

Constitution

of

Australian Toy Association Limited

ACN 002 682 493

(A Company Limited by Guarantee)

November 2012

**Damien J Smith Lawyers & Consultants
Level 1, 21 Burwood Road, Hawthorn VIC 3122
Ph: (03) 9819 6799 · Fax: (03) 9819 2593
Email: smithdj@enterprisecare.com.au**

ARTICLE	PAGE
1. NAME.....	3
2. COMPANY	3
3. LEGAL CAPACITY AND POWERS.....	3
4. OBJECTS.....	3
5. NOT FOR PROFIT STATUS	4
6. LIABILITY OF MEMBER.....	4
7. GUARANTEE BY MEMBER	4
8. WINDING UP.....	4
9. REPLACEABLE ARTICLES	5
10. DEFINITIONS	5
11. INTERPRETATION.....	6
12. MEMBERS.....	7
13. CESSATION OF MEMBERSHIP	9
14. GENERAL MEETINGS	10
15. BOARD – DIRECTORS AND OFFICE BEARERS	15
16. MINUTES.....	21
17. FINANCIAL REPORTS AND PROPERTY.....	21
18. COMMON SEAL AND EXECUTION OF DOCUMENTS	23
19. INDEMNITY AND INSURANCE.....	23
20. AUDITOR.....	24
21. NOTICES.....	24
22. DISSOLUTION AND WINDING UP	26
23. ADOPTION AND MODIFICATION OF CONSTITUTION	26

1. NAME

- 1.1 The name of the company is the Australian Toy Association Limited (hereinafter called “the Company”)

2. COMPANY

- 2.1 The Company is a company limited by guarantee.

3. LEGAL CAPACITY AND POWERS

- 3.1 The Company:

- (a) Has the legal capacity and, subject to the provisions of the Act, all the rights, powers and privileges of a natural person;
- (b) Does not have the power to issue shares.

4. OBJECTS

- 4.1 The objects for which the company is established are:

- (a) To promote the Australian Toy Industry in Australia and elsewhere throughout the World.
- (b) To promote and participate in the development of toy safety standards in Australia and elsewhere throughout the World.
- (c) To promote and participate in the development of codes of conduct and ethical standards among persons employed in or either directly or indirectly connected or associated with the Australian Toy Industry.
- (d) To promote and participate in the development of trade and commerce among persons employed in or either directly or indirectly connected or associated with the business of designing, making, marketing or handling toys and other articles or commodities designed, made, marketed or handled for sporting, recreation, pastimes, educational, scientific purposes or for the benefit of any person.
- (e) To promote and participate in consultation with any government or authority supreme local or otherwise for the purpose of encouraging and improving orderly marketing procedures, safety standards, affairs of consumers, health standards, publicity, advertising, packaging and generally to obtain from any such government or authority or from any person any rights, privileges and concessions which the company may think it desirable to obtain.
- (f) To seek donations from the public for the purpose of providing money, property or benefits to a fund established for the relief of persons in Australia who are in necessitous circumstances and to establish a fund, authority or institution which has that same objective.

- 4.2 As a trustee to undertake the execution of any trusts and / or to act in a fiduciary capacity for or without remuneration on any terms or conditions, and to execute, amend, or revoke any trust deed or declaration and to contract as trustee of any real or personal property.

5. NOT FOR PROFIT STATUS

5.1 Application of the company's income and property

- (a) The company's income and property must be applied solely towards promoting the company's purposes.
- (b) No part of the income or property may be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus, or other profit distribution, to any of the members or directors
- (c) This Article 5 does not prohibit indemnification of, or payment of premiums on contracts of insurance for, any director to the extent permitted by law and this constitution.

5.2 Payments to directors

- (a) All payments to directors must be approved by the directors including, but not limited to:
 - (i) directors fees;
 - (ii) out-of-pocket expenses incurred by a director in performing a duty as a director of the company; or
 - (iii) a service rendered to the company by a director in a professional or technical capacity or as an employee, other than in the capacity as a director of the company, where:
 - the provision of the service has the prior approval of the directors; and
 - the amount payable is not more than an amount which commercially would be reasonable payment for the service

6. LIABILITY OF MEMBER

6.1 The liability of the members is limited to the amount of the guarantee given in Article 7.

7. GUARANTEE BY MEMBER

7.1 Every member undertakes to contribute an amount not more than \$10.00 to the property of the company if it is wound up while the person is a member or within one year after the person ceases to be a member, for:

- (a) payment of the company's debts and liabilities contracted before the time he or she ceased to be a member; and
- (b) the costs, charges and expenses of winding up.

8. WINDING UP

8.1 If, on the winding up or dissolution of the company, any property remains after satisfaction of all its debts and liabilities, this property must only be given or transferred to a fund, authority or institution:

- (a) that is charitable at law; and
- (b) whose constitution prohibits distributions or payments to its members and directors (if any) to an extent at least as great as is outlined in Article 5.

8.2 The identity of the fund, authority or institution referred to in Article 8.1 must be decided by the directors, or if the directors do not wish to decide or do not decide, it must be decided by the members by ordinary resolution at or before the time of winding up or dissolution of the company and, if the members cannot or do not decide, by the Supreme Court of the state or territory in which the company is registered.

9. REPLACEABLE RULES

9.1 Unless the contrary intention appears:-

- (a) an expression used in an Article that deals with a matter dealt with by a provision of the Act has the same meaning as in that provision; and
- (b) subject to Article 10.1, an expression in a Article that has a defined meaning for the purposes of the Act has the same meaning as in the Act.

9.2 Replaceable Rules displaced

- (a) The provisions of this constitution displace each provision of a section or subsection of the Act that applies (or would apply but for this Article) to the company.
- (b) The replaceable Rules do not apply to the company except those which operate as mandatory Rules for public companies under the Act.

10. DEFINITIONS

10.1 In this Constitution

“Act” means the Corporations Act 2001 (Commonwealth).

“AGM” means the Annual General Meeting of Members.

