Work Dues. (Contact the Local for the appropriate work dues percentage. Work dues are 5% for MPF, 3.5% for Electronic engagements and 3% for all other engagements.)
- (2) It shall be the responsibility of the Leader/Contractor to collect and submit work dues to the Association within 30 days after receipt of payment for any and all applicable engagements unless otherwise provided for by the Board of Directors of the Local.
- (a) When work dues are not paid as required by sub-paragraph 11(2) the member shall be suspended and must comply with Article 14 of these By-Laws.
- (3) The Board of Directors is authorized to promulgate regulations from time to time which will ensure that collection procedures are fair and in the best interest of the membership.

PENSION – MUSICIANS’ PENSION FUND OF CANADA

- 12 (a) On all engagements the Leader/Contractor shall be responsible for collection and submission of the appropriate Musicians’ Pension Fund of Canada contributions, where applicable, to the Local.
- (b) Steward: On all engagements covered by Musicians’ Pension Fund of Canada contributions, a Steward, who will be a Local member of the ensemble or as otherwise provided by the Board of Directors, shall be appointed by the Association.
- 13 When the Board of Directors find it necessary for the members to pay an assessment, all members shall pay the assessment as levied if,
- (a) notice of the proposed assessment is published in Crescendo or any other form of communication approved by the Board of Directors, and
- (b) the proposed assessment is approved by a majority of the members at the next General Meeting.
- 14 (1) A member who is suspended or expelled for non-payment of dues and who applies for reinstatement may be reinstated on payment of:
- (a) all unpaid dues, fines and assessments owing at the time of suspension or expulsion; and

(b) dues and assessments for the quarter in which the member applies for reinstatement; and

(c) reinstatement fees.

(2) A member who has resigned "in good standing" may be reinstated after one year of resignation upon payment of 50% of one year's current annual dues.

(3) A suspended member applying for reinstatement shall pay:

(a) \$5.00 within 15 days after the suspension,

(b) \$10.00 after 15 days and within 30 days of the suspension,

(c) \$20.00 after 30 days and within 6 months of the suspension.

(4) A member suspended for non-payment of dues and still engaged in the music profession is a detriment to the members of the Association and the AFM. In addition to payment of the amounts required by sub-paragraph (1), the Board of Directors may impose fines before a suspended member can be reinstated.

(5) The fine imposed by sub-paragraph (4) shall not exceed \$10.00 for each day that the suspended member has offended.

CODE OF ETHICS FOR MEMBERS

15 (1) Members of the Association shall not:

(a) contract, perform or rehearse with a person who is not a "member in good standing" of the Association or the AFM,

(b) accept or play an engagement for a Leader or Contractor who is not a "member in good standing" of the Association or the AFM,

(c) appear on an engagement when not in "good standing",

(d) misrepresent their standing in the Association or the AFM,

(e) accept or play an engagement for a Booking Agent who is not licensed by the AFM,

(f) be insulting to any member or make any remarks detrimental to the Association or the AFM,

(g) appear for an engagement in an improper condition or behave in an insubordinate or an improper manner on an engagement,

(h) belittle the character or ability of another member in any manner whatsoever,

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- (i) attempt in any way to injure another member's earning capacity,
- (j)
 - i. accept a fee for service in any amount less than applicable in the Tariff of Fees or incorporated in an agreement of this Association and/or the AFM,
 - ii. pay a fee to a member in any amount less than that shown in the Tariff of Fees of this Association,
 - iii. play without fee except as provided in Article 16,
- (k) accept tickets or any other reward in lieu of fees as set out in the Tariff of Fees,
- (l) offer any inducement other than musical services to obtain an engagement,
- (m) monopolize an engagement or conspire to monopolize an engagement directly or indirectly or in any manner whatsoever,
- (n) accept an engagement from or perform an engagement for a person, firm, association or corporation,
 - i. whose name appears on the Unfair List of the Association or the AFM,
 - ii. who is directly or indirectly connected with a person, firm, association or corporation whose name appears on the Unfair List of the Association or the AFM,
- (o) change their address or telephone number without notifying the Association within twenty-one (21) days of the change,
- (p) disobey an order of the Board of Directors,
- (q) fail to produce any document required by these By-Laws or to reply to correspondence from an Officer or the Board of Directors within a minimum period of seven (7) to a maximum period of twenty-one (21) days as prescribed in the said correspondence. Such time period shall count from the date of the post-mark of such correspondence,
- (r) commit a breach of good faith and fair dealing,
- (s) pay the Association by a cheque which is returned unpaid or protested or otherwise be in default of payment of dues, assessments, AFM-EPW Fund obligations or advertising accounts in Association publications,
- (t) be entitled to attend a General Meeting without establishing their status as a "member in good standing",
- (u) act in any manner detrimental to the interests of the Association.

16 Where a person makes a request in writing to the Board of Directors for permission for a member to play without remuneration, the member may play if the Board of Directors:

- (a) deem the playing non-competitive, and
- (b) inform the member and the person making the request that the member may play as requested.

17 Members without a valid membership card in their possession shall be assumed to be suspended unless proven otherwise.

(1) Members who fail to produce their valid membership card on an engagement when requested to do so by the Leader, Steward, or authorized Representative, must be reported to the Board of Directors.

18 Where tips and gratuities are presented to members performing on an engagement, the tips or gratuities must:

- (a) be divided equally between the members performing the engagement, and
- (b) not be accepted as part of wages.

SUBSTITUTES

19 When a member accepts an engagement the member shall personally fulfil the engagement.

(1) A member shall not accept an engagement where contracted hours conflict with those of an engagement for which the member is already contracted and/or receiving fees unless a substitute is provided according to Article 19(2). Notwithstanding the previous sentence, the restriction shall not apply in the case of a member accepting an engagement while receiving vacation pay (fee) under any collective agreement, in accordance with the By-Laws of the AFM.

(2) A member may provide a substitute:

- (a) only with the consent of the Leader, or
- (b) due to illness or extreme cause, or
- (c) when occupied with Board of Directors duty.

(3) Substitution of a Leader may occur only with the consent of the Purchaser, in which case a substitute Leader shall be appointed to fulfil the responsibilities of the Leader and receive the appropriate Leader's fee.

20 Members shall be personally responsible for the pay of their substitutes.

(1) When a member has received payment for an engagement and the substitute has not received payment from the member, the substitute shall be entitled to an additional 5% after 15 days up to and including 30 days; 10% after 30 days up to and including 60 days; and 50% after 60 days.

(2) If a member has sent a substitute to an engagement, the substitute shall be paid the applicable miscellaneous fee for the hours booked with a minimum fee equivalent to a two hour call.

(3) In case of illness, bereavement or vacation, pro-rata fees are to apply.

(4) If a member has sent a substitute on a radio or television engagement, the substitute shall be paid pro-rata based on the total fee of the engagement exclusive of uses of pre-recording when a member is deemed present, provided that the minimum fee must be at least equivalent to a two hour call.

DISENGAGEMENT

21 A Leader who receives a notice of improper disengagement shall notify the Association within seventy-two (72) hours.

22 A member (engagee) who has accepted an engagement from another member (engager) shall not be disengaged without mutual consent.

(1) Barring mutual consent, a member is entitled to the full fee for that engagement from the engager.

23 Members of bands or orchestras who share equally in expenses and income shall treat each other fairly and equally.

(1) Such organizations shall not disengage their members unless they give at least four weeks notice in writing to the disengaged member.

(2) If the band or orchestra performs any engagement(s) during the minimum notice period, the member shall be entitled to be paid by the band or orchestra an amount equal to that which would have been received if the engagement(s) had been fulfilled.

