

**CONSTITUTION  
OF  
THE ENGLISH-SPEAKING UNION  
(VICTORIA BRANCH)**

Australian Company Number (ACN) 004 297 803  
Australian Business Number (ABN) 42 004 297 803

A company limited by guarantee

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## Preliminary

### 1. Name of the company

The name of the company is The English-Speaking Union (Victoria Branch) Ltd (the **company**).

### 2. Type of company

The **company** is a not-for-profit public company limited by guarantee.

### 3. Limited liability of members

The liability of members is limited to the amount of the guarantee in clause 4.

### 4. The guarantee

Each member must contribute an amount not more than \$10 (the guarantee) to the property of the **company** if the **company** is wound up while the member is a member, or within 12 months after the person stops being a member, and this contribution is required to pay for the:

- (a) debts and liabilities of the **company** incurred before the member stopped being a member, or
- (b) costs of winding up.

### 5. Definitions

In this constitution, words and phrases have the meaning set out in clauses 81 and 83.

## Purposes and powers

### 6. Object

The **company**'s object is to pursue the following purposes:

- (a) To promote good fellowship and understanding among the English-speaking peoples and to remove misunderstanding between these peoples.
- (b) To engage in any educational work (including the organisation of lectures, visits and interchange of professors, students, teachers and other speakers) conducive to the foregoing purpose.
- (c) To promote among subjects and citizens of the British Commonwealth of Nations the study of the history and institutions of the United States of America and among citizens of the United States of America the study of the history and institutions of the British Commonwealth of Nations and to this end to promote travelling scholarships and other educational activities of any kind.

- (d) To promote the celebration of any national or other festivals relating to the culture of the English-speaking peoples.
- (e) To consider discuss and promote all questions and matters affecting the interests, well-being and relationship of the English-speaking peoples.
- (f) To provide facilities for the interchange of ideas and social intercourse between the members of the **company** and others.
- (g) To undertake and execute any trust which may seem to the **company** conducive to any of its objects.
- (h) To carry out all or any of the above objects in any part of the world.
- (i) To do all such other things as are incidental or conducive to the attainment of the above objects.

## 7. Powers

Subject to clause 8, the **company** has the following powers, which may only be used to carry out its purposes set out in clause 6:

- (a) the powers of an individual, and
- (b) all the powers of a company limited by guarantee under the Corporations Act.

## 8. Not-for-profit

- 8.1 The **company** must not distribute any income or assets directly or indirectly to its members, except as provided in clauses 8.2 and 754.
- 8.2 Clause 8.1 does not stop the **company** from doing the following things, provided they are done in good faith:
  - (a) paying a member for goods or services the member has provided or expenses the member has properly incurred at fair and reasonable rates or rates more favourable to the company, or
  - (b) making a payment to a member in carrying out the company's purpose(s).

## 9. Amending the constitution

The members may amend this constitution by passing a **special resolution**.

## Members

### 10. Membership and register of members

- 10.1 The members of the **company** are:

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- (a) all members who, at the date of adoption of this constitution, have paid their subscription fee for the calendar year in which this constitution is adopted, and
- (b) any other person that the directors allow to be a member, in accordance with this constitution.

10.2 The **company** must establish and maintain a register of members. The register of members must be kept by the secretary and must contain:

- (a) for each current member:
  - (i) name
  - (ii) address
  - (iii) any alternative address nominated by the member for the service of notices, and
  - (iv) date the member was entered on to the register.
- (b) for each member whose membership ended in the last 7 years:
  - (i) name
  - (ii) address
  - (iii) any alternative address nominated by the member for the service of notices, and
  - (iv) dates the membership started and ended.

10.3 Current members will be granted access to the register of members for purposes that are relevant to the interests or rights of members.

### 11. Who can apply to be a member

An individual or incorporated body is eligible to apply to be a member of the **company** under clause 15 if the person or incorporated body:

- (a) supports the purposes of the **company**, and
- (b) is located in:
  - (i) Victoria or Tasmania, or
  - (ii) any other Australian state or territory and wishes to join the company.

### 12. Membership categories

Subject to the provisions of this constitution:

12.1 A Life Member is an individual who:

- (a) has been elected as a Life Member by the Council in its absolute discretion, and
- (b) is entitled, while a Life Member, to all the privileges of Ordinary Membership without payment of further membership subscription fees.



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- 12.2 A **Corporate Member** is an incorporated organisation with an Australian Business Number that:
- (a) is approved as a Corporate Member by the Council,
  - (b) nominates its representative in accordance with clause 27, and
  - (c) pays the relevant membership subscription fee.
- 12.3 An **Ordinary Member** is an individual who:
- (a) is eighteen years of age or older,
  - (b) has held **Social membership, Honorary membership or Affiliated membership** of the company for a continuous period of at least thirty-six months
  - (c) is approved as an Ordinary Member by the Council, and
  - (d) pays the relevant membership subscription fee.
- 12.4 A **Social Member** is an individual who:
- (a) is eighteen years of age or older,
  - (b) is approved as a Social Member by the Council, and
  - (c) pays the relevant membership subscription fee.
- 12.5 **Honorary membership:**
- (a) may only be conferred by the Council for up to twelve months at a time to an individual whose actions or activities advance the objects of the company or who is a member of an interstate or overseas ESU branch and resident temporarily in Victoria.
  - (b) is exempt from any membership subscription fee, and
  - (c) is exempt from any liability for any proportion of the liabilities of the company.
- 12.6 An **Honorary Member** is any individual upon whom the Council has conferred **honorary membership** of the company.
- 12.7 An individual cannot be admitted as an honorary or temporary member of the company or be exempted from the obligation to pay the ordinary subscription for membership of the company unless the individual is of a class specified in this Constitution and the admission or exemption is in accordance with the Constitution.
- 12.8 **Affiliated membership:**
- (a) may be requested by a Corporate member on behalf of a defined group of its personnel (including employees or members of the Corporate Member organisation),
  - (b) may be approved by the Council for a defined term or as an ongoing arrangement with the Corporate Member,

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- (c) provides, on payment by the Corporate member of an agreed annual subscription fee, benefits not less than those of a Social member for the defined group of personnel of a Corporate Member, and
- (d) is exempt from any liability for any proportion of the liabilities of the company.

12.9 An Affiliated Member is any individual upon whom the Council has conferred **affiliated membership** of the company.

12.10 The Council, in its absolute discretion, has the right to establish other classes of membership from time to time.

### 13. Rights of eligible members

13.1 Unless otherwise provided in this constitution, all members other than Junior Members, Social Members, Honorary Members and Affiliated Members are **eligible members**.

