

AUSTRALIAN PUBLISHERS ASSOCIATION LIMITED

CONSTITUTION

ACN 003 985 313

Public company limited by guarantee under the *Corporations Act 2001* (Cth)

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AUSTRALIAN PUBLISHERS ASSOCIATION LIMITED CONSTITUTION

PART A — GENERAL

1. Name of the Company

- 1.1. The name of the Company is Australian Publishers Association Limited.

2. Type of Company

- 2.1. The Company is a public company limited by guarantee incorporated under the *Corporations Act 2001* (Cth), hereinafter referred to as 'the Act'.
- 2.2. The assets and income of the Company must be applied solely in furtherance of the Purpose and no portion of the income or assets of the Company may be paid or transferred, directly or indirectly, to any Member.
- 2.3. Clause 2.2 does not prevent the Company from doing the following things, provided they are done in good faith:
 - a) paying a Member for goods or services they have provided to the Company at fair and reasonable rates or rates more favourable to the Company,
 - b) reimbursing a Member for reasonable expenses they have properly incurred on behalf of the Company,
 - c) making a payment to a Member in carrying out the Purpose/s, or
 - d) making a payment for any other bona fide reason related to the attainment of the Purpose/s.
- 2.4. This Constitution comprises a contract between:
 - a) the Company and each Member,
 - b) the Company and each Director,
 - c) the Company and the Secretary or Secretaries, and
 - d) a Member and other Members.
- 2.5. The replaceable rules set out in the Act do not apply to the Company.
- 2.6. Each Member must guarantee to pay an amount not more than \$10.00 to the Company if the Company is wound up while the Member is a Member, or within 12 months after they cease being a Member, and this guarantee is required to pay for the:
 - a) debts and liabilities of the Company that exceed the Company's assets incurred before the Member stopped being a Member, and
 - b) costs of winding up the Company.

3. Purpose

- 3.1. The Purpose of the Company is to advance Australian publishing.
- 3.2. The Company pursues its Purpose through a range of activities and services that may include, but are not limited to:
 - a) raising public awareness and advocating for the Australian publishing industry's contribution to Australian culture, education and the economy,
 - b) representing Australian publishers' interests to the government
 - c) protecting and promoting the interests of copyright owners
 - d) protecting freedom of expression,
 - e) providing professional development, infrastructure and services to support Australian publishers,
 - f) facilitating collaboration and transformation within the Australian publishing industry, and
 - g) doing anything ancillary or incidental to the Purposes,

4. Powers of the Company

- 4.1. The Company has the following powers which may be used only to carry out its Purpose:
 - a) all the powers of a company limited by guarantee under the Act, and
 - b) the power to do all things necessary or convenient to be done for, or in connection with, the attainment of its Purpose.

5. Definitions

- 5.1. In this Constitution, except as so far as the context or subject matter otherwise indicates or requires:
 - a) **Act** means *Corporations Act 2001* (Cth),
 - b) **Appointed Director** means a Director appointed by the Board pursuant to clause 29,
 - c) **Associate Member** means a Member who does not have voting rights as described in clause 7.3,
 - d) **Board** means some or all the Directors acting as the Board of Directors,
 - e) **Bookseller** means a person whose principal activity, in the opinion of the Board, is Bookselling Activity and where that Person is a member of a Financial Group, the principal activity of that Person's Financial Group is Bookselling Activity,
 - f) **Bookselling Activity** means the business activity of the sale of books, journals, educational materials or periodicals in any format or by any means to one or more consumers,
 - g) **By-laws** means the rules and regulations made by the Board in accordance with clause 37,

- h) **Code of Conduct** means any code of conduct applicable to Members made by the Board,
- i) **Company** means Australian Publishers Association Limited,
- j) **Constitution** means this constitution as amended from time to time,
- k) **Director** means an individual elected or appointed as a Director on the Board,
- l) **Elected Director** means a Director elected by the Full Members or appointed by the Board to fill a casual vacancy under clause 26.2,
- m) **Financial Group** means a group of business organisations linked by common or similar ownership with the same Ultimate Holding Company which may or may not have a common administrative or financial control,
- n) **Full Member** means a Member with voting rights as described in clause 7.2,
- o) **General Meeting** means a formal meeting of the Members and includes an Annual General Meeting,
- p) **Maximum Continuous Period** means the term limit imposed on Directors under clause 27,
- q) **Member** means a person whose name is entered in the register of Members as a Member of the Company,
- r) **President** means the Director holding this position in accordance with clause 35,
- s) **Publisher** means a person whose principal activity, in the opinion of the Board, is Publishing Activity.
- t) **Publishing Activity** means the business activity of the continuous publishing of books, journals, educational materials or periodicals in any format in Australia in either or both of the following ways:
 - i. the original publishing of Australian books, journals, educational materials or periodicals in any format or by any means, and/or
 - ii. the importation, distribution or wholesaling of books, journals, educational materials or periodicals in any format or by any means,and excludes Bookselling Activity.
- u) **Representative** means an individual appointed as a Member's representative under clause 9 and in accordance with the Act,
- v) **Secretary** means an individual or individuals appointed to undertake the role of Secretary as defined in the Act and this Constitution,
- w) **Special Resolution** means a resolution at a General Meeting that is passed by at least 75% of the votes cast by Members entitled to vote on the resolution,
- x) **Substantial Change of Control** means, in relation to a Full Member, a change in the ownership, management or holding of the Full Member

which, in the Board's opinion, would result in a substantial change of control of the Member,

- y) **Surplus Assets** means any assets of the Company that remains after paying all debts and other liabilities of the Company, including the costs of winding up,
- z) **Ultimate Holding Company** has the same meaning as defined in the Act, and
- aa) **Vice President** means the Director holding this position in accordance with clause 35.