(3) A member shall not terminate an engagement with a band or orchestra referred to in Article 23 unless a minimum of four weeks notice is given in writing to the band or orchestra.

(4) Where a member referred to in sub-paragraph (3) fails to give the required notice and such failure directly results in the cancellation of any engagement(s) during the required notice period, the other members of the band or orchestra shall be entitled to file a claim.

(a) The Board of Directors may require the responsible member(s) to make payment to the claimant(s) in respect to the lost fees.

24 On an engagement to which a weekly fee applies, a member:

(1) shall not be disengaged unless the Leader provides a minimum of two weeks notice in writing,

(2) shall not terminate the commitment without providing the Leader with a minimum of two weeks notice in writing,

(3) and such notice must be given by the end of a contracted week.

25 A member may not be summarily dismissed from an engagement without just cause.

(1) A member summarily dismissed from an engagement may request the Board of Directors to investigate and decide whether the cause of dismissal was just.

CONTRACTORS/LEADERS

26 (1) When at least ten members are engaged on a radio, television or theatrical engagement the Leader shall:

(a) choose a Contractor, and

(b) notify the Association in writing of the name of the Contractor.

(2) The Contractor shall:

(a) be present for the entire engagement,

(b) In all matters adhere strictly to the laws and regulations of the Local and any laws and regulations of the AFM pertaining to the engagement. The Contractor and the Leader shall be responsible for the strict adherence to the laws and regulations of the Local and any laws and regulations of the AFM pertaining to the engagement. If a violation occurs, the Contractor shall immediately advise the Leader and make a written report to the Local within one week of the end of the engagement.

(c) be responsible on behalf of the Leader for calling musicians that have been selected by the Leader.

(3) The Contractor shall not render any additional services or perform any other functions on behalf of the Leader or engager.

(4) The Leader shall appoint a Contractor according to the terms of the particular collective agreement that provides for such an appointment.

- 27 (1) All members on an engagement including players, copyists, arrangers and librarians shall be engaged by the Leader.
- (2) No member other than the Leader shall be engaged by the person requiring musicians.
- (3) A Leader or Contractor when booking a member or members, must specify the type, place, name of function, date and contracted starting and finishing time of the engagement.
- (4) The Leader or Contractor must notify all contracted members of any approved changes to the published fees or conditions within a reasonable time before the commencement of the engagement.
- 28 Subject to any collective agreement or promulgated agreement that may govern and engagement:
- (1) A Leader or Single Musician shall file and executed contract or report form, supplied by the Association or the AFM, for every engagement, with the Association at least three days before the engagement.
- (2) In cases of emergency where a contract cannot be filed as required by Article 28(1), a notification of the engagement must be telephoned to the Association office within a reasonable time prior to the starting time of the engagement. However, a contract must be filed within seven days of the start of the engagement.
- (3) The contract filed under Article 28(1) shall list name(s), Local number(s), email address(es), HST or TMA ID or AFM ID number(s), where applicable, of the musician(s) contracted for the engagement. Where musicians have never been members of the AFM the contract shall list HST or social insurance numbers and e-mail addresses for those musicians. Any musician included on a filed contract who is not a member in good standing at the time of the engagement(s) on a submitted contract or report form, shall be governed by a Temporary Membership Policy, which shall be established by the Board of Directors, and may be amended from time to time by the Board of Directors at their discretion.
- (4) The Leader shall be responsible to notify the Association office in writing of any change of musician(s), date(s), or conditions to the contract immediately.
- (5) A Leader who does not file a contract in accordance with sub- paragraph (1) shall be personally liable for all fees due to the musicians on that engagement.
- (6) Leaders are responsible for engaging only members in good standing or temporary members under a temporary membership permit. Beginning thirty (30) days from the filing of a contract or report form, the Leader shall be personally liable for all unpaid membership fees required to bring all musicians into good standing for the engagement(s) on that contract or reportform. If requisite membership fees remain unpaid sixty (60) days after

the filing of a contract, the Leader shall be suspended and must comply with Article 14 of these by-laws.”

- 29 A member who learns of any violation of the Constitution, the By-Laws or the Tariff of Fees, shall report the violation forthwith to an Officer of the Association.
- 30 (1) The length of an engagement or paid rehearsal shall be computed from the time that members are contracted to begin until the time of dismissal.
- (2) Members may be ordered to report fifteen minutes before the start of a contracted engagement, however, this time shall not be used for preparing the programme.
- (3) Members shall report to an engagement at the time ordered.
- 31 No member shall agree to accept shares of receipts or profits in lieu of fees unless approved by the Board of Directors.
- 32 (1) A Leader shall pay all members:
- (a) within fifteen days of the end of the engagement, or
 - (b) within six days after receipt of a cheque in payment for the engagement, or
 - (c) on the day of receipt of cash in payment for the engagement.
 - (d) such payment as outlined in (a), (b), (c) above made by a returned or protested cheque, may make the Leader liable to a fine equal to the amount of the cheque.
- (2) When a Leader has received payment for an engagement and a member has not received payment from the Leader, the member may make application for additional (penalty) payment. Such payment shall be determined by the Board of Directors to a maximum of an additional 5% after fifteen days up to and including 30 days; 10% after 30 days up to and including 60 days; and 50% after 60 days.
- 33 (1) A member who has a monetary claim against any member, person, firm, association or corporation shall submit a written and signed report to the Association setting out full particulars of the claim within one year after the default in payment. When the member has duly filed the claim, the matter must be referred to the Board of Directors.
- (2) The Board of Directors in its discretion may attempt to collect any contracted fees through legal procedures in any claim which has been filed with the Association.
- (3) Where the Board of Directors allows a member's claim filed pursuant to paragraph (1), and the person, firm, association or corporation responsible for paying the member either fails to pay the claim or fails to lodge an appeal from the decision within the stipulated time, or a claim allowed pursuant to paragraph (2) of this article, the Board of Directors may

place the name(s) of the party(ies) responsible on a list entitled “The Defaulters' List” and notify the AFM.

(4) Unless otherwise determined by the Board of Directors, a member who has not complied with paragraph (1) shall not receive the assistance of the Association.

34 Before an engagement commences or at any time during an engagement, the Board of Directors may order all or any part of the fees for an engagement to be paid to the Association in trust for the members until the termination of an engagement.

35 When any person, firm, association or corporation engages or permits the engagement of musicians who are not members of the AFM or acts in any manner detrimental to the interests of this Association or the AFM, the Board of Directors may place the offending party on the Local Unfair List and request the Federation to place the offending party on the International Unfair List.

36 When required in the Tariff of Fees a Leader shall provide meals, transportation and lodging for members playing an engagement.

37 A member may be required to buy a uniform or any part thereof;

- (a) when the engagement is for a period of at least ten weeks,
- (b) at a cost not exceeding 5% of the aggregate weekly fee.

38 All members of a group who successfully audition for an engagement must be given the opportunity to perform the engagement.

39 A member may enter into a contract for an engagement longer than one year only when permitted by the Board of Directors.

40 When the Association designates a member on an engagement as a Steward, the Steward shall perform such duties as may be assigned by the Association, and report weekly to the Association:

- (a) the name, status and Local number of all travelling musicians,
- (b) the name and instrument played by any non-member who appears on an engagement.

41 Throughout an engagement the number of members engaged shall remain constant.

42 A member shall double on an instrument only as allowed in the Tariff of Fees.

PENALTIES AND FINES

43 A member late for an engagement may be fined not less than \$10.00.

44 Except as provided in these By-Laws, a member who accepts a fee less than the Tariff or accepts any benefit or partial payment in lieu of fees shall be liable to a fine of not less than \$25.00.

45 (1) A Leader who does not pay the members within fifteen days after an engagement, shall be liable to a fine of not less than \$10.00.

