

THE COMPANIES (NEW SOUTH WALES) CODE

A Company Limited by Guarantee

MEMORANDUM OF ASSOCIATION

OF

**NATIONAL ASSOCIATION FOR THE VISUAL ARTS LIMITED**

1. The name of the Company is the National Association for the Visual Arts Limited (hereinafter called "the Company")
2. The objects for which the Company is established (in the interpretation of which the expression 'visual arts' means the work of original creative artists in all manner of media including but not limited to painting, sculpture, print making, photography and the crafts) are:
  - (a) To promote, encourage and advance the interests of persons and groups engaged in the visual arts and in related areas or fields;
  - (b) To promote, encourage and advance the understanding and appreciation of the visual arts and related areas in Australia and overseas by meetings, seminars, research, public statements, collection and distribution of information and otherwise as the Company may determine;
  - (c) To represent and to make recommendations to appropriate bodies on behalf of and in relation to the visual arts and related areas;
  - (d) To promote, encourage and facilitate cooperation amongst or between members and all persons involved or interested in the visual arts and related areas;
  - (e) To perform or do any or all of the following operations, acts or things as an object itself or as a power incidental to an object of the Company:
    - ( i ) to take and accept any grant of money or any gift of property whether subject to any special trust or conditions or not for any one or more of the objects of the Company provided that in case the Company shall take or hold any property which may be subject to any trust, the Company shall only deal with the same in such manner as is allowed by law having regard to such trusts;
    - ( i i ) To print and publish any newsletters, periodicals, books or catalogues or leaflets that the Company may think desirable for the promotion of its objects;
    - ( i i i ) To promote, encourage or advance the interests of members of the Company where such promotion, encouragement or advancement is consistent with the aims and objectives of the Company as set forth in this Memorandum of Association;
    - (iv) To do all such acts or things that are necessary or incidental to the establishment of offices and branch offices of the Company in Australia or elsewhere;

- (v) To develop where practicable, supporting facilities and services for those activities normally beyond the resources of any one person or group of persons provided that such activities are consistent with the aims and objectives of the Company as set forth in this Memorandum of Association;
- (vi) To be concerned with the economic and social aspects of the visual arts and of persons engaged in them or related activities and to provide a basis for regular dialogue between government authorities and such persons as affect or who are affected by the economic and social status of the visual arts and related areas;
- (vii) To organise, participate in and derive or accept the proceeds from any event, sales or other lawful fund raising activity;
- (viii) To admit to membership of the Company, persons and corporations upon such terms and with such privileges as may be (subject to the Articles of Association) be determined by the Company from time to time;
- (ix) To cooperate with or subscribe to or to enter into any arrangement with any institution or organisation whether incorporated or not whether in Australia or not whose objects are altogether or in part similar to those of the Company;
- (x) To apply for, request, solicit or in any manner and by any means seek donations, gifts, bequests, grants and other sums of money from members of the public, institutions, corporations, State or Federal Government departments and instrumentalities or from any public or private source whatsoever;
- (xi) To draw, accept and negotiate bills of exchange, promissory notes and other negotiable instruments;
- (xii) To hold or promote lotteries, raffles or art unions any description authorised by law which may be calculated to advertise by any means whatsoever or promote the interests of the Company;
- (xiii) To effect insurances or assurances against risk or loss to the Company howsoever arising;
- (xiv) To take part in the formation, management, supervision or control of the business or operations of any company or undertaking in which the Company may be interested or concerned and for that purpose to appoint and remunerate any directors, accountants or any other experts or agents;
- (xv) To acquire by hire purchase, lease, exchange or otherwise and for cash or any other consideration, the whole or any part of the rights or interests in or over real or leasehold estates, plant, machinery, goods and other personal estate and effects;
- (xvi) To sell, let, dispose of grant rights over or otherwise deal with all or any property or rights of the Company for cash or upon terms or any other consideration and upon any terms and conditions thought desirable;
- (xvii) To carry on any enterprise or undertaking in any sphere of activity which is permitted by law and which is deemed to be in the interests of the Company;