13.2 **Eligible members** are entitled to:

- (a) propose or second nominations for membership
- (b) vote at general meetings of the company, and
- (c) stand for election as a director and as an office-bearer.

13.3 For avoidance of doubt, none of the Junior Members, Social Members, Honorary Members or Affiliated Members are **eligible members**.

### 14. Membership subscription fees

14.1 The directors may decide an annual subscription fee for each category of membership.

14.2 The directors may decide to offer discounted subscription fees to approved members who:

- (a) Reside more than 50 km from the Melbourne GPO
- (b) Reside in the same household
- (c) Are enrolled in a full-time course of study
- (d) Provide proof that they are low-income earners or benefit recipients (for example, by holding a valid **Health Care Card** or similar document).

14.3 The Secretary must notify all persons entered on the register of members of the amount and time for payment of any annual subscription fee and of any alteration to the annual subscription fee. Varying amounts may be applied as decided by the directors and notified to the members.

**15. How to apply to become a member**

- 15.1 An individual or incorporated body may apply to become a member of the **company** by writing to the secretary stating:
- (a) a desire to become a member,
  - (b) compliance with clause 11,
  - (c) agreement to comply with the **company's** constitution, including paying the guarantee under clause 4 if required,
  - (d) the category of membership that is sought, and
  - (e) agreement to pay the relevant annual subscription fee if the application is approved.
- 15.2 Each application for membership must be supported by a proposer and a seconder, each of whom is a current **eligible member**.

**16. Directors decide whether to approve membership**

- 16.1 The directors must consider an application for membership within a reasonable time after the secretary receives the application.
- 16.2 If the directors approve an application, and upon the applicant paying the relevant subscription fee, the secretary must as soon as possible:
- (a) enter the new member on the register of members, and
  - (b) write to the applicant, advising that the application was approved, and the date that the membership started (see clause 17).
- 16.3 If the directors reject an application, the secretary must write to the applicant as soon as possible, advising that the application has been rejected and refunding any subscription fee that has already been paid. This advice does not have to give reasons.
- 16.4 For the avoidance of doubt, the directors may approve an application even if the application does not state the matters listed in clause 15.1. In that case, by applying to be a member, the applicant agrees to those matters.

**17. When a person becomes a member**

An applicant will become a member when entered on the register of members.

**18. When a person stops being a member**

A person immediately stops being a member if the person:

- (a) dies,
- (b) is wound up or otherwise dissolved or deregistered (for an incorporated member),
- (c) resigns, by writing to the secretary,

- (d) is expelled under clause 20,
- (e) has not paid the subscription fee within three months of its due date, or
- (f) has not responded within three months to a written request from the secretary seeking confirmation in writing that the person wants to remain a member.

## Dispute resolution and disciplinary procedures

### 19. Dispute resolution

- 19.1 The dispute resolution procedure in this clause applies to disputes (disagreements) under this constitution between a member or director and:
- (a) one or more members
  - (b) one or more directors, or
  - (c) the company.
- 19.2 A member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 20 until the disciplinary procedure is completed.
- 19.3 Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.
- 19.4 If those involved in the dispute do not resolve it under clause 19.3, they must within 10 days:
- (a) tell the directors about the dispute in writing
  - (b) agree or request that a mediator be appointed, and
  - (c) attempt in good faith to settle the dispute by mediation.
- 19.5 The mediator must:
- (a) be chosen by agreement of those involved, or
  - (b) where those involved do not agree:
    - (i) for disputes between members, a person chosen by the directors, or
    - (ii) for other disputes, a person chosen by either the Commissioner of the Australian Charities and Not-for-profits Commission or the president of the law institute or society in the state or territory in which the company has its registered office.
- 19.6 A mediator chosen by the directors under clause 19.5(b)(i):
- (a) may be a member or former member of the **company**
  - (b) must not have a personal interest in the dispute, and
  - (c) must not be biased towards or against anyone involved in the dispute.

- 19.7 When conducting the mediation, the mediator must:
- (a) allow those involved a reasonable chance to be heard
  - (b) allow those involved a reasonable chance to review any written statements
  - (c) ensure that those involved are given natural justice, and
  - (d) not make a decision on the dispute.

**20. Disciplining members**

- 20.1 In accordance with this clause, the directors may resolve to warn, suspend or expel a member from the **company** if the directors consider that:
- (a) the member has breached this constitution, or
  - (b) the member's behaviour is causing, has caused, or is likely to cause harm to the **company**.
- 20.2 At least 14 days before the directors' meeting at which a resolution under clause 20.1 will be considered, the secretary must notify the member in writing:
- (a) that the directors are considering a resolution to warn, suspend or expel the member
  - (b) that this resolution will be considered at a directors' meeting and the date of that meeting
  - (c) what the member is said to have done or not done
  - (d) the nature of the resolution that has been proposed, and
  - (e) that the member may provide an explanation to the directors, and details of how to do so.
- 20.3 Before the directors pass any resolution under clause 20.1, the member must be given a chance to explain or defend themselves by:
- (a) sending the directors a written explanation before that directors' meeting, and/or
  - (b) speaking at the meeting.
- 20.4 After considering any explanation under clause 20.3, the directors may:
- (a) take no further action
  - (b) warn the member
  - (c) suspend the member's rights as a member for a period of no more than 12 months
  - (d) expel the member

- (e) refer the decision to an unbiased, independent person on conditions that the directors consider appropriate (however, the person can only make a decision that the directors could have made under this clause), or
  - (f) require the matter to be determined at a **general meeting**.
- 20.5 The directors cannot fine a member.
- 20.6 The secretary must give written notice to the member of the decision under clause 20.4 as soon as possible.
- 20.7 Disciplinary procedures must be completed as soon as reasonably practical.
- 20.8 There will be no liability for any loss or injury suffered by the member as a result of any decision made in good faith under this clause.

## General meetings of members

### 21. General meetings called by directors

- 21.1 The directors may call a **general meeting**.
- 21.2 If at least 20 members, or members with at least 5% of the votes that may be cast at a **general meeting**, whichever is the higher, make a written request to the **company** for a **general meeting** to be held, the directors must:
- (a) within 21 days of the members' request, give all members notice of a **general meeting**, and
  - (b) hold the **general meeting** within 2 months of the members' request.
- 21.3 The percentage of votes that members have (in clause 21.2) is to be worked out as at midnight before the members request the meeting.
- 21.4 The members who make the request for a **general meeting** must:
- (a) state in the request any resolution to be proposed at the meeting
  - (b) sign the request, and
  - (c) give the request to the **company**.
- 21.5 Separate copies of a document setting out the request may be signed by members if the wording of the request is the same in each copy.