(2) A member who pays a cheque to the Association which is returned unpaid or protested is liable to a fine of not less than \$10.00.

46 A member who does not report a change of address or telephone number to the Association as required by these By-Laws, shall be liable to a fine of not less than \$10.00.

47 A member who does not file a contract, Steward's Report or any document required by these By-Laws, shall be liable to a fine of not less than \$25.00.

48 Except as otherwise provided by these By-Laws, a member charged and found guilty of a violation of the Constitution or these By-Laws, at the discretion of the Board of Directors, is liable to

(a) a fine of not less than \$10.00 and not more than \$1,000.00, and/or

(b) suspension or expulsion from membership.

49 Unless otherwise allowed by the Board of Directors, a member shall pay fines to the Association within twenty-one days from the date of the Letter of Notice.

MEETINGS OF ASSOCIATION

50 (1) Unless otherwise ordered by the Board of Directors, General Meetings shall be held in the months of February, May or June, October, December, at such time and place in Metropolitan Toronto as may be determined by the Board of Directors.

(2) Special General Meetings of the Association shall be called by the President within fourteen days after a demand for a meeting accompanied with a written statement of the reasons for demanding a meeting signed by at least forty (40) members of the Association has been presented to the President.

(3) The President or the Board of Directors may call a Special General Meeting.

(4) Notice of time, place and purpose of all General Meetings and Special General Meetings shall be published in Crescendo or any other form of communication deemed necessary and mailed at least twenty-one (21) days before the meeting. During election years only, the December issue of Crescendo is to be mailed at least twenty-eight (28) days before the meeting.

(5) RATIFICATION MEETINGS - Any agreement for fees and conditions between the Toronto Musicians' Association and the Toronto Symphony Association, National Ballet Company of Canada and/or the Canadian Opera Company, shall not be deemed to be in effect unless and until it is ratified by secret ballot, by a simple majority of those members of the orchestra voting.

(6) The May or June meeting as specified in Section 50(1) shall be the Annual General Meeting of the Association. At this meeting, the membership shall approve the audited Financial Statements for the Association as published in Crescendo. These Statements shall include the Financial Statements for the Building Corporation and the Consolidated Statements. This meeting shall also pass a motion to appoint auditors for the ensuing year.

51 (1) Except as provided by the Constitution, twenty-one (21) members eligible to vote shall constitute a quorum at a regular or Special General Meeting of the Association.

(2) If the quorum for any General Meeting is not obtained, or the quorum is lost before the order of business has been completed, all business related to the General Meeting in question shall be deferred to the next regular General Meeting.

(3) If a quorum is not obtained for two consecutive General Meetings, the Board of Directors shall have the authority to act on behalf of the Local on any matters; with the exception of amendments to the Constitution, By-Laws or Tariff of Fees; that would normally have been handled at the General Meetings.

52 All meetings of the Association shall be conducted in accordance with the rules of order as follows:

RULE 1

The order of business shall be:

- 1 opening of meeting by President.
- 2 roll call of Officers.
- 3 reading of Minutes of previous meeting.
- 4 nomination of Officers.
- 5 election of Officers.
- 6 installation of Officers.
- 7 report of Secretary.

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- 8 report of Treasurer, including appointment of auditors at the May Annual General Meeting.
- 9 reports of committees.
- 10 communications.
- 11 deferred business.
- 12 new business.
- 13 notice of motions.
- 14 adjournment.

RULE 2

Subject to the discretion of the President, a meeting shall commence within thirty minutes of the time appointed for a meeting or on the appearance of a quorum, whichever shall first occur.

RULE 3

- (1) A member desiring to speak shall rise and address the President.
- (2) When two or more members rise at once the President shall designate the order in which the members are to speak.

RULE 4

- (1) A Motion shall be put into writing, if ordered by the President.
- (2) A Motion stated by the President shall be the property of the Association unless withdrawn on consent of the Mover and Seconder.
- (3) No Motion shall be stated by the President nor be open for discussion until it has been moved and seconded.
- (4) When a Motion is before the meeting no other Motion shall be put before the meeting except a Motion to,
 - (a) adjourn,
 - (b) lay on the table,
 - (c) take a vote,
 - (d) close debate,

(e) postpone,

(f) refer, or

(g) amend,

which Motions shall have precedence in the order listed above.

(5) Motions to,

(a) adjourn,

(b) lay on the table,

(c) take a vote, or

(d) close debate, shall not be debated.

RULE 5

(1) At all General and Special Meetings of the Association the President shall decide all matters in dispute on points of order.

(2) Unless two-thirds of the members voting vote to reject the decision of the President made under sub-paragraph(1) the decision of the President shall stand.

RULE 6

When two members call for a vote, a vote may be taken on a show of hands or on a secret ballot as decided by the President.

RULE 7

(1) When a vote has been taken on a Motion, two members who have voted with the majority may move for a reconsideration of the vote during the meeting at which the vote was taken or at the next meeting.

(2) Notwithstanding sub-paragraph (1) no new vote shall be allowed where the vote on the Motion was to have indefinite postponement.

(3) Where a new vote is allowed under this Rule there shall be no discussion on the main subject of the Motion.

RULE 8

(1) the President may:

(a) call to order any member who acts in an improper manner at the meeting,

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(b) order the member to apologize to the meeting or to any aggrieved member.

(2) Unless the President gives permission to speak, a member called to order shall not speak again on the matter before the meeting.

RULE 9

When two-thirds of the members voting vote in favour of a change or suspension of the order of procedure for the remainder of the meeting, the change or suspension of the order of procedure shall be allowed.

RULE 10

Unless otherwise provided for, Motions shall be decided by a majority vote.

RULE 11

Unless permitted by the President, no member shall speak:

(a) more than twice on the same matter,

(b) more than once until all other members who so desire have had an opportunity of speaking, and

RULE 12

(1) When a question is before the meeting, the President shall, before putting it to a vote, say, "Is the meeting ready for the question?"

(2) When the President has asked the question under sub-paragraph (1), if no member rises to speak, the President shall rise to state the question.

(3) After the President has stated the question, no member shall speak upon it without the consent of the President.

RULE 13

The President shall announce the votes and decisions of the meeting on all subjects.

RULE 14

(1) The President may call a member to order while speaking.

(2) When the President calls a member to order:

(a) the member must take his/her seat, and

(b) the debate must be suspended, until the question of order is decided.

RULE 15

- (1) The President may speak on points of order before any member.
- (2) The President shall decide all questions of order.
- (3) When the President has decided a question of order, the member may appeal to the meeting and the appeal shall be voted upon without debate.

RULE 16

- (1) Any amendment to an amendment is in order.
- (2) No amendment further than that allowed by sub-paragraph(1) is allowed.

RULE 17

Unless the President otherwise allows, all reports of Committees shall be made in writing.

RULE 18

All rules of order not provided for herein shall be governed by the current edition of "Robert's Rules of Order- Newly Revised".

ELECTION OF OFFICERS

- 53 (1) The Officers of the Association shall be elected for a term of three years.
- (2) (a) Members shall be eligible to stand for election as President, Vice-President, Secretary, or Treasurer, provided they have served on the Board of Directors and have completed two years in office.
- (b) Members shall be eligible to stand for election to the Board of Directors of the Association provided they are in good standing and have completed one year of membership in the AFM.
- (c) A member who has been expelled cannot hold office in the Association until at least two years after reinstatement
- (d) No member who is a regular employee of the Toronto Musicians' Association under the terms of a duly executed Employment Agreement shall stand for election to the Board of Directors of the Association with the exception of the Executive Director. However, the Executive Director shall not be eligible
- i. for election to office as a titled Officer as specified in Art. 6 (1) (a), (b), (c) or (d) of the Constitution, nor

- ii. for appointment as a titled Officer under the provisions of Art. 65 (1) of the Association's By-Laws

If elected or appointed as a Director of the Association in accordance with the provisions of the Constitution and By-Laws, the Executive Director shall have voice but no vote at meetings of the Board of Directors. This special elective directorship shall be in addition to the provisions of Art. 6(1)(e) of the Constitution of the Association governing the number of non-titled Officers constituting a portion of the Board of Directors.