- (xviii) To enter into any arrangement with any government or authority, municipal, local or otherwise that may seem conducive to the Company's objects or any of them and to obtain from such government or authority any rights, privileges and concessions which the Company may think it desirable to obtain or to carry out exercise and comply with any such arrangements, rights, privileges and concessions.
  - (xix) To appoint, employ, remove or suspend such officers, managers, clerks, secretaries, servants, workmen and other persons as may be necessary or convenient for the purposes of the Company;
  - (xx) To invest and deal with the money of the Company not immediately required in such manner as may from time to time be thought fit;
  - (xxi) In furtherance of the objects of the Company to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and the rights of the Company;
  - (xxii) To take or hold mortgages, liens and charges to secure payment of the purchase price or any unpaid balance of the purchase price for any part of the Company's property of whatsoever kind sold by the Company or any money due to the Company from the purchasers and others;
  - (xxiii) To construct, improve, maintain, develop, work, manage, carry out, alter or control any houses, buildings, grants, works or conveniences which may seem calculated directly or indirectly to advance the Company's interests and to contribute to subsidise or otherwise assist and to take part in the construction, improvement, maintenance, development, working management, carrying out, alteration or control thereof;
  - (xxiv) In furtherance of the objectives of the Company to amalgamate with any companies, institutions, societies or associations having objects altogether or in part similar to those of the Company and which shall prohibit the distribution of its or their income and property among its or their members to the extent at least as great as that imposed upon the Company under or by virtue of Clause 3 of this Memorandum; and
- (f) To do all such other acts, matters and things as in the opinion of the Company may be incidental or conducive to the attainment of any of the foregoing objectives or the exercise of any of the foregoing powers;

AND IT IS HEREBY DECLARED that in the interpretation of this clause the meaning of any of the Company's objects shall not be restricted by reference to any other object or by reference to any other power within the object or by the juxtaposition of two or more objects and that in the event of any ambiguity, this clause shall be construed in such a way as to widen and not restrict the powers of the Company.

3. The income and property of the Company whencesoever derived shall be applied solely toward the promotion of the objects of the Company as set forth in this Memorandum of Association; and no portion thereof shall be paid or transferred directly or indirectly by way of dividend funds or otherwise howsoever by way of profit to the members of the Company.

PROVIDED THAT nothing herein shall prevent the payment in good faith of reasonable and proper remuneration to any officer or servant of the Company or to any member of the Company in return for any services actually rendered to the Company or prevent the payment of interest at the rate for the time being charged by bankers in Sydney for overdrawn accounts on money lent or reasonable and proper rent of the premises demised or let by any member to the Company.

4. The liability of the members is limited.
5. Every member of the Company undertakes to contribute to the property of the Company in the event of the same being wound up while he is a member or within one year after he ceases to be a member for the payment of the debts and liabilities of the Company contracted before he ceases to be a member and of the costs, charges and expenses of winding up and for the adjustment of the rights of the contributors among themselves such amount as may be required not exceeding Five dollars (\$5.00).
6. If upon the winding up or the dissolution of the Company there remains after satisfaction of all its debts and liabilities any property whatsoever the same shall not be paid to or distributed among the members of the Company but shall be given or transferred to some other institution having objects similar to the objects of the Company and which shall prohibit the distribution of its income and property among its members to an extent at least as great as is imposed on the Company under or by virtue of Clause 3 hereof such institution to be selected by the members of the Company at or before the time of dissolution and if and to the extent that effect cannot be given to the foresaid provision then to some charitable object selected by the Directors of the Company.
7. True accounts shall be kept of the sums of money received and expended by the Company and the matter in respect of which such receipt and expenditure takes place and of the property, credits and liabilities of the Company; and subject to such reasonable restrictions as to the time and manner of inspecting the same that may be imposed in accordance with the regulation of the Company for the time being in force shall be open to the inspection of the members. At least once every year the accounts of the Company shall be examined by one or more properly qualified auditor or auditors who shall report to the members in accordance with the provisions of the Companies (New South Wales) Code.
8. The names, addresses and occupations of the subscribers are as follows:

**WE the several persons whose names and addresses are **subscribed hereto are desirous of being formed into a Company in pursuance of the Memorandum of Association.****