6. Interpretation

- 6.1. Headings are for convenience only and do not affect the interpretation of this Constitution.
- 6.2. The following rules of interpretation apply unless any contrary intention appears in this Constitution or the context requires otherwise:
 - a) mandatory provisions of the Act override any clause in this Constitution, which is inconsistent with that Act,
 - b) reference to an act includes every amendment, re-enactment, or replacement of that act and any subordinate legislation made under that act such as regulations,
 - c) a reference to a clause or sub-clause is to a clause or sub-clause of this Constitution,
 - d) where a word or phrase is defined, its other grammatical forms or parts of speech have corresponding meaning,
 - e) reference to a person is a reference to an individual, company, any other body corporate, partnership, joint venture, association, or other body whether or not incorporated,
 - f) the words 'writing' and 'written' include any mode of representing or reproducing, including electronically, words, figures, drawings, or symbols in a visible or communicable form,
 - g) the words 'including', 'for example', or similar expressions do not limit the inclusions or examples,
 - h) a gender includes all genders,
 - i) singular includes plural and vice versa, and
 - j) a notice or document required by this Constitution to be signed includes signing by electronic means or may be authenticated by any other manner permitted by law.

PART B — MEMBERSHIP

7. Classes of Membership

- 7.1. There are two classes of membership:
 - a) Full Members, and

b) Associate Members.

7.2. Full Members are persons:

- a) whose principal activity, in the opinion of the Board, is Publishing Activity,
- b) who satisfy any additional requirements for Full Membership as prescribed by the Board and set out in the By-laws, and
- c) that have been admitted as Full Members in accordance with this Constitution.

7.3. Associate Members are persons who:

- a) are either:
 - i. not eligible to be Full Members,
 - ii. are a government or government-funded organisation which is precluded from casting or does not wish to cast a vote in a trade organisation,
 - iii. engaged in a Publishing Activity whose Financial Group includes a Bookseller but where the turnover of the person generated from its Bookselling Activity is greater than that generated from its Publishing Activities,
- b) satisfy any additional requirements for being Associate Members as prescribed by the Board and set out in the By-laws, and
- c) have been admitted as Associate Members in accordance with this Constitution.

7.4. There can be no more than one Full Member from any one Financial Group.

7.5. In the event that there is a Substantial Change of Control resulting in there being more than one Full Member from any one Financial Group, the Board may transfer Full Members to another class of membership to ensure compliance with clauses 7.2 and 7.4.

7.6. The Board may provide for categories of Members within each class on such terms and conditions as the Board determines.

7.7. The Board may determine additional requirements for admission as a Member or as a Member in a particular class or category of membership.

8. Rights and Obligations of Members

8.1. A Full Member has the right to receive notices of, attend and vote at General Meetings.

8.2. An Associate Member is entitled to receive notices of and to attend General Meetings, but does not have voting rights.

8.3. A Member who has not paid any fees payable by the due date is not entitled to exercise their rights while the fee remains unpaid.

8.4. A Member is entitled to exercise their rights if their membership rights are not suspended for any other reason.

- 8.5. The Board may extend benefits and services to Members that may differ between classes and categories of membership and within classes and categories of membership.
- 8.6. Members must comply with:
 - a) this Constitution,
 - b) any By-laws, and
 - c) the Code of Conduct.
- 8.7. To maintain membership, Members are required to comply with any continuing membership obligations or conditions as determined by the Board and specified in the By-Laws.
- 8.8. A Member must, within a reasonable time, notify the Secretary of any change to their details as recorded in the register of Members.
- 8.9. A right, privilege or obligation held by reason of being a Member:
 - a) is not capable of being transferred or transmitted to another person, and
 - b) terminates upon cessation of the Member's membership.
- 8.10. The rights of Members are not varied by the admission of more Members or the addition or deletion of classes or categories of membership.
- 8.11. The rights of Members in any class may be varied or cancelled by the Full Members approving amendments to the Constitution by Special Resolution. For clarity, this shall be taken to be the procedure for varying or cancelling rights of Members in any class.

9. Member Representatives

- 9.1. If a Member is not an individual, the Member will nominate at the time of application for membership the name of up to two individuals, called the Representatives, who will represent that Member at General Meetings. Only one Representative may exercise the Full Member's vote at a General Meeting at any one time.
- 9.2. A Member may by notice to the Secretary change its Representative(s).

10. Application for Membership

- 10.1. An application for membership must be in a form prescribed by the Board.
- 10.2. The Board may approve or reject an application for membership.
- 10.3. The Board may refuse any application for membership without being compelled to give the reasons for such refusal.
- 10.4. The Board may delegate the consideration and determination of any membership application.
- 10.5. Once the outcome of a membership application is determined, written notice of the decision of the Board or their delegate is to be sent to the applicant within a reasonable time.

- 10.6. The acceptance of an applicant as a Member is subject to the payment of any fees and if such payment is not made, the Board may cancel its acceptance of the applicant for membership of the Company.
- 10.7. An applicant who is admitted to membership becomes a Member and is entitled to exercise the rights and privileges of that membership when their name is entered in the register of Members.

