



Application for Registration under Section 175 of the Copyright and Related Rights Act 2000

Name of Applicant: Artists' Collecting Society (ACS)

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Chairperson and Members of the Board:

Kimberley Ahmet (Managing Director)

Harriet Bridgeman (Chairman)

Eileen Cooper (Artist)

David Dawson (Artist)

Hugh Gilbert (Photographer)

Rupert Grey (Lawyer)

Maggi Hambling (Artist)

Arabella Hartwell (Executive Assistant)

Simon Martin (Museum Director)

Garry Scott-Irvine (Art Advisor)

Hannah Watson (Gallery Director)

Hester Westley (Art Historian)

The Companies Act 1985

**Company Limited by Guarantee
and not having a share capital**

Memorandum of Association

of

Artists' Collecting Society CIC

1. The name of the Company is: "Artists' Collecting Society CIC"
2. The Company is to be a Community Interest Company
3. The Company's registered office will be in England and Wales
4. The objects for which the Company has been established are:
 - a. To carry on activities which benefit the community and in particular (without limitation) to collect resale royalties for British artists in the UK and on their behalf throughout Europe.
 - b. To inform visual artists about the potential benefits of Artist's Resale Right and the concomitant issues surrounding the legislation
 - c. To monitor eligible sales, invoice Art Market Professionals, and collect, administer and distribute Artist's Resale Right royalties owed to ACS mandated artists. Administrative fees and Company expenses will be taken into account.
 - d. To enter into reciprocal agreements (when possible) with foreign collecting societies in order to ensure that the collection and distribution of Artist's Resale Right royalties for British artists is accurately implemented overseas. Likewise, ACS will attempt to protect the rights of foreign artists (who are eligible for ARR) selling in Britain

- e. To recover all monies owed to artists and if necessary, issue legal proceedings against those who have withheld information regarding eligible sales.
 - f. To obtain from visual artists all of the information needed for the Company to fulfil the objectives set forth in this Memorandum
 - g. To enter into arrangements and agreements concerning the business of the Company with individuals, companies, associations and bodies of all kinds including governmental, statutory and local authorities, organisations and agencies.
 - h. To enter into partnerships or become affiliated with other companies who help further the overall goals of ACS.
 - i. To actively promote the interests of the Company by organising seminars, conferences, talks, and workshops that will educate the public and encourage dialogue about Artist's Resale Right. To pursue any other means (whether it be through the form of publications, surveys, etc) of disseminating the values of the Company.
 - j. To defend and protect the interests and reputation of the Company and to take legal action if necessary.
 - k. To transact all kinds of trust and agency business concerning Artist's Resale Right for represented artists.
 - l. To occasionally raise and borrow money for the purposes of the Company.
 - m. To receive grants and donations that will benefit the Company and ensure that the rate of commission is kept as low as possible.
 - n. To engage in sponsorship activities that are in accordance with the objectives of the Company.
 - o. To participate in fund raising for cultural, artistic or charitable causes.
 - p. To ensure that the Company is recognised abroad.
5. The Company has the power to do anything which is incidental or conducive to the furtherance of its object.
6. The liability of the Members is limited
7. The income and property of the Company shall be applied solely towards the promotion of its objects as set forth in this Memorandum of Association, and no portion thereof shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise to members of the Company.
8. Every member of the Company undertakes to contribute a sum not exceeding £1 to the assets of the Company if it is wound up during his, her or its membership or within one year afterwards.
- a. For payment of the debts and liabilities of the Company contracted before he, she or it ceased to be a Member;
 - b. For the costs, charges and expenses of winding up; and
 - c. For the adjustments of the rights of the contributories among themselves

The Companies Act 1985

Company Limited by Guarantee and not having a share capital

Articles of Association of Artists' Collecting Society CIC

Part one: Definitions and interpretation

1. Definitions

In these Articles the following terms shall have the following meanings.