**REVISED March 2017**

**CORPORATIONS LAW**

**A Company Limited by Guarantee**

**ARTICLES OF ASSOCIATION *of***

**NATIONAL ASSOCIATION FOR THE VISUAL ARTS LIMITED**

**Interpretation**

1. In respect of these Articles unless the context of the subject matter otherwise indicates or requires:

"Aboriginal or Torres Strait Islander Visual Arts Representative Director" means an Elected Director who has been specifically elected on the basis that he or she is an Aboriginal or Torres Strait Islander and represents the interests of the Aboriginal and Torres Strait Islander visual arts sector;

"Aboriginal or Torres Strait Islander" means someone of Aboriginal or Torres Strait Islander descent who identifies as Aboriginal or a Torres Strait Islander and is accepted as such by the community in which he or she lives;

"Articles" means the Articles of Association of the Company for the time being in force;

"Artists' Representative Director" means an Elected Director who has been specifically elected on the basis that he or she represents the interests of practising artists;

"Board" means all or any of the Directors of the Company for the time being assembled at a meeting of Directors in accordance with the Articles and not being less than a quorum;

"Chair" means the chairperson of the Board;

"Committee" means any committee of the Board established by the Board under Article 44(a);

"Company" means the National Association for the Visual Arts Limited;

"Co-opted Director" means a person appointed as a Director under Article 27;

"Corporations Law" means the Corporations Law;

"Director" means either a Co-opted Director or an Elected Director and "Directors" means all or some of the Directors acting as a board;

"Elected Director" means a person elected as a Director under Article 31;

"Extraordinary General Meeting" is defined in Article 7;

“Organisations’ Representative Director” means an Elected Director who has been specifically elected on the basis that he or she represents the interests of organisations or bodies whose activities are concerned with, at least in part, the visual arts;

“person” includes any body corporate wherever incorporated;

“Seal” means the common seal of the Company;

“Secretary” means person appointed as a secretary of the Company or a person appointed by the Directors to perform all or any of the duties of a secretary of the Company;

“State” means the State of New South Wales;

“States and Territories” means the eight States and Territories of Australia being the Australian Capital Territory, New South Wales, the Northern Territory, Queensland, South Australia, Tasmania, Victoria, Western Australia;

“visual arts” means the work of original creative artists in all manner of media including but not limited to painting, sculpture, print making, photography and the crafts;

The words “in writing” and “written” includes any means of representing or reproducing words in a visible form;

Words or expressions contained in these Articles of Association shall be interpreted in accordance with the provisions of the Interpretation Act 1897 as in force at the date at which these Articles of Association become binding on the Company;

Words and expressions in the singular include the plural and vice versa;

A reference to the Corporations Law or to a provision of the Corporations Law, means the Corporations Law or that provision as amended from time to time, or any statute, code or provision enacted in its place, whether by New South Wales or the Commonwealth of Australia, and includes regulations and other instruments under it.

## **Membership of the Company**

2. The maximum number of members with which the Company proposes to register is unlimited.

3. The subscribers to the Memorandum of Association shall be members of the Company.

4. The Board may from time to time in its absolute discretion admit to membership of the Company:

(a) Any person that (in the opinion of the Board based on such criteria as the Board thinks appropriate) has an interest in the visual arts in Australia; and

(b) Any natural person who holds an executive office in or, to the satisfaction of the Board, represents an unincorporated Association which if it were a body corporate would be eligible for membership under sub clause 4(a).

5. Each member shall pay an annual subscription determined by the Board in accordance with Article 62.

6. A member shall cease to be a member of the Company:

- (a) If he or she resigns from membership of the Company by written notice to the Company; or
- (b) If a subscription payable by that member remains unpaid for a period of one month after it becomes due; or
- (c) If the Company by ordinary resolution determines that he or she should cease to be a member; but such persons shall remain liable for and shall pay to the Company all monies which at the time of his/her ceasing to be a member are due by them to the Company.

### **General Meetings**

7. Annual general meetings of the Company shall be held in accordance with the Corporations Law. All other general meetings shall be called 'Extraordinary General Meetings'.

8. The Board may whenever it thinks fit convene an Extraordinary General Meeting and shall do so upon a requisition of members in accordance with the Corporations Law.