### 22. General meetings called by members

- 22.1 If the directors do not call the meeting within 21 days of being properly requested under clause 21.2, 50% or more of the members who made the request may call and arrange to hold a **general meeting**.
- 22.2 To call and hold a meeting under clause 22.1 the members must:

- (a) as far as possible, follow the procedures for **general meetings** set out in this constitution,
- (b) call the meeting using the list of members on the **company's** member register, which the **company** must provide to the members making the request at no cost, and
- (c) hold the **general meeting** within three months after the request was given to the **company**.

22.3 The **company** must pay the members who request the **general meeting** any reasonable expenses they incur because the directors did not call and hold the meeting.

### 23. Annual general meeting

23.1 A **general meeting**, called the annual **general meeting**, must be held:

- (a) within 18 months after registration of the **company**, and
- (b) after the first annual **general meeting**, at least once in every calendar year.

23.2 Even if these items are not set out in the notice of meeting, the business of an annual **general meeting** may include:

- (a) a review of the **company's** activities
- (b) a review of the **company's** finances
- (c) any auditor's report
- (d) the election of directors, and
- (e) the appointment and payment of auditors, if any.

23.3 Before or at the annual **general meeting**, the directors must give information to the members on the **company's** activities and finances during the period since the last annual **general meeting**.

23.4 The chairman of the annual **general meeting** must give members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the **company**.

### 24. Notice of general meetings

24.1 Notice of a **general meeting** must be given to:

- (a) each member entitled to vote at the meeting
- (b) each director, and
- (c) the auditor (if any).

24.2 Notice of a **general meeting** must be provided in writing at least 21 days before the meeting.

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- 24.3 Subject to clause 24.4, notice of a meeting may be provided less than 21 days before the meeting if:
- (a) at an annual **general meeting**, all the members in attendance agree, or
  - (b) at any other **general meeting**, members with at least 95% of the votes that may be cast at the meeting agree.
- 24.4 Notice of a meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:
- (a) remove a director
  - (b) appoint a director in order to replace a director who was removed, or
  - (c) remove an auditor.
- 24.5 Notice of a **general meeting** must include:
- (a) the place, date and time for the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this)
  - (b) the general nature of the meeting's business
  - (c) if applicable, that a **special resolution** is to be proposed and the words of the proposed resolution
  - (d) a statement that members have the right to appoint proxies and that, if a member appoints a proxy:
    - (i) the proxy does not need to be a member of the **company**
    - (ii) the proxy form must be delivered to the company at its registered address or the address (including an electronic address) specified in the notice of the meeting, and
    - (iii) the proxy form must be delivered to the company at least 48 hours before the meeting.
- 24.6 If a **general meeting** is adjourned (put off) for one month or more, the members must be given new notice of the resumed meeting.

### 25. Quorum at general meetings

- 25.1 For a **general meeting** to be held, at least 7 members (a quorum) must be present (in person, by proxy or by representative) for the whole meeting. When determining whether a quorum is present, a person may only be counted once (even if that person is a representative or proxy of more than one member).
- 25.2 No business may be conducted at a **general meeting** if a quorum is not present.
- 25.3 If there is no quorum present within 30 minutes after the starting time stated in the notice of **general meeting**, the **general meeting** is adjourned to the date, time and place that the chairman specifies. If the chairman does not specify one or more of those things, the meeting is adjourned to:



- (a) if the date is not specified – the same day in the next week
- (b) if the time is not specified – the same time, and
- (c) if the place is not specified – the same place.

25.4 If no quorum is present at the resumed meeting within 30 minutes after the starting time set for that meeting, the meeting is cancelled.

**26. Auditor's right to attend meetings**

- 26.1 The auditor (if any) is entitled to attend any general meeting and to be heard by the members on any part of the business of the meeting that concerns the auditor in the capacity of auditor.
- 26.2 The company must give the auditor (if any) any communications relating to the general meeting that a member of the company is entitled to receive.

**27. Representatives of members**

- 27.1 An incorporated member may appoint as a representative:
  - (a) one individual to represent the member at meetings and to sign circular resolutions under clause 34, and
  - (b) the same individual or another individual for the purpose of being appointed or elected as a director.
- 27.2 The appointment of a representative by a member must:
  - (a) be in writing
  - (b) include the name of the representative
  - (c) include a declaration that the representative is eighteen years of age or older
  - (d) be signed on behalf of the member, and
  - (e) be given to the company or, for representation at a meeting, be given to the chairman before the meeting starts.
- 27.3 A representative has all the rights of a member relevant to the purposes of the appointment as a representative.
- 27.4 The appointment may be standing (ongoing).

**28. Using technology to hold meetings**

- 28.1 The company may hold a general meeting at two or more venues using any technology that gives the members as a whole a reasonable opportunity to participate, including to hear and be heard.
- 28.2 Anyone using this technology is taken to be present in person at the meeting.

**29. Chairman for general meetings**

- 29.1 The **elected chairman** is entitled to chair general meetings.
- 29.2 The members present and entitled to vote at a general meeting may choose a director or member to be the chairman for that meeting if:
- (a) there is no elected chairman, or
  - (b) the **elected chairman** is not present within 30 minutes after the starting time set for the meeting, or
  - (c) the **elected chairman** is present but does not wish to act as chairman of the meeting.

**30. Role of the chairman**

- 30.1 The chairman is responsible for the conduct of the **general meeting**, and for this purpose must give members a reasonable opportunity to make comments and ask questions (including to the auditor (if any)).
- 30.2 Under clause 37.4, the chairman of a **general meeting** holds a casting vote.

**31. Adjournment of meetings**

- 31.1 If a quorum is present, a **general meeting** must be adjourned if a majority of **members present** direct the chairman to adjourn it.
- 31.2 Only unfinished business may be dealt with at a meeting resumed after an adjournment.

## Members' resolutions and statements

**32. Members' resolutions and statements**

- 32.1 At least 20 members, or members with at least 5% of the votes that may be cast on a resolution, may give:
- (a) written notice to the **company** of a resolution they propose to move at a **general meeting** (members' resolution), and/or
  - (b) a written request to the **company** that the **company** give all of its members a statement about a proposed resolution or any other matter that may properly be considered at a **general meeting** (members' statement).
- 32.2 A notice of a members' resolution must set out the wording of the proposed resolution and be signed by the members proposing the resolution.
- 32.3 A request to distribute a members' statement must set out the statement to be distributed and be signed by the members making the request.