11. Membership Fees

- 11.1. The Board may set any joining fees and/or membership fees and may determine different fees:
 - a) for different classes or categories of membership,
 - b) within classes or categories of membership, or
 - c) for different Members.
- 11.2. The Board may in its discretion waive or vary the amount of any fee set.
- 11.3. Any fee charged to Members is payable in such manner and at such times as are determined by the Board.
- 11.4. A Member who fails to pay any membership fee(s) by the due date may have their membership terminated if the fee(s) remains unpaid for a period prescribed by the Board. The Board may determine the specific period, and the Member will be notified of the impending termination if payment is not received within this timeframe.
- 11.5. Membership that has been terminated under clause 11.4 may be reinstated at the discretion of the Board upon payment of the outstanding fee(s).

12. Register of Members

- 12.1. The Secretary or another person delegated by the Board must establish and maintain a register of Members, which may be in electronic form, containing:
 - a) the name of each Member and the date on which they became a Member,
 - b) the Member's address, which may be an email address, to which notices from the Company may be sent, and
 - c) any other information as determined by the Board or required by the Act.

13. Ceasing to be a Member

- 13.1. A Member ceases to be a Member if they:
 - a) resign by written notice to the Secretary,
 - b) are an individual and die,
 - c) are not an individual and are wound up or are dissolved,
 - d) have their membership terminated or are expelled under this Constitution,

- e) no longer satisfy the criteria for their respective class of membership (unless transferred to another class of membership by the Board),
- f) are convicted of an indictable offence,
- g) fail to provide any information required by the Board as part of the renewal process, unless the Board resolves otherwise,
- h) fail to satisfy any undertaking agreed to by the Member upon them being admitted as a Member, unless the Board resolves otherwise, or
- i) have their membership terminated in any other circumstances prescribed in the terms of membership that are applicable to the Member, unless the Board resolves otherwise.

13.2. Any Member ceasing to be a Member:

- a) is not entitled to any refund, in full or part, of any membership fees paid, and
- b) will not be readmitted as a Member until all unpaid fees outstanding at the time they ceased to be a Member are paid, including any interest or other charges levied on any outstanding fees.

13.3. Upon ceasing to be a Member, the date on which the Member ceased to be a Member will be recorded in the register of Members.

13.4. Any Member ceasing to be a Member remains liable for any fees owing by that Member to the Company and, if the Company is wound up within one year of the date the Member ceases to be a Member, the guarantee under this Constitution.

14. Disciplining a Member

14.1. Disciplinary action may be taken against a Member who, in the opinion of the Board or the Disciplinary Committee:

- a) has failed to comply with this Constitution or any By-laws,
- b) has failed to comply with the Code of Conduct,
- c) refuses to support the Purposes of the Company,
- d) acts in a manner which may bring the Company into disrepute,
- e) acts in a manner prejudicial to the interests of the Company, or
- f) acts in a manner that the Board considers makes continued membership undesirable.

14.2. The Board may adopt and amend By-laws prescribing the procedures and rules for disciplining Members.

14.3. The Board may establish or delegate authority to a Disciplinary Committee. The Disciplinary Committee, subject to the By-laws, is responsible for:

- a) investigating complaints or disciplinary matters relating to a Member or their Representatives,
- b) determining the outcome of any investigation or hearing,

- c) deciding upon and imposing appropriate penalties, if any.
- 14.4. Upon determining that disciplinary action is warranted, penalties imposed by the Disciplinary Committee may include:
- a) issuing a formal warning,
 - b) suspension of membership for a period not exceeding 12 months,
 - c) imposing undertakings, including but not limited to, commitments to cease specified conduct, undertaking remedial actions, completing specified training and/or ongoing compliance conditions, or
 - d) recommending to the Board that the Member be expelled.

15. Expulsion of Member

- 15.1. Subject to the outcomes of any disciplinary process referred to in clause 14 and as set out in the By-laws, the Board may resolve to expel a Member (**Expulsion Resolution**).
- 15.2. The Member must be given at least 14 days' written notice of the date that the Board will consider the Expulsion Resolution. The notice must:
- a) state the grounds for the proposed expulsion, and
 - b) inform the Member that they may make oral and/or written submissions to the Board regarding the proposed expulsion.
- 15.3. The Member's response, if any, must be considered by the Board before the Expulsion Resolution is passed.
- 15.4. Where an Expulsion Resolution is passed:
- a) The Member must receive written notice of the decision and reasons within 14 days.
 - b) The expulsion takes effect on the date of the Board's resolution.
- 15.5. There will be no liability for any loss or injury suffered by the Member or their Representative(s) as a result of any decision made in good faith under clauses 14 or 15.

PART C — GENERAL MEETINGS

16. Calling a General Meeting

- 16.1. The Board may, whenever it thinks fit, call a General Meeting.
- 16.2. The time, place of, and the virtual meeting technology to be used, if any, at, the General Meeting is to be determined by the Board.
- 16.3. An Annual General Meeting will be held within five months after the end of each financial year.
- 16.4. A General Meeting may be held at one or more venues, or wholly or partly online or virtually, using any virtual meeting technology in accordance with the Act.
- 16.5. A General Meeting must also be convened by the Board upon the requisition of not less than 5% of Full Members.