9. Subject to the provisions of the Corporations Law relating to special resolutions and to agreement to shorter notice not less than fourteen (14) clear days notice of each general meeting shall be given to such persons as are entitled to receive such notice. The notice shall state:

- (a) The place of the meeting;
- (b) The day and hour of the meeting;
- (c) If any special business is proposed, the nature of that business.

10. Deleted.

### **Proceedings at General Meetings**

11. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business. Eight members shall be a quorum. For the purposes of this Article, 'member' includes a person attending as a proxy or as representing a corporation which is a member and where such a person is present, the member shall be deemed to be present.

12. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting if convened on the requisition of members shall be dissolved; in any other case it shall stand adjourned to the following day at the same time and place or to such other day and to such other time and place as the Board may determine, and if at an adjourned meeting a quorum is not present within one half hour from the time appointed for the meeting, members present shall be a quorum.

13. The Chair, if any, of the Board shall preside as Chair of every general meeting of the Company, or if there is no such Chair or if that person is not present within fifteen (15) minutes after the time appointed for the holding of the meeting or is unwilling to act the members of the Board present shall choose a Chair of the meeting.

14. The Chair may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for thirty (30) days or more notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of any adjournment or of the business to be transacted at any adjourned meeting.

15. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of a show of hands) demanded

- (a) By the Chair; or
- (b) By three members present.

Unless a poll is so demanded a declaration by the Chair that a resolution has on a show of hands been carried or carried unanimously or by a particular majority or lost, and an entry made to that effect in the minutes of the proceedings of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution. The demand for a poll may be withdrawn.

16. If a poll is duly demanded it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the Chair directs and the results of the poll shall be the resolution of the meeting at which the poll was demanded but a poll demanded on a question of adjournment shall be taken forthwith.

17. In the case of an equality of votes, whether on a show of hands or on a poll, the matter shall be decided in the negative.

18. A member may vote in person or by proxy and on both a show of hands and a poll every member so voting shall have one vote.

19. deleted at 1996 AGM.

20. No member shall be entitled to vote at any general meeting unless all sums presently payable by them in respect of any annual subscription have been paid to the Company.

21. No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time may be referred to the Chair of the meeting whose decision shall be final and conclusive.

22. An instrument appointing a proxy shall be in writing (in the common or usual form) under the hand of the appointor or of their attorney duly authorised in writing or, if the appointor is a corporation either under seal or under the hand of an officer or attorney fully authorised. A proxy may but need not be a member of the company. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

23. Where it is desired to afford members an opportunity of voting for or against a resolution the instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit:



NATIONAL ASSOCIATION FOR THE VISUAL ARTS LIMITED

I,.....  
of .....  
in .....  
being a member of the National Association of the Visual Arts Limited, hereby appoint  
.....  
of.....  
or failing him/her, .....  
of .....  
as my proxy to vote for me and on my behalf at the  
Annual/Extraordinary (as the case may be) General Meeting of the Company to be held on  
the.....day  
of.....  
and at any adjournment thereof in the manner as he/she thinks fit.  
As witness my hand this.....day of.....  
SIGNED by the said .....  
In the presence of .....  
Or in such other form as the Board may from time to time prescribe or accept.

24. The instrument appointing a proxy and the power of attorney or other authority if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the registered office of the Company, or at such other place as is specified for that purpose in the notice convening the meeting, not less than twenty-four (24) hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote and in default the instrument of proxy shall not be treated as valid.

25. A vote given in accordance with the terms of an instrument of proxy or attorney shall be valid notwithstanding the previous death or unsoundness of mind of the principle or revocation of the instrument or of the attorney under which the instrument was executed, or in the transfer of the share in respect of which the vote is given, if no intonation in writing of such death, unsoundness of mind, revocation or transfer as aforesaid has been received by the Company at the registered office before the commencement of the meeting or adjourned meeting at which the instrument is used.

