

Corporations Act 2001

A COMPANY LIMITED BY GUARANTEE

CONSTITUTION
of
AUSTRALIAN PUBLISHERS ASSOCIATION LIMITED
ACN 003 985 313



ADOPTED AT THE EXTRAORDINARY GENERAL MEETING
OF MEMBERS HELD ON 7 MARCH 2014

CONSTITUTION OF
AUSTRALIAN PUBLISHERS ASSOCIATION LIMITED

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AUSTRALIAN PUBLISHERS ASSOCIATION LIMITED
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PRELIMINARY

1. EXCLUSION OF REPLACEABLE RULES

The replaceable rules contained in the Act do not apply to the Company.

2. DEFINITIONS

In this Constitution:-

Act means the Corporations Act 2001 (Commonwealth).

Alternate Director means an Alternate Director appointed pursuant to Article 53(1).

Annual General Meeting means the General Meeting which is held annually in accordance with Article 23.

Applicant means a Person who wishes to apply for membership of the Company.

Application for Membership means the form, the contents of which may be determined by the Board from time to time, which is to be used by an Applicant.

Associate Member means a Person admitted as an associate member pursuant to Article 8(3)(b).

Board means the board of Directors for the time being of the Company.

Bookseller means a Person whose principal activity, in the opinion of the Board, is Bookselling Activity and where that Person is a member of a Financial Group, the principal activity of that Person's Financial Group is Bookselling Activity.

Bookselling Activity means the business activity of the sale of books, journals, educational materials or periodicals in any format or by any means to one or more consumers.

Charged Member means a Member against whom an allegation has been made which may lead to the Discipline of that Member.

Chief Executive Officer means the natural person appointed pursuant to Article 84 to perform the duties of an Chief Executive Officer of the Company, whether temporary or otherwise.

Company means the entity whose name upon the adoption of this Constitution was AUSTRALIAN PUBLISHERS ASSOCIATION LIMITED and shall be taken to mean the same entity by whatever name from time to time it may be called.

Contentious Issue means an issue determined by not less than three (3) Directors to require determination according to Article 69.

Convenor means a person elected to hold that office under Article 76(3).

Corporate Member means a Member of the Company which is a company, a corporation or an incorporated body.

Delegate means a natural person nominated by a Member pursuant to Article 22.

Directors means the directors for the time being of the Company.

Discipline means, in relation to a Charged Member, any type or form of penalty or sanction, financial or otherwise, imposed by the Board or the Company, including the suspension or expulsion of that Charged Member.

Disciplined Member means a Member who has been suspended, fined or expelled under Article 19 hereof.

Elected Directors means those persons elected to hold office as a Director pursuant to Article 50.

Financial Group means a group of business organisations linked by common or similar ownership with the same Ultimate Holding Company which may or may not have a common administrative or financial control.

Financial Member means a Member who has paid by the relevant due date the Membership Fees and all other sums owed by that Member to the Company.

Full Member means a Person admitted as a full member pursuant to Article 8(3)(a).

Honorary Life Member means a Person admitted as an honorary life member pursuant to Article 8(3)(c).

Member means a Person whose name is entered in the Register as a member of the Company.

Membership Fees means the fees payable by Members of the Company on an annual basis as determined by the Board from time to time.

Person includes:–

- (a) a natural person; and
- (b) a registered company, corporation or incorporated association.

President means the person elected to hold the office of president of the Company pursuant to Articles 50 and 51.

Publisher means a Person whose principal activity, in the opinion of the Board, is Publishing Activity.

Publishing Activity means the business activity of the continuous publishing of books, journals, educational materials or periodicals in any format in Australia in either or both of the following ways:–

- (a) the original publishing of Australian books, journals, educational materials or periodicals in any format or by any means; and/or
- (b) the importation, distribution or wholesaling of books, journals, educational materials or periodicals in any format or by any means,

and excludes Bookselling Activity.

Register means the Register of Members.

Seal means the common seal of the Company (if any).

Sectional Committee means a committee formed to represent the interests of certain publishing sectors.

Secretary means the secretary for the time being of the Company who shall be the Chief Executive Officer.

Service Address means the address nominated by a Member for the purpose of receiving notices from the Company.

