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**CONSTITUTION OF THE  
AUSTRALIAN CORPORATE LAWYERS  
ASSOCIATION**

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Consolidated to 12 November 2009

**CORRS CHAMBERS WESTGARTH**

Lawyers  
Bourke Place  
600 Bourke Street  
MELBOURNE VIC 3000  
**AUSTRALIA**  
Tel: (03) 9672 3000  
Fax: (03) 9602 5544  
DX: 336 MELBOURNE

Ref: KP/MDP

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**CORPORATIONS ACT 2001**  
**CONSTITUTION**  
**OF**  
**AUSTRALIAN CORPORATE LAWYERS ASSOCIATION**  
**A COMPANY LIMITED BY GUARANTEE**

**1 INTERPRETATION**

**1.1 Replaceable rules inapplicable**

The replaceable rules in the Act do not apply to the Association unless repeated in this Constitution or specifically made applicable to this Association by a provision of this Constitution.

**1.2 Definitions**

In this Constitution unless the context otherwise requires:

“**ACLA Member Directory**” means the directory of Members (as listed on the Association website or otherwise) from time to time.

“**Act**” means Corporations Act 2001 as amended from time to time.

“**Admission Fee**” means joining fee.

“**Alternate Director**” means an alternate Director appointed under **Clause 12.6**.

“**Associate Member**” means a member under **Clause 4.2**.

“**Association**” means the Australian Corporate Lawyers Association.

“**Board**” means the Board of Directors of the Association constituted under **Clause 12.1**.

“**By-Laws**” means by-laws made by the Board under **Clause 14.2**.

“**Committee**” means a committee established by the Board under **Clause 14.3**.

“**Commission**” means the Australian Securities and Investments Commission.

“**Company Secretary**” means the company secretary of the Association from time to time.

“**Constitution**” means the Constitution of the Association.

“**Corporate Lawyer**” means a person who holds qualifications which entitle that person to be admitted as a barrister or solicitor in any State or Territory of Australia and is employed in any capacity by or practises principally in relation to the affairs of a body corporate (other than an incorporated legal practice or a private company established principally for the purposes of providing administration or other services for a firm which provides professional services) or any statutory corporation or government or semi-government body.

“**Director**” means a member of the Board and includes an Alternate Director.

“**Division**” means a Division formed under **Clause 15.1**.

“**Executive Committee**” means a committee elected under **Clause 15.2(c)**.

“**Instantaneous Communication Device**” means telephone, television, fax, email, videoconference or any other audio, visual or data device which permits instantaneous communication.

“**Member**” means a member of the Association and includes Associate Members and such other classes of members as the Board may from time to time determine under this Constitution.

“**Member’s Division**” means the Division in which the Member ordinarily resides.

“**National Secretariat**” means the body or person appointed as the Association’s national secretariat from time to time.

“**Office Bearer**” means an Office Bearer of the Association under **Clause 12.4**.

“**Regulations**” means regulations made under **Clause 15.2(d)**.

“**Sub-Committee**” means a sub-committee established by an Executive Committee.

“**Voting Member**” means a Member entitled under this Constitution to vote at a general meeting of the Association.

### 1.3 Construction

In this Constitution unless the context otherwise requires:

- (a) words in the singular include the plural and vice versa;
- (b) any gender includes the other genders;
- (c) if a word or phrase is defined its other grammatical forms have corresponding meanings; and
- (d) “includes” means includes without limitation.

## 2 OBJECTS OF THE ASSOCIATION

- 2.1 (a) The objects for which the Association is established are to –
- (i) advance the knowledge and understanding of corporate law by facilitating the public dissemination and interchange of ideas and information concerning the practice of the legal profession in general and, more particularly, the practice of Corporate Lawyers;
  - (ii) develop and conduct recognised and accredited public education courses, both independently and in collaboration with other educational institutions, in the practice of corporate law at graduate diploma and other appropriate levels;
  - (iii) promote the public discussion of developments in the law and the application thereof to matters of common interest in the practice by Members and others of their various professions;
  - (iv) provide public educational information through its website and other public activities through the conduct of seminars, conferences and other meetings and to provide for mandatory continuing professional education of Corporate Lawyers and others;
  - (v) place before appropriate authorities or bodies the views of the Association on any matter;
  - (vi) represent Members before any professional body;
  - (vii) facilitate the preparation, production and circulation of newsletters and publications in both printed and electronic formats to further any of the above objects or the interests of the Association or its Members and others;
  - (viii) promote the professional role and value of Corporate Lawyers to any section of the public especially the business and legal communities;
  - (ix) liaise, associate, affiliate and share knowledge with other professional bodies interested in advancing the knowledge and understanding of corporate law, both in Australia and overseas; and
  - (x) engage in any and all lawful activities incidental to the foregoing purposes or which the Association may consider expedient to further the objects or interests of the Association or its Members.
- (b) Solely for the purpose of carrying out the above objects and not otherwise, the Association has the power:
- (i) To hold or arrange competitions and provide or contribute towards the provision of prizes, awards and distinctions for these competitions.

Provided that no Member shall receive any prize, award or distinction of monetary value except as a successful competitor at any competition held or promoted by the Association;

- (ii) To subscribe to, become a member of and co-operate with or amalgamate with any other association or organisation, whether incorporated or not, whose objects are similar to those of the Association.