“Article” means an article of this Constitution.

“Board” means the board of directors of the Company, which is constituted by the persons who hold office as directors, from time to time.

“Business Day” means a day except a Saturday, Sunday or public holiday in (nominate the relevant Australian State or Territory).

“Cessation Event” means:

- (a) death or bankruptcy of that Member; or
- (b) that Member becoming of unsound mind or becoming a person whose property is liable to be dealt with under a law about mental health.

“Directors” mean the directors of the Company for the time being.

“Expulsion Event” means, in respect of a Member:

- (a) the Member has intentionally, recklessly or negligently breached a provision of this Constitution;
- (b) the conduct of the Member, in the opinion of the Directors, is unbecoming of the Member or prejudicial to the interests or reputation of the Company; or
- (c) the Member is, or any step is taken for the Member to become, either an insolvent under administration.

“Fees” means a fee or levy payable by Members as determined by Members from time to time in General Meeting.

“General Meeting” means a meeting of the Members of the Company.

“Legal Costs” of a person means legal costs incurred by that person in defending an action for a Liability of that person.

“Liability” of a person means a liability incurred by that person as an officer of the Company or a subsidiary of the Company.

“Member” means a person whose name is entered in the Register as a Member of the Company.

“Notice” means a notice given pursuant to, or for the purpose of, this Constitution or the Act.

“Prescribed Notice” means 21 days or any shorter period of notice for a meeting allowed under the Act.

“Register” means the register of Members kept under the Act.

“Relevant Officer” means a person who is, or has been, a Director or Secretary.

“Resolution” means a resolution other than a special resolution.

“Seal” means the common seal of the Company and includes any official seal of the Company.

“Secretary” means any person appointed to perform the duties of Secretary of the Company and includes an Honorary Secretary.

“Special Resolution” means a resolution:

- (a) of which notice has been given; and
- (b) that has been passed by at least 75% of the votes cast by Members entitled to vote on the resolution.

11. INTERPRETATION

11.1 In this Constitution:

- (a) a reference to a meeting of Members includes a meeting of any category of Members;
- (b) a Member is taken to be present at a meeting of Members if the Member is present in person; or
- (c) a reference to a notice or document in writing includes a notice or document given by fax, email or any other form of written communication.

11.2 In this Constitution, headings are for convenience only and do not affect interpretation and unless the context indicates a contrary intention:

- (a) a reference to a function includes a reference to a power, authority or duty;
- (b) a reference to the exercise of a function includes, where the function is a power, authority or duty, a reference to the exercise of the power or authority of the performance of the duty;
- (c) words importing the singular include the plural (and vice versa);
- (d) words indicating a gender include every other gender;
- (e) the word “person” includes an individual, the estate of an individual, a corporation, unincorporated enterprise, sole trader, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;

- (f) where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning; and
 - (g) the word “includes” in any form is not a word of limitation.
- 11.3 Unless the context indicates a contrary intention, in this Constitution:
- (a) a reference to an Article is to an article of this Constitution; and
 - (b) a reference to this Constitution, is to this Constitution (and where applicable any of its provisions) as modified or repealed from time to time.
- 11.4 Unless the context indicates a contrary intention, in this Constitution, a reference to any statute or to any statutory provision includes any statutory modification or re-enactment of it or any statutory provision substituted for it, and all ordinances, by-laws, regulations, Articles and statutory instruments (however described) issued under it.
- 11.5 Unless the context indicates a contrary intention, in this Constitution:
- (a) an expression that deals with a matter dealt with by a provision of the Corporations Act has the same meaning as in that provision; and
 - (b) an expression that is defined in the Act has the same meaning as in that section.
- 11.6 Expressions referring to “writing” shall unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form.

12. MEMBERS

12.1 Membership classes

- (a) The membership of the Company shall be divided into classes as follows:
 - (i) Full Members; and
 - (ii) Associate Members
- (b) All natural persons and corporations who were members of the company on the date when this provision was adopted remained members on that date.
- (c) All members have the right to receive notice of and to attend and speak at meetings of the company.
- (d) The only members who may vote at meetings of the Company are financial Full Members and each of them has only one vote irrespective of size.
- (e) Each applicant for membership must be a corporation or natural person who represents a partnership or a natural person who is a sole trader, which corporation, partnership or sole trader is in the case of a Full Member actively involved in Australia and/or New Zealand in manufacturing, wholesaling, distributing, or retailing products or supplying services connected with any one or more of the foregoing activities, for children’s & family leisure, learning and entertainment and in the case of an Associate Member, actively involved in a country other than Australia or New Zealand in manufacturing, wholesaling, distributing, or retailing products or supplying services connected with any one or more of the foregoing activities, for children’s & family leisure, learning and entertainment.

12.2 Register of Members

- (a) The Company must keep a Register of Members.
- (b) Persons may be admitted by the Board from time to time as Members.

12.3 Application for Membership

- (a) Every applicant for membership of the company shall be proposed by another member of the company. The application for membership shall be made in writing, signed by the applicant and proposer and shall be in such form as the Board from time to time prescribes and includes the applicant agreeing to accept the Company's Code of Conduct as adopted and amended by the Board from time to time.

When lodging an application for membership, every applicant must pay the then current application fee as set by the Board. The Board may set the level of application fee payable by applicants for membership by resolution and may similarly vary the level of the application fee from time to time. Application fees are non-refundable and are not offset against the initial annual subscription.

- (b) At the next meeting of the Board after the receipt of any application for membership, such application shall be considered by the Board, who shall thereupon determine upon the admission or rejection of the applicant. In no case shall the Board be required to give any reason for the rejection of an applicant.

When an applicant has been accepted for membership the Secretary shall forthwith send to the applicant written notice of their acceptance and a request for payment of the first annual subscription. Upon payment of the first annual subscription the applicant shall become a member of the company, provided nevertheless that if such payment be not made within two (2) calendar months after the date of the notice, the Board may in its discretion cancel its acceptance of the applicant for membership of the company.

