

**A PUBLIC COMPANY LIMITED BY GUARANTEE**

**CONSTITUTION  
of  
AUSTRALIAN SONOGRAPHERS ASSOCIATION LTD**



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**CORPORATIONS ACT 2001**

**THE CONSTITUTION  
OF  
AUSTRALIAN SONOGRAPHERS ASSOCIATION LIMITED  
A PUBLIC COMPANY LIMITED BY GUARANTEE**

**PRELIMINARY**

**1. Definitions and Interpretation**

1.1 In this Constitution the following definitions apply, unless there is something in the subject or context which is inconsistent:-

**“Act”** means the Corporations Act 2001 (Commonwealth);

**“ASIC”** means the Australian Securities and Investments Commission or its relevant successor/s;

**“Board of directors”** or the **“Board”** means the directors for the time being of the Company or such number of them as having authority to act for the Company in accordance with this Constitution;

**“By-Laws”** means the by-laws created and introduced by the Board from time to time pursuant to this Constitution;

**“Company”** means the public company that has adopted this Constitution;

**“Constitution”** means this constitution, as amended, substituted or supplemented from time to time;

**“Directors”** means the directors for the time being of the Company;

**“Eligible Members”** means Ordinary Members and Honorary Members;

**“External Director”** means a Director appointed pursuant to Article 25;

**“Financial Year”** means 1 April to 31 March;

**“General Director”** means a Director other than an External Director, and appointed pursuant to Article 26;

**“General Meeting”** means a meeting of the members of the Company;

**“Honorary Member”** has the meaning given to that term in Article 8 of this Constitution;

**“Member”** means a person in any class of members in Article 7 who:

- (a) is a member of the Company on the date of Adoption of this Constitution; or
- (b) agrees to become a member of the Company after its Adoption of this Constitution and whose name is entered on the register of members; and
- (c) is a person of good character over the age of 18 years;

**“Ordinary Member”** has the meaning given to that term in Article 7.3 of this Constitution;

**"Person"** means a natural person and any partnership, association or entity whether incorporated or not;

**“President”** has the meaning given to it in Article 32;

**"Secretary"** means any person appointed as the Secretary of the Company and includes any assistant or acting Secretary;

**"Special Resolution"** has the meaning given to that term in the Act, unless otherwise specified in this Constitution;

**“Subscription Year”** means 1 July to 30 June;

**“Vice-President”** has the meaning given to it in Article 32;

- 1.2 In this Constitution, unless there is something in the subject or context which is inconsistent:-
- (a) the singular includes the plural and vice versa;
  - (b) each gender includes all other genders;
  - (c) where any word or phrase is defined, any other part of speech or other grammatical form of that word or phrase has the corresponding meaning;
  - (d) a reference to any legislation includes any subordinate legislation and any amendment, substitution, consolidation or re-enactment of that legislation or its subordinate legislation;
  - (e) the headings in this Constitution do not form part of or affect the interpretation of this Constitution;
  - (f) a reference to any Article is to an Article of this Constitution; and
  - (g) a reference to any period of time (e.g. month) is a reference to the calendar period of the time (e.g. a calendar month).
- 1.3 The internal management of the Company is governed by this Constitution and the By-Laws to the exclusion of any replaceable rule of the Act.
- 1.4 Except so far as the contrary intention appears in this Constitution, an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Act, the same meaning as in that provision of the Act.
- 2. Company Name & Number**
- 2.1 The name of the Company is AUSTRALIAN SONOGRAPHERS ASSOCIATION LIMITED.
- 2.2 The Company must set out its name with the expression Australian Company Number or ACN followed by its Australian Company Number on all its public documents and negotiable instruments (and if the Company’s name appears on 2 or more pages of the document or instrument, this must be done on the first of those pages) unless the

Company is exempted from this requirement under the Act.

- 2.3 The Company may change its name by passing a special resolution adopting a new name and lodging a copy of the resolution with the ASIC within 14 days after it is passed. However the change of name only takes effect when ASIC alters the details of the Company's registration to record this change.
- 2.4 A change of the Company's name does not:
- (a) create a new legal entity;
  - (b) affect the Company's existing property, rights or obligations; or
  - (c) render defective any legal proceedings by (or against) the Company, and any legal proceedings that could have been continued or begun by (or against) the Company in its former name may be continued or begun by (or against) it in its new name.

### **3. Type of Company**

- 3.1 The Company is a public company limited by guarantee.
- 3.2 The liability of the Members is limited.
- 3.3 Every Member of the Company undertakes to contribute to the property of the Company in the event of it being wound up while he is a Member or within one year afterwards for the payment of debts and liabilities of the Company before the time at which he ceases to be a Member, and the cost, charges and expenses on winding up and for any adjustment of rights of contributories among themselves is such amount as may be required not exceeding twenty (20) dollars.
- 3.4 The Company must have at least fifty (50) Members.

## **OBJECTS AND POWERS**

### **4. Objects**

- 4.1 The object for which the Company is formed is to be the peak body and leading voice for sonographers by:
- (a) providing continuing education to sonographers;
  - (b) promoting best practice in sonography;
  - (c) advocating members' interests and raising the profile of the profession;
  - (d) providing a forum for communication; and
  - (e) providing member services and benefits.

### **5. Legal Capacity and Powers**

- 5.1 The Company has the legal capacity and powers of a natural person in any jurisdiction.

5.2 The Company also has all the powers of a body corporate, including (but not limited to) the powers to:

- (a) borrow money;
- (b) give security by granting a floating charge over the Company's property; and
- (c) do anything that it is authorised to do by any other law.

## **6. No Profits for Members**

6.1 The income and property of the Company must be applied solely towards the promotion of the objects of the Company as set out in this Constitution.