Provided that the Association shall not subscribe to or support with its funds or amalgamate with any association or organisation which does not prohibit the distribution of its income and property among its members to an extent at least as great as that imposed on the Association under or by virtue of **Clause 22** of this Constitution;

- (iii) To purchase, sell, arrange and deal in all kinds of products and services required by the Members or visitors invited by Members to the Association's premises or to any function, forum, meeting or seminar organised by or on behalf of the Association.

- (iv) To purchase, take on lease or in exchange, hire and otherwise acquire any lands, buildings, easement or property, real and personal, and any rights or privileges which may be requisite for the purposes of, or capable of being conveniently used in connection with, any of the objects of the Association.

Provided that in case the Association shall take or hold any property which may be subject to any trusts the Association shall only deal with the same in such manner as is allowed by law having regard to such trusts;

- (v) To enter into any arrangements with any Government or authority, supreme municipal, local or otherwise, that may seem conducive to the Association's objects or any of them and to obtain from any such Government or authority any rights, privileges and concessions which the Association may think it desirable to obtain and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions;
- (vi) To appoint, employ, remove or suspend such managers, clerks, secretaries, servants, workmen and other persons as may be necessary or convenient for the purposes of the Association;
- (vii) To establish and support or aid in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees or past employees of the Association or the dependents or connections of any such persons; and to grant pensions and allowances; and to make payments towards insurance; and to subscribe or guarantee money for charitable or benevolent objects, or for any public, general or useful object;

- (viii) To construct, improve, maintain, develop, work, manage, carry out, alter or control any houses, buildings, ground works or conveniences which may seem calculated directly or indirectly to advance the Association's interests, and to contribute to, subsidise or otherwise assist and take part in the construction, improvement, maintenance, development, working, management, carrying out, alteration or control thereof;
- (ix) To invest and deal with the money of the Association not immediately required in such manner as the committee thinks fit;
- (x) To borrow or raise or secure the payment of money in such manner as the Association may think fit and to secure the same or the repayment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the Association in any way in particular by the issue of debentures perpetual or otherwise charged upon all or any of the Association's property (both present and future) and to purchase, redeem or pay off such securities;
- (xi) To make, draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments;
- (xii) To sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the Association;
- (xiii) To take or hold mortgages, liens and charges to secure payment of the purchase price or any unpaid balance of the purchase price, of any part of the Association's property of whatsoever kind sold by the Association or any money due to the Association from purchasers and others;
- (xiv) To make any gift of property whether subject to any trust or not for any one or more of the objects of the Association but subject always to the proviso in paragraph (iv) of this **Clause 2.1(b)**;
- (xv) To take such steps by personal or written appeals, public meetings or otherwise, as may from time to time be deemed expedient for the purpose of procuring contributions to the funds of the Association in the shape of donations, annual subscriptions or otherwise;
- (xvi) To print and publish any newspaper, periodicals, books or leaflets that the Association may think desirable for the promotion of its objects;
- (xvii) To purchase or otherwise acquire and undertake all or any part of the property, assets, liabilities and engagements of any one or more of the companies, institutions, societies or associations with which the Association is authorised to amalgamate;
- (xviii) To transfer all or any part of the property, assets, liabilities and engagements of the Association to any one or more of the companies,

institutions, societies or associations with which the Association is authorised to amalgamate;

- (xix) To make donations for patriotic or charitable purposes; and
- (xx) To do all other lawful things as are incidental or conducive to the attainment of these objects or any of them which may be calculated to advance directly or indirectly the interests of the Association or its Members.

Provided that the Association shall not support with its funds any activity or endeavour to impose on or procure to be observed by its Members or others any regulations or restrictions which, if an object of the Association, would make it a trade union within the meaning of the Trade Unions Act.

- 2.2 The powers set forth in sub-section 124(1) of the Act shall not apply to the Association except insofar as they are included in this **Clause 2**.

### **3 MEMBERSHIP**

Membership of the Association shall be divided into the following classes, namely:

- (a) Voting Members;
- (b) Associate Members; and
- (c) such other class or classes of members as the Board may from time to time determine under this Constitution.

### **4 MEMBERS**

- 4.1 (a) Subject to any determination by the Board, a person may qualify for membership as a Voting Member under **Clause 3(a)** if that person is a Corporate Lawyer.
- (b) A Voting Member shall have the right to receive notice of, and to vote at, general meetings of the Association and shall be eligible for appointment to the Board and to stand for election to the Executive Committee of the member's Division.
- 4.2 (a) Subject to any determination by the Board, a person who does not qualify for membership under **Clause 4.1** may be admitted as an Associate Member.
- (b) An Associate Member shall not have the right to vote at general meetings of the Association and shall not be eligible for appointment to the Board or to stand for election to an Executive Committee but shall be entitled to receive notices of general meetings of the Association.
- (c) An Associate Member

- (i) shall be entitled to attend all meetings of the Association and the Associate Member's Division and to be heard unless specifically excluded by the Board or Executive Committee;
- (ii) shall be eligible to sit on any committees or sub-committees established by the Board or established by the Executive Committee of the Associate Member's Division.
- (iii) in all other respects shall have the same rights, duties and obligations as a Voting Member except as otherwise provided in this Constitution.