12.4 Membership not transferable

- (a) The rights and privileges of any Member shall be personal to the Member and are not transferable.

12.5 Subscriptions

- (a) The annual subscription payable by members is set by the Board from time to time. Different annual subscriptions may be set for different groups of members, where the groupings are defined by reference to the members' turnovers or other objective measures. The company from time to time by ordinary resolution passed at a general meeting may increase or reduce the annual subscriptions prescribed by the board for any group of members.
- (b) All annual subscriptions shall become due and payable in advance on the First day of July in every year.

13. CESSATION OF MEMBERSHIP

13.1 Ceasing to be a Member

- (a) A person will cease to be a Member if:
 - (i) the Member resigns in accordance with Article 13.2 ; or
 - (ii) a Cessation Event occurs in respect of the Member.
- (b) The estate of a deceased Member is not released from any liability in respect of that person being a Member.

13.2 Resignation and Cessation of Membership

- (a) A Member may resign as a Member by giving the Company (specify period) notice in writing.
- (b) Unless the notice provides otherwise, a resignation by a Member takes effect immediately on the giving of that notice to the Company.

13.3 If the subscription of a member shall remain unpaid for a period of two (2) calendar months after it becomes due then the member may after notice of the default shall have been sent by the Secretary be suspended by resolution of the Board from all privileges of membership provided that the Board may reinstate the member on payment of all arrears if the Board thinks fit to do so.

13.4 A member may at any time by giving notice in writing to the Secretary resign his or her membership of the company but shall continue to be liable for any annual subscription and all arrears due and unpaid at the date of the resignation and for all other moneys due to the company and in addition for any sum not exceeding ten (10) dollars for which a member of the company is liable under Article 7.

13.5 If any member shall wilfully refuse or neglect to comply with the provisions of the Constitution of the company or shall be guilty of any conduct which in the opinion of the Board is unbecoming of a member or prejudicial to the interest of the company the Board shall have power by resolution to censure fine suspend or expel the member from the company.

13.6 Provided that at least four (4) weeks before the meeting of the Board at which such a resolution is considered the member shall have had notice of such meeting and of what is alleged against him or her and of the intended resolution and that he or she shall at such meeting and before the passing of such resolution have had an opportunity of giving orally or in writing any explanation or defence he or she may think fit and provided further that any such member may by notice in writing lodged with the Secretary at least one (1) week 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 company in general meeting and in that event an extraordinary general meeting of the company 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 a vote to be taken by ballot) the member concerned shall be dealt with accordingly and in the case of a resolution for his or her expulsion the member shall be expelled.

14. GENERAL MEETINGS

14.1 Calling general meetings

- (a) A general meeting may only be called
 - (i) by a directors' resolution; or
 - (ii) in accordance with a members' requisition under the Act, or
 - (iii) as otherwise provided in the Act
- (b) The directors may change the venue for, postpone or cancel a general meeting, provided that if the general meeting was not called by a directors' resolution or was called in accordance with a members' requisition under the Act, then it may not be postponed or cancelled without the prior written consent of the persons who called or requisitioned the meeting.

14.2 Notice of general meetings

- (a) Notice of every general meeting must be given in any manner authorised by Article 14 to each person who is at the date of the notice:
 - (i) a member;
 - (ii) a director; or
 - (iii) the Auditor.
- (b) A notice of a general meeting must:
 - (i) specify the date, time and place of the meeting;
 - (ii) except as provided by the Act, state the general nature of the business to be transacted at the meeting; and
 - (iii) specify a place, fax number or electronic address for the receipt of proxies.
- (c) A person may waive notice of a general meeting by written notice to the company.
- (d) The non-receipt of notice of a general meeting or proxy form by, or a failure to give notice of a general meeting or a proxy form to, any person entitled to receive notice of a general meeting does not invalidate anything done or resolution passed at the general meeting if:
 - (i) the non-receipt or failure occurred by accident or error; or
 - (ii) before or after the meeting, the person has notified or notifies the company of the person's agreement to that thing or resolution.
- (e) A person's attendance at a general meeting waives any objection that person may have to:
 - (i) a failure to give notice, or the giving of a defective notice, of the meeting unless, at the beginning of the meeting, the person objects to the holding of the meeting; and
 - (ii) the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting, unless the person objects to considering the matter when it is presented.

14.3 Quorum at general meetings

- (a) No business may be transacted at a general meeting, except the election of a chairperson and the adjournment of the meeting, unless a quorum of members is present when the meeting proceeds to business.
- (b) A quorum consists of five (5) members entitled to vote and present at the meeting, or as otherwise determined by the members from time to time.
- (c) If a quorum is not present within 30 minutes after the time appointed for a general meeting:
 - (i) where the meeting was convened on the requisition of members, the meeting must be dissolved; or Australian Toy Association Limited Constitution
 - (ii) in any other case the meeting stands adjourned to the day, and at the time and place, that the directors decide or, if the directors do not make a decision, to the same day in the next week at the same time and place.
- (d) If at the adjourned meeting under Article 14.3(c)(ii), a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

14.4 General meetings by technology

- (a) The contemporaneous linking together by telephone or other electronic means of a sufficient number of the members in person, to constitute a quorum constitutes a meeting of the members, provided each member has a reasonable opportunity to participate at the meeting.
- (b) All the provisions in this constitution relating to meetings of the members apply, so far as they can and with any necessary changes, to meetings of the members by telephone or other electronic means.
- (c) A member who takes part in a meeting by telephone or other electronic means is taken to be present in person at the meeting.
- (d) A meeting by telephone or other electronic means is taken as held at the place decided by the chairperson of the meeting, as long as at least one of the members involved was at that place for the duration of the meeting.

14.5 Chairperson of general meetings

- (a) The chairperson of directors must preside as chairperson at a general meeting if present within 15 minutes after the time appointed for the meeting and willing to act.
- (b) If there is no chairperson of directors or both the conditions in Article 14.5(a) have not been met, the members present must elect another chairperson of the meeting.
- (c) A chairperson elected under Article 14.5(b) must be:
 - (i) another director who is present and willing to act; or
 - (ii) if no other director present at the meeting is willing to act, a member who is present and willing to act.