6.2 No income or property of the Company may be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise, to any Member.

6.3 Nothing in this Article 6 prevents:

- (a) the payment in good faith of:
  - (i) remuneration to any officers or employees of the Company for services actually rendered to the Company;
  - (ii) an amount to any Member of the Company in return for any services actually rendered to the Company or for goods supplied in the ordinary course of business;
  - (iii) interest (at a rate not exceeding any rate which may at any time be fixed for the purpose of this paragraph in accordance with this Constitution but not exceeding the highest rate charged by trading banks carrying on business in Australia on overdraft accounts of less than \$100,000) on money borrowed from any Members; or
  - (iv) reasonable rent for premises let by any Member of the Company;
- (b) the Company from providing services or information to the Members on terms which are different from the terms under which services or information are provided to persons who are not Members.

## **MEMBERSHIP**

### **7. Classes of Membership**

7.1 Membership of the Company is divided into the following classes:

- (a) Ordinary Members – being the persons appointed as Ordinary Members;
- (b) Supporting Members – being the persons appointed as Supporting Members;
- (c) Student Members – being the persons appointed as Student Members;
- (d) Corporate Members – being the persons appointed as Corporate Members; and

- (e) Honorary Members – being the members elected by the Board from time to time as Honorary Members pursuant to Article 8.

7.2 The candidate for membership must be qualified to the standard set out in the By-Laws to be accepted for admission for the appropriate class of membership of the Company to which the applicant seeks to be admitted.

7.3 Ordinary Members and Honorary Members:

- (a) shall have no right, title or interest in any of the property of the Company;
- (b) shall be given notice of and be entitled to vote at any meeting or general meeting, each Member having one vote; and
- (c) may nominate an Eligible Member of the Company to be appointed as a General Director.

7.4 Supporting Members, Corporate Members and Student Members:

- (a) may attend meetings of the Company and participate in any conference organised by the Company;
- (b) shall have no right to receive notice of meetings of the Company;
- (c) shall have no voting rights at meetings of the Company; and
- (d) shall have no entitlement to nomination for election as a Director.

## **8. Honorary Members**

8.1 Any person who has rendered exceptional service to the Company may be nominated for Honorary Membership for their lifetime.

8.2 The election of such an Honorary Member shall be determined by the Board by a majority vote at the Board meeting immediately preceding the Annual General Meeting. The announcement of the Honorary Member shall be made at the Annual General Meeting.

8.3 Not more than one Honorary Member can be elected annually.

8.4 Honorary Members shall enjoy all the privileges of the Company and the same rights as Ordinary Members for their lifetime but shall not have to pay any subscription fees during their lifetime of membership.

8.5 Honorary Members shall be responsible to arrange for their own indemnity insurance and for payment of the indemnity insurance premiums.

## **9. Nomination for Membership**

9.1 Each candidate for membership shall be made in writing for the appropriate class of membership and shall be signed by the candidate for membership and lodged with the Secretary of the Company. Such application should be accompanied by the applicant's entrance fee (if payable) and the appropriate annual subscription for the class of members to which the applicant seeks to be admitted.

- 9.2 The application for membership shall be in such form as the Board may prescribe from time to time, and must contain the full name and address of the applicant.

## **10. Election of Members**

- 10.1 The candidate for membership will be excluded from membership if the candidate fails to satisfy the requirements and standards prescribed by the By-Laws to be accepted for admission for the appropriate class of membership of the Company to which the applicant seeks to be admitted.
- 10.2 If a candidate for membership has been appointed, the Secretary shall send to that candidate notification to the effect that he has been appointed a Member and enter the name of the new Member in the register of Members, recording the class of membership to which the new Member has been appointed.
- 10.3 If a candidate for membership has been rejected, the Secretary shall send to that candidate notification.

## **11. Fees and Subscriptions**

- 11.1 The annual subscription fee and entrance fee payable by each of the categories of Membership will be determined by the Board from time to time.
- 11.2 The annual subscription and entrance fee (if any) shall be payable in advance by all Members on the 1<sup>st</sup> day of July each year.
- 11.3 Any person admitted to the membership of the Company after the fifteenth day of November in any year, shall pay in advance 50% of the rate of subscription for the remaining portion of that Subscription Year
- 11.4 The Secretary must notify any Member whose subscription is overdue by more than one month by sending an account rendered. If the subscription remains unpaid on 31 October of that year, his name must be struck off the register of members and his membership shall cease. Such person may be re-appointed as a member of the Company upon renomination.
- 11.5 The payment of a subscription binds the Member to this Constitution, the By-Laws including the Company's Code of Conduct, which each Member is required to familiarise himself with.

## **12. Member Details and the Register of Members**

- 12.1 The Secretary shall keep on the Company premises a register of Members setting out in full the names, occupations and addresses of all Members, the class of membership to which each Member has been admitted and the date of the last payment by each Member of his subscription.
- 12.2 Every Member at the time of joining as a member shall inform the Secretary of his postal address and shall from time to time inform him of any change of address. Such addresses shall be registered at the Company.

## **13. Members Resignation**

- 13.1 A Member may resign his membership at any time by notifying the Secretary in writing

and upon acceptance of same by the Board, he shall cease to be a Member.

- 13.2 A Member's resignation does not relieve him of payment of any moneys due or payable before or at the time of such resignation and does not entitle him to a refund of any annual subscription fees or entrance fees paid for membership.
- 13.3 A Member ceasing to be a Member for any cause shall not be entitled to any claim of any kind whatsoever on the property or funds of the Company.
- 13.4 Any person who ceased to be a Member for a reason other than expulsion may be re-appointed. Such a person will have to undergo the same nomination procedure listed in Article 9 of this Constitution.
- 13.5 If a Member resigns after the 1st July in a year he shall be liable for yearly subscriptions due on the date of resignation.