(3) The election of Officers shall take place on the Monday immediately preceding the regular General Meeting in December and for the purposes of these election procedures is designated as ELECTION DAY.

54 The nomination of candidates for office will take place at the regular General Meeting in October immediately preceding the election and:

- (a) shall be made in documented form,
- (b) shall name the person nominated and office sought and be signed by ten (10) members in good standing,
- (c) shall be delivered to the Secretary when called for at the meeting,
- (d) unless the nominee accepts in person or in writing, the nomination is unacceptable, and
- (e) at the conclusion of the nominations, the order of the candidates' names on the ballot will be chosen by lot.

55 (1)

(a) A bona-fide candidate may solicit votes of members orally, with hand-outs flyers, cards, posters, etc.), by advertising in Crescendo or by any other generally accepted method provided the candidate complies with the provisions as allowed by these By-Laws.

(b) Upon request, a candidate for office shall be provided, at cost, with the most recent addresses available of all members of the Association.

- (2) (a) All published election literature for a candidate may include the names of other candidates on lists, tickets, or slates, or include the name of other members as either an endorsement, testimonial or in any other manner for the solicitation of votes provided express permission is mutually agreed to in writing by all members involved.

(b) A member is permitted to participate and/or provide personal assistance on behalf of any election campaign or candidate provided express permission is mutually agreed to in writing by all members involved.

PENALTY: A MEMBER FOUND IN VIOLATION OF THIS ARTICLE 55 (2), (a) and/or (b) above AFTER A HEARING, AS PROVIDED FOR UNDER THESE BY-LAWS IS LIABLE TO A FINE OF NOT MORE THAN \$1,000.00, SUSPENSION OR EXPULSION FROM MEMBERSHIP, OR BOTH.

(3) (a) Advertisements in the form of posters on display in the Association office will be permitted in a single area designated by the Board of Directors and each bona-fide candidate is allowed a single poster using a maximum space of two feet square.

(b) All such posters are to be submitted and subject to the conditions and review procedures as provided for under Article 57(3), paragraphs (d), (e) and (f).

56 (1) The campaign expenditures for any one candidate running for any office, shall not exceed three (3) times the current annual dues during the year the election takes place. The foregoing shall not include postage.

(2) The established expenditure limits are cumulative for the total number of candidates making up a slate or ticket.

(3) A statement detailing the total expenditures for each candidate, slate or ticket shall be submitted to the chairperson of the Election Board after the completion of the election and prior to the date the term of office is to begin. This statement shall include an estimated market value for any product, published material or any other campaign instrument supplied without cost or free to the candidate.

(4) The chairperson shall report any irregularity regarding the above to the Board of Directors and/or the General Meeting immediately following the election.

(5) If, after a hearing, an Officer-Elect is found guilty of a violation of Article 56(1), (2), or (3), that Officer's election may be declared invalid and the office deemed vacant.

57 (1) In election years only the December issue of Crescendo shall be designated as an election issue. The outside front cover shall specify same and make reference to the appropriate pages containing the election section.

(2) A centre section of Crescendo shall be entitled ELECTION OF OFFICERS TO THE BOARD OF DIRECTORS for (specify years for term of office) and shall include:

(a) voting instructions,

(b) date of designated day for election,

- (c) the names of all bona fide candidates on an example form of the ballot (example to be stamped SAMPLE),
- (d) at the discretion of the Election Board, any relevant By-Law excerpts,
- (e) any By-Law requirements, and
- (f) all advertising submitted on behalf of bona-fide candidates.

NOTE:

THE LAYOUT AND PLACEMENT OF ALL THE ABOVE WILL BE LEFT TO THE DISCRETION OF THE EDITOR WHO WILL TRY TO ACCOMMODATE THE ORDER OF APPEARANCE OF THE CANDIDATES' ADS TO MATCH THE ORDER OF APPEARANCE ON THE BALLOTS.

(3) Advertising for Crescendo will be accepted under the following guidelines:

- (a) Ads must comply with the appropriate provisions of Local By-Laws.
- (b) A candidate running for any office will be permitted to purchase a maximum one-quarter page ad, at current rates.
- (c) Advertisements for any one candidate, slate or ticket must appear as a single ad. Where the allowable cumulative space extends beyond one or more pages, this allowable space must be contiguous.
- (d) Messages and/or slogans must be of a positive nature and adhere to the principles of fair play and good taste.
- (e) Advertising copy must be delivered to the Association Office for submission to the Election Board in a prepared manner acceptable to the Election Board within ten (10) business days of the nomination meeting. The Election Board shall meet on the Sunday immediately following this deadline and review all copy for acceptability. The Election Board shall then present all approved copy to the Editor of Crescendo, to be held in confidence until publication of the Crescendo.
- (f) Any advertisement found unacceptable by the Election Board must be amended and resubmitted by the candidate or the candidate's representative within forty-eight (48) hours following which any decision of the Election Board shall be final and binding.

58 At the regular General Meeting of the Association in October preceding the election, an Election Board consisting of not less than five (5) and not more than nine (9) members, none of whom shall be a candidate or related to a candidate in any manner, shall be elected from names nominated to the Election Board from the floor of the meeting.

(1) The Chairperson of the Election Board and a Vice-Chairperson shall be elected by the members of the Election Board at their first meeting which shall be convened by the President.

(2) Upon election, the Chairperson of the Election Board shall be given a unique and confidential login to an AFM-sanctioned online voting service.

(3) The members of the Election Board shall receive such remuneration as is determined by the members at the General Meeting.

(4) Where a vacancy occurs on the Election Board, then person nominated for the Election Board at the October meeting shall be requested by the Board of Directors in order of votes received, to fill the vacancy, and if no member was so nominated, the Board of Directors shall name a member to fill the vacancy.

59 (1) At least seventeen(17) days before election day, the Election Board shall cause to be prepared:

i. the online ballot,

(2) The online ballot shall list the names of all the candidates for a named office, all candidates for Directors to the Board of Directors and shall include the following instructions:

i. On the online ballot (for a named Officer) – YOU MAY VOTE FOR NO MORE THAN ONE CANDIDATE FOR EACH OFFICE.

ii. On the online ballot (for Directors to the Board of Directors) SEVEN TO BE ELECTED - YOU MAY VOTE FOR ANY NUMBER OF CANDIDATES UP TO SEVEN BUT NO MORE, OTHERWISE THIS BALLOT (OR PORTION THEREOF) WILL BE SPOILED.

iii. YOUR VOTE WILL NOT BE COUNTED UNLESS YOU ARE A MEMBER IN GOOD STANDING EIGHT (8) DAYS PRIOR TO ELECTION DAY (specify date).

60 Voting for candidates shall be held by a referendum secret ballot online vote of the membership during a ten (10) day period up to and including election day. The Chairperson of the Election Board shall take the necessary steps to ensure that the following procedures are complied with:

(a) At least ten (10) days prior to election day, the official ballot, ballot link to the AFM sanctioned online voting service shall be emailed to the membership at the email address on file in the office of the Association.

(b) Only members who are in good standing eight (8) days prior to election day shall be eligible to have their online ballots eligible for tabulation. A list of the eligible members shall be alphabetically compiled as of the above designated day and made available to the Election Board.