- 32.4 Separate copies of a document setting out the notice or request may be signed by members if the wording is the same in each copy.
- 32.5 The percentage of votes that members have (as described in clause 32.1) is to be worked out as at midnight before the request or notice is given to the **company**.
- 32.6 If the **company** has been given notice of a members' resolution under clause 32.1(a), the resolution must be considered at the next **general meeting** held more than two months after the notice is given.
- 32.7 This clause does not limit any other right that a member has to propose a resolution at a **general meeting**.
- 33. Company must give notice of proposed resolution or distribute statement**
- 33.1 If the **company** has been given a notice or request under clause 32:
- (a) in time to send the notice of proposed members' resolution or a copy of the members' statement to members with a notice of meeting, it must do so at the **company's** cost, or
  - (b) too late to send the notice of proposed members' resolution or a copy of the members' statement to members with a notice of meeting, then the members who proposed the resolution or made the request must pay the expenses reasonably incurred by the **company** in giving members notice of the proposed members' resolution or a copy of the members' statement. However, at a **general meeting**, the members may pass a resolution that the **company** will pay these expenses.
- 33.2 The **company** does not need to send the notice of proposed members' resolution or a copy of the members' statement to members if:
- (a) it is more than 1,000 words long,
  - (b) the directors consider it may be defamatory,
  - (c) clause 32.1(b) applies, and the members who proposed the resolution or made the request have not paid the **company** enough money to cover the cost of sending the notice of the proposed members' resolution or a copy of the members' statement to members, or
  - (d) in the case of a proposed members' resolution, the resolution does not relate to a matter that may be properly considered at a **general meeting** or is otherwise not a valid resolution able to be put to the members.
- 34. Circular resolutions of members**
- 34.1 Subject to clause 34.3, the directors may put a resolution to the members to pass a resolution without a **general meeting** being held (a circular resolution).

- 34.2 The directors must notify the auditor (if any) as soon as possible that a circular resolution has or will be put to members, and set out the wording of the resolution.
- 34.3 Circular resolutions cannot be used:
- (a) for a resolution to remove an auditor, appoint a director or remove a director
  - (b) for passing a **special resolution**, or
  - (c) where the **Corporations Act** or this constitution requires a meeting to be held.
- 34.4 A circular resolution is passed if all the members entitled to vote on the resolution sign or agree to the circular resolution, in the manner set out in clause 34.5 or clause 34.6.
- 34.5 Members may sign:
- (a) a single document setting out the circular resolution and containing a statement that they agree to the resolution, or
  - (b) separate copies of that document, as long as the wording is the same in each copy.
- 34.6 The **company** may send a circular resolution by email to members and members may agree by sending a reply email to that effect, including the text of the resolution in their reply.

## Voting at general meetings

### 35. How many votes a member has

Each **eligible member** has one vote.

### 36. Challenge to member's right to vote

- 36.1 A member or the chairman may only challenge a person's right to vote at a **general meeting** at that meeting.
- 36.2 If a challenge is made under clause 36.1, the chairman must decide whether or not the person may vote. The chairman's decision is final.

### 37. How voting is carried out

- 37.1 Voting must be conducted and decided by:
- (a) a show of hands, or
  - (b) a vote in writing, or
  - (c) another method chosen by the chairman that is fair and reasonable in the circumstances.

- 37.2 Before a vote is taken, the chairman must state whether any proxy votes have been received and, if so, how the proxy votes will be cast.
- 37.3 On a show of hands, the chairman's decision is conclusive evidence of the result of the vote.
- 37.4 Every question submitted to a **general meeting** shall be decided by a majority of the members present and voting, and the chairman shall, in case of equality, have a second or casting vote.
- 37.5 The chairman and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.
- 38. When and how a vote in writing must be held**
- 38.1 A vote in writing may be demanded on any resolution instead of or after a vote by a show of hands by:
- (a) at least five members present,
  - (b) **members present** with at least 5% of the votes that may be passed on the resolution on the vote in writing (worked out as at the midnight before the vote in writing is demanded), or
  - (c) the chairman.
- 38.2 A vote in writing must be taken when and how the chairman directs, unless clause 38.3 applies.
- 38.3 A vote in writing must be held immediately if it is demanded under clause 38.1:
- (a) for the election of a chairman under clause 29.2, or
  - (b) to decide whether to adjourn the meeting.
- 38.4 A demand for a vote in writing may be withdrawn.
- 39. Appointment of proxy**
- 39.1 A member may appoint a proxy to attend and vote at a **general meeting** on behalf of the member.
- 39.2 A proxy appointed to attend and vote for a member has the same rights as the member to:
- (a) speak at the meeting
  - (b) vote in a vote in writing (but only to the extent allowed by the appointment), and
  - (c) join in to demand a vote in writing under clause 38.1.
- 39.3 An appointment of proxy (proxy form) must be signed by the member appointing the proxy and must contain:

- (a) the member's name and address
- (b) the **company's** name
- (c) the proxy's name or the name of the office held by the proxy, and
- (d) the meeting(s) at which the appointment may be used.

- 39.4 A proxy appointment may be standing (ongoing).
- 39.5 Proxy forms must be received by the **company** at the address stated in the notice under clause 24.5(d) (d) or at the **company's** registered address at least 48 hours before a meeting.
- 39.6 A proxy does not have the authority to speak and vote for a member at a meeting while the member is at the meeting.
- 39.7 Unless the **company** receives written notice before the start or resumption of a **general meeting** at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing member:
- (a) dies
  - (b) is mentally incapacitated,
  - (c) revokes the proxy's appointment, or
  - (d) revokes the authority of a representative or agent who appointed the proxy.
- 39.8 A proxy appointment may specify the way the proxy must vote on a particular resolution.

#### 40. Voting by proxy

- 40.1 A proxy is not entitled to vote on a show of hands (but this does not prevent a member appointed as a proxy from voting as a member on a show of hands).
- 40.2 When a vote in writing is held, a proxy:
- (a) does not need to vote, unless the proxy appointment specifies the way the proxy must vote,
  - (b) must, if the way the proxy must vote is specified on the proxy form, vote that way, and
  - (c) may, if the proxy is also a member or holds more than one proxy, cast the votes held in different ways.

## Directors

#### 41. Number of directors

- 41.1 The **company** must have at least three and no more than nine directors.

41.2 If the number of directors is reduced to fewer than the number required for a quorum, the continuing directors may act for the purpose of increasing the number of directors to the number required for a quorum or calling a **general meeting**, but for no other purpose.