#### **14. Complaints against Members**

- 14.1 In dealing with a Member who is alleged to have infringed any provision of the Company's Constitution, By-Laws, rules or Code of Professional Conduct, the Board will comply with the Company's Constitution, By-Laws, rules or Code of Professional Conduct as appropriate.

### **MEETINGS OF THE COMPANY'S MEMBERS**

#### **15. Annual General Meetings**

- 15.1 Subject to the Act, a general meeting shall be held at least once in every calendar year and within the period of five (5) months after the end of the Financial Year at such time and place as may be determined by the Board. The abovementioned general meeting shall be called the "Annual General Meeting" and all other meetings of the Company shall be called "general meetings".
- 15.2 The first Annual General Meeting must be held within eighteen (18) months after the incorporation of the Company and at such place as the Board may determine.
- 15.3 The Annual Report and Balance Sheet shall be placed before the Members at the Annual General Meeting, along with consideration of the Statement of Financial Performance, the director's report, the auditor's report. The business of the Annual General Meeting must include the election of Directors.

#### **16. Convening General Meetings**

- 16.1 Any Director may convene a general meeting of the Company's Members whenever he or she thinks fit.
- 16.2 The Board must convene a general meeting of the Company's Members on the request of Members in accordance with section 249D of the Act. The Members may convene a meeting of the Company's Members in accordance with sections 249E and 249F of the Act.

#### **17. Notice of General Meetings**

- 17.1 A notice of a meeting of the Company's Members shall specify:

- (a) the place, date and time for the meeting (and, if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this);
- (b) the general nature of the business to be transacted at the meeting;
- (c) if a Member is entitled to appoint a proxy, contain a statement setting out the following information:
  - (i) that the Member has a right to appoint a proxy;
  - (ii) whether or not the proxy needs to be a Member; and
- (d) such other information as is required by section 249L of the Act.

17.2 The Company may hold a meeting of its Members at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate.

17.3 Subject to the provisions of the Act relating to agreements for shorter notice, at least 21 day's notice must be given of a meeting of the Company's Members.

17.4 Notice of every meeting of the Company's Members shall be given in the manner authorised by Article 17.1 to:

- (a) each Member entitled to vote at the meeting except those Members who have not supplied to the Company address for service;
- (b) each Director; and
- (c) the auditor of the Company.

17.5 No other person is entitled to receive notices of meetings of the Company's Members.

## **18. Quorum**

18.1 At an Annual General Meeting or General Meeting of the Company, ten (10) Members shall form a quorum and the quorum must be present at all times during the meeting.

18.2 In determining whether a quorum is present, individuals attending as proxies are counted except if a Member has appointed more than (one) 1 proxy, only (one) 1 of them is counted.

18.3 If a quorum is not present within half an hour from the time appointed for the meeting:-

- (a) where the meeting was convened upon the request of Members - the meeting shall be dissolved; or
- (b) in any other case:-
  - (i) the meeting stands adjourned to such day, and at such time and place, as the Board determine or, if no determination is made by the Board, to the same day in the next week at the same time and place; and
  - (ii) if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, then the meeting shall

be dissolved.

## **19. Chairperson of General Meetings**

19.1 The President for the time being will be the chairperson of every general meeting of the Company.

19.2 Where a meeting of the Company's Members is held and:-

- (a) a President has not been elected as provided by Article 32; or
- (b) the person so elected is not present within fifteen (15) minutes after the time appointed for the holding of the meeting or is unwilling to act for all or part of the meeting,

the Vice-President shall be the chairperson and if the person so elected is not present within fifteen (15) minutes after the time appointed for the holding of the meeting or is unwilling to act for all or part of the meeting, the Members present who are entitled to vote at the meeting shall elect one of their number to be chairperson of the meeting (or part of it).

## **20. Adjournment of General Meetings**

20.1 The chairperson shall adjourn a meeting of the Company's Members from time to time and from place to place if the Members present with a majority of votes that may be cast at that meeting agree or direct the chairperson to do so. No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

20.2 When a meeting of the Company's Members is adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.

20.3 Except as provided by Article 20.2, it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

## **21. Voting at General Meetings**

21.1 At any meeting of the Company's Members a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before a vote is taken or before or immediately after the declaration of the result of the show of hands) demanded:-

- (a) by the chairperson; or
- (b) by at least five (5) Members (present in person or by proxy or representative) entitled to vote on the resolution.

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

21.3 The demand for a poll may be withdrawn.

- 21.4 If a poll is duly demanded, it shall be taken in such manner and (subject to Article 21.5) either at once or after an interval or adjournment or otherwise as the chairperson directs, and the result of the poll shall be the resolution of the meeting at which the poll was demanded.
- 21.5 A poll demanded on the election of a chairperson or on a question of adjournment shall be taken immediately.
- 21.6 In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting of the Company's Members at which the show of hands takes place or at which the poll is demanded has a casting vote in addition to any vote the chairperson may have in the capacity as a Member.
- 21.7 Subject to any restrictions being attached to Supporting Members, Corporate Members and Student Members pursuant to Article 7.4, and subject to Articles 21.8 and 21.9:-
- (a) at general meetings of the Company's Members each Eligible Member may vote in person or by proxy or attorney or representative; and
  - (b) on a show of hands every person present who is a Member or a representative of a Member has one vote, and on a poll every person present in person or by proxy or attorney or representative has one vote.
- 21.8 Every Eligible Member will have one (1) vote on each subject and is not entitled to exercise more than one (1) proxy vote.
- 21.9 If a Member is of unsound mind or is a person whose personal estate is liable to be dealt with in any way under the law relating to mental health, his committee or trustee or such other person as properly has the management of his estate may exercise any rights of the Member in relation to a meeting of the Company's Members as if the committee, trustee or other person were the Member.
- 21.10 An objection may be raised to the qualification of a voter only at the meeting or adjourned meeting at which the vote objected to is given or tendered.
- 21.11 Any such objection shall be referred to the chairperson of the meeting of the Company's Members, whose decision is final.
- 21.12 A vote not disallowed pursuant to such an objection is valid for all purposes.