Special Resolution means a resolution passed at a General Meeting of the Members convened and held in accordance with this Constitution and passed by not less than three-quarters of the Members present and voting.

Substantial Change of Control means, in relation to a Corporate Member, that Persons entitled to hold directly or indirectly more than one-half of those securities which confer a voting right in the Corporate Member on the date when the name of the Corporate Member was first entered in the Register, cease to hold directly or indirectly more than one-half of those securities of that Corporate Member.

Threshold Turnover means the minimum annual sales turnover as determined by the Board from time to time which a Full Member must generate from a publishing sector represented by a Sectional Committee in order to attain one limb of eligibility to elect Sectional Committee members under Article 77(1)(a).

Ultimate Holding Company shall have the same meaning as ascribed to that term in the Act.

Unfinancial Member means a Member who is in default of a financial obligation (including the payment by the due date of Membership Fees) to the Company.

Vice President means the person elected to hold the office of vice president of the Company pursuant to Articles 50 and 51.

Voting Member means a Member who:—

- (a) has been granted membership of a class of membership which confers an entitlement to vote at a General Meeting; and
- (b) is not an Unfinancial Member.

3. INTERPRETATION

- (1) The *Acts Interpretation Act, 1901* (Cth) shall apply in the interpretation of this Constitution as if it were an act of the Commonwealth.
- (2) Except so far as the contrary intention appears in this Constitution, an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Act, the same meaning as in that provision of the Act.
- (3) Words importing any one gender shall be deemed and taken to include all genders and the singular to include the plural and the plural the singular unless the contrary as to gender or number is expressly provided.
- (4) Any reference to any statute or any section, regulation or schedule of any statute or any other legislation is a reference to that statute as amended, consolidated, supplemented or replaced.

PURPOSE OF COMPANY

4. OBJECTS

The object for which the Company is established is to advance Australian publishing by:—

- (1) promoting in Australia and overseas the interests of its Members having regard to the social, cultural, educational and literary value that books, journals, educational materials or periodicals represent.
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- (2) promoting the Australian publishing industry's contribution to Australian culture, education and the economy;
- (3) protecting and promoting the interests of copyright owners, agents and licensees;
- (4) encouraging best practice throughout the publishing supply chain incorporating environmental sustainability frameworks;
- (5) facilitating export opportunities for the Australian publishing industry;
- (6) protecting freedom of expression;
- (7) providing professional and vocational training programs and accrediting course providers to improve the industry skill base;
- (8) acquiring, establishing, printing and publishing newspapers, periodicals, books and leaflets or other compilations which in the opinion of the Directors is conducive to the Company's objects or any of them and to enter into any contract or agreement with any person or corporation producing and/or publishing any literary compilation or multimedia work which will further the objects of the Company or any of them;
- (9) providing comprehensive member services and advice;
- (10) promoting members' awareness and understanding of the digital space; and
- (11) representing the Company before judicial bodies on the basis that such representation will not bind Members to the Company's case nor will it preclude Members from making individual submissions,

PROVIDED that the Company shall not support with its funds any activity or endeavour to impose on or procure to be observed by its members or others any regulations or restrictions, which if an object of the Company would make it a Trade Union within the meaning of the *Industrial Relations Act 1996* (NSW).

MEMBERSHIP

5. CLASSES OF MEMBERSHIP

- (1) Subject to Article 5(5), the membership of the Company shall be comprised of those classes which the Company determines to be appropriate from time to time. As at the date of the adoption of this Constitution, the membership of the Company is divided into the following membership classes:—
 - (a) Full Members;
 - (b) Associate Members; and
 - (c) Honorary Life Members.
 - (2) The Company shall determine from time to time the eligibility criteria applicable to each membership class. Schedule 2 lists the eligibility criteria which the Company has determined as being appropriate as at the date of the adoption of this Constitution.
 - (3) An Applicant may nominate a class of membership to which they wish to be admitted when completing the Application for Membership of the Company.
 - (4) The Board shall assign an Applicant to a class of membership pursuant to the eligibility criteria set out in Schedule 2 hereof and shall be under no obligation to admit the Applicant to the class nominated by the Applicant.
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- (5) By special resolution, the Company may create different classes of membership and may confer on each such newly created class of membership such rights, privileges or benefits as the Company sees fit.