**42. Council**

The board of directors of the **company** shall be known as the **Council**.

**43. Elected office-bearers**

43.1 The **company's** elected office-bearers shall be the President, the Deputy President and the Treasurer.

43.2 The **company's** elected office-bearers shall serve as directors of the **company**.

**44. Election of office-bearers and directors**

44.1 The Council shall appoint a Returning Officer for the conduct of elections.

44.2 Up to seven directors, including the office-bearers, will be elected by the members.

44.3 The members may elect a director by a resolution passed in a **general meeting**.

44.4 A person is eligible for election as a director of the **company** if that person:

(a) is an individual who is

(i) an **eligible member** of the **company**, or

(ii) a representative appointed under clause 27 of a **Corporate member** of the **company**,

(b) is nominated by two members or representatives of members entitled to vote (unless the person was previously elected as a director at a **general meeting** and has been a director since that meeting),

(c) gives the **company** signed consent to act as a director of the **company**, and

(d) is not ineligible to be a director under the **Corporations Act** or the **ACNC Act**.

44.5 Prior to each annual **general meeting** following the adoption of this constitution, the Returning Officer will call for nominations from members for each position that is falling vacant at the annual **general meeting**.

44.6 At the first annual **general meeting** following the adoption of this constitution all of the members of the **Council** shall resign and the members at that annual **general meeting** shall elect up to seven directors, in the following order:

(a) A President who shall hold office for a three-year term,

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- (b) A Deputy President who shall hold office for a three-year term,
- (c) A Treasurer who shall hold office for a three-year term,
- (d) Two directors who shall hold office for a two-year term, and
- (e) Two directors who shall hold office for a one-year term.

44.7 At each election held subsequent to the first annual **general meeting** following the adoption of this constitution, each **elected director** shall hold office for a three-year term.

44.8 Subject to clause 44.4 and clause 47.6, a member of the **Council** whose term has expired shall be eligible for re-election.

### 45. Casual vacancies

45.1 One or more casual vacancies exist if the Council has fewer than seven **elected directors**.

45.2 The directors may appoint a person as a director to fill a casual vacancy if that person:

- (a) is an individual who is
  - (i) an **eligible member** of the **company**, or
  - (ii) a representative appointed under clause 27 of a **Corporate member** of the **company**,
- (b) gives the **company** signed consent to act as a director of the **company**, and
- (c) is not ineligible to be a director under the Corporations Act or the ACNC Act.

### 46. Appointment of directors

46.1 Up to two directors may be appointed by the **Council**.

46.2 The **Council** may appoint a person as a director if that person:

- (a) is an individual who is
  - (i) an **eligible member** of the **company**, or
  - (ii) a representative appointed under clause 27 of a **Corporate member** of the **company**,
- (b) gives the **company** signed consent to act as a director of the **company**,
- (c) is not ineligible to be a director under the Corporations Act or the ACNC Act, and
- (d) brings relevant skills and experience to help the Council achieve specific objectives.



- 46.3 The Council may, in its discretion, deem a person to be an **eligible member** immediately prior to that person's appointment as a director where that person does not otherwise satisfy the definition of an Ordinary Member within the terms of clause 12.3(b).
- 46.4 An appointment under clause 46 requires the approval of at least two-thirds of the directors.
- 46.5 With the approval of at least two-thirds of the directors, an **appointed director** whose term has expired may be re-appointed.

**47. Term of office**

- 47.1 The term of a director elected under clause 44 starts at the end of the annual **general meeting** at which the director is elected and ends at the end of the annual **general meeting** at which the director retires.
- 47.2 The term of a director appointed under clause 45 to fill a casual vacancy shall end at the annual **general meeting** after the appointment.
- 47.3 The term of a director appointed under clause 46 shall end at the annual **general meeting** held in the third year after the appointment.
- 47.4 Each director must retire at least once every three years.
- 47.5 A director who retires under clause 47.2 or clause 47.3 may nominate for election, subject to clause 47.6.
- 47.6 A director who has held office on the **Council** for a continuous period of four terms may only be appointed or re-elected for an additional continuous term by a **special resolution**.

**48. When a director stops being a director**

A director stops being a director if the director:

- (a) gives written notice of resignation as a director to the **company**,
- (b) dies,
- (c) is removed as a director by a resolution of the members,
- (d) stops being a member of the **company**,
- (e) is a representative of a member, and that member stops being a member,
- (f) is a representative of a member, and the member notifies the **company** that the representative is no longer a representative,
- (g) is absent for three (3) consecutive directors' meetings without approval from the directors,
- (h) is not re-elected or re-appointed following the conclusion of a term of office, or
- (i) becomes ineligible to be a director of the **company** under the **Corporations Act** or the **ACNC Act**.

## Powers of directors

### 49. Powers of directors

- 49.1 The directors are responsible for managing and directing the activities of the **company** to achieve the purposes set out in clause 6.
- 49.2 The directors may use all the powers of the **company** except for powers that, under the **Corporations Act** or this constitution, may only be used by members.
- 49.3 The directors must decide on the responsible financial management of the **company** including:
- (a) any suitable written delegations of power under clause 50, and
  - (b) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.
- 49.4 The directors cannot remove an auditor. Auditors may only be removed by a members' resolution at a general meeting.

### 50. Delegation of directors' powers

- 50.1 The directors may delegate any of their powers and functions to a committee, a director, an employee of the **company** (such as a chief executive officer) or any other person, as they consider appropriate.
- 50.2 The delegation must be recorded in the company's minute book.

### 51. Payments to directors

- 51.1 The **company** must not pay fees to a director for acting as a director.
- 51.2 The **company** may:
- (a) pay a director for work done for the **company**, other than as a director, if the amount is no more than a reasonable fee for the work done, or
  - (b) reimburse a director for expenses properly incurred by the director in connection with the affairs of the **company**.
- 51.3 Any payment made under clause 51.2 must be approved by the directors in accordance with its reimbursements policy.
- 51.4 The **company** may pay premiums for insurance indemnifying directors, as allowed for by law (including the **Corporations Act**) and this constitution.

### 52. Execution of documents

The **company** may execute a document if the document is signed by:

- (a) two directors of the company, or
- (b) a director and the secretary.

## Duties of directors

### 53. Duties of directors

The directors must comply with their duties as directors under legislation and common law (judge-made law), and with the duties described in governance standard 5 of the regulations made under the **ACNC Act** which are:

- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if the individual were a director of the company,
- (b) to act in good faith in the best interests of the company and to further the purposes of the company set out in clause 6,
- (c) not to misuse their positions as directors,
- (d) not to misuse information they gain in their role as directors,
- (e) to disclose any perceived or actual material conflicts of interest in the manner set out in clause 54,
- (f) to ensure that the financial affairs of the company are managed responsibly, and
- (g) not to allow the company to operate while it is insolvent.