Term

“1985 Act”	the companies Act 1985
“2004 Act”	the Companies (Audit, Investigations and Community Enterprise) Act 2004
“Company”	Artists' Collecting Society CIC
“address”	in relation to electronic communications, includes any number or address used for the purposes of communications
“Articles”	the Company's Articles of Association
“Director”	a Director of the Company, including any person occupying the position of Director, by whatever name called
“the board”	means the directors, acting collectively
“the secretary”	means any person appointed to perform the duties of the secretary of the Company
“Asset Locked Body”	a community interest company, Charity or Scottish Charity or a body established outside Great Britain (for the purposes of article 3(2)(a), the United Kingdom) that is equivalent to any of those persons

“Chair”	the meaning given in article 9
“Charity”	(except in the phrase, “Scottish Charity”) the meaning given by Section 96 of the Charities Act 1933
“clear days”	in relation to the period of a notice, that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect
“electronic communication”	the meaning given in the Electronic Communications Act 2000
“in writing”	written period or transmitted writing including by electronic communication
“majority decision”	the meaning given in article 22
“Member”	the member of the Company as defined in the 1985 Act
“Memorandum”	the Company’s Memorandum of Association
“Regulations”	the Community Interest Company Regulations 2005
“Regulator”	the Regulator of Community Interest Companies
“relevant quorum”	the meaning given in article 25
“remunerations”	any reasonable payment or benefit received, or to be received, by a Director or employee of the Company in consideration for that Director’s or employee’s services to the Company, and any arrangement in connection with the payment of a pension, allowance or gratuity to or in respect of any person who is to be, is, or has been a Director or employee of the Company or any of its predecessors in business
“Scottish Charity”	the meaning given in section 1(7) of the Law Reform (Miscellaneous Provisions) Scotland Act 1990

“subsidiary”

the meaning given in section 736 of the Companies Act 1985

“unanimous decision”

the meaning given in article 21

2. Interpretation

- (1) Unless the context requires otherwise, words or expressions defined in:
 - (a) 1985 Act,
 - (b) the 2004 Act, or
 - (c) the Regulations,have the same meaning in the Articles.
- (2) Without prejudice to the generality of paragraph (1):
 - (a) “community” is to be construed in accordance with section 35 of the 2004 Act and Part 2 of the Regulations;
 - (b) “financial year” has the meaning given in section 223 of the 1985 Act; and
 - (c) “transfer” includes every description of disposition, payment, release or distribution and the creation or extinction of an estate or interest in, or right over, any property, or, in Scotland, a right, title or interest in or over any property.
- (3) Unless the context requires otherwise, all references to legislative provisions are to the legislations concerned as amended, repealed, re-enacted or replaced and in force from time to time.
- (4) Unless the context requires otherwise, words in the singular include the plural and words in the plural include the singular, and words importing the masculine gender shall include the feminine.
- (5) All headings and explanatory notes are included for convenience only: they do not form part of the Articles, and shall not be used in the interpretation of the Articles.

Part two: Asset lock

3. Transfer of assets

- (1) The Company shall not transfer any of its assets other than for full consideration.

- (2) Provided the condition specified in paragraph (3) is satisfied, paragraph (1) shall not apply to:
 - (a) the transfer of assets to any Asset Locked Body specified in the Memorandum or Articles for the purposes of this article or (with the consent of the Regulator) to any other Asset Locked Body; and
 - (b) the transfer of assets made for the benefit of the community other than by way of a transfer of assets to an Asset Locked Body.
- (3) The condition is that the transfer of assets must comply with any restrictions on the transfer of assets for less than full consideration which may be set out elsewhere in the Memorandum or the Articles.
- (4) If:
 - (a) the Company is wound up under the Insolvency Act 1986; and
 - (b) all its liabilities have been satisfied,then any residual assets shall be given or transferred to such Asset Locked Body as the Regulator shall, in accordance with the Regulations, specify.

Part three: Membership

4. Appointment of members

- (1) The subscriber to the Memorandum is the first Member of the Company.
- (2) Such other person as agrees to become Members of the Company, whose names are entered in the register of Members, and who are admitted to membership in accordance with the Articles, shall be Members of the Company.
- (3) No person shall be admitted as a Member of the Company by the board unless he, she or it is a practising visual artist of some kind, or is the copyright heir or assignee of a visual artist.
- (4) Every person who wishes to become a Member shall execute and deliver a mandate or letter of authority addressed to the Company, giving the Company the authority to administer the Artist's Resale Right (and in the eventuality of ACS administering all other visual artists' rights, any other rights) in his or her work, on behalf of such

member. Every such mandate or letter of authority shall be in such form as the board may from time to time prescribe.

5. Transfer and termination of membership

- (1) Membership is not transferable to anyone else.
- (2) On the death of a member, his or her membership shall cease and shall not be transmitted to any other person, but the rights (if any) already vested in the company by the member, or controlled in the Company by virtue of his or her membership, shall remain so vested or controlled for a period ending on the 31st December in the third year following the year in which the member's death took place, and any payment to which the member, if living, has been entitled in accordance with the rules of the company shall be made to the member's personal representative during such a period of time.
- (3) Any member may, by giving three months notice in writing to the Company, terminate his or her membership.