4.3 A person eligible to become a Member of the Association shall not be admitted as a Member until that person:

- (a) has agreed in writing to be bound by this Constitution; and
- (b) has paid to the Association the Admission Fee (if any) and any subscription payable under this Constitution.

## **5 RESIGNATION AND TERMINATION OF MEMBERSHIP**

5.1 Any Member may resign from membership of the Association by giving to the National Secretariat written notice of resignation but shall remain liable for any annual subscription and all arrears due and unpaid at the date of resignation and for all other moneys due by the Member to the Association and, in addition, for any sum not exceeding one hundred dollars (\$100) for which the Member is liable as a Member of the Association under **Clause 25** of this Constitution.

5.2 If a Member's subscription remains unpaid for a period of three (3) months after it becomes due the National Secretariat, after giving notice of default to the Member, may remove the Member from membership of the Association. The National Secretariat may reinstate the Member on payment of all arrears.

5.3 A Member who:

- (a) is convicted of an indictable offence;
- (b) is removed from the roll of barristers or solicitors for any reason (other than for the purposes of transfer from one roll to another);
- (c) becomes of unsound mind or whose person or estate become liable to be dealt with under the law relating to mental health; or
- (d) is dealt with by removal from or termination of membership by the Board or the National Secretariat under **Clauses 5.2** or **5.10**;

shall cease to be a Member.

5.4 A Member shall immediately notify the National Secretariat of any of the occurrences referred to in paragraphs (a) to (c) of **Clause 5.3**.

- 5.5 The Board, in its absolute discretion, may instruct the National Secretariat to reinstate any Member who has ceased to be a Member under **Clause 5.3**.
- 5.6 A Member must notify the National Secretariat within one (1) month of any changes in or retirement from the Member's employment. Upon such notification the National Secretariat must consider whether to reclassify that Member's membership, allow it to continue or terminate it.
- 5.7 A Member whose place of residence changes between Divisions must notify the National Secretariat within one (1) month.
- 5.8 Where a Voting Member retires from employment, the Board has a discretion whether or not to allow him to continue membership.
- 5.9 Members shall not permit or allow a non-member to have access to the ACLA Member Directory or any information derived from it (nor use or permit to be used in any way such information for any unauthorised or commercial purpose without the prior approval of the Board).
- 5.10 If any Member wilfully refuses or neglects to comply with the provisions of this Constitution or engages in any conduct which the Board in its absolute discretion decides is unbecoming of a Member or prejudicial to the interests of the Association the Board shall have power by resolution to censure, fine, suspend or expel the Member from the Association provided that:
- (a) at least one (1) week before the meeting of the Board at which such a resolution is passed, the Member must have been given notice of such meeting and of what is alleged against the Member and of the intended resolution;
  - (b) at such meeting and before the passing of such resolution, the Member must be given the opportunity of giving, orally or in writing, any explanation the Member may think appropriate; and
  - (c) any such Member may, by notice in writing lodged with the Company Secretary at least twenty-four (24) hours before the time for holding the meeting at which the resolution is to be considered by the Board., elect to have the question dealt with by the Board in general meeting.
- In that event, a general meeting of the Association shall be called for the purpose and if at the meeting such a resolution be passed by a majority of two-thirds of those present and voting (such vote to be taken by ballot) the Member concerned shall be dealt with in accordance with the resolution and in the case of a resolution for the Member's expulsion the Member shall be expelled.
- 5.11 Where membership is terminated for any reason membership fees will not be reimbursed in whole or in part.

**6 ADMISSION FEES AND SUBSCRIPTIONS**

- 6.1 Every person admitted as a Member shall upon admission pay such Admission Fee (if any) as the Board may determine. The Board may waive payment of any fee.
- 6.2 The annual subscriptions payable by Members shall be such sums as are from time to time fixed by the Board. Where special circumstances exist, the Board may in its absolute discretion reduce or waive such subscriptions altogether.

**7 REGISTER OF MEMBERS**

- 7.1 The National Secretariat shall keep and maintain a register of Members in which shall be entered the full name, type of membership, business or other address, the date on which each Member becomes a Member, and the name of each Member.
- 7.2 The register of Members shall be available for inspection by Members at the registered office of the Association.

**8 ANNUAL GENERAL MEETING**

- 8.1 The Association shall in each calendar year convene an annual general meeting of its Members to be held at such time as the Board determines (not being more than fifteen (15) months after the holding of the last preceding annual general meeting).
- 8.2 The annual general meeting shall be specified as such in the notice convening it.
- 8.3 The ordinary business of the annual general meeting shall be:
  - (a) to confirm the minutes of the last preceding annual general meeting and of any general meeting held since the last preceding annual general meeting;
  - (b) to receive from the Board the accounts of the Association and reports upon the transactions and activities of the Association during the last preceding financial year; and
  - (c) the transaction of any business which under the Act or this Constitution is required to be transacted.
- 8.4 The annual general meeting may transact special business of which notice is given in accordance with this Constitution.
- 8.5 The annual general meeting shall be in addition to any other general meetings that may be held in the same year.

**9 GENERAL MEETING**

- 9.1 All general meetings, other than the annual general meeting, shall be called general meetings.