- 16.6. A requisition for a General Meeting called by Members:
- a) must state the purpose or purposes of the General Meeting,
 - b) must be signed by the Members making the request, which may include electronic signatures, and
 - c) must be lodged with the Secretary.
- 16.7. If the Board fails to give notice of a General Meeting called by Members within 21 days after the date on which the request for the General Meeting is lodged, any one or more of the Members making the request may convene a General Meeting which must be held not later than three months after that date.
- 16.8. A General Meeting called by Members must be convened as nearly as is practicable in the same manner as a General Meeting convened by the Board.

17. Notice of a General Meeting

- 17.1. Notice of a General Meeting must be given to:
- a) each Member,
 - b) each Director, and
 - c) the auditor, if any.
- 17.2. Notice of a General Meeting must include:
- a) the time, date, place of, and, if any, the virtual meeting technology to be used to facilitate the General Meeting,
 - b) a statement that Members may appoint a proxy, and
 - c) if applicable, that a Special Resolution is to be proposed at the General Meeting and the words of the proposed Special Resolution.
- 17.3. Notice of a General Meeting shall be given at least 21 days before the date fixed for the holding of the General Meeting.
- 17.4. Notice of a General Meeting may be given less than 21 days before the meeting if:
- a) for an Annual General Meeting, all the Members entitled to attend and vote at the Annual General Meeting agree beforehand, or
 - b) for any other General Meeting, Members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- 17.5. Notice of a General Meeting must not be provided less than 21 days before the General Meeting if it is proposed that a resolution is to be moved to:
- a) remove a Director or appoint a Director to replace a Director who has been removed, or
 - b) remove an auditor.
- 17.6. The accidental failure to give notice of any General Meeting to, or the non-receipt of notice of a General Meeting by, any person entitled to

receive notice will not invalidate the proceedings at or any resolution passed at the General Meeting.

- 17.7. A Member's attendance at a General Meeting waives any objection that the Member may have regarding a failure to give notice, or the giving of defective notice, of the General Meeting.

18. Business at a General Meeting

- 18.1. Subject to clause 18.2, no business other than that specified in the notice convening a General Meeting is to be transacted at the General Meeting.
- 18.2. The business of an Annual General Meeting may include any of the following, even if not referred to in the notice of the meeting:
- a) the consideration of the annual financial report, the Board report and the auditor's report,
 - b) the election or announcement of Directors,
 - c) the appointment of the auditor, and
 - d) the fixing of the auditor's remuneration.

19. Proxies at a General Meeting

- 19.1. A Member is entitled to appoint a proxy by notice given to the Company at the address stated in the notice of General Meeting, which may be an electronic address, at least 48 hours before the time of the General Meeting in respect of which the proxy is appointed.
- 19.2. The Board may prescribe a form of proxy however a proxy will be valid provided the instrument purporting to appoint a proxy:
- a) is in writing,
 - b) contains the Member's name and address, the Company's name and the proxy holder's name or the office held by the proxy holder,
 - c) contains the details of the meeting at which the appointment may be used, and
 - d) contains the details as to how the proxy holder is to vote on the matters before the General Meeting.
- 19.3. In the event of a Member not nominating a particular person as proxy holder on the proxy form, the proxy is to be exercised by the chairperson of the General Meeting.
- 19.4. A proxy holder need not be a Member or a Representative.
- 19.5. A proxy holder does not have the authority to speak and vote for the Member who appointed that proxy at a General Meeting while that Member is at the General Meeting

20. Quorum at a General Meeting

- 20.1. A quorum for a General Meeting is 15 Full Members present and entitled to vote in person, by proxy or by Representative.

- 20.2. No business may be conducted at a General Meeting if a quorum is not present.
- 20.3. If a quorum is not present within 30 minutes after the time appointed for a General Meeting:
 - a) if convened by or on the requisition of Members, the General Meeting is dissolved, and
 - b) in any other case, the General Meeting stands adjourned to such other day, time and place as the Board appoints by notice to the Members and others entitled to notice of the General Meeting.
- 20.4. If at the adjourned General Meeting a quorum is not present within 30 minutes from the time appointed for the General Meeting, the General Meeting will lapse.

21. Chairperson of a General Meeting

- 21.1. The President will preside as chairperson of each General Meeting.
- 21.2. If there is no President, or the President is not present within 15 minutes after the time appointed for the commencement of the General Meeting, or the President is unable or unwilling to act as chairperson of the General Meeting or of part of the General Meeting, then the following persons will preside as chairperson of the General Meeting in the order of precedence:
 - a) the Vice President,
 - b) any other Director present who has been appointed as chairperson by the other Directors present, or
 - c) a Member or Representative present chosen by a majority of the Full Members present.
- 21.3. The chairperson of a General Meeting is responsible for the conduct of the General Meeting and any question arising at a General Meeting relating to the order of business, procedure or conduct of the General Meeting must be referred to the chairperson whose decision is final.
- 21.4. The chairperson of a General Meeting may at any time they consider it necessary or desirable for the proper and orderly conduct of the General Meeting:
 - a) impose a limit on the time that a person may speak on a motion or other item of business, question or resolution being considered by the General Meeting,
 - b) terminate debate or discussion at the General Meeting, and
 - c) adopt any procedures for casting or recording votes at the General Meeting whether on a show of hands or a poll.
- 21.5. The chairperson of a General Meeting may at any time during a General Meeting, adjourn the General Meeting to another time or place, but no business may be transacted at any adjourned General Meeting other than the business left unfinished at the General Meeting from which the adjournment took place.