Part four: General meetings (meetings of members)

6. Annual general meeting

Subject to passing an elective resolution the Company shall hold an annual general meeting:

- (a) within 18 months of the Company's date of incorporation and afterwards once in each calendar year (provided that not more than 15 months shall elapse between the date of one annual general meetings of the Company and that of the next); and
- (b) at such date, time and place as the Directors shall determine.

7. Other general meetings

- (1) Subject to the provisions of the 1985 Act the Company shall dispense with the holding of general meetings and all resolutions of the Company shall be passed by way of written resolution.

- (2) If, in accordance with the 1985 Act, a general meeting is required to be called then the relevant provisions of Table A in force on the date of the meeting shall apply to the meeting.
- (3) A person who is not a member of the Company shall not have any right to vote at a general meeting of the Company; but this is without prejudice to any right to vote on a resolution affecting the rights attached to a class of the Company's debentures.
- (4) The board may, whenever it thinks fit, convene a general meeting and general meetings may also be convened in the manner provided by the 1985 Act. If at any time there are not within the State sufficient directors capable of acting to form a quorum of directors, any director or any two members of the Company may convene a general meeting in the same manner as possible as that in which meetings may be convened by the board.

8. Notice of general meetings

- (1) Subject to the 1985 Act, an annual general meeting and a meeting called for the passing of a special resolution shall be called by 21 days notice in writing at the least, and a meeting of the Company (other than an annual general meeting or a meeting for the passing of a special resolution) shall be called by 14 days notice in writing at the least. The notice shall be exclusive of the day on which it is served or deemed to be served and the day for which it is given and shall specify the place, the day and the hour of the meeting and, in the case of special business, the general nature of that business. The notice shall be given, in manner hereinafter mentioned, to such persons as are, entitled to receive the same.
- (2) The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by any person entitled to receive the same shall not invalidate the proceedings at the meeting.

9. Proceedings at general meetings

- (1) All business shall be deemed special that is transacted at an other general meeting, and also all that is transacted at an annual general meeting with the exception of the consideration of the accounts, the balance sheets and the reports of the directors and auditors, the

election of the directors in the place of those retiring, and the appointment and fixing of remuneration of the auditors.

- (2) No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business. Six members present in person shall be a quorum.
- (3) If within half an hour from the time appointed for a general meeting, a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved. In any other case it shall stand adjourned to such other day and at such other time and place as the board may determine, and if at an adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the members present shall be a quorum.
- (4) The chairman of the board shall preside as chairman at every general meeting of the Company. If there is no such chairman, or if he is not present within 15 minutes of the time appointed for the holding of the meeting, or is unwilling to act, the directors present shall select one of their number to be chairman of the meeting. If no director is willing to act as chairman or if no director is present within 15 minutes after the time appointed for holding the meeting, the members present shall choose one of their number to be chairman of the meeting.
- (5) The chairman may, with the consent of any meeting at which a quorum is present (and shall, if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When the meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
- (6) At any general meeting, a resolution put to the vote of the meeting shall be decided on a show of hands, unless before the declaration of the result of a show of hands, a poll is demanded:
 - (a) by the chairman or;
 - (b) by at least three members present.

Unless a poll is so demanded, a declaration by the chairman that a resolution has on a show of hands, been carried or lost, and an entry to that effect in the book contained the minutes of proceedings of the Company, shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

- (7) If a poll is duly demanded it shall be taken at such time and in such manner as the chairman directs. Any business other than that upon which a poll has been demanded may proceed, pending the taking of the poll.

Part five: Directors' appointment and terms of service

10 Methods of appointing directors

- (1) The first directors shall be the persons named in Form 10 upon incorporation.
- (2) There shall be a minimum of five and a maximum of twelve directors, of whom up to seven may be appointed or elected pursuant to article 10.2, and up to four may be co-opted pursuant to article 10.3 herein.
- (3) The first directors of the Company shall be appointed by the subscribers to the Memorandum of Association of the Company, and shall hold office until the first Annual General Meeting of the Company. Thereafter the directors shall be members who have been elected by their fellow-members of the Company in the general meeting.
- (4) Up to four persons may be co-opted as directors of the board, being persons who in the opinion of the board will add to the vision and performance of the board, or who have specific expertise that is otherwise lacking on the board. Such co-options shall be made for specified periods of time.