- 9.2 (a) The Board may, whenever it thinks fit, convene a general meeting of the Association.
- (b) The Board shall, on the requisition in writing of not less than twenty (20) Voting Members convene a general meeting of the Association.
- (c) The requisition for a general meeting shall state the objects of the meeting and shall be signed by the Voting Members making the requisition and be sent to the Company Secretary at the registered office of the Association and may consist of several documents in a like form, each signed by one or more of the Voting Members making the requisition.
- (d) If the Board does not cause a general meeting to be held within two (2) months after the date on which the requisition is received at the registered office of the Association, Voting Members with more than 50% of the votes of all of the Voting Members who made the request under **Clause 9.2(b)**, or any of them, may convene a general meeting to be held not later than three (3) months after the date on which the requisition is received at the registered office of the Association.
- (e) A general meeting convened by Voting Members under this **Clause 9.2** shall be convened in the same manner as nearly as possible as that in which those meetings are convened by the Board and all reasonable expenses incurred in convening the meeting shall be refunded by the Association to the persons incurring the expenses.

## **10 NOTICE OF GENERAL MEETING**

- 10.1 The Company Secretary of the Association shall, at least twenty-one (21) days before the date fixed for holding a general meeting of the Association (exclusive of the day on which the notice is served or deemed to be served and exclusive of the day on which the general meeting is to be held) cause to be sent to each Member of the Association at the Member's address appearing in the register of Members, a notice in writing (or any other method of service permitted under the Act) stating the place, date and time of the meeting and the nature of the business, which can be in general form, to be transacted at the meeting.
- 10.2 No business other than that set out in the notice convening the meeting shall be transacted at the meeting except that general business, whether or not appearing on the notice convening the meeting, may be transacted at a meeting.
- 10.3 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 notice does not invalidate the proceedings at the meeting.
- 10.4 A Member desiring to bring any business, other than general business, before a meeting may give notice of that business in writing to the Company Secretary not less than twenty-eight (28) days prior to that meeting. The Company Secretary shall include that business in the notice calling the next general meeting after the receipt of the notice. General business may be raised at the general meeting without prior notice.

## 11 PROCEEDINGS AT MEETINGS

- 11.1 (a) All business that is transacted at a general meeting and all business that is transacted at the annual general meeting, with the exception of that specifically referred to in this Constitution as being the ordinary business of the annual general meeting, shall be deemed to be special business.
- (b) No item of business shall be transacted at a general meeting unless a quorum of members entitled under this Constitution to vote is present during the time when the meeting is considering that item.
- (c) Ten (10) Voting Members personally present constitute a quorum for the transaction of the business of a general meeting.
- (d) If within fifteen (15) minutes after the appointed time for the commencement of a general meeting a quorum is not present the meeting, if convened upon the requisition of Voting Members, shall be dissolved and in any other case shall stand adjourned to the same day in the next week at the same time and (unless another place is specified by the chairperson at the time of the adjournment or by written notice to Members given before the day to which the meeting is adjourned) at the same place and, if at the adjourned meeting a quorum is not present within fifteen (15) minutes after the time appointed for the commencement of the meeting, the Voting Members present (being not less than five (5)) shall be a quorum.
- 11.2 (a) The President or, in the President's absence, the Vice-President shall preside as chairperson at each general meeting of the Association.
- (b) If the President and the Vice-President are absent from a general meeting, the Members present shall select one of their number to preside as chairperson at the meeting.
- 11.3 (a) The chairperson of a general meeting at which a quorum is present may, with the consent of the meeting, adjourn the meeting from time to time and place to place but no business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- (b) Where a meeting is adjourned for fourteen (14) days or more, a further notice of the adjourned meeting shall be given as in the case of the general meeting.
- (c) Except as provided in paragraphs (a) and (b), it is not necessary to give notice of an adjournment or of the business to be transacted at an adjourned meeting.
- 11.4 A question arising at a general meeting of the Association shall be determined on a show of hands and unless before or on the declaration of the show of hands a poll is demanded, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, and an entry to that effect in the minute book of the Association is prima facie evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution. The demand for a poll may be withdrawn.

- 11.5 (a) Upon any question arising at a general meeting of the Association a Voting Member has one vote only.
- (b) All votes shall be given personally or by proxy.
- (c) In the case of an equality of votes, the chairperson of the meeting shall be entitled to exercise a second or casting vote.
- 11.6 (a) If at a meeting a poll on any question is demanded by a Voting Member, it shall be taken at that meeting in such manner as the chairperson may direct and the resolution of the poll shall be deemed to be a resolution of the meeting on that question.
- (b) A poll that is demanded on the election of a chairperson or on a question of adjournment shall be taken forthwith and a poll that is demanded on any other question shall be taken at such time before the close of the meeting as the chairperson may direct.
- 11.7 A Voting Member is not entitled to vote at any general meeting unless all moneys due and payable by the Voting Member to the Association have been paid.
- 11.8 (a) Each Voting Member shall be entitled to appoint a person as the Voting Member's proxy by notice given to the Company Secretary no later than forty-eight (48) hours before the time of the meeting in respect of which the proxy is appointed.
- (b) The notice appointing the proxy shall be in a common or usual form as approved by the Board from time to time.
- 11.9 The instrument appointing a proxy is taken to confer authority to demand or join in demanding a poll.
- 11.10 A vote given in accordance with the terms of an instrument of proxy is valid despite the previous death or unsoundness of mind of the appointor or revocation of the instrument or of the authority under which the instrument was executed unless notice in writing of the death, unsoundness of mind or revocation is received by the Association before the meeting or adjourned meeting at which the instrument is used. A proxy is not revoked by the appointor attending and taking part in any meeting but if the appointor votes on a resolution either on a show of hands or on a poll the person acting as proxy for that appointor has no vote as proxy on that resolution.
- 11.11 The chairperson of a meeting may require a person acting as a proxy to establish to the satisfaction of the chairperson that he or she is the person nominated as proxy in the form of proxy lodged under this Constitution. If the person does not comply, that person may be excluded from voting on a resolution either upon a show of hands or upon a poll.