6. ELIGIBILITY FOR MEMBERSHIP

Any natural person or corporation (incorporated or otherwise) committed to the objects of the Company may become a Member of the Company provided all eligibility requirements and other membership qualifications as set out in this Constitution and the By-Laws or elsewhere have been met.

7. APPLICATION

Any Person may apply for membership of the Company, other than as an Honorary Life Member, by submitting to the Chief Executive Officer:—

- (1) an Application for Membership;
- (2) a form signed by two (2) Members to evidence that the Applicant has been proposed by one Member and seconded by the other Member for membership;
- (3) an agreement in writing to provide a guarantee not exceeding ten dollars (\$10.00) to defray such liabilities and expenses of the Company upon its winding up or dissolution;
- (4) an agreement in writing to be bound by the Constitution of the Company;
- (5) payment of the annual subscription for the first year, where relevant; and
- (6) such information as the Board may from time to time require or request.

8. ADMISSION

- (1) All Applications for Membership shall be submitted by the Chief Executive Officer to the Board which shall determine each Application for Membership. The Board shall be entitled to use any criteria for determining whether to accept or reject an Application for Membership.
 - (2) The Board may defer its determination regarding an Application for Membership pending further inquiry and/or consideration for a period not exceeding three (3) months.
 - (3) The Board may admit:—
 - (a) as a Full Member an Applicant who meets the eligibility criteria for Full Membership set out in Schedule 2 and whose application is acceptable to the Board;
 - (b) as an Associate Member an Applicant who meets the eligibility criteria for Associate Membership set out in Schedule 2 and whose application is acceptable to the Board;
 - (c) as an Honorary Life Member a natural person who in the opinion of the Board has rendered outstanding service to the Company.
 - (4) If the Board determines to accept an Applicant's Application for Membership, the Chief Executive Officer shall, as soon as possible:—
 - (a) enter the name of the Applicant in the Register;
 - (b) notify the Applicant of the Board's determination.
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- (5) An Applicant becomes a Member and is entitled to exercise the rights of membership when the name of the Applicant is entered in the Register.
- (6) The Board may decline any Application for Membership and is not bound to give reasons why the Application for Membership was not accepted.
- (7) The Chief Executive Officer shall, as soon as possible after the Board has declined an Applicant's Application for Membership:—
 - (a) notify the Applicant of the Board's determination;
 - (b) return to the Applicant the annual subscription paid by the Applicant, if any.

9. MEMBERSHIP FEES

- (1) The Board shall determine:—
 - (a) the quantum; and
 - (b) the due date for payment,of the annual subscription and any other amount which an Applicant or a Member is required to pay to be admitted or remain as a Financial Member.
- (2) At the date of the adoption of this Constitution, all subscriptions shall be payable annually in advance and shall, except as the Board may otherwise provide, become due and payable on the first day of January in each year.
- (3) A Person admitted to membership before 30th June in any calendar year shall be required to pay a full year's subscription. A Person admitted to membership after 30th June in any year shall be required to pay, in respect of that calendar year, a pro-rated annual subscription for the balance of the calendar year.
- (4) Where a Member has failed to pay its annual subscription for a year by the last day of February in that year, the right to:—
 - (a) receive newsletters, circulars and the like; and
 - (b) receive notices of, to attend and vote at General Meetings,shall be suspended.

10. REGISTER OF MEMBERS

- (1) The Chief Executive Officer will maintain a Register at the registered office of the Company.
- (2) When an Applicant has been accepted for membership the Chief Executive Officer will cause the Applicant's name to be entered in the Register, thereupon conferring membership.

11. SERVICE ADDRESS

- (1) The Service Address of a Member in the Register will be the address nominated by the Member for the purpose of receiving notices from the Company and may be:—
 - (a) a residential address;
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- (b) a postal address;
 - (c) a business address;
 - (d) a facsimile number;
 - (e) an email address.
- (2) The Company shall use its best endeavours to use the Service Address nominated by each Member for the purpose of delivering notices.
- (3) Each Member must notify the Chief Executive Officer within fourteen (14) days of any change of name or Service Address of the Member and each such change shall be recorded in the Register.