## **22. Proxies**

- 22.1 A Member who is entitled to attend and vote at a meeting of the Company's Members may appoint an Eligible Member as the Member's proxy to attend and vote for the Member at the meeting.
- 22.2 A proxy appointed has the same rights as the Member (subject to any limitation which may be imposed by this Constitution):
- (a) to speak at the meeting; and
  - (b) to vote (but only to the extent allowed by the appointment);
- except that such rights are suspended while the appointor is personally present at the meeting.

- 22.3 An instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing or, if the appointor is a corporation, either under seal or executed in accordance with the Act or under the hand of an officer or attorney duly authorised.
- 22.4 An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy is not entitled to vote in the resolution except as specified in the instrument.
- 22.5 An instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
- 22.6 The instrument appointing a proxy may be in such form as determined from time to time by the Board and an appointment on such instrument will be valid if signed by the Member (or an authorised attorney) and contains the following information:
- (a) the Member's name and address;
  - (b) the Company's name;
  - (c) the proxy's name or the name of the office held by the proxy and the proxy's address;
  - (d) the meeting or meetings (including dates) at which the appointment may be used or that the appointment is a standing one until revoked; and
  - (e) the appointment of an Eligible Member as a proxy.
- 22.7 The instrument appointing the proxy shall not be treated as valid unless the instrument (and if the instrument is signed by the Member's attorney - the power of attorney under which the appointment is signed or a certified copy of the same) is or are received by the Company at:
- (a) its registered office;
  - (b) a fax number at the Company's registered office; or
  - (c) such other place, fax number or electronic address specified in the notice of meeting (or resumed meeting),
- at least 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or in the case of a poll, not less than twenty four (24) hours before the time appointed for the taking of the poll.
- 22.8 Unless the Company has received written notice of the matter before the start or resumption of the meeting at which a proxy votes, a vote cast by the proxy will be valid even if, before the proxy votes the appointor:
- (a) dies or is mentally incapacitated;
  - (b) revokes the proxy's appointment;
  - (c) ceases to be a Member in respect of which the instrument or power is given; or

(d) revokes the authority under which the proxy was appointed by a third party.

22.9 Any Member may by power of attorney lawfully executed appoint an individual as attorney to act on behalf of the Member but the power of attorney or certified copy of the same must be received by the Company at:

- (a) its registered office;
- (b) a fax number at the Company's registered office; or
- (c) such other place, fax number or electronic address specified in a notice of meeting (or resumed meeting);

at least 48 hours (or such other longer or shorter period that the Board may specify in the notice or allow) before the appointment is effective for the meeting (or resumed meeting).

## **DIRECTORS**

### **23. Management of the Company**

23.1 The business and affairs of the Company shall be managed by or under the direction of the Board of Directors.

23.2 The Board may continue to conduct and arrange the business affairs of the Company notwithstanding any vacancy on its body.

### **24. The Directors**

24.1 The number of the Directors will be determined by the Board as it sees fit but the number shall not be less than three (3) and shall not be greater than nine (9).

24.2 At any given time, the number of General Directors shall not exceed seven (7) and the number of External Directors shall not exceed two (2).

24.3 If the number of Directors exceed that permitted under Articles 24.1 and 24.2:

- (a) any Director may elect to resign from office by giving a written notice of resignation to the Company; or
- (b) the Board may by resolution, remove any Director from office;

to ensure compliance with Articles 24.1 and 24.2.

24.4 For the purposes of Article 24.3 and to give effect to Articles 24.1 and 24.2, a general meeting of Members and special resolution of Members is not required to remove a Director and Article 37 will not apply.

24.5 The Directors shall have power at any time and from time to time to:-

- (a) appoint a new Director to fill any casual vacancy; and
- (b) appoint additional Directors.

24.6 Any Director appointed pursuant to Article 24.5 shall hold office only until the next following Annual General Meeting of the Company and shall then be eligible for election

but shall not then be taken into account in determining the number of Directors who are to retire by rotation at such meeting.

**25. External Directors**

25.1 The Board may by resolution appoint External Directors.

25.2 An External Director must:

- (a) be a person of good character over the age of 18 years; and
- (b) not be a Member.

**26. Nomination and Election of General Directors**

26.1 A General Director shall be deemed to have been nominated for re-election unless he gives written notice to the contrary.

26.2 Only Ordinary Members and Honorary Members ("Eligible Members") may nominate and be nominated for or elected as General Directors.

26.3 Nominations of candidates for election as General Directors shall be:

- (a) required to fill the number of vacancies as created under the provisions of Article 27;
- (b) in writing in the form prescribed by the Directors, and signed by any two Eligible Members;
- (c) accompanied by a written consent of the candidate (which may be endorsed on the form of nomination); and
- (d) delivered to the Secretary forty-five (45) days before the date fixed for the holding of the Annual General Meeting.

26.4 Nominations for candidates for General Directors must be served on Eligible Members at least thirty-eight (38) days before the Annual General Meeting.

26.5 If the number of candidate nominations received is less than or equal to the number of vacancies to be filled for General Directors, then the candidates nominated shall be deemed to be elected.

26.6 If the number of candidate nominations received exceeds the number of vacancies to be filled for General Directors, then a ballot shall be held.