11 Eligibility to be a director

- (1) A person shall not be a Director unless that person:

- (a) (if that person is an individual) is willing to serve as a Director and has attained the age of 18 years; and
 - (b) is elected or appointed as a Director in accordance with the Articles
- (2) No person shall be elected or appointed as a Director in circumstances which, if that person had already been a Director, would have resulted in that person ceasing to be a Director under the Articles.

12 Termination of directors' appointment

- (1) A person shall cease to be a Director if:
- (a) that person ceases to be a Director by virtue of any provision of the 1985 Acts, or is prohibited by law from being a Director;
 - (b) any notice to the Company that that person is resigning or retiring from office as Director takes effect (except that where such resignation or retirement would otherwise lead to the Company having fewer than five Directors, it shall not take effect until sufficient replacement Directors have been appointed);
 - (c) the member passes on ordinary resolution removing that person from office;
 - (d) a contract under which that person is appointed as a Director of, or personally performs services for, the Company or any of its subsidiaries terminates, and the Directors decide that that person should cease to be a Director;
 - (e) the Directors decide, at a meeting of Directors, that that person should be removed from office, but such a decision shall not be taken unless the person in question has been given:
 - (i) at least fourteen clear days' notice in writing of the proposal to remove that person from office, specifying the circumstances alleged to justify removal from office; and

- (ii) a reasonable opportunity of being heard by, or of making representations in writing to, the Directors.
- (2) No powers to remove Directors may be given to persons who are not the Member which immediately after their exercise could result in either:
 - (a) the majority of the remaining Directors having been appointed by persons who are not the Member; or
 - (b) the number of Directors removed during the financial year of the Company by persons who are not the Member exceeding the number of the remaining Directors, but this shall not prevent a Director from appointing, or subsequently removing, an alternate director, if permitted to do so by the Articles.

13. Rotation of directors

At the annual general meeting, any Director who has held the position for more than three years should offer himself for re-election for a further term of three years or resign.

14. Directors' remuneration and other terms of service

- (1) Subject to the 1985 Act, and the Articles, the Company satisfying the community interest test, and any resolution passed under paragraph (2), the Directors may decide the terms (including as to remuneration) on which a Director is to perform Directors' functions, or otherwise perform any service for the Company of any of its subsidiaries.
- (2) The Members may by ordinary resolution limit or otherwise specify the remuneration to which any Director may be entitled, either generally or in particular cases.

15. Directors' expenses

The company may meet all reasonable expenses which the Directors properly incur in connection with:

- a. the exercise of their functions; or

- b. the performance of any other duty which they owe to, or service which they perform for, the Company or any of its subsidiaries.

Part six: Directors' functions

16. Directors' general authority to manage the company

- (1) The Directors' functions are:
 - (a) to manage the Company's business; and
 - (b) to exercise all the powers of the Company for any purpose connected with the Company's business.
- (2) The Directors may delegate their functions in accordance with the Articles.

17. Limits on Directors' functions

- (1) The Member may, by written resolution:
 - (a) alter the scope of the Directors' functions; or
 - (b) require the Directors to act in a specified manner.
- (2) No written resolution passed under paragraph (1) shall have retrospective effect.

18. Directors' general authority to delegate functions

- (1) Subject to the Articles, the Directors may delegate any of their functions to any person they think fit.
- (2) The Directors must not delegate to any person who is not a Director any decision connected with:
 - (a) the taking of decisions by Directors; or
 - (b) the appointment of a Director or the termination of a Director's appointment.
- (3) Any delegation under paragraph (1) may authorise further delegation of the Directors' functions by any person to whom they are delegated.

19. Committees of directors

- (1) Two or more Directors are a “committee” if the Directors have:
 - (a) delegated any of the Directors’ functions to them; and
 - (b) indicated that they should act together in relations to that function.
- (2) The provisions of the Articles about how the Directors take decisions shall apply, as far as possible, to the taking of decisions by committees.

Part four: Decision-making by directors

20. Scope of rules

- (1) References in the Articles to decisions of Directors are to decisions of Directors which are connected with their functions.
- (2) Except where the Articles expressly provide otherwise, provisions of the Articles about how the Directors take decisions do not apply:
 - (a) when the Company only has one Director; or
 - (b) to decisions delegated to a single Director

21. Directors to take decisions collectively

Any decision which the Directors take must be either a unanimous decision or a majority decision.