## **12 APPOINTMENT OF DIRECTORS AND OFFICE BEARERS**

- 12.1 The affairs of the Association shall be managed by a Board. The Board shall comprise:

Constitution 12.11.09

:

- (a) Except as provided in this **Clause 12.1(a)**, two members of each Executive Committee nominated from time to time by the respective Executive Committee of each Division provided that appointment to the Board will not take effect until the close of the first annual general meeting of the Association following the nomination of the member of the Executive Committee except where the nominated member is the first nominated member of a new Division formed under the provisions of **Clause 15.1(a)** - in which case the appointment will be effective from the date of nomination of the member. For so long as the Immediate Past President is a Member residing for the time being in an Executive Committee's Division then:
- (i) that Executive Committee shall only be entitled to nominate from time to time one member; and
  - (ii) the Immediate Past President shall be the Executive Committee's other nominee on the Board and shall not be removed from office by it during the term of office of the then current President except for the reasons set out in **Clause 12.7**.
- (b) The Immediate Past President of the Association; and
- (c) Such other persons (not exceeding two) as the Board may, in its absolute discretion, appoint.

Subject to **Clauses 12.1(a) and 12.7**, each Director shall hold office until the close of the annual general meeting of the Association in the second year following the year of his or her last appointment.

- 12.2 The Association in general meeting may from time to time vary the number of Directors appointed by the Divisions in any way it sees fit.
- 12.3 Except as provided for in **clause 22**, no Director may receive any remuneration for his or her services as a Director or as a Member.
- 12.4 The Office Bearers of the Association shall be:
- (a) The President;
  - (b) The Vice-President;
  - (c) The Immediate Past President;
  - (d) The Company Secretary.

The Board may appoint any person, whether or not a Director or Member of the Association, as the Company Secretary.

- 12.5 (a) Subject to **Clause 12.7**, the Office Bearers (other than the Immediate Past President) shall be appointed by the Board and each Office Bearer who is a Director (other than the President and the Immediate Past President) shall hold

office until the close of the annual general meeting of the Association in the second year following the year of his appointment or, in the case of a person who is not a Director, for such term as may be determined by the Board from time to time. The President shall hold office until the close of the annual general meeting of the Association in the year following the year of appointment but may elect to remain as President until the close of the annual general meeting in the second year following the year of appointment provided that such election shall be made no later than the last meeting of the Board held prior to the annual general meeting in the year following the year of appointment.

- (b) The Board shall make the appointments required to be made under this **Clause 12.5** at the last meeting of the Board held prior to the annual general meeting of that year or otherwise following the expiry of the relevant term of office.
- (c) All appointments made under this **Clause 12.5** shall be effective from the close of the annual general meeting of the Association held in the year in which such appointments are made or otherwise in accordance with the relevant terms of appointment.
- (d) Upon the expiration of the term of office of an Office Bearer, that Office Bearer shall be eligible for reappointment as an Office Bearer of the Association:
  - (i) except for the President, who will fill the post of Immediate Past President; and
  - (ii) provided that, unless otherwise determined by the Board, no person shall hold the same office for more than four (4) consecutive years.

12.6 Each Director shall have the power from time to time to appoint in writing any member of the Director's Executive Committee (including an existing Director) to act as an alternate Director where for any reason the Director ("Appointing Director") is unable to attend to the duties of Director. The Alternate Director:

- (a) may be removed or suspended from office by written notice sent to the Company Secretary by the Appointing Director;
- (b) shall be entitled to receive notice of meetings of the Board and to attend and vote there as if the Appointing Director were present;
- (c) shall be entitled to exercise all the powers (except the power to appoint an Alternate Director) and to perform all duties of a Director;
- (d) shall ipso facto vacate office if the Appointing Director is removed, retires or otherwise ceases to hold office for any reason; and where the Alternate Director is a Director shall have a separate vote as an Alternate Director.

12.7 The office of a Director shall become vacant if the Director:

- (a) other than in the case of a Director appointed under **Clause 12.1(c)**, ceases to be a Member of the Association; or

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:

- (b) resigns office by notice in writing to the Company Secretary of the Association;  
or
- (c) ceases to be a Director for any reason; or
- (d) becomes bankrupt or makes any arrangement or composition with creditors generally; or
- (e) becomes prohibited from being a director of a company by reason of any order made under the Act; or
- (f) ceases to be a member of the Board by operation of Section 203D of the Act; or
- (g) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health; or
- (h) for more than six (6) months is absent, without permission of the Board, from meetings of the Board held during that period; or
- (i) without approval of the Board, holds any office of profit in the Association; or
- (j) is absent without special leave of the Board for two (2) consecutive meetings of the Board.