14.6 Conducting and adjourning general meetings

- (a) A question arising at a general meeting relating to the order of business, procedure or conduct of the meeting must be referred to the chairperson of the meeting, whose decision is final.
- (b) The chairperson of a general meeting may, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting except the business left unfinished at the meeting from which the adjournment took place
- (c) Where a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as for an original meeting.
- (d) Except as provided by Article 14.6(c), it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
- (e) Where a meeting is adjourned, the directors may change the venue of, or postpone or cancel, the adjourned meeting, unless the meeting was called and arranged to be held by the members or the court under the Act. If a meeting is called and arranged to be held under section 249D of the Act, the directors may not postpone it beyond the date by which section 249D requires it to be held and may not cancel it without the consent of the requisitioning member.

14.7 Decisions at general meetings

- (a) Except where by law a resolution requires a special majority, questions arising at a general meeting must be decided by a majority of votes cast by the members present at the meeting. Such a decision is for all purposes a decision of the members.
- (b) Where the votes on a proposed resolution are equal:
 - (i) the chairperson of the meeting does not have a second or casting vote; and
 - (ii) the proposed resolution is taken as lost.
- (c) A resolution put to the vote of a general meeting must be decided on a show of hands unless, before the vote is taken or before or immediately after the declaration of the result of the show of hands, a poll is demanded by:
 - (i) the chairperson of the meeting;
 - (ii) at least two (2) members present and with the right to vote on the resolution; or
 - (iii) a member or members present at the meeting and representing at least 5% of the total voting rights of all the members entitled to vote on the resolution on a poll.
 - (iv) A demand for a poll does not prevent a general meeting continuing for the transaction of any business except the question on which the poll has been demanded.
 - (v) Unless a poll is duly demanded, a declaration by the chairperson of a general meeting 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 book containing the minutes of the proceedings of the company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

- (vi) If a poll is duly demanded at a general meeting, it must be taken in such manner, and either at once or after an interval or adjournment or otherwise, as the chairperson of the meeting directs. The result of the poll is the resolution of the meeting at which the poll was demanded.
- (vii) A poll demanded at a general meeting on the election of a chairperson of the meeting or on a question of adjournment must be taken immediately.
- (viii) The demand for a poll may be withdrawn. If the company has only one member, the company may pass a resolution by the member recording it and signing the record.

14.8 Voting rights

- (a) Subject to this constitution and to any rights or restrictions attached to any class of membership, at a general meeting every member present has one vote.
- (b) A proxy, attorney or representative is entitled to a separate vote for each member the person represents, in addition to any vote the person may have as a member in his or her own right.
- (c) An objection to the qualification of a person to vote at a general meeting must be:
 - (i) raised before or at the meeting at which the vote objected to is given or tendered; and
 - (ii) referred to the chairperson of the meeting, whose decision is final.
- (d) A vote not disallowed by the chairperson of a meeting under Article 14.8(c) is valid for all purposes.

14.9 Representation at general meetings

- (a) Subject to this constitution, each member entitled to vote at a meeting of members may vote:
 - (i) in person or, where a member is a body corporate, by its representatives;
 - (ii) by one proxy; or
 - (iii) by one attorney.
- (b) A proxy, attorney or representative may, but need not, be a member of the company.
- (c) A proxy, attorney or representative may be appointed for all general meetings, or for any number of general meetings, or for a particular general meeting.

14.10 Authority of a proxy, attorney or representative

- (a) Unless otherwise provided in the instrument, an instrument appointing a proxy, attorney or representative is to be taken to confer authority:
 - (i) to agree to a meeting being convened by shorter notice than is required by the Act or by this constitution; and
 - (ii) to agree to a resolution being proposed and passed as a special resolution at a meeting of which less than the period of notice required by the Act has been given.

- (b) Even though the instrument (appointing a proxy, attorney or representative) may refer to specific resolutions and may direct the proxy, attorney or representative how to vote on those resolutions, unless otherwise provided, it is taken to confer authority:
 - (i) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
 - (ii) to vote on any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the meeting; and
 - (iii) to act generally at the meeting.
- (c) An instrument appointing a proxy, attorney or representative may direct the manner in which the proxy, attorney or representative is to vote in respect of a particular resolution and, where an instrument so provides, the proxy, attorney or representative is not entitled to vote on the proposed resolution except as directed in the instrument.
- (d) Subject to Article 14.10(e), an instrument appointing a proxy, attorney or representative need not be in any particular form as long as it is in writing, legally valid and signed by or on behalf of the appointer or the appointer's attorney.
- (e) A proxy, attorney or representative may not vote at a general meeting or adjourned meeting or on a poll unless the instrument appointing the proxy, attorney or representative, and the authority under which the instrument is signed or a certified copy of the authority, are:
 - (i) received at the registered office of the company, a fax number at the company's registered office or at another place, fax number or electronic address specified for that purpose in the notice convening the meeting before the time specified in the notice;
 - (ii) in the case of a meeting or an adjourned meeting, tabled at the meeting or adjourned meeting at which the person named in the instrument proposes to vote; or
 - (iii) in the case of a poll, produced when the poll is taken
- (f) The directors may waive all or any of the requirements of Articles 14.10(d) and 1410(e) and in particular may, on the production of such other evidence as the directors require to prove the validity of the appointment or a proxy, attorney or representative, accept:
 - (i) an oral appointment of a proxy, attorney or representative;
 - (ii) an appointment of a proxy, attorney or representative which is not signed in the manner required by Article 14.10(d); and
 - (iii) the deposit, tabling or production of a copy (including a copy sent by fax) of an instrument appointing a proxy, attorney or representative or of the power of attorney or other authority under which the instrument is signed.
- (g) A vote given in accordance with the terms of an instrument appointing a proxy, attorney or representative is valid despite the revocation of the instrument or of the authority under which the instrument was executed, if no written notice of the revocation has been received by the company by the time and at one of the places at which the instrument appointing the proxy, attorney or representative is required to be deposited, tabled or produced under Article 14.10(e).
- (h) The appointment of a proxy or attorney is not revoked by the appointer attending and taking part in the general meeting but, if the appointer votes on a resolution, the person

acting as proxy or attorney for the appointer is not entitled to vote, and must not vote, as the appointer's proxy or attorney on the resolution.