26.7 The Ballot Process referred to in Article 26.6 shall be as follows:

- (a) The number of votes entitled to be cast by each Eligible Member for the candidates shall be the sum of vacancies for General Directors.
- (b) The ballot paper shall record nominations for all positions and Members will strike out the names of the candidates for whom they do not wish to vote.
- (c) Ballot papers shall be mailed to Members not less than thirty-eight (38) days

before the date fixed for the Annual General Meeting and must be returned to the Company not less than twenty-four (24) days before the Annual General Meeting.

- (d) Each ballot paper will be enclosed in a plain envelope on which the Members will write their name and signature. The ballot paper in the envelope will be enclosed in a return addressed envelope to the Company.
- (e) During the period of the ballot, a securely fastened ballot box shall be kept at the Company in which ballot papers shall be placed. No completed ballot papers shall be accepted later than twenty-four (24) days before the date fixed for the commencement of the Annual General Meeting.
- (f) The Directors shall appoint two or more scrutineers to count the votes at any election of members of the Directors.
- (g) If any number of candidates receive an equal number of votes, the President shall have a second or casting vote to elect the candidate.
- (h) The result of the election shall be declared at least twenty-one (21) days before the date fixed for the holding of the Annual General Meeting and shall be announced at, and taken to have effect from, the Annual General Meeting.

## **27. Rotations of Directors**

- 27.1 A General Director and External Director shall be appointed for a term of two (2) years.
- 27.2 At every Annual General Meeting, up to four (4) Directors who have been in office for two (2) years or until the second Annual General Meeting following such Directors' appointment (whichever is the longer) shall retire and may be re-nominated for election.
- 27.3 The Directors or Director who retire pursuant to the last preceding paragraph shall be the Directors or Director longest in office as a General Director or External Director since last being appointed but as between Directors in each category who were elected on the same day the Director or Directors to retire in each category shall (in default of agreement between them) be determined by lot. Any Director retiring under paragraph 27.4 or paragraph 27.6 of this Article shall not be taken into account in determining the number of Directors to retire by rotation or which Directors shall retire by rotation.
- 27.4 The Board may by resolution fill up the vacated office of any External Director by electing a like number of persons to be External Directors.
- 27.5 The Company at any Annual General Meeting at which any General Directors retire in manner aforesaid may fill up the vacated office by electing a like number of persons to be General Directors (in accordance with Article 26.7).
- 27.6 If, at any Annual General Meeting at which an election of General Directors ought to take place, the places of the retiring General Directors are not filled up, or the nominations are void for informality or for want of qualification on the part of the candidate, the retiring General Directors, or such of them as have not had their places filled up, shall (if willing to act) continue in office until the Annual General Meeting in the next year and so on from year to year until their places are filled up, unless and except in so far as it shall be determined at such meeting to reduce the number of General Directors.

- 27.7 Subject to the provisions of the Act the Company in general meeting may at any time by special resolution remove any appointed or elected Director before the expiration of such Director's period of office and, if so desired, elect another person in such Director's stead. The person so elected shall hold office during such time only as the Director in whose place such Director is elected would have held office if such Director had not been removed.
- 27.8 Notwithstanding anything hereinbefore contained, any General Director elected pursuant to the provisions of Article 26 shall unless such General Director shall retire from office pursuant to paragraphs 27.2, 27.6 or 27.7 of this Article at or before the second Annual General Meeting after his election, retire at such meeting.
- 27.9 A Director retiring pursuant to this Article shall retain office until the dissolution or adjournment of the meeting at which such Director's successor is elected and shall be eligible for re-election.
- 27.10 A Director must not hold office for a period greater than four (4) consecutive two (2) year terms ("Maximum Term"), save that where a Director is also an office bearer pursuant to Article 32, the term served by the Director as office bearer will be excluded when determining the Maximum Term.

## **28. Remuneration of Director**

- 28.1 The Directors may be paid all travelling and other expenses properly incurred by them in attending meetings of the Board or any committee of the Directors or general meetings of the Company or otherwise in connection with the business of the Company.
- 28.2 The Directors must have taken a day off from their ordinary employment for the business of the Company in order to claim an honorarium at a rate determined by the Board from time to time.

## **29. Powers and Duties of Directors**

- 29.1 Subject to the Act and to any other provision of this Constitution, rules, regulations or By-Laws, the business of the Company shall be managed by the Board, who may pay all expenses incurred in promoting and forming the Company, and may exercise all such powers of the Company as are not, by the Act or by this Constitution, required to be exercised by the Company in meeting of the Company's Members.
- 29.2 Without limiting the generality of Article 29.1, the Board may exercise all the powers of the Company to borrow money, to charge any property or business of the Company, to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person and has power to make, vary, and rescind By-Laws of the Company, so long as such By-Laws are not contrary to this Constitution.
- 29.3 The Directors may, by power of attorney, appoint any person or persons (either by name or by reference to position or office held) to be the attorney or attorneys of the Company for such purposes, with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Directors), for such period and subject to such conditions as they think fit.
- 29.4 Any such power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorney as the Directors think fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in him.

- 29.5 All cheques, promissory notes, bankers drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Company, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be by any two General Directors, or by a General Director and Secretary or in such other manner as the Board determines.
- 29.6 The Board must cause a proper register to be kept in accordance with the requirements of the Act of all mortgages and charges specifically affecting the property of the Company and all requirements relating to the registration of such mortgages and charges must be complied with.

### **30. Convening Meetings of the Board**

- 30.1 The Board shall meet together for the dispatch of business as they think fit. The President alone, or any two Directors jointly, may at any time convene a meeting of the Board.
- 30.2 Prior to each meeting of the Board, the Secretary shall cause a notice of meeting specifying the general nature of the business to be transacted at the meeting and draft minutes of the immediately preceding meeting to be sent to each Director.
- 30.3 Minutes of all resolutions and proceedings of the Board shall be entered in a book to be provided for that purpose by the Secretary of the Company.