12.8 If a casual vacancy arises in:

- (a) the office of any Office Bearer who is a Director of the Association, the Board may appoint a Director to fill the vacancy subject to the following provisions:
  - (i) any Director filling a casual vacancy shall hold office only during the unexpired term of office of the Office Bearer whose place the Director fills;
  - (ii) a Director filling a casual vacancy as an Office Bearer shall be eligible for reappointment as that Office Bearer.
- (b) the office of a Director, the Director's Executive Committee may appoint another of its members to fill the vacancy, subject to the following provisions:
  - (i) any member of the Executive Committee filling a casual vacancy shall hold office only during the unexpired term of office of the Director whose place the member fills, and
  - (ii) any member of the Executive Committee filling a casual vacancy shall be eligible for reappointment as a Director.

12.9 Each Director must comply with his or her duties and obligations under the Act.

### 13 PROCEEDINGS OF THE BOARD

- 13.1 (a) The Board shall hold regular meetings for the despatch of business at such places and times and by such means as the Board may determine. There shall be at least four (4) meetings of the Board in each year. Meetings of the Board shall be held in accordance with determinations by the Board.
- (b) Subject to **Clause 13.5**, meetings of the Board may be held by Directors being present at different locations at the same time conferring together by conference telephone or conference video link.
- (c) Special meetings of the Board may be convened by the President or any four (4) Directors.
- (d) At least forty-eight (48) hours notice of every Board meeting shall be sent to each Director, except for those absent from the Commonwealth of Australia. Notice of special meetings must specify the general nature of the business to be transacted and no other business shall be transacted at such a meeting.
- (e) Any four (4) Directors entitled to vote constitute a quorum for the transaction of business of a meeting of the Board.
- (f) No business shall be transacted unless a quorum is present (physically at one location or at different locations in accordance with a determination made by the Board) and, if within fifteen (15) minutes of the time appointed for the meeting a quorum is not present, the meeting shall stand adjourned to the same place and time of the same day in the following week, unless the meeting was a special one in which case it lapses. If at the following meeting a quorum is not obtained the meeting shall lapse.
- 13.2 At the meetings of the Board:
- (a) the President or, in his absence, the Vice-President shall preside;
- (b) if the President and Vice-President are both absent, one of the remaining Directors as may be chosen by the Directors present, shall preside.
- 13.3 (a) Questions arising at a meeting of the Board shall be determined on a show of hands or by voices in the affirmative or negative or, if demanded by a Director, by a poll taken in such manner as the person presiding at the meeting may determine.
- (b) Each Director (except for Directors appointed under **Clause 12.1(c)** who shall not be entitled to vote but may speak on any matter) shall be entitled to one vote. The person presiding shall not have a second or casting vote. Questions arising at any meeting of the Board shall be decided by a simple majority of the whole number of votes cast.

- (c) A Director who has a material personal interest in a matter that is being considered at a meeting of the Directors, shall not be present while the matter is being considered at the meeting and any vote by that Director shall not be counted, unless the Directors who do not have a material personal interest in the matter have passed a resolution allowing the interested Director to be present at the meeting and to vote on the matter.
  - (d) If a Director holds any office or possesses any property such that he or she might have duties or interests which directly or indirectly conflict with his or her duties or interest as Director, that Director must declare at a meeting of the Directors the fact, nature, character and extent of the conflict.
- 13.4
- (a) The Board may pass a resolution if no less than seventy-five (75) percent of members of the Board present in Australia and entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
  - (b) A resolution in accordance with **Clause 13.4(a)** is deemed to have been passed at a meeting of the Directors held on the day and at the time at which the document was last signed by a Director.
  - (c) Two or more separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
  - (d) A statement sent electronically by a Director to an agreed electronic address that he or she is in favour of a resolution under **Clause 13.4(a)** is taken to be a document containing that statement and duly signed by the Director. Such document is taken to have been signed by the Director at the time of its receipt at the agreed electronic address.
- 13.5 For the purposes of this Constitution, the contemporaneous linking together by Instantaneous Communication Device of a number of consenting Directors not less than the quorum, whether or not any one or more of the Directors is out of Australia, is deemed to constitute a meeting of the Directors and all the provisions of this Constitution as to the meetings of the Directors will apply to such meetings held by 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 Directors are entitled to notice of a meeting by Instantaneous Communication Device and to be linked by Instantaneous Communication Device for the purposes of such meeting. Notice of any such meeting may be given via the Instantaneous Communication Device or in any other manner permitted by this Constitution;
  - (b) at the commencement of the meeting each of the Directors taking part in the meeting by Instantaneous Communication Device is able to hear each of the other Directors taking part;

- (c) at the commencement of the meeting each Director must acknowledge the Director's presence for the purpose of a meeting of the Directors of the Association to all the other Directors taking part;
- (d) a Director must not leave the meeting by disconnecting the Director's Instantaneous Communication Device unless the Director has previously obtained the express consent of the chairperson of the meeting. A Director is conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting by Instantaneous Communication Device unless the Director has previously obtained the express consent of the chairperson of the meeting to leave the meeting; and
- (e) a minute of the proceedings of a meeting by Instantaneous Communication Device is sufficient evidence of those proceedings and of the observance of all necessary formalities if certified as a correct minute by the chairperson.

13.6 The Board will cause minutes to be duly entered in books provided for that purpose:

- (a) of all appointments of Office Bearers;
- (b) of all the names of the Directors present at each meeting of the Board;
- (c) of all resolutions and proceedings of general meetings and of meetings of the Board.