- 21.6. When a General Meeting is adjourned for 30 days or more, notice of the adjourned General Meeting must be given as in the case of an original General Meeting.
- 21.7. The chairperson of an Annual General Meeting must allow a reasonable opportunity for the Members as a whole at the meeting to ask questions about or make comments on the management of the Company.

22. Methods of Voting at a General Meeting

- 22.1. A Full Member is not entitled to vote at a General Meeting unless all fees due and payable by the Member to the Company have been paid.
- 22.2. Associate Members are not entitled to vote at a General Meeting.
- 22.3. Upon any motion arising at a General Meeting, a Full Member entitled to vote has one vote.
- 22.4. Votes must be given in person or by proxy, by the Representative or when applicable by direct vote.
- 22.5. Proxies must not be counted on a vote by a show of hands.
- 22.6. A Member entitled to vote at a General Meeting may vote by direct vote where such an option is offered by the Board. A direct vote includes a vote delivered to the Company by any means approved by the Board, which may include postal or electronic means.
- 22.7. The Board may prescribe By-laws in relation to direct voting, including specifying the form, method, and timing of giving a direct vote at a General Meeting in order for the vote to be valid.
- 22.8. An objection to the qualification of a Member to vote at a General Meeting:
 - a) must be raised before or at the General Meeting at which the vote objected to is given or tendered, and
 - b) must be referred to the chairperson of the General Meeting whose decision on the qualification to vote is final.

23. Decisions at a General Meeting

- 23.1. Motions arising at a General Meeting are to be decided by ordinary resolution unless otherwise required by this Constitution or the Act.
- 23.2. An ordinary resolution is a resolution passed by a simple majority of the votes cast.
- 23.3. In the case of an equality of votes upon any proposed resolution, the chairperson of the General Meeting, in addition to any deliberative vote, does not have a casting vote, and the proposed resolution is not passed.
- 23.4. A resolution put to the vote of a General Meeting must be decided on a show of hands unless a poll is demanded in accordance with this Constitution. On a show of hands, the declaration by the chairperson of the General Meeting is conclusive evidence of the result.

- 23.5. A poll may be demanded before the vote is taken or before or immediately after the declaration of the result of the show of hands by:
- a) the chairperson of the General Meeting, or
 - b) Members with at least 5% of the votes that may be cast on the resolution present in person, by proxy or by Representative at the General Meeting.
- 23.6. Neither the chairperson of the General Meeting nor the minutes of the General Meeting need to state the number or proportion of the votes recorded in favour or against.
- 23.7. The demand for a poll at a General Meeting may be withdrawn.
- 23.8. A demand for a poll at a General Meeting does not prevent the continuation of a General Meeting for the transaction of any business other than the question on which the poll has been demanded.
- 23.9. A poll demanded at a General Meeting must be taken when and in the manner the chairperson of the General Meeting directs including in relation to how votes of Members attending by technology are to be collected.
- 23.10. A poll on the election of a chairperson of a General Meeting or on the question of an adjournment of a General Meeting must be taken immediately.

24. Cancellation or Postponement of a General Meeting

- 24.1. The Board may cancel, postpone, or change the venue of a General Meeting at any time prior to the meeting except in the case of a General Meeting called upon by the requisition of Members.
- 24.2. The Board must give notice of the postponement, cancellation or change of venue of a General Meeting to all persons entitled to receive notices of a General Meeting.

PART D — BOARD OF DIRECTORS

25. Board Composition

- 25.1. The Board will comprise the following Directors:
- a) six **Elected Directors** elected by the Full Members, and
 - b) up to three **Appointed Directors** appointed by the Board.
- 25.2. The Company must have at least three Directors.
- 25.3. At least two Directors must ordinarily reside in Australia.
- 25.4. No more than two Directors on the Board may be Representatives, employees or directors of the same Full Member or Financial Group.
- 25.5. Where the office of a Director becomes vacant, the continuing Directors may continue to act except where the number of Directors is reduced to fewer than three Directors, in which case the continuing Directors may act only:

- a) to appoint Directors for the purpose of increasing the number of Directors to three or higher,
- b) to convene a General Meeting, or
- c) in an emergency.

26. Terms of Office for Directors

- 26.1. A term of an Elected Director is three years commencing from the close of the Annual General Meeting at which their election is declared or announced until the end of the Annual General Meeting in the third year.
- 26.2. If a casual vacancy in the position of an Elected Director occurs, the Board may appoint an eligible individual to fill the vacancy until the remainder of the predecessor's term.
- 26.3. An Appointed Director is to serve a term of up to three years as determined by the Board and may, if eligible, be reappointed as Appointed Director at the discretion of the Board.
- 26.4. If a casual vacancy in the position of an Appointed Director occurs, the Board may appoint a new Appointed Director for a term of up to three years as determined by the Board.

27. Term Limits of Directors

- 27.1. The Maximum Continuous Period that a Director may serve as a Director is as follows:
 - a) an Elected Director may serve up to three consecutive terms, and
 - b) no Director may serve more than nine consecutive years.
- 27.2. A person who has held office as a Director for the Maximum Continuous Period is eligible for re-election or reappointment after a period of twelve months from the date that the person last held office as a Director.
- 27.3. The Maximum Continuous Period does not include any period of a Director's appointment to fill a casual vacancy of an Elected Director under clause 26.2.