(c) The members of the Election Board shall retrieve all electronic ballots from the online voting service at the conclusion of election day. The online voting account shall be in the exclusive control of the Election Board and shall be handled as follows:

- i. Only members of the Election Board may view the account and the election results
- ii. The online voting solution must keep a log of undelivered email ballots.
- iii. The Election Board shall use its best efforts to contact members who have not received their ballot up until 24 hours before the election day.

61 A member voting shall use the online solution to vote as instructed.

62 ON ELECTION DAY –

(1) the Election Board shall:

- (a) supervise online voting from 9:00 a.m. to 3 p.m in the Association office,
- (b) receive the online ballot results at 3:00 pm

(2) A member who has no access to email or has requested a hard-copy ballot may appear at the Association office between the hours of 9:00 a.m. and 3:00 p.m. on Election Day and:

- (a) be permitted to carry out the relevant voting procedures, voting online on a TMA office computer (with assistance provided if needed).

(3) A bona-fide candidate or designated representative may act as an Observer to witness all election procedures until the final result is established. Observers and members of the Election Board are the only persons authorized to be present during the in-person voting or able to view, in the presence of the election board, the online voting solution. No solicitation of votes shall be allowed at or near the poll.

(4) Voting shall close at 3:00 p.m. on Election Day.

63 After the voting has been closed and online results have been reviewed by the election board,, all election results shall remain confidential and in the custody of the Election Board Chair. The Chair shall:

(a) make a written report to the Board of Directors and shall announce the results at the General Meeting following the election.

(b) be responsible for the confidential safe-keeping of a printed copy of all election results pertaining to the election for a period of at least one year following the election and then move at a General Meeting to have them destroyed.

64 Within ten (10) days after an election, a candidate may demand a review of the online results. When a review is demanded, the Election Board shall review the online results within three (3) days in the presence of the Board of Directors and the member demanding the recount.

65 (1) When any Office of the Association other than Director becomes vacant, the Board of Directors shall fill the vacancy in the interim before the next general election by exhausting the following procedures in this order:

(a) appoint an Association Officer who is deemed suitable and eligible under the provisions of Article 53(2). The Officer under consideration to fill the vacancy shall leave the meeting until all discussion and vote on the matter has been completed;

(b) appoint a member who is deemed suitable and eligible under the provisions of Article 53(2);

(c) appoint a member who is deemed suitable.

(2) When an appointment occurs as per (b) or (c) above, a "Notice of Appointment" shall be published in Crescendo and the appointee shall be considered "acting" until such time as the appointment is confirmed by a simple majority of the members voting at the next General Meeting. Should the General Meeting fail to confirm the member named "acting", the Board of Directors shall repeat the same procedures naming an alternative until such time as an "acting" appointee is confirmed. An appointed and confirmed Officer may stand for election as the incumbent without regard to the provisions of Article 53(2).

(3) When a vacancy occurs on the Board of Directors, the Board of Directors shall appoint a member to fill the vacancy until the next general election. A notice of the vacancy and the subsequent appointment shall be published in Crescendo.

66 An office of the Association shall be deemed to be vacant when:

(a) the Officer's elected position is invalidated for a violation of the provisions of Article 56;

(b) the Officer submits a resignation to the Board of Directors;

(c) the Officer dies;

(d) the Officer leaves the jurisdiction;

- (e) the Officer's membership is cancelled or suspended for any reason; or
- (f) the Officer has been absent without just cause from five consecutive meetings of the Board of Directors.

67 The elected candidates as provided herein shall take office on the first Monday in January immediately following the election.

68 At the regular General Meeting of members held in December following the election, the Officers declared elected shall take in the presence of all members the following oath:

"I in the presence of the members here assembled, do solemnly promise and swear that I will support and enforce to the best of my ability without prejudice, or partiality, the Constitution and By-Laws of the Toronto Musicians' Association, Local 149, and submit to its mandates therefrom; and I further promise to obey all the laws of the American Federation of Musicians of the United States and Canada. To all this I pledge my most sacred word of honour."

LOCAL DELEGATES

69 (1) Except as provided in sub-paragraph (2) the President shall be ex-officio delegate to the convention(s) and/or conference(s) of the AFM.

(2) Any member of the Board of Directors who is a member of the International Executive Board of the AFM, shall not be a delegate of the Association to the Annual Convention of the AFM.

(3) At the regular General Meeting of the Association held in December the members at the meeting shall elect two members other than the President to be delegates and one member to be an alternate delegate for the following year.

(4) When the President is a member of the International Executive Board of the AFM, the Vice-President shall be a delegate.

(5) When a delegate to the Convention of the AFM is unable to attend then the alternate delegate shall attend.

(6) The delegates elected to represent the membership at the Canadian Conference and/or the AFM Convention, shall meet with the President to discuss policy, resolutions, voting procedures and all related matters before and during those meetings.

RIGHTS AND DUTIES OF OFFICERS

70 PRESIDENT

The President shall:

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- (a) convene and preside at all meetings of the Association and Board of Directors;
- (b) call special general meetings of the members of the Association or meetings of the Board of Directors;
- (c) appoint committees, provided that committees which receive remuneration shall be appointed in accordance with Article 79(c);
- (d) be an ex-officio member of all committees;
- (e) be a delegate to all conventions of the AFM, unless a member of the International Board of Directors.

71 (1) The President shall devote such time to the work of the Association as is deemed necessary by the Board of Directors.

(2) The President shall be paid

i. for each Board of Directors, Executive Committee, General and Special meeting for attendance as required in compliance with the By-Laws of the Association, \$120.00, and

ii. for each half-day office attendance as specified in Article 71 (1) above, \$140.00.

72 The President shall appoint an editor of Crescendo with the approval of the Board of Directors.

73 The President may appoint a Board of Arbitration consisting of five members, including at least one member of the Board of Directors. Three members shall constitute a quorum. This Board shall be appointed in accordance with Article 79(c).

74 VICE-PRESIDENT

(1) The Vice-President shall perform such duties as may be required during the absence of the President or as directed by the President or the Board of Directors. On such occasions, the Vice-President shall receive compensation as per the remuneration specified in Article 71 (2) (i) and (ii) above.

(2) The Vice-President shall, in addition, be paid for each Board of Directors, Executive Committee, General and Special meeting for attendance as required in compliance with the By-Laws of the Association, \$100.00.

75 SECRETARY

The Secretary shall:

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- (a) attend all meetings of the Association and Board of Directors;
- (b) cause correct minutes to be taken of all Board of Directors General or Special meetings of the Association;
- (c) preserve the books, papers and documents of the Association and transfer these to any successor;
- (d) cause to be delivered or mailed to all members, all summons or requests to appear before the President, Board of Directors or Board of Arbitration;
- (e) notify all members of the Board of Directors at least twelve hours before the meeting of all regular, special or adjourned meetings of the Board of Directors;
- (f) supply to the Editor of Crescendo copies of all amendments to the Constitution or By-Laws of the Association;
- (g) publish in each issue of Crescendo a list of all new, transfer, senior, life, resigned, erased and deceased members and any other business that has transpired since the last publication, as directed by the Board of Directors;
- (h) compile and have published in Crescendo the “Defaulters' List” and the “Unfair List”, as directed by the Board of Directors;
- (i) supply to the Editor of Crescendo all material required to be published in Crescendo and all Minutes of General and Special Meetings.
- (j) when requested, supply forthwith to any candidate for office, a complete current address list of all members of the Association;
- (k) ensure an adequate supply of directories of membership and directories of instrumentation, to be provided once a year upon request from a member;
- (l) perform such other duties as may be assigned by the Board of Directors;
- (m) send out copies of Crescendo to all members as required by these By-Laws.