22. Unanimous decisions

- (1) The Directors take a unanimous decision when they all indicate to each other that they share a common view on a matter.
- (2) A unanimous decision need not to be taken at a meeting of Directors, or involve any discussion between Directors.

23. Majority decisions

- (1) The Directors take a majority decision if:
 - (a) every Director has been made aware of a matter to be decided by the Directors;
 - (b) all the Directors who indicate that they wish to discuss or vote on the matter have had a reasonable opportunity to communicate their views on it to each other; and
 - (c) a majority of those Directors vote in favour of a particular conclusion on that matter at a meeting of Directors.
- (2) Paragraph (1)(a) does not require communication with any Director with whom it is not practicable to communicate, having regard to the urgency and importance of the matter to be decided.

24. Meetings of Directors

- (1) Any Director may call a meeting of Directors.
- (2) Every Director must be given reasonable notice of a meeting of Directors.
- (3) Paragraph (2) does not require notice to be given:
 - (a) in writing; or
 - (b) to Directors to whom it is not practicable to give notice, having regard to the urgency and importance of the matters to be decided, or who have waived their entitlement to notice.
- (4) Directors participating in a meeting of Directors:
 - (a) must participate at the same time, but may be in different places; and
 - (b) may communicate with each other by any means.
- (5) Questions arising at a meeting of Directors shall be decided by a majority of votes; in case of an equality of votes, the Chair shall have a second or casting vote.

- (6) A Director who is an alternate director shall be entitled in the absence of his appointer to a separate vote on behalf of his appointer in addition to his own vote.
- (7) Except as provided by paragraphs (5) and (6), in all proceedings of Directors each Director must not have more than one vote.

25. Records to be kept

- (1) The Directors are responsible for ensuring that the Company keeps a record in writing, of:
 - (a) every unanimous or majority decision taken by the Directors; and
 - (b) every declaration by a Director of an interest in an actual or proposed transaction with the Company.
- (2) Any record kept under paragraph (1) must be kept:
 - (a) for at least ten years from the date of the decision or declaration recorded in it;
 - (b) together with other such records; and
 - (c) in such a way that it is easy to distinguish such records from the Company's other records.

26. Specified numbers directors for majority decisions

- (1) Subject to paragraph (2), no majority decision shall be taken at a meeting of Directors unless two directors (the "relevant quorum") participate in the meeting and are entitled to vote on the matter on which a majority decision is to be taken.
- (2) If the company has one or more Directors, but the total number of Directors is less than the relevant quorum, a meeting of Directors may take a majority decision
 - (b) to appoint further Directors; or
 - (c) that will enable the Member to appoint further Directors

27. Chairing of Meetings of Directors

- (1) The Directors shall appoint a Director to chair all meetings of Directors
- (2) If the person appointed under paragraph (1) is for any reason unable or unwilling to chair a particular meeting, the Directors shall appoint another Director to chair that process.
- (3) The Directors may terminate an appointment made under paragraph (1) or paragraph (2) at any time.
- (4) A Director appointed under this article shall be known as the Chair for as long as such appointment lasts.

28. Directors' Discretion to make further rules

- (1) Subject to the Articles, the Directors may make any rule which they think fit about how they take decisions.
- (2) The Directors must ensure that any rule which they make about how they take decisions is communicated to all persons who are Directors while that rule remains in force.

29. Defect in Appointment

- (1) This article applies if
 - (a) a decision is taken by the Directors, or a committee of the Directors, or a person acting as a Director; and
 - (b) it is subsequently discovered that a person who, acting as a Director, took, or participated in taking, that decision:
 - i. was not validly appointed as Director;
 - ii. had ceased to hold office as a Director at the time of the decision;
 - iii. Was not entitled to take that decision; or

- iv. should, in consequence of a conflict of interests, not have voted in the process by which that decision was taken.

Part Eight: Miscellaneous

30. Company Secretary

- (1) Subject to the provisions of the 1985 Act, the Directors shall appoint an individual to act as Company Secretary for such term and at such remuneration and upon such other conditions as they may think fit.
- (2) The Directors may decide to remove a person from the office of Secretary at any time.