### 54. Conflicts of interest

54.1 A director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of directors (or that is proposed in a circular resolution):

- (a) to the other directors, or
- (b) if all of the directors have the same conflict of interest, to the members at the next **general meeting**, or at an earlier time if reasonable to do so.

54.2 The disclosure of a conflict of interest by a director must be recorded in the minutes of the meeting.

54.3 Each director who has a material personal interest in a matter that is being considered at a meeting of directors (or that is proposed in a circular resolution) must not, except as provided under clause 54.4:

- (a) be present at the meeting while the matter is being discussed, or
- (b) vote on the matter.

54.4 A director may still be present and vote if:

- (a) the director's interest arises from membership of the **company**, and the other members have the same interest,
- (b) the director's interest relates to an insurance contract that insures, or would insure, the director against liabilities that the director incurs as a director of the **company** (see clause 72),
- (c) the director's interest relates to a payment by the **company** under clause 71 (indemnity), or any contract relating to an indemnity that is allowed under the **Corporations Act**,
- (d) the Australian Securities and Investments Commission (ASIC) makes an order allowing the director to vote on the matter, or
- (e) the directors who do not have a material personal interest in the matter pass a resolution that:
  - (i) identifies the director, the nature and extent of the director's interest in the matter and how it relates to the affairs of the **company**, and
  - (ii) says that those directors are satisfied that the interest should not stop the director from voting or being present.

## Directors' meetings

### 55. When the directors meet

- 55.1 The directors may decide how often, where and when they meet.
- 55.2 For avoidance of doubt, a directors' meeting may, under clause 42, be called a **Council** meeting.

### 56. Calling directors' meetings

- 56.1 Despite clause 55.1, the President may call a directors' meeting by giving reasonable notice to all of the other directors.
- 56.2 In the absence or incapacity of the President, a majority of the directors may call a directors' meeting by giving reasonable notice to all of the other directors.
- 56.3 Notice of a meeting called under the provision of clause 56.2 must be given in writing or by any other means of communication that has previously been agreed to by all of the directors.

### 57. Chairman for directors' meetings

- 57.1 The **elected chairman** is entitled to chair directors' meetings.
- 57.2 The directors at a directors' meeting may choose a director to be the chairman for that meeting if the **elected chairman** is:

- (a) not present within 30 minutes after the starting time set for the meeting,  
or
- (b) present but does not want to act as chairman of the meeting.

**58. Quorum at directors' meetings**

- 58.1 Subject to clause 58.2, unless the directors determine otherwise, the quorum for a directors' meeting is a majority (more than 50%) of directors.
- 58.2 Despite clause 58.1, the quorum cannot be less than three directors.
- 58.3 A quorum must be present for the whole directors' meeting.

**59. Using technology to hold directors' meetings**

- 59.1 The directors may hold their meetings by using any technology (such as video or teleconferencing) that is agreed to by a majority of the directors providing that no director is excluded by the use of technology from participating in directors' meetings.
- 59.2 The directors' agreement under clause 59.1 may be a standing (ongoing) one.
- 59.3 A director may only withdraw their consent under clause 59.1 within a reasonable period before the meeting.

**60. Passing director's resolutions**

A director's resolution must be passed by a majority of the votes cast by directors present and entitled to vote on the resolution.

**61. Circular resolutions of directors**

- 61.1 The directors may pass a circular resolution without a directors' meeting being held.
- 61.2 A circular resolution is passed if all the directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in clause 61.3 or clause 61.4.
- 61.3 Each director may sign:
  - (a) A single document setting out the resolution and containing a statement of agreement to the resolution, or
  - (b) separate copies of that document, as long as the wording of the resolution is the same in each copy.
- 61.4 The **company** may send a circular resolution by email to the directors and the directors may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.

- 61.5 A circular resolution is passed when the last director signs or otherwise agrees to the resolution in the manner set out in clause 61.3 or clause 61.4.

## Secretary

### 62. Appointment and role of secretary

- 62.1 The **company** must have at least one secretary, who may also be a director.
- 62.2 A secretary must be appointed by the directors (after giving the **company** signed consent to act as secretary of the **company**) and may be removed by the directors.
- 62.3 The directors must decide the terms and conditions under which the secretary is appointed.
- 62.4 Remuneration may not be offered to a secretary who is also a director.
- 62.5 The role of the secretary includes:
- (a) maintaining a register of the **company's** members, and
  - (b) maintaining the minutes and other records of **general meetings** (including notices of meetings), directors' meetings and circular resolutions.
- 62.6 The secretary may be supported in performing the role by an employee of the **company**.

## Minutes and records

### 63. Minutes and records

- 63.1 The **company** must, within one month, make and keep the following records:
- (a) minutes of proceedings and resolutions of **general meetings**,
  - (b) minutes of circular resolutions of members,
  - (c) a copy of a notice of each **general meeting**, and
  - (d) a copy of a members' statement distributed to members under clause 33.
- 63.2 The **company** must, within one month, make and keep the following records:
- (a) minutes of proceedings and resolutions of directors' meetings (including meetings of any committees), and
  - (b) minutes of circular resolutions of directors.
- 63.3 To allow members to inspect the **company's** records:

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- (a) the **company** must give a member access to the records set out in clause 63.1, and
  - (b) the directors may authorise a member to inspect other records of the **company**, including records referred to in clause 63.2 and clause 64.1.
- 63.4 The directors must ensure that minutes of a **general meeting** or a directors' meeting are signed within a reasonable time after the meeting by:
- (a) the chairman of the meeting, or
  - (b) the chairman of the next meeting.
- 63.5 The directors must ensure that minutes of the passing of a circular resolution (of members or directors) are signed by a director within a reasonable time after the resolution is passed.

### 64. Financial and related records

- 64.1 The **company** must make and keep written financial records that:
- (a) correctly record and explain its transactions and financial position and performance, and
  - (b) enable true and fair financial statements to be prepared and to be audited.
- 64.2 The **company** must also keep written records that correctly record its operations.
- 64.3 The **company** must retain its records for at least 7 years.
- 64.4 The directors must take reasonable steps to ensure that the **company's** records are kept safe.

## By-laws

### 65. By-laws

- 65.1 The directors may pass a resolution to make by-laws to give effect to this constitution.
- 65.2 Members and directors must comply with by-laws as if they were part of this constitution.