76 (1) The Secretary shall devote such time as may be necessary to properly carry out the work of the Association as authorized by the Board of Directors.

(2) The Secretary shall be paid

- i. for each Board of Directors, Executive Committee, General and Special meeting for attendance as required in compliance with the By-Laws of the Association, \$120.00, and

ii. for each half-day office attendance as specified in Article 76 (1) above, the same remuneration as per the preceding.

77 TREASURER

(1) The Treasurer shall:

(a) cause to be collected all monies due to the Association from members and others and cause to be deposited daily to the credit of the Association all monies received, except monies directed by the Board of Directors to be retained for petty cash, in a bank designated by the Board of Directors;

(b) cause to be kept correct and adequate records and accounts of all monies received, receivable, paid and payable and of all assets of the Association;

(c) cause to be completed and delivered to members all membership cards and receive and issue all transfer cards;

(d) attend to payment of all accounts of the Association as ordered by the Board of Directors;

(e) cause to be insured all property of the Association as ordered by the Board of Directors;

(f) ensure that all records, accounts and pertinent materials are available for inspection by the Board of Directors.

(2) (a) The Treasurer shall devote such time as may be necessary to properly carry out the work of the Association as authorised by the Board of Directors.

(b) The Treasurer shall be paid for each Board of Directors, Executive Committee, General and Special meeting for attendance as required in compliance with the By-Laws of the Association, \$100.00.

78 BOARD OF DIRECTORS

(1) Seven (7) members of the Board of Directors shall constitute a quorum at its meetings, however, the Board of Directors may start a meeting in committee or go into committee provided not less than five (5) members are present and all business handled while in committee is subsequently approved by a quorum of the Board of Directors.

(2) The Board of Directors shall hear and determine all matters pertinent referred to the Association and shall have the authority:

(a) to administer and enforce the provision(s) of the Constitution and By-Laws of the Association, adjudicate claims, arbitrate disputes, and impose fines and other penalties in accordance with the Constitution and By-Laws of the Association, and

(b) to determine, in a manner consistent with the Constitution and By-Laws of the Association or with those of the AFM, all matters which may be of interest to the Association or its members;

(c) to reconsider any decision, order, award or ruling made by it and vary or revoke any such decision, order, award or ruling.

(3) The Board of Directors will act as an impartial tribunal and shall not, by resolution, charge any member(s) with a violation of the By-Laws as an official action of the Board.

79 The Board of Directors shall:

(a) meet as often as necessary to carry out its duties and function in a proper and expedient manner;

(b) require the Association's accountant to supply the Board of Directors with a financial statement quarterly;

(c) appoint committees to make investigations, reports and recommendations; approve payment to committees so appointed in compliance with these By-Laws at the rate of \$50.00 (expense reimbursement) per meeting of two (2) hours in duration. Payment shall be made only when Reports or Minutes are submitted to the Board of Directors within an appropriate time after each meeting. Chairpersons appointed under Articles 73 & 79(c) shall receive an additional fifty (50%) payment for services rendered in compliance with these By-Laws. The Board of Directors shall determine the number of members and number of meetings required for each committee;

(d) hire an Executive Director, who shall be directly responsible for the operation of the Association and the Building Corporation under the direction of the Board of Directors. All office personnel will be directly responsible to the Executive Director;

(e) supervise and control the property and affairs of the Association;

(f) carry out all duties required by the Constitution and these By-Laws;

(g) keep secret any proceedings designated as confidential by a majority of the Board.

80 (1) The entire proceedings of the meetings of the Board of Directors may be transcribed for approval at the following meeting. If the proceedings are not transcribed, adequate Minutes shall be taken by:

(a) the Secretary, or

(b) some other member of the Board of Directors in the absence of the Secretary.

(2) All votes taken at a meeting of the Board of Directors shall be by a show of hands, unless otherwise stated by the Chairperson.

(3) The Approved Minutes of meetings of the Board of Directors shall be mailed regularly to any member in good standing who shall make a request (by ordinary mail, telephone message, e-mail, etc.) to receive such mailings. The Secretary shall maintain a Register of members requesting this service. In addition, one (1) copy of the Approved Minutes of each meeting of the Board of Directors shall be posted in a conspicuous place in the offices of the Association, accessible to any member in good standing who desires to examine same.

81 The President may call meetings of the Board of Directors and shall call a meeting within three days of receipt of a written request signed by six members of the Board of Directors.

82 (1) Each member of the Board of Directors, except where otherwise provided for in these By-Laws, shall be paid for each Board of Directors, Executive Committee (as may be applicable), General and Special meeting, for attendance as required in compliance with the By-Laws of the Association, the following: \$75.00 per half day Half days to be computed on at least two (2) hours a.m., p.m., or accumulated time equal to two (2) hours during any full day session. In addition to the fees paid to each member of the Board of Directors, the Board of Arbitration, and Committees appointed in compliance with these By-Laws, the Association shall contribute annually 10% of such fees to the AFM-EPW Fund (Canada) on behalf of each member, unless otherwise ineligible (this does not apply to expense reimbursement).

(2) A member of the Board of Directors who is also a permanent, full-time employee of the Association under the terms of a duly executed Employment Agreement shall carry out the duties and responsibilities of an Officer of the Association as required by the Constitution and By-Laws, whether in any capacity as a Director, or as a member of a Committee of the Association; however, under the foregoing circumstances the member shall not be eligible to receive the compensation as specified in Articles 71, 74, 76, 77, 79, 82 and 86.

Additionally, the provision in Article 86 for AFM-EPW Fund (Canada) contributions shall not be applicable for Officers referred to in this Article 82 (2).

83 An Officer or Director who has an interest in a matter before the Board of Directors shall declare such interest and leave the meeting until all discussion and vote on the matter is completed.

- 84 When the Board of Directors finds a member of the Board of Directors or a member of the Association guilty of misappropriation of funds of the Association, directly or indirectly, such member shall be immediately expelled from the Association.
- 85 (1) No Officer or employee of the Association shall receive any pay, gift or benefit from a person, business, firm or corporation engaging or acting as an agent for musicians, except as payment for normal musical services as a musician.
- (2) An Officer or Director or an employee found guilty of a violation of sub-paragraph (1) shall forfeit office or position of employment immediately.

EXECUTIVE COMMITTEE

- 86 (1) The President, Vice-President, Secretary, and Treasurer together with one Director appointed by the President, shall be and constitute the Executive Committee which shall have full authority to act on behalf of the Board of Directors in all matters, subject only to any express limitations of its authority made by the Directors. The quorum at all meetings of the Executive Committee shall be three (3).
- (2) The Executive Committee shall keep regular Minutes of their transactions and shall cause them to be recorded in a book for that purpose, and shall report the same to the Board of Directors at such time as the Board of Directors may from time to time require. The Directors shall also have power at any time to revoke or override any authority given to or acts done by any such committee.
- (3) During the intervals between meetings of the Board of Directors, the Executive Committee shall possess and may exercise all the powers of the Board in the management and direction of the affairs of the Local, subject to any regulations which the Directors may impose.
- (4) Each member of the Executive Committee shall be paid for meetings attended in accordance with Articles 71, 74, 76, 77 and 82.

INDEMNITY

- 87 Where an Officer of the Association performs an act:
- (a) after a resolution has been passed at a meeting of the Association instructing or authorizing such performance, or
 - (b) after instruction by the Board of Directors and such instruction is contained in the Minutes of a meeting of the Board of Directors, or
 - (c) in compliance with the Constitution or By-Laws,

such Officer shall be indemnified by the Association for any losses, costs, damages and expenses which the Officer, Officer's heirs, executors or administrators may suffer, pay, sustain or be put to for or by reason of the performance of such act.