12. RIGHTS OF MEMBERS

The rights of a Member are not transferable.

13. LIABILITY OF MEMBERS

The liability of a Member is limited to:–

- (1) the extent of the Member's guarantee which shall continue for the duration of the membership of a Member and for a period of twelve (12) months following the cessation of membership of a Member; and
- (2) any unpaid annual subscriptions which remain the liability of the Member under Article 9 hereof.

14. CESSATION OF MEMBERSHIP

The membership of a Member shall cease if:–

- (1) the Member dies, becomes bankrupt or insolvent, as the case may be;
- (2) the Chief Executive Officer receives from a Member a letter of resignation;
- (3) the Member is expelled or suspended in accordance with this Constitution;
- (4) the Member ceases to be eligible for membership and cannot, or chooses not to, transfer its membership to a different class of membership; or
- (5) the Member has not paid its subscription for the year on or before the last day of February of that year and the Board resolves by simple majority that its membership should cease.

15. CONSEQUENCES OF LOSS OF MEMBERSHIP

A Member whose membership of the Company is terminated will be liable for all moneys due by that Member to the Company in addition to any sum not exceeding ten dollars (\$10.00) for which the Member is liable under Articles 13 and 108 of this Constitution.

16. PROHIBITION ON CLAIMS ON COMPANY

A Member whose membership is terminated will not make any claim, monetary or otherwise, on the Company, its funds or property except as a creditor thereof.

17. PROHIBITION ON REPRESENTATION AS A MEMBER

Any person or corporation who for any reason ceases to be a Member shall no longer represent themselves in any manner as being a Member.

18. DISPUTE RESOLUTION

- (1) The dispute resolution procedures set out in this Article 18 apply to disputes between:–
 - (a) a Member and another Member; or
 - (b) a Member and the Company.
 - (2) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within fourteen (14) days after the dispute comes to the attention of all of the parties.
 - (3) Notwithstanding the provisions of Article 19, the Board shall retain the right to attempt to resolve any dispute through the process of mediation.
 - (4) The mediator:–
 - (a) must be a person chosen by agreement between the parties; or
 - (b) in the absence of agreement:–
 - (i) in the case of a dispute between a Member and another Member, must be a person appointed by the Board; or
 - (ii) in the case of a dispute between a Member and the Company, must be a person who is a mediator appointed or employed by the Institute of Arbitrators and Mediators;
 - (c) may be a Member of the Company, where the dispute is between a Member and another Member;
 - (d) may not be a Member who is a party to the dispute.
 - (5) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
 - (6) The mediator, in conducting the mediation, must:–
 - (a) give the parties to the mediation process every opportunity to be heard; and
 - (b) allow due consideration by all parties of any written statement submitted by any party; and
 - (c) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
 - (7) The mediator must not determine the dispute.
 - (8) If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute at law.
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19. DISCIPLINE OF MEMBERS

- (1) If the parties are unable to resolve the dispute at a meeting mentioned in Article 18, or if a party fails to attend a meeting convened for that purpose, then the parties must, within seven (7) days of the date of the meeting, notify the Board in writing of the dispute.
- (2) If the Board, in its discretion, determines that a Member:–
 - (a) has breached or refuses or neglects to comply with a provision of the Constitution, By-Law or any other resolution or determination of the Board; or
 - (b) is guilty of any offensive, unseemly or other conduct detrimental to the objects or interests of the Company; or
 - (c) has prejudiced the Company or has engaged in conduct likely to bring the Company into disrepute,

the Board may by notice in writing expel, suspend or caution the Member or Members following a resolution passed within seven (7) days or such further time as the Board in its sole and absolute discretion may approve. Such notice must explain the basis upon which the Board came to such decision.

- (3) The Board must not expel a Member unless a majority of the Board votes to expel such Member.
- (4) Any Member expelled will forfeit all annual subscriptions previously paid.

20. CONSEQUENCES OF EXPULSION OR SUSPENSION

Any Member expelled from the Company may at any time apply to the Board to be readmitted as a Member. in accordance with the provisions contained in this Constitution.