31. Company Seal

- (1) This article applies if the Company has a seal (the “common seal”)
- (2) The common seal shall only be applied to a document if its use on that document has been authorised by a decision of the Directors
- (3) If the common seal is applied to a document, the document shall be
 - (a) signed by an authorised person; and
 - (b) countersigned by another authorised person.
- (4) For the purposes of this article, an authorised person is;
 - (a) any Director
 - (b) the Secretary; or
 - (c) any person authorised by the Directors for the purpose of signing or countersigning documents to which the common seal is applied

32. Accounts and Reports

- (1) The Directors shall comply with the requirements of the 1985 Act and any other applicable law as to keeping financial records, the audit or examinations of accounts and the preparation and transmission to the Register of Companies annual reports and accounts.
- (2) Subject to paragraph (3), the Company's statutory books and accounting records shall be open to inspection by the Members during usual business hours.
- (3) The Company may in general meeting impose reasonable restrictions as to the time at which and the manner in which the statutory books and accounting records of the Company may be inspected by Members.

33. Notices

- (1) Except where the articles provide otherwise, any notice to be given to or by any person under the Articles shall be in writing to an address for the time being notified for that purpose to the person giving the notice.
- (2) The Company may give any notice to any person under the Articles:
 - (a) in person;
 - (b) by sending it by post in a prepaid envelope addressed to that person at that person's registered address, or by leaving it at that address;
 - (c) or by fax or electronic communication to an address provided for that purpose; or
 - (d) by posting it on a website, where the recipient has been notified of such posting in a manner agreed by that person.

- (3) A person present at any meeting shall be deemed to have received notice of the meeting and, where requisite, of purpose for which it was called.
- (4) Proof that:
 - (a) an envelope containing a notice was properly addressed, prepaid and posted; or
 - (b) that an electronic communication or fax has been transmitted to the correct address or numbershall be conclusive evidence that the notice was given.
- (5) A notice shall, unless the contrary is proved, be deemed to be given:
 - (a) at the expiration of 48 hours after the envelope containing it was posted; or
 - (b) in the case of a notice contained in an electronic communication or fax, at the expiration of 48 hours after the time it was transmitted.

34. Indemnity

- (1) Subject to the 1985 Act, a Director shall be indemnified out of the Company's assets against any expenses which that Director incurs:
 - (a) in defending civil proceedings in relation to the affairs of the Company (unless judgement is given against the Director and the judgement is final);
 - (b) in defending criminal proceedings in relation to the affairs of the Company (unless the Director is convicted and the conviction is final);
 - (c) in connection with any application for relief from liability from negligence, default, breach of duty or breach of trust in relation to the affairs of the Company (unless the Court refused to grant the Director relief, and the refusal is final).

- (2) Judgement, conviction or refusal of relief becomes final if the period for bringing an appeal or any further appeal has ended and any appeal brought is determined, abandoned or otherwise ceases to have effect.
- (3) This article is without prejudice to any other indemnity to which a Director may be entitled.



Artists' Collecting Society

Code of Conduct

Introduction and Company Information

This code of conduct has been created in accordance with the British Copyright Council's Principles for Collective Management Organisations' Codes of Conduct.

This code sets out the standards and principles that the Artists' Collecting Society (ACS) applies in terms of our dealings with our members and licensees and in the operation of our internal governance processes. It also provides our members with core information about ACS, as well as outlining how to get in touch with the team if they have a concern or query.

ACS is a not-for-profit community interest company dedicated to the administration of the Artist's Resale Right (ARR) and copyright. We collect and distribute ARR and copyright royalties to visual artists and artists' estates who have specifically mandated us to do so. ACS administers the Artist's Resale Right in line with the UK Artist's Resale Right Regulations (2006 & 2011) which implement European Directive 2001/84/EC.

ACS was founded at the request of artists and Art Market Professionals who were worried about the monopolistic implications of having only one collecting society dedicated to the administration of the Artist's Resale Right and recognised the need for a transparent, fair and professional society that puts artists' needs first. As a community interest company, ACS operates solely for the benefit of its member artists and the artistic community. This means that any surplus income (following the deduction of administration costs) is locked in to the company and must be used to benefit ACS' members or the artistic community. This is done through a range of sponsorships and bursaries that support individual artists, artistic organisations and charities. You can read more about these activities on ACS' website (artistscollectingsociety.org.uk).

ACS collects Artist's Resale Right royalties on behalf of its members in the UK and throughout Europe. In order to ensure collection outside the UK, ACS uses the services of a number of European collecting societies. If a foreign collecting society's commission is higher than the ACS commission rate, where legally possible, ACS will always collect directly from Art Market Professionals (auction houses, galleries and dealers) in that country. This ensures that ACS member artists and estates are never charged more than is absolutely necessary.