BANKING

- 88 (1) The banking business of the Association shall be done at such financial institution as may be designated from time to time by the Board of Directors.
- (2) The President and Treasurer shall be the proper Officers of the Association to make, sign, draw, accept, endorse, negotiate, lodge, deposit and transfer any cheques, promissory notes, drafts, acceptances, bills of exchange and orders for payment of money.
- (3) The Executive Director shall be authorized on behalf of the Association to make, sign, draw, accept, endorse, negotiate, lodge, deposit and transfer any cheques, promissory notes, drafts, acceptances, bills of exchange and orders for payment of money.
- (4) In the case of an absence of the President or Treasurer, the Board of Directors shall designate by resolution an alternate signator.

TRUSTEES

- 89 (1) The Trustees shall be responsible for the safe-keeping of all securities for value and personal property of the Association.
- (2) The Trustees shall allow auditors to examine all securities and properties in their safe-keeping for purposes of making any audit as required by the membership.
- (3) The Trustees, in their dual capacity as Directors of the Toronto Musicians' Association, Local 149 Building Corporation, shall meet annually with the Investment Advisor and the Investment Manager of the Building Corporation Investment Portfolio to review the 12-month performance of the Portfolio and to establish the target return on investment for the succeeding fiscal period.
- 90 (1) Notwithstanding the provisions of any Statute or the common law, where directed by the Board of Directors, after approval has been given at a regular or Special General Meeting of the Association, the Trustees shall purchase personal or real property and use the Health, Education and Welfare Fund, the Contract Defence Fund or the General Fund of the Association for this purpose, and shall not be held personally responsible for any loss that may occur when they have acted on the directions of the Board of Directors.
- (2) When approval has been given at a regular or Special General Meeting of the Association, the Board of Directors may direct the Trustees to make transfers of monies from one fund to another, to make a capital expenditure and/or take care of deficits as determined by the Board of Directors.

(3) The Board of Directors shall not be held personally responsible for any loss that may occur as a result of a capital expenditure made with the approval of the members given at a regular or Special General Meeting of the Association.

(4) Where monies from the Health, Education and Welfare Fund or Contract Defence Fund have been used to purchase real property, the Board of Directors shall direct payment to the Health, Education and Welfare Fund and/or the Contract Defence Fund in each year from the General Fund of an amount equal to the interest that would have been received on such monies if such monies had been invested in bonds of the Government of Canada issued in that year.

GENERAL - HEALTH, EDUCATION AND WELFARE - CONTRACT DEFENCE FUNDS

- 91 (1) All monies received by the Association and not required to be paid to the Health, Education and Welfare Fund, Contract Defence Fund or to the AFM shall constitute the General Fund.
- (2) The General Fund shall be used to pay all current expenses of the Association and for capital expenditures as provided by the By-Laws.
- (3) Where there are insufficient monies in the General Fund for the purposes of the Association, then additional funds shall be raised by an assessment as provided by Article 13 of these By-Laws.
- (4) A sum of money in an amount necessary to cover the operating cost and maintain an adequate balance shall be set aside annually and constitute the Health, Education and Welfare Fund. All income received from investments of the Health, Education and Welfare Fund shall be added to the Health, Education and Welfare Fund and shall be expended with so much of the capital of the Fund as may be necessary from time to time for the purposes provided in these By-Laws.
- (5) An amount of \$15,000.00 shall be set aside as the Contract Defence Fund.
- 92 (1) If a member cannot work as a musician because of illness or disability, the member may apply to the Association for financial relief through the Health, Education and Welfare Fund. In order to access the Health, Education and Welfare Fund the applicant must be a member in good standing at the time of application with a total of 8 consecutive quarters of membership (2 years).
- (2) Subject to the provisions of sub-paragraphs(3), (4),(5), and (6), the Board of Directors shall establish a policy implemented by the administration of the Association that may provide modest financial assistance in the form of a payment or payments for qualifying member applicants for a maximum period, in accordance with the policy established by the Board. Amounts payable to a member or members shall be limited by the Board of

Directors, in order to sustain the ongoing viability of the Health, Education and Welfare Fund. Payments shall be made from the Health, Education and Welfare Fund if the member applicant meets all conditions for benefits established in the HEW Policy.

(3) Except as provided by sub-paragraph (4), the Board of Directors shall not authorize payment from the Health, Education and Welfare Fund for an additional period to a qualifying member:

(a) Within a period of three hundred and sixty-five consecutive days.

(b) for an illness even though the illness may last for a period greater than three hundred and sixty-five days.

(4) If in accordance with the policy established by the Board of Directors it is determined by the Association that the member is continuing to suffer undue hardship by reason of illness or disability, the member may be referred to the Member Assistance Fund [93(1)] for additional benefits.

(5) Unless authorized at a meeting of the Board of Directors , no payments shall be made from the Health, Education and Welfare Fund for any period before the date of the application by the member to the Association for relief.

(6) The Board of Directors shall not authorize payment to a qualifying member from the Health, Education and Welfare Fund for part of a week, or if the Board of Directors, in its sole discretion, determines that the member is working.

(7) All information provided by the member to the Association under this policy shall be kept confidential to and by those who are required to process the applicant's claim.

(8) The Board of Directors has the right to modify the terms and conditions of the policy it establishes in accordance with sub-paragraph (2).

(9) A member may appeal a decision made by the Association under the policy established by sub-paragraph(2) to the Board of Directors. The Board of Directors shall have the authority to review and, if necessary, modify any decision made by the Association under sub-paragraph (2) or (4) and the Board's decision in this regard shall be final.

MEMBER ASSISTANCE FUND

93 (1)

(a) A benevolent fund known as the Member Assistance Fund (MAF) shall be maintained by the Association to provide modest financial assistance to members experiencing illness or disability beyond the period provided for under the Health, Education and Welfare Fund [Article 92]. MAF is funded from the General Fund and

from donations or fund raising activities specifically designated for MAF. Monies are deposited and maintained in an account separate from the Association's General Fund. Financial assistance, in accordance with a policy established by the TMA board, may be provided by the Association to a member upon written application for:

- i. Relief from the payment of annual dues or
- ii. Additional amounts determined to be appropriate to each applicant or
- iii. Both i and ii above.

(b) Amounts payable to a member or members under sub-paragraph (2) (a) shall be limited by the Board of Directors, in order to sustain the ongoing viability of the MAF.

(c) Any request for financial assistance shall be kept confidential to those who are required to process the request.

(d) The MAF shall be administered by a standing committee (Member Assistance Fund Committee (MAF Committee) consisting of three members in good standing. The President shall recommend members for appointment by the Board of Directors, at the beginning of each term of office and the Board of Directors shall fill those vacancies during that term. The MAF Committee shall be responsible for the operation of this fund and for each official meeting, the committee members shall receive expense reimbursement that is outlined under Article 79, Section (c) of these By-laws. One-half of the expense reimbursement shall be allocated from the budget of the MAF and one-half shall be paid from the Association's General Fund.

LIFE MEMBER BENEVOLENT FUND

(2) A benevolent fund known as the Life Member Benevolent Fund (LMBF) shall be maintained to provide the means to pay the annual dues of a Life Member experiencing financial hardship and who is unable to pay those dues, in accordance with a policy established by the TMA Board. Applications for financial assistance shall be in writing and submitted to the Administrative Manager, or other staff member delegated by the Board of Directors for this purpose. The staff member so delegated shall be responsible for all matters pertaining to administration of the LMBF. A bank account separate from the General Fund account(s) of the Association shall be maintained for LMBF financial transactions. Monies for the LMBF shall be derived from donations and bequests received from members and from other unaffiliated third parties, under direction to deposit the proceeds into the LMBF. In addition, the Board of Directors may authorize donations from time to time to the LMBF in memory of deceased members. In this latter instance, the applicable transfer of funds shall be made from the General Fund to the Life Member

Benevolent Fund. Amounts payable to a member or members shall be limited by the Board of Directors, in order to sustain the ongoing viability of the LMBF.