Any such minutes, if purporting to be signed by the chairperson of such meeting or of the next succeeding meeting, shall be receivable as prima facie evidence of the matters stated in such minutes.

13.7 Subject to this Constitution, the Board shall have full power to act notwithstanding any vacancy on the Board.

13.8 Any act done by any meeting of the Board or by a Committee or by any person acting as a Director will be valid even if it is later discovered:

- (a) that there was some defect in the appointment or continuance in office of a Director or such other person; or
- (b) that any of them was disqualified or had vacated office or were not entitled to vote.

## **14 POWERS OF THE BOARD**

14.1 The Board:

- (a) shall control and manage the business and affairs of the Association;
- (b) may, subject to this Constitution and the Act, exercise all such powers and functions as may be exercised by the Association other than those powers and

functions that are required by these rules to be exercised by general meetings of the members of the Association;

- (c) subject to this Constitution and the Act, has power to perform all such acts and things as appear to the Board to be essential for the proper management of the business and affairs of the Association;
- (d) shall control and manage all of the assets and funds of the Association;
- (e) may delegate any or all of its powers and functions to the Divisions;
- (f) may, if it thinks fit, appoint an executive officer to manage the affairs of the Association. The executive officer shall report to, and be responsible to, the Board and shall be paid such remuneration as the Board may determine from time to time;
- (g) shall receive all membership subscriptions (and Admission Fees, if any) and shall remit such proportion of those subscriptions and fees to the Divisions as it may determine from time to time.

14.2 The Board may from time to time and at any time make, alter, amend and repeal any By-Laws as it may deem necessary for the proper conduct and management of the Association and the regulation of its activities and affairs.

14.3 The Board may establish such Committees as it determines from time to time for whatever purposes it sees fit, and upon and subject to such conditions and By-Laws as the Board may, in its absolute discretion, determine.

## 15 DIVISIONS OF THE ASSOCIATION

15.1 (a) The Association consists of a New South Wales Division, a Queensland Division, a South Australian Division, a Victorian Division, an Australian Capital Territory Division and a Western Australian Division. The Board may, in its absolute discretion, constitute such other Divisions of the Association as it sees fit.

(b) A Division shall comprise all Members of the Association residing for the time being in that Division (as constituted under **Clause 15.1(a)**), or in such other part or parts of the Commonwealth of Australia and its Territories as defined by the Board from time to time.

(c) The Members residing in each Division shall operate under and in accordance with Regulations from time to time approved by the Board.

15.2 Each Division shall:

- (a) subject to **Clauses 14.1** and **17.1**, be responsible for the proper discharge of the business and affairs of the Division.
- (b) report to the Board regularly on its activities, finances and accounts.

- (c) elect an Executive Committee to manage its affairs.
- (d) propose Regulations for the governance of the Division for approval by the Board.
- (e) have such other powers and functions as are delegated to it by the Board.
- (f) elect its Executive Committee in the following manner:
  - (i) any two Members resident in the Division shall be at liberty to nominate any other Member resident in the Division to serve as an Executive Committee member;
  - (ii) the nomination, which shall be in writing and signed by the Member and his proposer and seconder, shall be lodged with the secretary of the Executive Committee at least twenty-one (21) days before the annual meeting at which the election is to take place;
  - (iii) balloting lists shall be prepared (if necessary) containing the names of the candidates only, in alphabetical order. Each Member present at the annual meeting shall be entitled to vote for any number of such candidates not exceeding the number of vacancies;
  - (iv) in case there shall not be a sufficient number of candidates nominated, the Executive Committee may fill up the remaining vacancy or vacancies as permitted under the Regulations.

15.3 In each year each Division shall hold an annual meeting of the Members residing in the Division and such other meetings as the Executive Committee of the Division determines. At least twenty-one (21) days notice specifying the place, the day and the hour of the meeting and the general nature of the business to be dealt with at that meeting shall be given to the Members residing in the Division. Persons other than Members may be invited to attend any meeting of a Division.

15.4 The provisions of **Clauses 8 to 11** shall apply, with the necessary changes, to the meetings of a Division except that references in this Constitution or to a member of the Board shall be read as a reference to the Division or to the corresponding member of the Executive Committee of the Division.

## **16 COMPANY SECRETARY**

The Company Secretary of the Association shall keep the minutes of the various meetings of the Board and of the Association in the form prescribed in **Clause 13.6**.

## **17 BOOKS OF ACCOUNT**

17.1 The National Secretariat or such other appropriate person as the Board may determine shall:

- (a) subject to any determination by the Board, collect and receive all moneys due to the Association and make all payments authorised by the Board; and

- (b) keep true and correct accounts and books showing the financial affairs of the Association with full details of all receipts and expenditure connected with the activities of the Association provided, however, that any of these functions may be delegated by the Board to the Treasurer of a Division in respect of that Division.

17.2 The accounts and books referred to in **Clause 17.1(b)** shall be available for inspection by Members during normal business hours at the registered office of the Association.

## **18 BANK ACCOUNTS AND CHEQUES**

18.1 The funds of the Association shall be banked in the name of the Association at any bank or other financial institution as the Board may from time to time determine.

18.2 All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments shall be signed by two (2) Directors or in such other manner as the Board may from time to time determine.