28. Eligibility of Directors

- 28.1. A person is eligible for election or appointment as a Director if they:
 - a) are over the age of 18 years,
 - b) provide their signed consent to act as a Director,
 - c) are not ineligible to be a Director under law, including under the Act,
 - d) have a Director Identification Number,
 - e) are not an employee of the Company, and
- 28.2. In the case of an Elected Director, are a candidate who:
 - a) is an employee or director of a Full Member,
 - b) has been nominated by that Full Member as a candidate, and

- c) has been approved by the Nominations Committee as having met the requirements of this clause 28 and any additional eligibility criteria referred to in clause 30.2.a).

29. Appointment of Appointed Directors

- 29.1. The Board may appoint up to three Appointed Directors.
- 29.2. An Appointed Director may be but does not need to be a Member or Representative.
- 29.3. In considering persons for appointment as Appointed Directors, the Board will have regard to the desired skills, experience, diversity and perspectives that the Board requires to effectively govern the Company.

30. Nominations Committee

- 30.1. The Board will establish a committee of the Board to be called the Nominations Committee.
- 30.2. The Nominations Committee will:
 - a) consider, assess and approve candidates for election as Elected Directors based on the eligibility criteria determined by the Nominations Committee and approved by the Board, and
 - b) perform any other functions and responsibilities as prescribed in this Constitution or as determined by the Board from time to time and set out in the Committee's terms of reference.

31. Election of Elected Directors

- 31.1. Subject to this clause 31, elections are to be held in accordance with any By-laws.
- 31.2. Prior to an Annual General Meeting, the Board or delegated person will:
 - a) give notice to the eligible Full Members of the number of vacancies that may be filled, and
 - b) invite nomination of candidates for election as Elected Directors from the eligible Full Members.
- 31.3. A Full Member may nominate up to two candidates for election.
- 31.4. Nominations must:
 - a) be in writing on the form prescribed by the Board,
 - b) include the written consent of the candidate to serve as an Elected Director, and
 - c) be lodged with the Secretary by the prescribed time.
- 31.5. Only those candidates who are approved by the Nominations Committee are eligible to stand for election as an Elected Director.
- 31.6. If the number of approved candidates for election as Elected Directors exceeds the number of vacancies to be filled, a ballot will be held prior to the Annual General Meeting, which may be an electronic ballot as determined by the Board.

- 31.7. Each Full Member that is entitled to vote may vote in the ballot.
- 31.8. Results of an election of Elected Directors are to be announced at the Annual General Meeting.
- 31.9. If the number of approved candidates for election as Elected Directors is equal to or less than the number of vacancies to be filled, then the candidates are to be declared elected at the Annual General Meeting following the close of nominations without the need for a ballot.
- 31.10. Any unfilled positions for election as Elected Directors because of insufficient nominations are to be deemed as casual vacancies.

32. Ceasing to be a Director

- 32.1. In addition to any other way a Director vacates office under the Act or this Constitution, a Director ceases to be a Director if they:
 - a) resign by written notice to the President or the Secretary,
 - b) are an employee or director of a Member that has been expelled or suspended,
 - c) are a Member that has been suspended or expelled pursuant to clause 14 or 15,
 - d) die,
 - e) become bankrupt or make any arrangement or composition with their creditors generally, unless, subject to the Act, the Board resolves otherwise,
 - f) are convicted on indictment of an offence, unless, subject to the Act, the Board resolves otherwise at the next Board meeting,
 - g) are absent from two consecutive Board meetings without leave of absence approved by the Board,
 - h) fail to disclose a material personal interest in breach of the law unless at its next meeting the Board resolves otherwise,
 - i) are removed from the position of Director by the Full Members,
 - j) become an employee of the Company,
 - k) are found guilty by a tribunal, industrial commission, court of competent jurisdiction or other similar authority of engaging in discriminatory conduct or harassment towards employees of the Company or other Members or their Representatives,
 - l) are an Elected Director and cease to be an employee or director of a Full Member, unless the Board resolves otherwise,
 - m) become an employee or director of the same Full Member or Financial Group as any two other Directors, unless the Board resolves otherwise, or
 - n) are an employee or director of a Full Member who, in the opinion of the Board, is subject to a Substantial Change of Control, unless the Board resolves otherwise.

33. Removing a Director

- 33.1. The Full Members may by ordinary resolution at a General Meeting remove a Director from their position as Director before the expiration of the Director's term of office.

34. No Alternate Directors

- 34.1. Directors are not entitled to appoint alternate directors.

35. Office Bearers

- 35.1. The Board will appoint from amongst the Directors the following Office Bearers:
- a) a President, and
 - b) a Vice President.
- 35.2. A Director is eligible for appointment as an Office Bearer if they are either a Full Member or Representative of a Full Member.
- 35.3. The Board may determine the period for which a Director holds the office as an Office Bearer subject to clauses 35.4 and 35.5. For clarity, the Board may remove an Office Bearer from their position as Office Bearer.
- 35.4. No Director may hold office as President for more than six consecutive years.
- 35.5. The Officer Bearers are not to hold office beyond their retirement or removal from the Board as a Director.
- 35.6. The Office Bearers have such powers and duties as specified in this Constitution, as required by law, and as determined by the Board.

36. Powers of the Board

- 36.1. The powers of the Board are, subject to the Act and this Constitution, to:
- a) control and manage the affairs of the Company,
 - b) exercise all the functions as may be exercised by the Company other than those functions that are required by this Constitution or the Act to be exercised by a General Meeting, and
 - c) perform all such acts and do all such things as appear to the Board to be necessary or desirable for the proper management of the affairs of the Company.
- 36.2. The Board may delegate any of its powers to:
- a) a committee,
 - b) a Director,
 - c) an employee of the Company, or
 - d) any other person,
- and may revoke that delegation.