15. BOARD – DIRECTORS AND OFFICE BEARERS

15.1 appointing and removing directors

- (a) The minimum number of directors is five (5), and in the case of such a minimum number all five (5) are to be elected directors. The maximum number of directors is to be fixed by the directors, but may not be more than ten (10) unless the company in general meeting resolves otherwise. The directors must not determine a maximum which is less than the number of directors in office at the time the determination takes effect.
- (b) The Board shall consist of no more than ten (10) directors of whom no more than eight (8) are to be elected and up to two (2) are appointed.
- (c) The directors may appoint any individual as a director, either to fill a casual vacancy or as an addition to the existing elected directors, provided:
 - (i) the number of directors does not exceed the maximum number fixed under Article 15.1(a) ; and
 - (ii) before appointing the director, the proposed director signs a consent to act as a director.

15.2 Retirement of directors by rotation

- (a) A director appointed by the directors under Article 15.2 who is not an executive director, holds office only until the conclusion of the next annual general meeting following his or her appointment.
- (b) At every annual general meeting if the number of directors, (after excluding any executive directors and any directors appointed by the directors under Article 15.1(b) and standing for election),
 - (i) is five (5) or less, then two (2) of the remaining directors must retire from office; or
 - (ii) if the number is more than five (5), one third of those directors (to the nearest whole number) must retire from office.
 - (iii) No director (excluding any executive director) may hold office without re-election beyond the third annual general meeting following the meeting at which the director was last elected or re-elected.
 - (iv) The directors to retire under Article 15.2(b) are those directors who wish to retire and not offer themselves for re-election, those directors required to retire under Article 15.2(c) and, so far as is necessary to obtain the number required, those who have been longest in office since their last election or appointment. As between directors who were last elected or appointed on the same day, those to retire must, unless they can agree among themselves, be decided by lot.
 - (v) The directors to retire under Article 15.2(b) (both as to number and identity) is decided having regard to the composition of the board of directors at the date of the notice calling the annual general meeting. A director is not required to retire and is not relieved from retiring because of a change in the number or identity of the directors after the date of the notice but before the meeting closes.

- (vi) A director retiring from office is eligible for re-election subject to a maximum term of 9 years, unless the maximum term is varied for a particular director by the directors.
- (vii) The retirement of a director from office and the re-election of the director or the election of another person to that office (as the case may be) takes effect at the conclusion of the meeting at which the retirement and re-election or election occur.

15.3 Vacation of office

- (a) The office of a director becomes vacant:
 - (i) in the circumstances prescribed by the Act;
 - (ii) if the director becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health;
 - (iii) if the director is removed from office by resolution of the members in accordance with the Act;
 - (iv) if the director fails to attend meetings of the directors for at least three (3) consecutive meetings or at least four (4) meetings over a period of 12 months without leave of absence; or
 - (v) if the director resigns by written notice to the company.

15.4 Directors may contract with the company and hold other offices

- (a) The directors may make regulations requiring the disclosure of interests that a director, and any person considered by the directors as related to or associated with the director, may have in any matter concerning the company or a related body corporate. Any regulations made under this constitution bind all directors but no act, transaction, agreement, instrument, resolution or other thing with a third party is invalid or voidable only because a director fails to comply with the regulations.
- (b) Unless the Act permits, a director who has a material personal interest in a matter that is being considered at a directors' meeting must not:
 - (i) be present while the matter is being considered at the meeting; or
 - (ii) vote on the matter.
- (c) A director is not disqualified from contracting or entering into an arrangement with the company as vendor, purchaser or in another capacity, merely because the director holds office as a director or because of the fiduciary obligations arising from that office, provided that such contract or arrangement is approved by the directors of the company.
- (d) A contract or arrangement entered into by or on behalf of the company in which a director is in any way interested is not invalid or voidable merely because the director holds office as a director or because of the fiduciary obligations arising from that office.
- (e) A director who is interested in any arrangement involving the company is not liable to account to the company for any profit realised under the arrangement merely because the director holds office as a director or because of the fiduciary obligations arising from that office, provided that the director complies with the disclosure requirements applicable to the director under any regulations adopted by the directors, and under the Act regarding that interest.

- (f) A director may hold any other office or position (except Auditor) in the company or any related body corporate in conjunction with his or her directorship and may be appointed to that office or position on terms (including remuneration and tenure) the directors decide.
- (g) A director may be or become a director or other officer of, or interested in, any related body corporate or any other body corporate associated with the company, and, with the consent of the directors of the company, need not account to the company for any remuneration or other benefits the director receives as a director or officer of, or from having an interest in, that body corporate.
- (h) The directors may exercise the voting rights conferred by shares in any body corporate held or owned by the company in the manner in all respects that they think fit.

15.5 Office Bearers

- (a) The office-bearers of the company are a president and vice-president (both of whom are elected by the Board from amongst their own ranks).
 - (i) The president holds office for a period of two years from the date of his or her election and is eligible to stand for election for a consecutive term of two years.
 - (ii) The president and vice-president for the time being shall retire every two years and shall be eligible for re-election, provided that the president shall not be eligible for re-election if he or she has already served two consecutive terms.
 - (iii) Any retiring president, if ineligible to stand for president or, if standing, is not re-elected as president, is eligible to remain on the Board for the remaining years of his/her term as a director immediately after non-election.
 - (iv) Any retiring president, if ineligible to stand by virtue of having just completed two consecutive terms as president, must retire from his or her office for a period of at least two years before being eligible to again stand for election as president.