CONTRACT DEFENCE FUND

94 (1) As of October 1, 1992, the Local shall maintain, in a separate account, an amount of fifteen thousand dollars (\$15,000.00) for the purpose of guaranteeing scale fees on engagements performed by members of the Local and to provide financial relief to members when a purchaser of musical services fails to make payment for a contracted engagement. This fund shall be known as the Contract Defence Fund. Regardless of the balance of this fund account, the following revenues shall be deposited into the Contract Defence Fund: accrued interest, donations and proceeds derived from benefit concerts and other events produced by or for the Contract Defence Fund.

(2) Members who have a prima facie claim against a purchaser for unpaid fees may apply for an interest-free advance payable from the Contract Defence Fund in an amount equal to the minimum fees outlined in the current Tariff of Fees, according to the following table:

(a) casual engagements: six (6) engagements per purchaser, maximum four (4) hours;

(b) steady engagements: one week's contracted engagement.

(3) A member who applies for such an advance must file a claim against the defaulting purchaser and sign a Members Fee Claim Agreement by which it will be agreed that:

(a) The advance will be repaid to the Contract Defence Fund from the collection of the claim. In the event a valid claim cannot be collected due to circumstances beyond the control of the Local, the amount of the advance will be forgiven.

(b) Any court and/or legal costs included as part of the settlement of the claim will be retained by the Local.

(c) The member is willing to pursue the matter as required by the Local.

(4) To secure an advance from the Contract Defence Fund, a TMA approved contract form must:

(a) have been filed with the Association prior to the engagement;

(b) exhibit correct information;

(c) reflect contracted amounts not less than current minimums;

(d) include names and addresses of all parties;

(e) be dated;

(f) be signed by both purchaser and leader.

(5) The following conditions must also be satisfied:

(a) All members performing under the contract must be in good standing at the time of the engagement;

(b) the members must not have invalidated or compromised their claim;

(c) the claim must be approved by the Board of Directors of the Local.

(6) The Contract Defence Fund can make payment to a maximum of \$5,000.00 (five thousand dollars) for any one contract.

(7) The liability to the Association in any given calendar year shall be limited to a maximum of \$15,000.00 (fifteen thousand dollars).

95 (1) The Local shall provide the members of local orchestras with competent representation for the negotiation of master agreements at no additional expense to the members involved. Details, including expenditures, of this representation are to be determined by the Board of Directors in consensus with the Orchestra Players' Committee, the musicians' Negotiating Committee and the Local's Executive staff.

(2) The Local shall provide funds to one Toronto delegate from each OCSM members' orchestra to attend the Annual OCSM Conference. These funds shall not be less than the remuneration for hotel and per diem as outlined in the AFM By-Laws, Article 22, Section 15(c) plus airfare, which arrangements are to be made through the office of the Association.

HEARINGS

96 (1) All charges, claims and offences against or under the Constitution and By-Laws shall be made in writing and delivered to the Board of Directors.

(2) The Board of Directors shall review the charge, claim or alleged offence and at its discretion deal with the matter or refer the matter to a Board of Arbitration.

97 (1) If authorized by the Board of Directors, the President shall appoint a Board of Arbitration composed of any five (5) members, at least one of whom shall be a member of the Board of Directors of the Local. Three (3) members shall constitute a quorum.

(2) The Board of Arbitration shall have the authority to hear and to determine all matters referred to it by the Board and shall have the authority to adjudicate claims and arbitrate disputes between members, and impose fines and other penalties in accordance with the Constitution and By-Laws of the Association.

- 98 When the Board of Directors refers a matter to a Board of Arbitration as provided by Article 96, the Board of Arbitration shall meet forthwith to hear the matter.
- 99 (1) Except as provided in sub-paragraph (2) when the Board of Arbitration or the Board of Directors makes a decision in writing after hearing a charge or complaint, it shall be binding on any members affected.
- (2)
- (a) i. When a member wishes to appeal a decision of the Board of Arbitration, the member must appeal this decision in writing to the Board of Directors within thirty (30) days.
- ii. When a member wishes to appeal a decision of the Board of Directors, the member must appeal this decision in writing to the Canadian Office of the AFM within thirty (30) days.
- (3) A member who fails to comply with a decision as in paragraph (1) and fails to exercise the right of appeal as provided by these By-Laws shall be subject to automatic suspension.
- 100 When a member desires an appeal and so notifies the Board of Directors, the subsequent proceedings before the Board of Arbitration or Board of Directors may be transcribed.
- 101 Proceedings before the Board of Arbitration or the Board of Directors shall be secret unless their publication is ordered by the Board of Directors.
- 102 (1) The Board of Arbitration or Board of Directors shall have authority to require any member to appear in person to give evidence at a hearing.
- (2) A member directed in writing to appear before the Board of Arbitration or the Board of Directors shall appear as directed.
- 103 If during a hearing, the Board of Arbitration or the Board of Directors discovers further violation(s), the member(s) involved may be subsequently charged.
- 104 (1) When a member appears before the Board of Arbitration or Board of Directors on a hearing of a charge, claim or offence, the member shall:
- (a) answer all questions asked by any person at the hearing;
- (b) not give any false answers;
- (c) not use any disrespectful or vulgar language.
- (2) A member who does not comply with sub-paragraph (1) shall be guilty of an offence under these By-Laws and, at the discretion of the Board of Arbitration or the Board of

Directors, be liable forthwith to payment of a fine of not less than \$10.00 (ten dollars) and not more than \$1,000.00 (one thousand dollars).

105 All findings and decisions of the Board of Directors shall be published in the succeeding issue of Crescendo.

106 When the Board of Directors or the Board of Arbitration conducts an enquiry into a violation by a member, it shall not be responsible for any loss that may be incurred by a member as a result of its decision whether its decision is reversed or in error.

CRESCENDO

107 (1) The Editor of Crescendo shall prepare an edition of Crescendo for publication at least three (3) times in each year and as directed by the Board of Directors.

(2) A copy of each edition of Crescendo shall be mailed to all members of the Association at the addresses filed with the Association.

108 Crescendo shall contain:

(a) all names, addresses, telephone numbers and instrumentation of new, reinstated from resigned status, and transfer members since the last publication, and

(b) notice of time and place of each regular or Special General Meeting with a statement of all matters to come before the meeting and including any proposed legislation, changes in prices or assessments, and Minutes of all General and Special Meetings of the Association, and

(c) all other notices required to be published in Crescendo.

109 (a) The Editor of Crescendo shall endeavour to obtain as much revenue as possible for the Association.

(b) An accounting of the funds generated by the Editor of Crescendo shall be made available to the Association upon request.

TARIFF OF FEES

110 Members of the Association shall be paid on an engagement at least an amount equal to that specified in the Tariff of Fees of the Association.

111 (1) A proposition to change the Tariff of Fees must be signed by at least ten (10) members in good standing and submitted to the Association.

(2) The Association will acknowledge receipt of any proposals received by mail or otherwise within 30 days.

- 112 (1) The Board of Directors shall review all the suggested changes in the Tariff of Fees and may formulate proposals to amend the Tariff of Fees.
- (2) All propositions to change the Tariff of Fees shall be published in Crescendo.
- (3) If a simple majority of the members voting at a General Meeting approve of a change in the Tariff of Fees, it shall be amended accordingly and shall become effective 90 days following the General Meeting at which the tariff change was approved by the membership.

REVOCATION

- 113 All By-Laws of the Association passed heretofore are repealed.

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