ACS' Activities

ACS administers the collection and distribution of the Artist's Resale Right and copyright on behalf of its member artists and artists' estates.

Artist's Resale Right

The Artist's Resale Right is a royalty generated on the sale price of original works or art that are sold on the secondary market, through an Art Market Professional (an auction house, gallery or dealer). It was introduced into UK law in 2006 and the threshold at which it would apply was set at €1,000. In 2011, an amendment to the legislation extended the Right to the estates of deceased artists in the UK, which came into force on 1st January 2012.

Under the UK regulations, the Artist's Resale Right can only be administered by a registered collecting society, requiring artists or their estates to mandate a collecting society, such as ACS, to do so on their behalf.

Visual artists who are EU citizens, and their estates, qualify for the Artist's Resale Right and can therefore appoint ACS to administer the Artist's Resale Right on their behalf. This is done by signing a mandate agreement. You can see a copy of this agreement on ACS' website. By doing so, the artist or estate appoints ACS as the sole body that can collect the Artist's Resale Right on their behalf in the UK. There are no fees or membership costs to register with ACS and you can join ACS on the company's website.

Once appointed to collect the Artist's Resale Right on behalf of an artist or estate, ACS will track sales of the artist's or estate's work throughout the UK and Europe. This is done through a variety of methods, including a sales information request which is sent to Art Market Professionals throughout the UK every quarter. Royalties are then collected from the sellers and distributed directly to the artist or their estate at the end of the month in which they are received. These royalties are calculated using the sliding scale, as outlined in the UK legislation. Please see our ARR calculator for more details. Distributed royalties are accompanied by a payment statement which details:

- the title of the work(s) sold
- where the work(s) was / were sold
- the date of the sale of the work(s)
- the sale price of the work(s)
- the Artist's Resale Right royalties that apply
- the 15% deduction of ACS commission
- the net payment made to the artist or their estate.

As ACS does not charge fees or membership costs, we cover our administration costs by deducting a 15% commission from royalties collected.

ACS members can terminate their agreement with ACS for the collection of Artist's Resale Right by providing three months' notice in writing.

Copyright

The ACS copyright service manages copyright on behalf of artists and estates who have appointed us to do so. It was established to increase the income of artists and their estates and to relieve them of the administrative burden of handling the copyright themselves. We

will always insist that the artists or artist's estate is fully credited when any of their images are reproduced. We also endeavour to police all reported licensing infringements and to act accordingly and will provide advice and support if a member's works is used without permission. Our service is personalised to provide for the wishes of our members so that artists and artists' estates are able to maintain total control over the usage and distribution of their work. Furthermore, artists and estates are able to specify instances in which they might wish copyright fees to be waived, for example in the use of educational literature.

Artists and their estates can appoint ACS to manage their copyright by signing a five-year contract. If you would like to see a sample copy of the ACS copyright agreement, please contact us. There are no fees or membership costs to register with ACS for the management of your copyright and you can join ACS by contacting us.

We charge copyright fees for all usages of the work of our members on behalf of the artist or estate. Copyright fees are paid to our artists or estates on a quarterly basis with a statement detailing the following:

- the title of the work(s) used
- how / where the work(s) was / were used
- the company that requested the use
- the medium of the use
- the exchange rate (if applicable)
- the royalty paid
- the percentage of the royalty the artist or estate receives
- the net payment made to the artist or their estate.

As ACS does not charge fees or membership costs, we cover our administration costs by deducting a 25% commission from royalties collected.

ACS members can terminate their agreement with ACS for the management of their copyright by providing seven days' notice in writing.

Accountability and Governance

ACS is governed by a Board of Trustees, which consists of twelve members. ACS always endeavours to appoint artists or artists' estates who are represented by ACS for the Artist's Resale Right to constitute half of this membership. The other trustees consist of copyright experts, dealers, curators, art consultants and legal professionals. Each trustee is appointed for a period of three years at the end of which they are eligible for re-appointment for a further term of three years.

The Board of Trustees meets once a year for an AGM in which they discuss the company's activities and developments over the previous year. They also discuss possible future developments and upcoming events. All members of ACS can contact us to discuss any issues that they would like discussed during the AGMs. Members of ACS will be notified of any major changes or decisions made at an AGM.