15.6 Powers and duties of directors

- (a) The directors are responsible for managing the company's affairs and carrying out the objects of the company. The directors may exercise to the exclusion of the company in general meeting all the company's powers which are not required, by the Act or by this constitution, to be exercised by the company in general meeting.
- (b) The directors may decide how cheques, promissory notes, bankers drafts, bills of exchange or other negotiable instruments must be signed, drawn, accepted, endorsed or otherwise executed (as applicable) by or on behalf of the company.
- (c) The directors may:
 - (i) appoint or employ an officer, agent or attorney of the company with the powers, discretions and duties vested in or exercisable by the directors, on the terms the directors decide;
 - (ii) authorise an officer, agent or attorney to delegate all or any of the powers, discretions and duties vested in the officer, agent or attorney; and
 - (iii) subject to any contract between the company and the relevant officer, agent or attorney, remove or dismiss any officer, agent or attorney at any time, with or without cause.

- (d) A power of attorney may contain any provisions for the protection and convenience of the attorney or persons dealing with the attorney that the directors think fit

15.7 Proceedings of directors

- (a) The directors may meet together and adjourn and otherwise regulate their meetings as they think fit.
- (b) The contemporaneous linking together by telephone or other electronic means of a sufficient number of the directors to constitute a quorum constitutes a meeting of the directors. All the provisions in this constitution relating to meetings of the directors apply, so far as they can and with any necessary changes, to meetings of the directors by telephone or other electronic means.
- (c) A director who takes part in a meeting by telephone or other electronic means or technology is taken to be present in person at the meeting.
- (d) A meeting by telephone or other electronic means or technology is taken as held at the place decided by the chairperson of the meeting, as long as at least one of the directors involved was at that place for the duration of the meeting.
- (e) If, before or during the meeting, any technical difficulty occurs as a result of which one or more directors cease to participate, the chairperson may adjourn the meeting until the difficulty is remedied or may, where a quorum of directors remains present, continue with the meeting.

15.8 Convening meetings of directors

- (a) A director may convene a meeting of the directors whenever he or she thinks fit.
- (b) A secretary must, on the requisition of a director, convene a meeting of the directors.

15.9 Notice of meetings of directors

- (a) Subject to this constitution, notice of a meeting of directors must be given to each person who is at the time of giving the notice a director, except a director on leave of absence approved by the directors.
- (b) A notice of a meeting of directors:
 - (i) must specify the time and place of the meeting;
 - (ii) need not state the nature of the business to be transacted at the meeting;
 - (iii) must give reasonable notice of the meeting; and
 - (iv) may be given in person or by post, telephone, fax or other electronic means.
- (c) A director may waive notice of a meeting of directors by notifying the company to that effect in person or by post, telephone, fax or other electronic means.
- (d) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, a director does not invalidate anything done or resolution passed at the meeting if:
 - (i) the non-receipt or failure occurred by accident or error;
 - (ii) the director has waived or waives notice of that meeting under Article 15.8(c) before or after the meeting;

- (iii) the director has notified or notifies the company of his or her agreement to that thing or resolution personally or by post, telephone, fax or other electronic means before or after the meeting; or
 - (iv) the director attended the meeting.
- (e) Attendance by a person at a meeting of directors waives any objection which that person may have to a failure to give notice of the meeting.

15.10 Quorum at meetings of directors

- (a) No business may be transacted at a meeting of directors unless a quorum of directors is present at the time the business is dealt with.
- (b) A quorum consists of a majority of directors present at the meeting.
- (c) If there is a vacancy in the office of a director then, subject to Article 15.9(d), the remaining directors may act.
- (d) If the number of directors in office at any time is not sufficient to constitute a quorum, or is less than the minimum number of directors fixed under this constitution, the remaining directors must act as soon as possible to appoint additional directors, as required, and, until that has happened, may only act if and to the extent that there is an emergency requiring them to act.

15.11 Chairperson of directors

- (a) The directors may elect one of the directors as chairperson of directors and may decide the period for which that director is to be the chairperson.
- (b) The chairperson of directors must preside as chairperson at each meeting of directors if present within 10 minutes after the time appointed for the meeting and willing to act.
- (c) If there is no chairperson of directors or both the conditions in Article 15.10(b) have not been met, the directors present must elect one of the directors as chairperson of the meeting.

15.12 Decisions of directors

- (a) A meeting of directors at which a quorum is present may exercise all the powers and discretions vested in or exercisable by the directors under this constitution.
- (b) Questions arising at a meeting of directors must be decided by a majority of votes cast by the directors present. Such a decision is for all purposes a decision of the directors.
- (c) Where the votes on a proposed resolution are equal the chairperson of the meeting shall have a second or casting vote.

15.13 Written resolutions of directors

- (a) A resolution is taken to have been passed by a meeting of directors if:
 - (i) all of the directors (other than any director on leave of absence approved by the directors, any director who disqualifies himself or herself from considering the resolution in question and any director who would be prohibited by the Act from voting on the resolution in question) sign or consent to a written resolution; and
 - (ii) the directors who sign or consent to the resolution would have constituted a quorum at a meeting of directors held to consider that resolution.
- (b) A director may consent to a resolution by:

- (i) signing the document containing the resolution (or a copy of that document);
- (ii) giving to the company at its registered office a written notice (including by fax or other electronic means) addressed to the secretary or to the chairperson of directors signifying assent to the resolution and either setting out its terms or otherwise clearly identifying them; or
- (iii) telephoning the secretary or the chairperson of directors and signifying assent to the resolution and clearly identifying its terms.

15.14 Minutes of meetings and minutes of resolutions

- (a) The directors must ensure minutes of proceedings and resolutions of general meetings and of meetings of directors (including committees of directors) are recorded in books kept for the purpose, within one month after the relevant meeting is held.
- (b) The directors must ensure minutes of resolutions passed by directors (and committees of directors) without a meeting are recorded in books kept for that purpose within one month after the resolution is passed.
- (c) The minutes of a meeting must be signed within a reasonable time by the chairperson of the meeting or the chairperson of the next meeting.