36.3. The delegate must exercise the powers delegated in accordance with any directions, terms, and conditions as set by the Board.

37. By-Laws

37.1. The Board may make, amend, or repeal such By-laws as it determines are appropriate for the purposes of giving effect to any provision of this Constitution or to govern the procedures and activities of the Company.

37.2. Any By-laws:

- a) must be consistent with the provisions in this Constitution, and
- b) when in force, are binding on all Members.

38. Duties of Directors

38.1. The Directors must comply with their duties as Directors under legislation and common law which includes the duty:

- a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a Director of the Company,
- b) to act in good faith in the best interests of the Company and to further the Purpose of the Company,
- c) not to misuse their position as a Director,
- d) not to misuse information they gain in their role as a Director,
- e) to maintain the confidentiality of information received in their role as a Director,
- f) to disclose any material personal interest in a matter that relates to the affairs of the Company,
- g) to disclose any conflict of interest which may prevent them from properly fulfilling their duties as a Director,
- h) to ensure that the financial affairs of the Company are managed responsibly, and
- i) not to allow the Company to trade while it is insolvent.

39. Payments to Directors

39.1. Directors are entitled to:

- a) be reimbursed for reasonable expenses properly incurred by the Director in connection with the affairs of the Company, and
- b) be paid for any work they do for the Company, other than as a Director, if the amount is no more than a reasonable fee for the work done.

39.2. Directors are not entitled to be paid fees for being a Director.

39.3. Any payment made to Directors must be approved by the Board.

40. Board Meetings

- 40.1. The Board may meet, including by technological means, for the dispatch of business, and adjourn and otherwise regulate its meetings as it thinks fit.
- 40.2. The President alone, or any four Directors, may convene a Board meeting.
- 40.3. At a Board meeting:
 - a) the President or, in the President's absence, the Vice President is to preside as chairperson, or
 - b) if the President and the Vice President are absent or unwilling to act, one of the remaining Directors may be chosen by the Directors present at the Board meeting to preside as chairperson.
- 40.4. Questions arising at any Board meeting are to be decided by a simple majority of votes of those Directors present and entitled to vote.
- 40.5. Directors are to have one vote on any question at a Board meeting.
- 40.6. Directors may not assign proxies at a Board meeting.
- 40.7. In the event of an equality of votes on any question at a Board meeting, the chairperson of the Board meeting does not have a casting vote and the motion is not passed.
- 40.8. A Board meeting may be held using technology that allows the Directors in attendance to communicate with each other clearly and simultaneously.
- 40.9. A Director who participates in a Board meeting using technology is taken to be present at the Board meeting and, if the Director votes at the Board meeting, is taken to have voted in person.
- 40.10. The Board may invite third parties to attend a Board meeting as observers.

41. Notice of a Board Meeting

- 41.1. Subject to clause 41.3, notice of a Board meeting must be given to each Director at least seven days prior to the time appointed for the holding of the Board meeting, unless a shorter period has been unanimously agreed upon by the Directors.
- 41.2. Notice of a Board meeting must be given by such means as agreed by the Directors.
- 41.3. In cases of urgency, a Board meeting can be held without the usual notice provided that as much notice as practicable is given to each Director.
- 41.4. Non receipt of any notice of a Board meeting by a Director does not affect the validity of the convening of the Board meeting.

42. Quorum at a Board Meeting

- 42.1. To transact business at a Board meeting, a quorum of Directors is required during the time in which the business is dealt with at the Board meeting.
- 42.2. The quorum for a Board meeting is a majority of the Directors currently in office.

43. Decisions of the Board without a Board Meeting

- 43.1. The Board may pass a Board resolution without a Board meeting being held. The passing of such resolutions:
- a) requires a majority of Directors in office assenting to the resolution within the time specified,
 - b) may be through the use of technology, and
 - c) must comply with any policies and procedures regarding the passing of Board resolutions as determined by the Board.

44. Validity of Acts of Directors

- 44.1. All acts done at any Board meeting or by any individual acting as a Director are valid even if it is later discovered that there was a defect in the appointment of a person as a Director or the person not being entitled to vote.

PART E — ADMINISTRATIVE MATTERS

45. Secretary

- 45.1. The Board must appoint at least one Secretary.
- 45.2. The Secretary must provide written consent to act as the Secretary prior to appointment.
- 45.3. The Secretary holds office on such terms and conditions as the Board determines.
- 45.4. The Board may remove any Secretary, subject to the terms of any contract and the law.
- 45.5. The Secretary has such powers and duties as specified in this Constitution, the Act, and as determined by the Board.

46. Minutes

- 46.1. The Company must keep minutes of:
- a) proceedings and resolutions of General Meetings,
 - b) proceedings and resolutions of Board meetings,
 - c) proceedings of meetings of committees of the Board, and
 - d) resolutions passed by the Board without a meeting.
- 46.2. The Company must ensure that the minutes of a meeting are signed within a reasonable time after the meeting, which is usually within one month, by the chairperson of the meeting at which the proceedings were held, or by the chairperson of the next meeting.
- 46.3. A written 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.