21. INELIGIBILITY TO BE DIRECTOR

No person may be a Director following expulsion or during suspension unless such a person is subsequently readmitted as a Member.

REPRESENTATION OF CORPORATE MEMBERS

22. DELEGATE

- (1) Each Corporate Member shall be represented by not more than two (2) natural persons nominated in writing as being the Delegates of the Corporate Member. A Delegate shall have all the rights and responsibilities of the Corporate Member and do all things in the name of the Corporate Member as if the Delegate were a Member.
 - (2) A Delegate of a Corporate Member may be removed by that Corporate Member by notice given in writing to the Board and in that event, the Member shall immediately substitute another natural person as its Delegate.
 - (3) Where, in the reasonable opinion of the Board, a Corporate Member has experienced a Substantial Change of Control, a Delegate of such a Corporate Member who holds office as a Director shall be deemed as from the Substantial Change of Control to have offered to resign from the Board. The Board may, by notice in writing addressed to the Corporate Member or the Delegate, accept each such resignation.
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MEETINGS OF MEMBERS

23. ANNUAL GENERAL MEETING

- (1) Subject to the Act, a General Meeting shall be held at least once in every calendar year and within five (5) months after the end of the financial year. The abovementioned General Meeting shall be called the "Annual General Meeting" and all other meetings of the Company shall be called "General Meetings".
- (2) The venue and date for each Annual General Meeting shall be determined:–
 - (a) at the previous Annual General Meeting or, failing such determination,
 - (b) by the Board,with the objective of holding each Annual General Meeting as soon as practicable after the last day of February in each year.
- (3) The business of the Annual General Meeting may include any of the following, even if not referred to on the notice of meeting:
 - (a) the consideration of the Annual Financial Report, Directors' Report and Auditor's Report;
 - (b) the report of the Board on the activities of the Company;
 - (c) the election of Elected Directors;
 - (d) the appointment of the auditor;
 - (e) the fixing of the auditor's remuneration.

24. CONVENING GENERAL MEETINGS

- (1) The Board may convene a General Meeting.
- (2) The Chief Executive Officer must convene a General Meeting within twenty eight (28) days of receipt of a written requisition signed by not less than twenty (20) Full Members in accordance with section 249D of the Act. A requisition for a General Meeting must state the objects of the General Meeting.
- (3) If a requisitioned General Meeting has not been convened within the timeframe mentioned in Article 24(2), a majority of the signatories to the requisition may convene a General Meeting within two (2) months of the date of receipt by the Chief Executive Officer of the requisition.

25. CONTENTS OF NOTICE OF GENERAL MEETINGS

A notice of a General Meeting shall specify:-

- (1) the place, the day and the time of the meeting (and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
 - (2) the general nature of the business to be transacted at the meeting;
 - (3) such other information as is required by section 249L of the Act; and
 - (4) in relation to the Notice of an Annual General Meeting, shall be accompanied by:–
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- (a) the accounts;
- (b) details of the positions to be filled and the persons nominated for election; ;and
- (c) notice of elections for members of Sectional Committees and the Convenor for each Sectional Committee in the case of an Alternate Annual General Meeting.

26. MEETING AT SEVERAL VENUES

The Company may hold a meeting of its Members at two (2) or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate.

27. PERIOD OF NOTICE OF GENERAL MEETING

Subject to the provisions of the Act relating to agreements for shorter notice:-

- (1) at least twenty eight (28) days notice must be given of an Annual General Meeting; and.
- (2) at least twenty one (21) days notice must be given of a meeting other than an Annual General Meeting.

28. PERSONS ENTITLED TO NOTICE OF GENERAL MEETING

- (1) Notice of every General Meeting shall be given in the manner authorised by Article 94 to:-
 - (a) every Member and to every Director;
 - (b) every Delegate; and
 - (c) the auditor for the time being of the Company.
- (2) No other person is entitled to receive notices of meetings of the Company's Members.

29. CHAIRPERSON OF GENERAL MEETINGS

- (1) Subject to the provisions contained in Article 29(2), the President shall be the chairperson of all General Meetings.
- (2) Where a General Meeting is held and:-
 - (a) the President has not been elected as provided by Article 50(3); or
 - (b) the President so elected is not present within fifteen (15) minutes after the time appointed for the holding of the meeting or is unwilling to act for all or part of the meeting,the Members present shall elect one of their number to be Chairperson of the meeting (or part of it).