15.15 Committees of directors

- (a) The directors may delegate any of their powers to one or more committees consisting of the number of directors they think fit.
- (b) A committee to which any powers have been delegated must exercise the powers delegated in accordance with any directions given by the directors.
- (c) The provisions of this constitution that apply to meetings and resolutions of directors apply, so far as they can and with any necessary changes, to meetings and resolutions of a committee of directors.

15.16 Delegation to individual directors

- (a) The directors may delegate any of their powers to one director.
- (b) A director to whom any powers have been delegated must exercise the powers delegated in accordance with any directions given by the directors.

15.17 Validity of acts

- (a) An act done by a person acting as a director, a meeting of directors, or a committee of directors attended by a person acting as a director, is not invalidated merely because of one of the following circumstances, if that circumstance was not known by the person, the directors or the committee (as applicable) when the act was done:
 - (i) a defect in the appointment of the person as a director;
 - (ii) the person being disqualified to be a director or having vacated office; or
 - (iii) the person not being entitled to vote.

16. MINUTES

- 16.1 The Company must keep minute books in which it records:
- (a) proceedings and resolutions of General Meetings;
 - (b) proceedings and resolutions of Board meetings (including meetings of a committee of the Board);
 - (c) resolutions passed by members of the Board without a meeting.
- 16.2 The members of the Board must ensure that the minutes of a meeting are signed within a reasonable time after the meeting by one of the following:
- (a) the chair of the meeting;
 - (b) the chair of the next meeting.
- 16.3 The members of the Board must ensure that a member of the Board signs minutes of the passing of a resolution without a meeting within a reasonable time after the resolution is passed.
- 16.4 A minute that is so recorded and signed shall be conclusive evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.

17. FINANCIAL REPORTS AND PROPERTY

- 17.1 The Board must apply the income and property of the Company solely towards the promotion of the objects of the Company as set forth in this Constitution and none of it may be paid or transferred, directly or indirectly, to Members, either by dividend, bonus or otherwise.
- 17.2 No member of the Board shall be paid any salary or fees or receive any remuneration or other benefit in money or money's worth from the Company.
- 17.3 Articles 17.1 and 17.2 do not prevent the Board in good faith authorising:
- (a) the payment of:
 - (i) reasonable and proper remuneration or fees to any Member (excluding a member of the Board) or employee for any goods or services provided or rendered to the Company;
 - (ii) any debt or any reasonable and proper fees to any member of the Board under a contract between the Company and that Member of the Board for the provision of goods or services which are outside the scope of the ordinary duties of a director;
 - (iii) reasonable and proper rent for premises demised or let to the Company by any Member (including a Member of the Board);
 - (iv) interest at a rate not exceeding the lowest rate paid for the time being by the Company's bank in respect of term deposits on money borrowed from any Member (including a member of the Board);
 - (b) the reimbursement of any member of the Board for out-of-pocket expenses properly incurred:
 - (i) in attending and returning from Board meetings or any meetings of committees of members of the Board;

- (ii) in attending any General Meetings; and
 - (iii) in connection with the Company's business.
- 17.4 All payments to members of the Board must be approved at a meeting of the Board.
- 17.5 The Board may employ a Public Trustee or a trustee company for the purpose of acting as a custodian trustee of the documents and securities of the Company.
- 17.6 Any Public Trustee or trustee company so employed may be remunerated in accordance with its published scale of fees, commissions and charges.
- 17.7 The Company must keep written financial records which:
 - (a) correctly record and explain its transactions and financial position and performance; and
 - (b) would enable true and fair financial statements to be prepared and audited.
- 17.8 A properly qualified auditor or auditors is to be appointed to examine the financial records.
- 17.9 The Company must report to Members for a financial year by either:
 - (a) sending or making available to Members upon request via electronic means copies of:
 - (i) the financial report for the year; and
 - (ii) the Board's report for the year; and
 - (iii) the auditor's report on the financial report; or
 - (b) sending or making available to Members upon request a concise report for the year that complies with Article 17.10.
- 17.10 A concise report for a financial year consists of:
 - (a) a concise financial report for the year drawn up in accordance with accounting standards made for the purposes of this Article; and
 - (b) the Board's report for the year; and
 - (c) a statement by the auditor:
 - (i) that the financial report has been audited; and
 - (ii) whether, in the auditor's opinion, the concise financial report complies with the accounting standards made for the purposes of Article 17.7(a); and
 - (d) a copy of any qualification in, and of any statements included in, the auditor's report on the financial report; and
 - (e) a statement that the report is a concise report and that the full financial report and auditor's report will be sent to the Member free of charge if the Member asks for them.
- 17.11 A Member may request the Company:
 - (a) not to send them the material required by Article 17.9; or
 - (b) to send them a full financial report and the Board's report and auditor's report.
- 17.12 A request may be a standing request or for a particular financial year. The Member is not entitled to a report for a financial year earlier than the one before the financial year in which the request is made.
- 17.13 A full financial report, the Board's report and auditor's report are to be sent electronically free of charge to Members upon request.

17.14 A Member has a right of access to the financial records at all reasonable times.

18. COMMON SEAL AND EXECUTION OF DOCUMENTS

18.1 The Company may execute a document without using a common seal if the document is signed by:

- (a) two members of the Board;
- (b) a member of the Board and the Secretary .

18.2 If the Company has a seal:

- (a) the members of the Board shall provide for its safe custody of the seal;
- (b) it may only be used only with the authority of the members of the Board, or of a committee of the members of the Board authorised by the members of the Board to authorise the use of the seal.

18.3 The Company also may execute a document if the seal is fixed to the document and the fixing of the seal is witnessed by:

- (a) two members of the Board;
- (b) a member of the Board and the Secretary .

18.4 The Company may execute a document as a deed if the document is expressed to be executed as a deed and is executed in accordance with Articles 18.1 or 18.2, but this does not limit the ways in which the Company may execute a document (including a deed).