47. Service of Notices to Members

- 47.1. A notice may be given by the Company to a Member:
- a) personally, by post or by electronic means to the relevant address shown in the register of Member, or
 - b) by making a copy of it accessible electronically and advising the Member of its availability via the electronic contact address.
- 47.2. Where a notice is sent by post, service of the notice is taken to be effected three days after it is posted.
- 47.3. Where a notice is sent by email or by other electronic means, service of the notice is taken to be effected on the day it is sent or on the day the Member is advised via the electronic contact address that the notice is accessible electronically.

48. Accounts and Audit

- 48.1. The Company must make and keep written financial records that:
- a) correctly record and explain its transactions and financial position and performance, and
 - b) enable true and fair financial statements to be prepared and to be audited if required.
- 48.2. The financial year of the Company commences on the first day of January and ends on the 31st day of December or such other period as may be prescribed by the Board.

49. Custody and Inspection of Records

- 49.1. A Member other than a Director does not have the right to inspect any books, records, or documents of the Company except as provided by law or authorised by the Board.

50. Indemnity of Directors

- 50.1. The Company indemnifies each officer of the Company out of the assets of the Company, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person as an officer of the Company.
- 50.2. In this clause 50, 'officer' means a Director or Secretary and includes a Director or Secretary after they have ceased to hold that office.
- 50.3. In this clause 50, 'to the relevant extent' means:
- a) to the extent that the Company is not precluded by law including the Act from doing so,
 - b) to the extent that the conduct of the officer did not constitute serious and wilful misconduct, and
 - c) for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person including an insurer under an insurance policy.

- 50.4. The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the Company.
- 50.5. To the extent permitted by law, the Company may:
- a) purchase and maintain insurance, and
 - b) pay or agree to pay a premium for an insurance,
- against any liability incurred by the officer as an officer including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal.

51. Changes to the Constitution

- 51.1. The Company may modify or repeal this Constitution, or a provision of this Constitution, by the Full Members passing a Special Resolution and following the requirements of the Act.

52. Winding Up the Company

- 52.1. Voluntary dissolution of the Company may only be achieved by a Special Resolution of Full Members and following all the requirements of the Act.
- 52.2. If the Company is wound up, any Surplus Assets must not be distributed to a Member or a former Member.
- 52.3. Subject to the Act, any other applicable laws, and any court order, any Surplus Assets that remain after the Company is wound up must be distributed to one or more organisations:
- a) with purposes similar to, or inclusive of, the Purposes, and
 - b) which prohibits the distribution of any income and/or assets to its members to at least the same extent as the Company.
- 52.4. The decision as to the organisation or organisations to be given the Surplus Assets must be made by a Special Resolution of Full Members at or before the time of winding up.
- 52.5. If the Full Members do not make this decision, the Company may apply to the Supreme Court to make this decision.

53. Transitional Arrangements

Membership

Upon this Constitution becoming effective:

- 53.1. Any Full Member will continue to be classified as a Full Member.
- 53.2. Any Associate Member will continue to be classified as an Associate Member.

Transition - Board of Directors

Upon this Constitution becoming effective:

- 53.3. Despite clause 25.1, the Directors in office will each become an Elected Director and may serve out the remainder of their terms pursuant to the constitution that this Constitution replaces.

- 53.4. In conjunction with the 2026 Annual General Meeting:
- a) The Directors whose terms would have concluded under the previous constitution will retire, but they may, if otherwise eligible, be nominated for re-election.
 - b) Elections will be held in accordance with clause 31 for the number of Elected Director positions equal to six minus the number of vacancies. If the number is zero or negative, then no elections will be held.
- 53.5. In conjunction with the 2027 Annual General Meeting:
- a) The Directors whose terms would have concluded under the previous constitution will retire, but they may, if otherwise eligible, be nominated for re-election.
 - b) Elections will be held in accordance with clause 31 for the number of Elected Director positions equal to six minus the number of vacancies.
- 53.6. In conjunction with the 2028 Annual General Meeting:
- a) The Director(s) whose terms would have concluded under the previous constitution will retire, but they may, if otherwise eligible, be nominated for re-election.
 - b) Elections will be held in accordance with clause 31 for the number of Elected Director positions equal to six minus the number of vacancies.
- 53.7. For clarity, any time served as a Director immediately prior to the adoption of this Constitution will be taken into account in determining the Maximum Continuous Period under clause 27.1.
- 53.8. The Board may appoint up to three Appointed Directors at any time, subject to there being no more than nine Directors on the Board.
- 53.9. Any alternate directors will cease office on the date that this Constitution becomes effective.

Transition – Office Bearers

- 53.10. The Director holding the position of President will continue as President until they are otherwise replaced or vacate office as President under clause 35. For clarity, the person holding the position of President may continue as an Elected Director pursuant to clause 53.3.
- 53.11. Despite clause 35, the Directors holding the position of Vice President will continue as Vice Presidents until the Board resolves to remove them from the office of Vice Presidents. Following which, the Board will appoint one Vice President in accordance with clause 35.1. For clarity, a person holding the position of Vice President may continue as an Elected Director pursuant to clause 53.3.
- 53.12. The position of Treasurer may continue at discretion of the Board. For clarity, even if the position is ceased, the person holding the position of Treasurer may continue as an Elected Director pursuant to clause 53.3.

Transition - Committees of the Board

- 53.13. Any committee established under the constitution that this Constitution replaces will continue until otherwise dissolved or ceased by the Board.

END OF CONSTITUTION