**Directors**

26. The number of Directors must be not less than 8 nor more than 10, until otherwise determined by the Company in general meeting, comprised as follows:

- (a) at least 6 of the Directors must be Elected Directors;
- (b) at least two of the Elected Directors must be Artists' Representative Directors;

- (c) at least two of the Elected Directors must be Organisations' Representative Directors;
  - (d) at least one of the Elected Directors must be an Aboriginal or Torres Strait Islander Visual Arts Representative Director;
  - (e) the Elected Directors must consist of Directors who are resident in at least 4 different States and Territories;
  - (f) at least 2 of the Directors must be Co-opted Directors.
27. (a) The Elected Directors will jointly appoint Co-opted Directors chosen according to the skills and expertise required by the Company at a particular time.
- (b) A Co-opted Director is not required to be, but normally will be, or will become during the period he or she holds office as a Co-opted Director, a member of the Company.
- (c) The initial Co-opted Directors will be appointed in accordance with Article 31B.
- (d) Only natural persons resident in Australia shall be eligible to be Directors of the Company.
- (e) No person shall be eligible for election as a Director unless he or she is a member of the Company.
- (f) The initial 5 Elected Directors will be elected in accordance with Article 31A.

28. Deleted.

29. Deleted.

30. After having served as a director, whether as a Co-opted Director, an Elected Director, or both, for a total continuous period of 6 years, a person is not eligible for re-election or for appointment as a Director for a period of 12 months from the expiration of the 6 years.

31. The Company shall hold an election each year at the annual general meeting and candidates for the office of Elected Director shall be elected by secret ballot in the following manner:

- (a) Not less than fourteen (14) days prior to the close of nominations each member shall receive notice of the opening of nominations for candidates for election to the office of Elected Director;
- (b) Any one member may nominate another member to serve as an Elected Director of the Company;
- (c) Nominations must be in writing and signed by both the nominating member and the nominee and must indicate whether the nominee is to be considered as an Artists' Representative Director, an Organisations' Representative Director, or an Aboriginal or Torres Strait Islander Visual Arts Representative Director. All nominations delivered to the registered office of the Company by 12 midnight on the day on which nominations close for candidates for the office of Elected Director shall be deemed to have been delivered to the registered office of the Company in accordance with this Article;

- (d)
  - (i) If after the close of nominations there is not at least one candidate to fill each Elected Director vacancy on the Board, the Directors for the time being shall use their best endeavours to nominate for election as Directors eligible persons wishing to act as Directors, so that there will be at least one candidate representing each vacancy and persons nominated by the Directors pursuant to this subclause shall be candidates for election;
  - (ii) In the event that the Directors are unsuccessful in nominating for election one candidate to fill each vacancy, the Board may appoint a member of the Company to the Board to fill the vacancy, provided that the requirements under Article 26 are met. Any Elected Director so appointed shall hold office for the full period that he/she would have held office had he/she been elected to that vacancy.
- (e)
  - (i) Should there be more than one candidate for a vacancy, balloting papers shall be prepared for the vacancy. Candidates shall be listed in alphabetical order and with an indication as to whether they are a candidate as an Artists' Representative Director, an Organisations' Representative Director, or an Aboriginal or Torres Strait Islander Visual Arts Representative Director;
  - (ii) Each member of the Company will be entitled to vote for each contested vacancy;
  - (iii) A member of the Company shall be deemed to have registered a valid vote where a ballot paper or a reasonable facsimile of the same indicating a clear preference between candidates is received at the registered office of the Company by midnight on the date of the close of polling. Any ballot paper post marked on or before midnight on the date of the close of polling shall be deemed to have been received by the Company; and
  - (iv) The following candidates shall be declared Elected Directors of the Company:
    - (aa) that candidate standing for a vacancy who receives the greatest number of votes out of the candidates for that vacancy (or if there is only one candidate for that vacancy, the candidate);
    - (bb) if it should occur that a poll does not decide a clear winner between the candidates for an existing vacancy the contest shall be decided by a random means of selection approved by a resolution of the Board either at a properly constituted meeting or by a resolution in accordance with Article 46 (b) and the candidate so selected shall be deemed to be elected.
- 31A.
  - (a) At the first election for the initial Elected Directors, held at the next annual general meeting held after the adoption of these amended Articles, all 5 Elected Director positions will be vacant and each member will be entitled to vote for 5 vacancies.
  - (b) Two of the initial Elected Directors hold office from their election at the annual general meeting only until the following annual general meeting. They are then eligible for re-election to hold office for two further terms of 2 years each. The Elected Directors to retire are, in default of agreement between them, to be determined by drawing lots in any manner determined by the Chair.