18.5 A member of the Board may sign an instrument to which the seal of the Company is affixed even though the Member of the Board is interested in the contract or arrangement to which the instrument relates.

18.6 A person acting with the Company's authority and on its behalf can exercise the Company's power to sign, discharge and otherwise deal with contracts.

19. INDEMNITY AND INSURANCE

19.1 The indemnity and insurance referred to in this Article 19 apply to Indemnified Officers.

19.2 Indemnity

- (a) The company must indemnify, on a full indemnity basis and to the full extent permitted by law, each Indemnified Officer against all losses or liabilities (including costs and expenses) incurred by the person as an officer of the company.
- (b) This indemnity:-
 - (i) is a continuing obligation and is enforceable by an Indemnified Officer even though that person has ceased to be an officer of the company; and
 - (ii) operates only to the extent that the loss or liability in question is not covered by insurance.

19.3 Insurance

- (a) The company may, to the extent permitted by law, purchase and maintain insurance; or pay or agree to pay a premium for insurance, for any Indemnified Officer against any

liability incurred by the person as an officer of the company where the directors consider it appropriate to do so.

19.4 Savings - Nothing in this Article 19:

- (a) affects any other right or remedy that an Indemnified Officer may have in respect of any loss or liability referred to in this indemnity or insurance; or
- (b) limits the capacity of the company to indemnify or provide or pay for insurance for any person to whom this Article 19 does not apply.

20. AUDITOR

20.1 The company must appoint a properly qualified Auditor whose duties will be regulated in accordance with the Act.

21. NOTICES

21.1 Notices by the company to members

- (a) The company may give notices, including a notice of general meeting to a member:
 - (i) personally;
 - (ii) by sending it by post to the address for the member in the register of members or the alternative address (if any) nominated by the member; or
 - (iii) by sending it to the fax number or electronic address (if any) nominated by the member.

21.2 Notices by the company to directors

- (a) Subject to this constitution, a notice may be given by the company to any director by:
 - (i) serving it personally at the director's usual residential or business address;
 - (ii) sending it by post in a prepaid envelope to the director's usual residential or business address; or
 - (iii) by electronic means or fax to such electronic address or fax number, as the director has supplied to the company for giving notices.

21.3 Notices by member or directors to the company

- (a) Subject to this constitution, a notice may be given by a member or director to the company by:
 - (i) serving it on the company at the registered office of the company;
 - (ii) sending it by post in a prepaid envelope to the registered office of the company; or
 - (iii) by fax or electronic means to the principal fax number or the principal electronic address of the company at its registered office.

21.4 Time of service

- (a) Where a notice is sent by post, service of the notice is to be taken to be effected if a prepaid envelope containing the notice is properly addressed and placed in the post and to have been effected:
 - (i) in the case of a notice of a general meeting, on the Business Day after the date of its posting; or
 - (ii) in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- (b) Where a notice is sent by fax, service of the notice is to be taken to be effected if the correct fax number appears on the fax report generated by the sender's fax machine and to have been effected at the time the fax is sent.
- (c) Where a notice is sent by electronic means by electronic messaging system that contains a delivery verification function, service of the notice is to be taken to be effected on the generation by the electronic messaging system of a delivery verification notice or log entry, or other confirmation.
- (d) Where notice is sent by electronic means by electronic mail or other electronic messaging system (other than those referred to in Article 14, service of the notice is to be taken to be effected on the delivery to:
 - (i) where the addressee is a natural person, the addressee's electronic mail or electronic messaging system account; or
 - (ii) where the addressee is a corporation, the corporation's computer systems.
- (e) If service under Articles 21.4 (a), 21.4(b), 21.4(c) and 21.4(d) is on a day which is not a Business Day or is after 4.00pm (addressee's time), the notice is regarded as having been received at 9.00am on the next following Business Day.

21.5 Other communications and documents

- (a) Articles 21.1 to 21.4 (inclusive) apply, so far as they can and with any necessary changes, to the service of any communication or document.

21.6 Notices in writing

- (a) A reference in this constitution to a written notice includes a notice given by fax or electronic transmission or any other form of written communication.

22. DISSOLUTION AND WINDING UP

- 22.1 If upon the dissolution or winding-up of the Company there remains, after the satisfaction of all its debts and liabilities, any property whatever, the same shall not be paid to or distributed among the Members, but shall be given or transferred to some other fund, authority or institution:
- (a) having objects similar to the objects of the Company;
 - (b) which prohibits the distribution of its income and property to a similar extent to that imposed on the Company under Article 8.1.; and
 - (c) which is a fund, authority or institution approved by the Commissioner of Taxation of the Commonwealth of Australia as a fund, authority or institution covered by the Income Tax Assessment Act 1997 (as amended).

That fund, authority or institution may to be determined by the Members at or before the time of dissolution, and insofar as effect cannot be given to such provision, then to some other charitable object which satisfies the criteria prescribed by Article 22.1.

23. ADOPTION AND MODIFICATION OF CONSTITUTION

- 23.1 The Members may modify or repeal the Constitution, or a provision of the Constitution, by special resolution passed at either an Annual General Meeting or at an Extraordinary General Meeting.
- 23.2 Date of effect of adoption, modification or repeal of Constitution. A special resolution adopting, modifying or repealing the Constitution takes effect:
- (a) if no later date is specified in the resolution, then on the date on which the resolution is passed; or
 - (b) on a later date specified in, or determined in accordance with, the resolution.
- 23.3 At the next AGM following the adoption of this Constitution, at least a third of the current Directors are to step down and an election conducted for no more than three (3) Directors as prescribed in Article 15. Likewise for the following AGM similar arrangements shall occur such that thereafter Article 15 of the Constitution can operate as prescribed.
- 23.4 The Company must make available a copy of the Constitution to a Member within 21 days if the Member:
- (a) asks the Company, in writing, for the Copy; and
 - (b) pays any fee (up to the prescribed amount) required by the Company.