### **31. Electronic Meetings of the Board**

- 31.1 The Board may meet together for the dispatch of business and adjourn and otherwise regulate its meetings as it thinks fit and determine the quorum necessary for the transaction of business.
- 31.2 Without limiting the generality of Article 31.1, a meeting of the Board may be called or held using any technology consented to by all the Directors. A consent of a Director for the purposes of this Article may be a standing one. A Director may only withdraw his consent within a reasonable time before the meeting of the Board.
- 31.3 For the purposes of this Constitution, the contemporaneous linking together by an instantaneous communication device of a number of Directors not less than the quorum, whether or not any one or more of the Directors is out of Australia, shall be deemed to constitute a meeting of the Board and all the provisions of this Constitution as to meetings of the Board shall apply to any such meeting held by an instantaneous communication device so long as the following conditions are met:-
- (a) all the Directors for the time being entitled to receive notice of the meeting of the Board (including any alternate for any Director) shall be entitled to notice of a meeting held by an instantaneous communication device and to be linked by an instantaneous communication device for the purpose of such meeting. Notice of any such meeting shall be given on the instantaneous communication device or in any other manner permitted by this Constitution; and
  - (b) each of the Directors taking part in the meeting by an instantaneous communication device must be able to hear each other of the Directors taking part at the commencement of the meeting.

- 31.4 A Director may not leave a meeting held by an instantaneous communication device by disconnecting his instantaneous communication device unless he has previously expressly notified the chairperson of the meeting of his intention to leave the meeting and a Director shall be conclusively presumed to have been present and to have formed part of the quorum at all times during such a meeting until such notified time of his leaving the meeting.
- 31.5 A minute of the proceedings at meetings held by an instantaneous communication device shall be sufficient evidence of such proceeding and of the observance of all necessary formalities if certified as a correct minute by the chairperson of the meeting.
- 31.6 For the purpose of this Article "instantaneous communication device" shall include telephone, television or any other audio and/or visual device which permits instantaneous communication.

## **32. Office Bearers**

- 32.1 The office bearers are the President and the Vice-President.
- 32.2 At the first Board Meeting following the Annual General Meeting, the Board shall elect, by majority vote, two (2) of their number as the President and the Vice President.
- 32.3 The office bearers shall be elected from General Directors for a term of one year. The office of each office bearer position will become vacant at the end of the next Board meeting following Annual General Meeting the following year. The Directors shall elect two (2) of their number to fill the vacancies.
- 32.4 A person ceases to be a President or Vice President if that person ceases to be an Eligible Member or a General Director. If a person ceases to be a President or Vice President, the Board shall have power at any time to appoint a new General Director to fill any casual vacancy by a majority vote. Any member so appointed as an office bearer shall hold office until the next Board meeting following the next Annual General Meeting of the Company.
- 32.5 The President or Vice President must not hold office for a period greater than three (3) consecutive years.
- 32.6 The President will be the chairperson for the Board meetings and the general meetings of the Company. In the event that the President has not been elected, is unwilling to act or is not present within fifteen (15) minutes after the time appointed for the holding of the meeting, the Vice-President will be the chairperson for the Board meeting.
- 32.7 Where a meeting of the Board is held and:-
- (a) the President or the Vice-President has not been elected as provided by Article 32.2; or
  - (b) the persons so elected are not present within fifteen (15) minutes after the time appointed for the holding of the meeting or are unwilling to act for all or part of the meeting,

the Directors present shall elect one (1) of their numbers to be chairperson of such meeting or part of it.

### **33. Quorum for Board Meetings**

- 33.1 At a meeting of the Board, the number of Directors whose presence is necessary to constitute a quorum is such number as is from time to time determined by the Board and, unless so determined, is five (5) persons, provided that each such person is a Director or an alternate Director and is entitled under the Act to vote on a motion that may be moved at that meeting.
- 33.2 In the event of a vacancy or vacancies in the office of a Director or offices of Directors, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of Board, they may act only for the purpose of increasing the number of Directors to a number sufficient to constitute such a quorum or of convening a meeting of the Company's Members.

### **34. Voting at Board Meetings**

- 34.1 Subject to this Constitution, questions arising at a meeting of the Board shall be decided by a majority of votes of Directors present and voting and any such decision shall for all purposes be deemed a decision of the Board.
- 34.2 Unless otherwise stated in this Constitution, in a case of an equality of votes, the chairperson of the meeting shall not have a casting vote in addition to any vote the chairperson may have in the capacity as a Director.

### **35. Circulating Resolutions**

- 35.1 If subject to Article 35.3:
- (a) all the Directors entitled to vote on a resolution have received a document containing a statement that they are in favour of a resolution of the Board in terms set out in the document; and
  - (b) a majority of the Directors sign and return the document containing a statement that they are in favour of a resolution of the Board in the terms set out in the document within forty-eight (48) hours after the time the notice was sent or transmitted by electronic means by the Secretary;
- a resolution in those terms shall be deemed to have been passed at the time at which the document was last signed by a Director or, if the Directors signed the document on different days, on the day on which, and at the time at which, the document was last signed by a Director necessary to make up the majority vote.
- 35.2 For the purposes of Article 35.1, two or more separate documents containing statements in identical terms each of which is signed by one or more Directors shall together be deemed to constitute one document containing a statement in those terms signed by those Directors on the respective days on which they signed the separate document.
- 35.3 Circulating resolutions referred to in this Article are not permitted for the following resolutions:
- (a) the removal of a Director or the appointment of a Director in place of a Director who has been removed;

- (b) the removal of the President from office; or
- (c) the removal of an auditor under section 329 of the Act.