- (c) The remaining three Elected Directors hold office from their election at the annual general meeting only until the second annual general meeting after their initial election. They are then eligible for re-election for further terms of 2 years each, subject to the limitations under Article 30.
  - (d) Except for the two Elected Directors referred to in article 31A(b), Elected Directors shall hold office for 2 years and are eligible for re-election subject to the limitations of article 30.
  - (e) A retiring Elected Director may act until the conclusion of the meeting at which the Elected Director retires.
- 31B.
- (a) The 5 Elected Directors must, at the first Board meeting after the annual general meeting, appoint at least 2 Co-opted Directors.
  - (b) During the period between the first annual general meeting held after adoption of these amended articles and the first Board meeting after that annual general meeting, the initial 5 Elected Directors may act as the full Board.
  - (c) Co-opted Directors hold office from the Board meeting at which they are appointed only until the first Board meeting after the following annual general meeting. They are each eligible for reappointment for further terms of one year each, subject to the limitations under Article 30.
  - (d) A retiring Co-opted Director may act until the conclusion of the meeting at which the Co-opted Director retires.
- 32.
- (a) Where a director ceases to hold office otherwise than by removal in accordance with sub clause 32(b) and otherwise than by retiring or ceasing to hold office at an election the Board must as soon as possible appoint an eligible person to be a director in his or her place PROVIDED that:
    - (i) the requirements under Article 26 are met; and
    - (ii) a Director so appointed shall retire from office when the Director he or she was appointed to replace would have retired.
  - (b) The Company in General Meeting may from time to time by ordinary resolution:
    - (i) remove any Director from office;
    - (ii) appoint an eligible person as a Director in place of the Director so removed PROVIDED that:
      - (aa) the requirements under Article 26 are met; and
      - (bb) a Director so appointed shall retire from office when the Director he or she was appointed to replace would have retired.
33. The office of a Director shall become vacant if:
- (a) He or she ceases to be a Director by virtue of the Corporations Law;

- (b) He or she becomes bankrupt or makes any arrangement or compromise with their creditors generally;
- (c) He or she becomes prohibited from being a Director of the Company by reason of any order made under the Corporations Law;
- (d) He or she resigns his/her office by notice in writing to the Company;
- (e) He or she is absent from two consecutive meetings of the Board without leave of the Board; or
- (f) In the case of an Elected Director, he or she ceases to be a member of the Company.

### **Powers and Duties of the Board**

34. The business and affairs of the Company shall be managed by the Board who may exercise all such powers of the Company as are not, by the Corporations Law or by the Articles, required to be exercised by the Company in general meetings, subject nevertheless to the Articles, to the provisions of the Corporations Law, and to such regulations being not inconsistent with the Articles or the aforesaid provisions, as may be prescribed by the Company in general meeting; but no regulation made by the Company in general meeting shall invalidate any prior act of the Board which would have been valid if that regulation had not been made.

35. All cheques promissory notes drafts bills of exchange and other negotiable instruments and all receipts from money paid to the Company shall be signed drawn accepted endorsed or otherwise executed as the case may be by any two Directors or in such other manner as the Board may from time to time determine.

36. The Board shall cause minutes to be made of:

- (a) All of the appointments of officers and servants;
- (b) Names of members and directors present at all meetings of the Company and of the Board; and
- (c) All proceedings at all meetings of the Company and of the Board.

### **Proceedings of the Board**

37. (i) Ordinary meetings of the Board shall be held at such places and at such times as the Board may determine provided that between one annual general meeting and the next at least one meeting of the Board shall be held.

(ii) The first meeting of the Board after the annual general meeting must be held within one month of the annual general meeting.

38. Meetings of the Board may be convened by the Chair and must be convened if requested by at least four Directors, including at least two elected Directors.

39. Notice of ordinary meetings of the Board shall be given to members of the Board in such manner as the Board may from time to time determine PROVIDED the Chair shall cause at least fourteen (14) days notice to be given to directors of any Extraordinary General Meeting such notice to specify the general nature of the business to be transacted at such meeting and no other business shall be transacted at such meeting.