For information on issues that have arisen in previous years, please see our Annual Reviews on the ACS' website.

Service Levels

Artist's Resale Right

ACS distributes Artist's Resale Right royalties directly to the artist or their estate at the end of the month in which they are received. These royalties are calculated using the sliding scale, as outlined in the UK legislation. Please see our ARR calculator for more details. Distributed royalties are accompanied by a payment statement which details the following:

- the title of the work(s) sold
- where the work(s) was / were sold
- the date of the sale of the work(s)
- the sale price of the work(s)
- the Artist's Resale Right royalties that apply
- the 15% deduction of ACS commission
- the net payment made to the artist or their estate.

Copyright

We charge copyright fees for all usages of the work of our members on behalf of the artist or estate. Copyright fees are paid to our artists or estates on a quarterly basis with a statement detailing the following:

- the title of the work(s) used
- how / where the work(s) was / were used
- the company that requested the use
- the medium of the use
- the exchange rate (if applicable)
- the royalty paid
- the percentage of the royalty the artist or estate receives
- the net payment made to the artist or their estate.

Distribution of Royalties

Members are paid royalties based on the portion of the royalty they are entitled to receive. Living artists are, for example, entitled to 100% of the Artist's Resale Right. However, where multiple beneficiaries have inherited a royalty, the percentage per beneficiary will naturally be lower.

ACS distributes both Artist's Resale Right and Copyright royalties to all members at the end of the month in which they were received providing we hold current correspondence and correct bank details. Payments are normally transferred on the last working day of the month.

The distribution includes all royalties that were paid to ACS on or before the 24th of each month.

The total of each payment must reach the ACS payment threshold of £10.00. If the total payment due does not reach the £10.00 payment threshold, the monies will be held until other royalties are collected. Payment will then be made at the end of the month in which the threshold has been reached.

ACS only administers royalties on behalf of artists and artists' estate for whom we hold a mandate. By doing so we hope to ensure that we are able to pay all royalties as and when they are received.

If payment is returned to ACS due to incorrect details, the royalties will be held until the member can be contacted and the correct payment details can be provided. Payment will be made at the end of the month in which the correct details have been provided.

If royalties are non-distributable, ACS will do its utmost to locate the correct rights holder in order to pay them. If after six years ACS is not able to locate the correct rights holders, ACS will return the royalties to the source from whence they came.

Contacting ACS

ACS guarantees to treat all enquiries and discussions in a fair, honest and impartial manner and to be courteous, clear and friendly in all our correspondence. Furthermore, we will always treat enquiries in the strictest confidence.

You can contact ACS by telephone on +44 (0)345 11 22 400. We endeavour to answer all telephone calls. If you leave a message or a request to be called back, we will respond within 24 hours.

You can also contact ACS by emailing info@artistscollectingsociety.org.uk. We endeavour to answer emails on the day they are received or within 24 hours of being received.

If you would prefer to discuss matters in person, you can visit the ACS office at:

17 – 19 Garway Road
London
W2 4PH

The standard office hours of the ACS team are 9.30am to 5.30pm, Monday to Friday and we can be contacted at any point during these hours.

Data Protection

As a not-for-profit organisation, ACS is exempt from registration with the Information Commissioner. However, we nonetheless adhere to the principles set out in the Data Protection Act 1998. This legislation governs the protection of personal data in the UK. This

means that ACS will not disclose its members' personal information without the permission of the individual member in question.

If a member wishes to update their personal data, or wishes to access the personal data we hold, this can be done by contacting us via email, telephone or post. Please also see the Privacy Policy below.

Queries, Complaints and Dispute Resolution

We always want to hear from our members if they have any complaints regarding our service, failure to adhere to this code or suggestions for improving our service.

To do so, members should contact the ACS Senior Manager. This can be done by:

Telephoning the Senior Manager on +44 (0) 20 7908 1634.

Emailing the Senior Manager at info@artistscollectingsociety.org.uk

Writing to the Senior Manager at:

Senior Manager
Artists' Collecting Society
17 – 19 Garway Road
London
W2 4PH

ACS will aim to respond to complaints within five working days of receiving the complaint and during each stage of the formal complaints procedure. This is as follows:

1. The Senior Manager will respond to your complaint.
2. If you are dissatisfied with this response, the matter will be referred to the Managing Director.
3. If you remain dissatisfied, the matter will then be referred to our Board of Trustees for further investigation.