## **19 AUDIT**

19.1 Auditors shall be appointed and their duties regulated in accordance with Section 327 of the Act.

19.2 Once at least in every year, the accounts of the Association shall be examined by one or more properly qualified auditor or auditors who shall report to the Members in accordance with the provisions of the Act.

## **20 NOTICES**

20.1 A notice may be served by or on behalf of the Association upon any Member whether personally or by sending it by post or by electronic mail to the Member at the Member's address shown in the Register of Members.

20.2 Where a document is properly addressed, pre-paid and posted to a person as a letter, the document shall, unless the contrary is proved, be deemed to have been given to the person at the time at which the letter would have been delivered in the ordinary course of post. Where any document is sent by electronic mail, such document will be taken to have been given when the sender receives a delivery confirmation report recording the time at which the electronic mail was delivered to the addressee's last notified email address, unless the sender receives a delivery failure notification, indicating that the electronic mail has not been delivered to the addressee.

20.3 Notice of every general meeting shall be given in any manner hereinbefore authorised to:

- (a) every Member except those Members for whom the Association has no registered address or other address or an address for the giving of notices to them; and
- (b) the auditor or auditors for the time being of the Association.

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

## 21 INDEMNITY AND INSURANCE

- (a) To the extent permitted by the Corporations Act and subject to the Corporations Act, the Association may indemnify each officer, Director and Company Secretary of the Association in respect of any liability, loss, damage, cost or expense incurred or suffered or to be incurred or suffered by the officer, Director or Company Secretary in or arising out of the conduct of any activity of the Association or the proper performance of any duty of that officer, Director or Company Secretary.
- (b) The indemnity in **Clause 21(a)**:
  - (i) is enforceable without the officer, Director, or Company Secretary first having to make a payment or incur an expense;
  - (ii) is enforceable by the officer, Director or Company Secretary notwithstanding that the officer, Director or Company Secretary has ceased to be an officer, Director or Company Secretary of the Association; and
  - (iii) is not intended to indemnify any officer, Director or Company Secretary in respect of any liability in respect of which the Association must not give an indemnity, and should be construed and, if necessary, read down accordingly.
- (c) To the extent permitted by the Corporations Act and subject to the Corporations Act, the Association may pay any premium in respect of a contract of insurance between an insurer and an officer, Director or Company Secretary or any person who has been an officer, Director or Company Secretary of the Association in respect of any liability suffered or incurred in or arising out of the conduct of any activity of the Association and the proper performance by the officer, Director or Company Secretary of any duty.
- (d) If the Board determines, the Association may execute a document containing rules under which the Association agrees to pay any premium in relation to such a contract of insurance.

## 22 NON-PROFIT

- 22.1 The income and property of the Association must be applied solely towards the promotion of the objects of the Association as set out in this Constitution and no portion of it is to be paid or transferred directly or indirectly by way of profit to Members. This does not prevent the payment in good faith:
- (a) of remuneration to any officers or employees of the Association in return for any services rendered to the Association, if such payment is approved by the Board and the amount payable is not more than an amount that would be commercially reasonable for the service;
  - (b) for goods supplied in the ordinary and usual course of business;
  - (c) of interest at a reasonable and proper rate on money borrowed from any Member;

- (d) of reasonable and proper rent for premises leased by any Member to the Association; or
- (e) of out of pocket expenses incurred by a Director in performing Association duties.

## **23 CONDITIONS OF GRANT OF LICENCE**

**Clauses 22 and 26** of this Constitution contain conditions upon which a licence granted by the Commission to the Association continues in force under Section 151 of the Act.

## **24 LIMITED LIABILITY**

The liability of the Members is limited.

## **25 MEMBER'S GUARANTEE**

25.1 Every member of the Association undertakes to contribute an amount not exceeding one hundred dollars (\$100) to the property of the Association if it is wound up while he or she is a Member or within one year after ceasing to be a Member, for:

- (a) payment of the debts and liabilities of the Association contracted before the time when he or she ceased to be a Member;
- (b) the costs, charges and expenses of winding up; and
- (c) for the adjustment of the rights of contributories among themselves.

## **26 WINDING UP**

If the Association is wound up or dissolved and, after the satisfaction of all its debts and liabilities, any assets whatsoever remain, the remaining assets must not be paid or distributed to the Members but must be given or distributed to:

- (a) some other fund, society or association approved by Members in general meeting or (failing which) by a judge of the Supreme Court of New South Wales, which is charitable at law and has objects or purposes similar to the objects of the Association and which is a named fund, authority or institution known to have been approved under sub-division 30-B of the Income Tax Assessment Act 1997; or
- (b) a fund, society or association which falls under one or more of the items listed in the tables in sub-division 30-B of the Income Tax Assessment Act 1997.

## **27 AMENDMENTS TO CONSTITUTION**

27.1 This Constitution may be altered only by a special resolution passed at a general meeting called for that purpose and approved by a special majority being not less than seventy-five (75) percent of the Voting Members present in person or by proxy and voting.

27.2 An alteration to this Constitution shall be submitted to a general meeting only with the prior approval of the Board.

**28 DELEGATION**

The Board may, with the agreement of an Office Bearer who is a Director of the Association, delegate any or all of the duties or responsibilities of that Office Bearer to another Director or to any other person authorised by the Board for that purpose.