40. (a) The quorum for a Board meeting will be 4 Directors of which at least 2 must be Elected Directors. No business shall be transacted unless a quorum is present at the time appointed for the meeting and if within an hour of the time appointed for the meeting a quorum is not present the meeting shall stand adjourned until such time and such place as the Board shall determine

(b) A Director may appoint any other Director of the Board to act as their proxy at any Board Meeting. However, an Elected Director may only appoint another Elected Director as their proxy.  
An instrument appointing a proxy shall be in writing under the hand of the appointor or of his or her attorney duly authorised in writing.  
An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution, and where an instrument of proxy so provides, the proxy is not entitled to vote on the resolution except as specified in the instrument. Unless otherwise instructed the proxy may vote as s/he thinks fit.  
An instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.  
An instrument appointing a proxy must be in the form the Board approves from time to time.  
The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority must be deposited at the registered office of the Company, or at such other place as is specified for that purpose in the notice convening the meeting, not less than forty-eight hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than twenty-four hours before the time appointed for the taking of the poll and in default the instrument of proxy will not be treated as valid.  
A vote given in accordance with the terms of an instrument of proxy or attorney shall be valid notwithstanding the previous death or unsoundness of mind of the principal or revocation of the instrument or of the authority under which the instrument was executed, if no intimation in writing or such deaths unsoundness of mind or revocation as aforesaid has been received by the Company at the registered office before the commencement of the meeting or adjourned meeting at which the instrument is used.

41. Subject to the Articles questions arising at any meeting of the Board shall be decided by a majority of votes and a determination by a majority of the Board shall for all purposes be deemed a determination of the Board. In the case of an equality of votes the Chair of the meeting shall have a second or casting vote.

42. A member of the Board shall not vote in respect of any contract or any proposed contract with any Company in which they are interested or any other matter arising thereout and if they do so vote their vote shall not be counted.

43. The Chair or in his or her absence the Vice Chair shall preside as Chair at every meeting of the Board or if there is no Chair or Vice Chair or if at any meeting neither of them is present within ten

(10) minutes after the time appointed for holding the meeting the dDirectors present may choose one of their number to be Chair of the meeting.

44. (a) The Board may delegate any of its powers (not being duties imposed on the Directors as the Directors of the Company by the Corporations Law or the general law) to the Chief Executive Officer, or to any Committee or Committees that it shall think fit to establish.
- (b) deleted
- (c) deleted
- (d) Any Chief Executive Officer or Committee shall in the exercise of its powers so delegated conform to any regulations that may be imposed by the Board.
- (e) Subject to Article 44(d), a Committee may make its own rules governing proceedings. Until it makes such rules, a Committee is governed by those Articles governing proceedings of the Board as if the Committee were the Board.

45. All acts done by any meeting of the Board or a Committee of the Board or by any person to whom the Board has delegated its authority shall, notwithstanding that it is afterwards discovered that there is some defect in the appointment of any such Committee or person acting as aforesaid, or that the Directors or any of them were disqualified, be as valid as if every Committee or person had been duly appointed.

46. (a) The Board may meet by any means of communication which enables a number of the Directors, being at least a quorum, to communicate their views to their fellow Directors and have their fellow Directors communicate their views to them instantaneously.
- (b) A resolution either in writing or electronic form signed or electronically authenticated by all the Directors for the time being present in Australia shall be valid and effectual as if it had been passed at a meeting of the Board duly convened and held. Any such resolution may consist of several documents in like form, each signed or electronically authenticated by one or more Directors.

#### **The Chair and Vice Chair**

47. (a) At the first meeting of the Board after each annual general meeting the Board shall elect one of their number as Chair.
- (b) The Board may, in meeting or by resolution, remove a person from the office of Chair.

48. Where in these Articles any duty obligation right or power is vested in the Chair then in the event of the Chair being unable to exercise any such duty obligation right or power (whether through absence ill health or otherwise) it shall be exercised by the Vice Chair.

49. At the first meeting of the Board after each annual general meeting the Board shall elect a Vice Chair by secret ballot from among their number.

50. Each Chair and Vice Chair shall hold office until the first Board meeting following each annual general meeting. Each retiring Chair and Vice Chair shall be eligible for re-appointment or reelection, in accordance with Article 52A.

51. The office of the Chair or of the Vice Chair shall become vacant if he or she resigns his or her office in writing addressed to the Board or he or she ceases to be a Director.