## Notice

### 66. What is notice

- 66.1 Anything written to or from the **company** under any clause in this constitution is written notice and is subject to clauses 67 to 69, unless specified otherwise.
- 66.2 Clauses 67 to 69 do not apply to a notice of proxy under clause 39.5.

### 67. Notice to the company

Written notice or any communication under this constitution may be given to the **company**, the directors or the secretary by:

- (a) delivering it to the company's registered office,
- (b) posting it to the company's registered office or to another address chosen by the company for notice to be provided,
- (c) sending it to an email address or other electronic address notified by the company to the members as the company's email address or other electronic address, or
- (d) sending it to the fax number notified by the company to the members as the company's fax number.

### 68. Notice to members

- 68.1 Written notice or any communication under this constitution may be given to a member:
- (a) in person,
  - (b) by posting it to, or leaving it at the address of the member in the register of members or an alternative address (if any) nominated by the member for service of notices,
  - (c) sending it to the email or other electronic address nominated by the member as an alternative address for service of notices (if any),
  - (d) sending it to the fax number nominated by the member as an alternative address for service of notices (if any), or
  - (e) if agreed to by the member, by notifying the member at an email or other electronic address nominated by the member, that the notice is available at a specified place or address (including an electronic address).
- 68.2 If the **company** does not have an address for the member, the **company** is not required to give notice in person.



**69. When notice is taken to be given**

A notice:

- (a) delivered in person, or left at the recipient's address, is taken to be given on the day it is delivered;
- (b) sent by post, is taken to be given on the third day after it is posted with the correct payment of postage costs;
- (c) sent by email, fax or other electronic method, is taken to be given on the business day after it is sent; and
- (d) given under clause 68.1(e) is taken to be given on the business day after the notification that the notice is available is sent.

## Financial year

**70. Company's financial year**

The **company's** financial year is from 1 July to 30 June, unless the directors pass a resolution to change the financial year.

## Indemnity, insurance and access

**71. Indemnity**

- 71.1 The **company** indemnifies each officer of the **company** out of the assets of the **company**, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person as an officer of the **company**.
- 71.2 In this clause, 'officer' means a director or secretary and includes a director or secretary after the person has ceased to hold that office.
- 71.3 In this clause, 'to the relevant extent' means:
  - (a) to the extent that the **company** is not precluded by law (including the **Corporations Act**) from doing so, and
  - (b) for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).
- 71.4 The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the **company**.

**72. Insurance**

- 72.1 To the extent permitted by law (including the **Corporations Act**), and if the directors consider it appropriate, the **company** may pay or agree to pay a

premium for a contract insuring a person who is or has been an officer of the **company** against any liability incurred by the person as an officer of the **company**.

**73. Directors' access to documents**

- 73.1 A director has a right of access to the financial records of the **company** at all reasonable times.
- 73.2 If the directors agree, the **company** must give a director or former director access to:
- (a) certain documents, including documents provided for or available to the directors, and
  - (b) any other documents referred to in those documents.

## Winding up

**74. Surplus assets not to be distributed to members**

If the **company** is wound up, any **surplus assets** must not be distributed to a member or a former member of the **company**, unless that member or former member is a charity described in clause 75.1.

**75. Distribution of surplus assets**

- 75.1 Subject to the **Corporations Act** and any other applicable Act, and any court order, any **surplus assets** that remain after satisfaction of all the **company's** debts and liabilities must only be distributed to one or more organisations:
- (a) with purpose(s) similar to, or inclusive of, the purposes in clause 6, and
  - (b) which also prohibit the distribution of any **surplus assets** to its members to at least the same extent as the **company**
- provided that any assets remaining in gift funds must only be distributed in accordance with clause 75.3, and any assets remaining in the **public fund** must only be distributed in accordance with clause 77.7.
- 75.2 The decision as to the organisation or organisations to be given the **surplus assets** must be made by a **special resolution** of members at or before the time of winding up. If the members do not make this decision, the **company** may apply to the Supreme Court to make this decision.
- 75.3 If the **company's** deductible gift recipient endorsement is revoked (whether or not the **company** is to be wound up), any surplus gift funds must be transferred to one or more **registered charities**, as decided by the directors.
- 75.4 For the purpose of this constitution:
- (a) 'gift funds' means:

- (i) gifts of money or property for the principal purpose of the **company**
  - (ii) contributions made in relation to a fund-raising event held for the principal purpose of the **company**, and
  - (iii) money received by the **company** because of such gifts and contributions.
- (b) 'contributions' and 'fund-raising event' have the same meaning as in Division 30 of the *Income Tax Assessment Act 1997* (Cth).

## Inclusion on the Register of Cultural Organisations

### 76. Compliance

If the **company** is on the Register of Cultural Organisations (**ROCO**) it must comply with the requirements of the Register and operate in accordance with clauses 77 and 78.

### 77. Establishment and operation of Public Fund

- 77.1 The company will establish and maintain a **Public Fund**.
- 77.2 Donations will be deposited into the **Public Fund** listed on the Register of Cultural Organisations. These monies will be kept separate from other funds of the association and will only be used to further the principal purpose of the Association. Investment of monies in this fund will be made in accordance with guidelines for public funds as specified by the Australian Taxation Office.
- 77.3 The public will be invited to contribute to the fund.
- 77.4 The fund will be administered by a management committee or a subcommittee of the management committee, the majority of whom, because of their tenure of some public office or their professional standing, have an underlying community responsibility, as distinct from obligations solely in regard to the cultural objectives of the **company**.
- 77.5 No monies/assets in this fund will be distributed to members or office bearers of the Association, except as reimbursement of out-of-pocket expenses incurred on behalf of the fund or proper remuneration for administrative services.
- 77.6 The Department responsible for the administration of the Register of Cultural Organisations will be notified of any proposed amendments or alterations to provisions for the **Public Fund**, to assess the effect of any amendments on the **Public Fund's** continuing Deductible Gift Recipient status.
- 77.7 At the first occurrence of:
  - (a) the winding up of the **Public Fund**,

- (b) the **company** ceasing to be endorsed as a deductible gift recipient under Subdivision 30-BA of the *Income Tax Assessment Act 1997* (Cth), or
  - (c) the **company** and the **Public Fund** ceasing to be on the **ROCO**,
- any surplus assets of the **Public Fund** must be transferred to a fund on the **ROCO**, the identity of which must be decided by the Council.