### **36. Directors Conflict of Interest**

36.1 Except as provided in the Act, any Director may:

- (a) in another capacity notwithstanding any rule of law or equity to the contrary:
  - (i) be appointed to any office or place of profit under the Company; or
  - (ii) be interested in any operation, contract, undertaking or business arrangement in which the Company may be engaged or concerned; or
- (b) vote in any proposed Directors' resolution relating to such operation, contract, undertaking or business arrangement notwithstanding such interest except to vote on a resolution to restrict him from exercising his powers as a Director in relation to such operation, contract, undertaking or business arrangement,

and the Director will not be exposed to liability of any kind simply on the basis of such interest and will not be bound to account for any profits or gains made out of such interest provided in all cases the Director has at the relevant time fully and fairly disclosed any relevant interest to the Directors at a Board meeting.

### **37. Resignation and Removal of Directors**

37.1 A Director may resign by giving a written notice of resignation to the Company at its registered office but otherwise will continue to hold office as a Director of the Company until (but not limited to the following):

- (a) the Director is removed by a resolution of the Company passed at a general meeting or dies in office;
- (b) the Director becomes disqualified as a Member under this Constitution; or
- (c) the term of the Director's appointment expires and the appointment is not renewed.

37.2 A Director is disqualified from holding office of Director if the Director:

- (a) ceases to be or is removed as a director pursuant to the Act or is prohibited from being a director under the Act;
- (b) is a General Director and ceases to be a Member of the Company;
- (c) becomes bankrupt or enters into any arrangement with any class of creditors or creditors generally;
- (d) becomes of unsound mind or liable to be dealt with in any way under the law relating to mental health or the Director's estate is liable to be dealt with in any way under such law;

- (e) is absent from meetings of the Board without permission of the Board for three (3) consecutive meetings or more and the Director's office is declared vacant by the Board; or
- (f) without the consent of the Company in general meeting holds any other office of profit under the Company except that of managing director; or
- (g) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of his interest as required by Article 35.

37.3 To remove a Director by resolution, there must be a general meeting of Members and a vote to remove the Director must be made by a special resolution of Members present at the meeting.

37.4 The Board must appoint a Member capable of election as a Director to fill a casual vacancy or a vacation of office. Any Director so appointed will hold office until removed by the Board or until the next Annual General Meeting at which elections are held.

### **38. Alternate Directors**

38.1 A Director may, with the approval of the other Directors, appoint a person to be an alternate Director in his place during such period as he or she thinks fit.

38.2 An alternate Director is entitled to notice of meetings of the Board and, if the appointor is not present at such a meeting, is entitled to attend and vote in his stead.

38.3 An alternate Director may exercise any powers that the appointor may exercise and the exercise of any such power by the alternate Director shall be deemed to be the exercise of the power by the appointor.

38.4 An alternate Director is required to be an Eligible Member, except where the appointor is an External Director.

38.5 The appointment of an alternate Director may be terminated at any time by the appointor notwithstanding that the period of the appointment of the alternate Director has not expired, and terminates in any event if the appointor ceases to hold office as a Director.

38.6 An appointment, or the termination of an appointment, of an alternate Director shall be effected by a notice in writing signed by the Director who makes or made the appointment and served on the Company.

### **39. By-Laws**

39.1 A notice of any By-Laws made, varied or rescinded by the Board pursuant to its power under Article 29.2 shall be posted on the notice board of the Company for a period of 14 days after the Board has created, varied, or rescinded such By-Laws.

39.2 The By-Laws are binding on all Members.

#### **40. Delegation of Powers**

40.1 The Board may delegate any of their powers to a committee or committees consisting of such of their numbers as they think fit.

40.2 A committee to which powers have been so delegated shall exercise the powers delegated in accordance with any directions of the Board and a power so exercised shall be deemed to have been exercised by the Board.

40.3 The Secretary of the Company will set out in a document:

- (a) the members of the committee;
- (b) the purpose for which that committee is set up; and
- (c) the extent of the committee's power.

40.4 The members of such a committee may elect one of their number as chairperson of their meetings.

40.5 Where such a meeting is held and:-

- (a) a chairperson has not been elected as provided by Article 40.4; or
- (b) the person so elected is not present within fifteen (15) minutes after the time appointed for the holding of the meeting or is unwilling to act for all or part of the meeting,

the Members present shall elect one of their number to be chairperson of the meeting or part of it.

40.6 A committee may meet and adjourn as it thinks proper.

40.7 Questions arising at a meeting of a committee shall be determined by a majority of votes of the Members present and voting.

40.8 In the case of an equality of votes, the chairperson shall not have a casting vote in addition to any vote the chairperson may have in the capacity as a committee member.

#### **41. Special Purpose Committees**

41.1 The Board may by resolution establish special purpose committees, consisting of such Members of the Company as the Board may think fit. Any such special purpose committee may be authorised by resolution of the Board to advise the Board on matters specified in the resolution or to undertake such tasks as are identified in the resolution. Such Committee shall be subject to such reporting requirements to the Board as the resolution specifies.

#### **42. Defects in Appointment of Directors**

42.1 All acts done by any meeting of the Directors or of a committee of Directors or by any person acting as a Director are, notwithstanding that it is afterwards discovered that there was some defect in the appointment of a person to be a Director or a member of

the committee, or to act as, a Director, or that a person so appointed was disqualified, as valid as if the person had been duly appointed and was qualified to be a Director or to be a member of the committee.

### **ADMINISTRATION**

#### **43. Secretary**

- 43.1 The Secretary holds office on such terms and conditions, as to remuneration and otherwise, as the Board determines.
- 43.2 The Secretary shall attend all Board meetings and have the following duties:
- (a) to keep the minutes of all Board meetings and Board resolutions properly recorded;
  - (b) to receive and answer all correspondence in relation to the Company;
  - (c) to keep the Register of Members;
  - (d) to issue all notices of the Board relating to general meetings of the Company;
  - (e) to enforce discipline amongst Members; and
  - (f) to do all things required by an Act of Parliament or any regulations thereunder to be done by a Secretary of a Company.