52. In the event of the office of Chair or Vice Chair becoming vacant the Board may appoint any other director to the office.

52A. Subject to Article 30, after a period of 6 years as Chair or Vice Chair (or a combination of both) a person shall not be eligible for appointment or re-election as Chair or Vice Chair for a period of 12 months following the expiration of their 6 year term.

#### **Chief Executive Officer**

53. (a) The Chief Executive Officer shall be appointed by the Board on such terms and conditions as the Directors determine
- (b) The Board may delegate to the Chief Executive Officer such duties and responsibilities as it may determine from time to time.

#### **Secretary**

53A. A Secretary holds office on such terms and conditions as the Directors determine. The Secretary may or may not be the same person as the Chief Executive Officer.

#### **Treasurer**

54. (a) At the first meeting of the Board after each election the Board shall appoint a Treasurer. The Treasurer need not be a member of the Company nor need the Treasurer be a Director of the Company to be appointed to that office.
- (b) The Board may, in the meeting or by resolution, remove a person from the office of Treasurer.

#### **Seal**

55. The Board shall provide for the safe custody of the Seal which shall only be used by authority of the Board or of a committee of the Board authorised by the Board in that behalf and every instrument to which the Seal is affixed shall be signed by a Director and shall be countersigned by the Secretary or by a second Director or by some other person appointed by the Board for that purpose.

#### **Accounts**

56. The Board shall cause proper accounting and other records to be kept; and subject to any reasonable restrictions as to time and manner of inspecting them that may be imposed by the Board those accounts shall be open to inspection by any member and the Company shall distribute copies of every profit and loss account and balance sheet (including every document required by law to be attached thereto) accompanied by a copy of the auditor's report thereon as required by the Corporations Law provided however that the Board shall cause to be made out and laid before each



annual general meeting a balance sheet and a profit and loss account made up to a date not more than five months before the date of the meeting.

### **Audit**

57. The Board shall take all steps as may be necessary to ensure that the Company complies with Clause 7 of the Memorandum of Association.

### **Notices**

58. A notice may be given by the Company to any member or director either personally or by forwarding it by pre-paid post to the address for them last known to the Company, or sent electronically to an address nominated by them.

- (a) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice, and to have been effected in the case of a notice of a meeting on the day after the date of its posting and in any other case at a time at which the letter would be delivered in the ordinary course of the post.
- (b) Where a notice is sent by facsimile it is deemed to be served on the day following production of a transmission report by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the person's facsimile number.

59. Notice of every general meeting shall be given in any manner herein before authorised to:

- (a) Every member except those members who (having no address within Australia) have not supplied to the Company an address within Australia for the giving of notices to them;
- (b) Every Director of the Company; and
- (c) The auditor or auditors for the time being of the Company.

### **Winding Up**

60. The provisions of Clauses 5 and 6 of the Memorandum of Association relating to the winding up or dissolution of the Company shall have effect and be observed as if the same were repeated in the Articles.

### **Indemnity**

61. Every Director, auditor, Secretary, Chief Executive Officer or other officer for the time being of the Company shall be indemnified out of the assets of the Company against any liability arising out of the execution of the duties of their office which is incurred by them in defending any proceedings whether civil or criminal in which judgement is given in their favour or in which they are acquitted or in connection with any application under the Corporations Law in which relief is granted to them by the court in respect of any negligence default breach of duty or breach of trust.

### **Annual Subscriptions and Levies**

62. (a) Each member shall on such dates in each year as the Board may from time to time

appoint pay to the Company such annual subscriptions as the Board may from time to time determine in accordance with this Article.

- (b) The Board may from time to time, in determining the amount of annual subscription to be paid by members:
  - (i) determine that the subscriptions shall be payable at different rates by members who are bodies corporate or represent unincorporated associations from those paid by other members; and
  - (ii) differentiate between members as to the various rates at which subscriptions are payable by them on the basis of such financial criteria or on the basis of distinct classes of membership as the Board considers reasonable.
- (c) The Board shall not form the opinion that a member represents an unincorporated association unless the Board is satisfied that the member is an officer of that Association or may on some other basis reasonably be considered to represent that association and that the member is or will be indemnified by members of that association against their liability to pay subscriptions to the Company.