## 78. Receipts

- 78.1 Receipts for Gifts to the **Public Fund** must be made in the name of the **Public Fund** and state:
- (a) the name of the **Public Fund** of the **company**,
  - (b) the Australian Business Number of the **company**,
  - (c) the date the donation was received,
  - (d) signature of a person authorised to act on behalf of the **Public Fund**,
  - (e) name of the donor,
  - (f) type of donation (money or property) and value,
  - (g) a reference to the **Public Fund** being on the **ROCO**, and
  - (h) if the receipt is for a Gift, the fact that the receipt is for a Gift.
- 78.2 Receipts for Deductible Contributions to the **Public Fund** must be made in the name of the **Public Fund** and state:
- (a) the name of the **company**;
  - (b) the Australian Business Number of the **company**;
  - (c) the date the donation was received;
  - (d) signature of a person authorised to act on behalf of the **Public Fund**;
  - (e) name of the person who made the Deductible Contribution;
  - (f) a reference to the **Public Fund** being on the **ROCO**;
  - (g) that the receipt is for a contribution made in return for a right to attend, or participate in, a specified fundraising event;
  - (h) if the amount is money, the amount of the contribution; and
  - (i) the amount of the GST inclusive market value, on the day the contribution was made, of the right to attend or participate in the fundraising event.

## Supply of Liquor

### 79. Compliance

If licensed under the *Liquor Control Reform Act 1998* (Vic), the company must comply with the requirements of the licence and operate in accordance with the provisions of clause 80.

### 80. Operation of Licensed Premises

- 80.1 No liquor shall be sold, disposed of or supplied in the Licensed Premises otherwise than in conformity with the provisions of the *Liquor Control Reform Act*.
- 80.2 The sale, disposal and supply of liquor in the Licensed Premises shall be under the control of the Council which shall have the power and duty to take such action as may be necessary to enforce and ensure compliance by members and by all other persons coming upon the Licensed Premises with the Constitution and any by-laws of the company and with the provisions of the *Liquor Control Reform Act*.
- 80.3 All liquor sold or supplied on the Licensed Premises to be consumed elsewhere than upon the Licensed Premises shall only be removed from the Licensed Premises by the member purchasing the same.
- 80.4 No payment or part payment shall be made to any officer or servant of the company by way of commission or allowance from or upon the receipts of the company for alcoholic liquor supplied.
- 80.5 No liquor shall be sold or supplied to any person under the age of eighteen years except where such person is accompanied by a spouse, parent or guardian and the liquor is sold or supplied for consumption as part of a meal supplied upon the Licensed Premises.
- 80.6 No person under the age of eighteen years, except persons who are being trained as waiters or waitresses and who are not allowed to serve behind the bar, shall be employed on the Licensed Premises.
- 80.7 A visitor shall not be supplied with liquor on the premises of the company unless the visitor is a guest in the company of a member.

## Definitions and interpretation

### 81. Definitions

In this constitution:

**ACNC Act** means the Australian Charities and Not-for-profits Commission Act 2012 (Cth)

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**Affiliated Membership** means membership approved by the Council under clause 12.8

**appointed director** means one or more directors, who have been appointed to serve as directors of the **company** in accordance with clause 46

**company** means the **company** referred to in clause 1

**Corporate Member** means a member approved by the Council under clause 12.2

**Corporations Act** means the Corporations Act 2001 (Cth)

**Council** means the board of directors referred to in clause 42

**Department** means the department within the Ministry for the Arts (or other Commonwealth department from time to time) that is responsible for **ROCO**

**director** means a member of the Council, and includes **elected directors**, directors appointed to fill casual vacancies, and **appointed directors**

**elected chairman** means a person elected by the members to be the **company's** President under clause 43

**elected director** means a director who has been elected as a director in accordance with clause 44

**eligible member** means a member with the rights defined at clause 13.

**general meeting** means a meeting of members and includes the annual **general meeting** under clause 23.1

**Health Care Card** means a card issued by the Australian government to indicate that a person receives specific payments or benefits

**Honorary Membership** means membership conferred by the Council under clause 12.6

**Junior Membership** means membership approved by the Council under clause 12.5

**member present** means, in connection with a **general meeting**, a **member present** in person, by representative or by proxy at the venue or venues for the meeting

**Ordinary Membership** means membership approved by the Council under clause 12.3

**registered charity** means a charity that is registered under the **ACNC Act**

**Public Fund** means the English-Speaking Union (Victoria Branch) Public Fund

**ROCO** means the Register of Cultural Organisations

**Social Membership** means membership approved by the Council under clause 12.4

**special resolution** means a resolution:

- (a) of which notice has been given under clause 24.5(c), and
- (b) that has been passed by at least 75% of the votes cast by members present and entitled to vote on the resolution.

**surplus assets** means any assets of the **company** that remain after paying all debts and other liabilities of the **company**, including the costs of winding up.

**82. Reading this constitution with the Corporations Act**

- 82.1 The replaceable rules set out in the **Corporations Act** do not apply to the **company**.
- 82.2 While the **company** is a **registered charity**, the **ACNC Act** and the **Corporations Act** override any clauses in this constitution which are inconsistent with those Acts.
- 82.3 If the **company** is not a **registered charity** (even if it remains a charity), the **Corporations Act** overrides any clause in this constitution which is inconsistent with that Act.
- 82.4 A word or expression that is defined in the **Corporations Act**, or used in that Act and covering the same subject, has the same meaning as in this constitution.

**83. Interpretation**

In this constitution:

- (a) the words ‘including’, ‘for example’, or similar expressions mean that there may be more inclusions or examples than those mentioned after that expression, and
- (b) reference to an Act includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation made under that Act (such as regulations).

**84. Operation and effect**

- 84.1 This constitution take effect from the date of its adoption and does not operate retrospectively.
- 84.2 The directors at the date of adoption of this constitution will continue to serve until the first annual **general meeting** after the constitution takes effect.
- 84.3 On the adoption of this constitution, every existing member of the **company** will, subject to the provisions of this constitution:
- (c) continue to be a member; and
- (d) be deemed to have been approved in accordance with the clause in this constitution that is relevant to his or her existing membership category, namely:
- (i) existing Life members will be recognised as Life members in accordance with clause 12.1;
- (ii) existing Corporate sponsors will be recognised as **Corporate members** in accordance with clause 12.2;
- (iii) existing Ordinary (or Full) members will be recognised as Ordinary members in accordance with clause 12.3;

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- (iv) existing Associate members will be recognised as Social members in accordance with clause 12.4;
- (v) existing Junior members and Associate Junior members will be recognised as Junior members in accordance with clause 12.5;
- (vi) existing Honorary members will be recognised as Honorary members in accordance with clause 12.6.