#### **44. Minutes**

- 44.1 The Board will cause minutes of:-
- (a) all proceedings and resolutions of meetings of the Company's Members;
  - (b) all proceedings and resolutions of meetings of the Board, including meetings of a committee of Board;
  - (c) resolutions passed by Members without a meeting;
  - (d) resolutions passed by the Board without a meeting,
- to be duly entered into the books kept for that purpose in accordance with the Act.
- 44.2 A minute recorded and signed in accordance with the Act is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.
- 44.3 Books containing the minutes of the Company's Members and resolutions passed by Members without a meeting will be open for inspection by any Member free of charge.

#### **45. Execution of Company Documents**

- 45.1 The Company may execute a document (including a deed) without using a common seal if the document is signed by either 2 Directors or 1 Director and 1 Secretary.
- 45.2 The Board may approve and adopt a common seal for the Company and if so, the Board must provide for the safe custody of the seal and regulate the using of the seal

which must only be used by the authority of the Board and every document to which the seal is affixed must also be signed in accordance with Article 45.1.

- 45.3 Without limiting the above, the Board may regulate the manner of execution of any document by the Company.

#### **46. Financial Records and Audit**

- 46.1 The Board must cause written financial records to be kept that:

- (a) correctly record and explain the transactions and financial position and performance of the Company; and
- (b) would enable true and fair financial statements to be prepared and audited,

and such financial records must be retained for at least 7 years after the transactions covered by the records are completed.

- 46.2 The Board may determine where to keep or retain the financial records provided they are readily available for inspection and if kept in electronic form are reasonably readily convertible into hard copy.

- 46.3 The Board will (subject to any requirements of the Act) regulate the manner and the extent to which the books and records of the Company will be opened for public inspection and inspection by Members (not being Directors) but no such Members have any right of inspection of any books or records of the Company except as conferred by law or authorised by the Board or by the Company in a meeting of the Company's Members.

- 46.4 The Board is only obliged to comply with the minimum requirements (if any) imposed on the Company by the Act in relation to the preparation of financial reports and the reporting of the financial affairs of the Company to Members.

- 46.5 An auditor shall be appointed by the Board to audit the financial records of the Company. The auditor's duties shall be regulated in accordance with the Act.

#### **47. Alteration of Constitution**

- 47.1 The Company may modify or repeal this Constitution, or a provision of this Constitution, by Special Resolution.

- 47.2 A Special Resolution modifying or repealing this Constitution or adopting a new constitution for the Company will take effect:

- (a) on the date on which the resolution is passed; or
- (b) on a later date (if any) specified in, or determined in accordance with, the resolution,

but this does not apply to a Special Resolution passed in connection with a change of the Company's name or type.

## **48. Company Notices**

48.1 A Company's notice may be given to any Member by:

- (a) delivering it to the Member personally;
- (b) sending it by prepaid post to or leaving it at, in either case the Member's address as shown in the Register of Members or such other address as is given to the Company in writing by the Member for these purposes;
- (c) transmitting it to the facsimile number given to the Company in writing by the Member for these purposes; or
- (d) sending it to the electronic address given to the Company in writing by the Member for these purposes.

48.2 A Company's notice is deemed to have been received:

- (a) if delivered personally or left at the Member's address, upon delivery;
- (b) if sent by prepaid post, on the second day that the postal service is open for business after the day of posting and if to be sent outside Australia, at the time at which a letter would be delivered in the ordinary course of post; or
- (c) if transmitted by facsimile or sent by other electronic means, on the business day after it is transmitted or sent,

and a written declaration by any officer of the Company that such notice was correctly addressed and properly delivered, posted or transmitted will be conclusive evidence that the notice was given.

## **49. Winding Up**

49.1 Members have no right to any surplus assets remaining after the completion of the winding up or dissolution of the Company. Any surplus assets must be given or transferred to some other institution or company having objects similar to the objects of the Company.

49.2 Such an institution or company must have a Constitution that prohibits the distribution of its income and property among its members. The Constitution must contain provisions that are substantially similar in effect to Article 4 of this Constitution.

49.3 At or before the completion of the winding up or dissolution of the Company, the Members must decide which institution or company is to receive the surplus assets of the Company. In default of any decision by the Members, a senior barrister shall be briefed to decide which institution or company is to receive the surplus assets.

## **50. Indemnity for Officers**

50.1 The Company may at the discretion of the Board indemnify a Member who is or has been an officer or auditor of the Company against any liability of that person (as an officer or auditor of the Company):

- (a) to another person (not being the Company or a related body corporate) which does not arise out of conduct involving a lack of good faith; and
- (b) for costs and expenses incurred:
  - (i) in defending any proceeding, whether civil or criminal, in which judgement is given in favour of that person or in which that person is acquitted; or
  - (ii) in connection with an application in relation to any proceeding, whether civil or criminal, in which the Court grants relief to that person pursuant to the Act.

50.2 The Company may at the discretion of the Board insure or provide funds to insure (in either case on such terms and conditions as the Board sees fit) any person who is or has been an officer of the Company against any liability incurred by the person in that capacity, whether in respect of acts or omissions of that person before or after the issue of such insurance policy, except any such liability arising out of conduct involving:

- (a) a wilful breach of duty in relation to the Company; or
- (b) a contravention of section 182 and section 183 of the Act.

50.3 Any indemnity or insurance effected pursuant to Article 50.1 or 50.2 respectively will notwithstanding any alteration to those Articles continue in full force and effect in respect of any acts or omissions before the date of alteration.