30. QUORUM FOR GENERAL MEETINGS

- (1) 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.
 - (2) A quorum is constituted by not less than twenty per cent (20%) of the persons entitled to attend and vote at a General Meeting.
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- (3) For the purpose of determining whether a quorum is present, a person attending as a proxy, or as representing a body corporate that is a Member, shall be deemed to be a Member.

31. ADJOURNMENT OF GENERAL MEETINGS IF NO QUORUM PRESENT

If a quorum is not present within fifteen (15) minutes from the time appointed for the meeting:-

- (1) where the meeting was convened upon the request of Members - the meeting shall be dissolved; or
- (2) in any other case:-
- (a) the meeting stands adjourned to such day, and at such time and place, as the Directors determine or, if no determination is made by the Directors, to the same day in the next week at the same time and place;
- (b) not less than five (5) days notice of the adjourned meeting shall be given to all Members; and
- (c) at the adjourned meeting those Members present shall constitute a quorum.

32. ADJOURNMENT OF GENERAL MEETINGS IF QUORUM PRESENT

- (1) The Chairperson shall adjourn a General Meeting from time to time and from place to place if the Members present with a majority of votes that may be cast at that meeting agree or direct the Chairperson to do so. No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (2) When a General 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.
- (3) Except as provided by Article 32(2), it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

33. ATTENDANCE AT GENERAL MEETINGS

A Member may be represented at a General Meeting by any number of persons who have been appointed by the Member as its proxy and/or Delegate, all of whom may participate in any discussion.

34. VOTING AT GENERAL MEETINGS

- (1) A resolution put to the vote of at a General Meeting shall be decided on a show of hands of Voting Members unless a secret ballot is demanded (before a vote is taken or before or immediately after the declaration of the result of the show of hands):-
- (a) by the Chairperson;
- (b) by at least two (2) Voting Members (present in person or by proxy, Delegate or representative) entitled to vote on the resolution;
- (c) by a Voting Member or Voting Members (present in person or by proxy or representative) with at least 5% of the votes that may be cast on the resolution on a poll.
- (2) If a secret ballot is duly demanded, it shall be taken in such manner and, subject to Article 34(3), either at once or after an interval or adjournment or otherwise as the Chairperson directs, and the result of the secret ballot shall be the resolution of the meeting at which the secret ballot was demanded.
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- (3) A secret ballot demanded on the election of a Chairperson or on a question of adjournment shall be taken immediately.

35. VOTING DEADLOCK

In the case of an equality of votes, whether on a show of hands or on a secret ballot, the Chairperson of the General Meeting at which the show of hands takes place or at which the secret ballot is demanded has a casting vote in addition to any vote the Chairperson may have in the capacity as a Voting Member.

36. VOTING ENTITLEMENT

Subject to any rights or restrictions for the time being attached to any Voting Member:-

- (1) a Voting Member shall be entitled to cast one (1) vote, irrespective of the number of proxies, attorneys, representatives or Delegates of that Voting Member present at the Meeting;
- (2) at meetings of the Company's Members or classes of Members each Member entitled to vote may vote in person or by proxy; and
- (3) every person present who is :-
- (a) a Voting Member; or
 - (b) the proxy of a Corporate Voting Member or an absent Voting Member,
- has one (1) vote on a show of hands and/or a secret ballot.

37. VOTING BY MEMBERS WITH INCAPACITY

If a Voting Member is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, his committee or trustee or such other person as properly has the management of his estate may exercise any rights of the Member in relation to a General Meeting as if the committee, trustee or other person were the Member.

38. VOTING RESTRICTIONS

- (1) A Voting Member is not entitled to vote at a General Meeting unless all sums presently payable by him in respect of the Company have been paid.
- (2) Where a Voting Member wishes to cast a vote at a General Meeting, being a Corporate Member or a Member who cannot be personally present at the General Meeting, such Voting Member must appoint a proxy as provided in Article 40. The vote of the proxy will be the only vote counted in respect of a Corporate Voting Member or the absent Voting Member.

39. OBJECTIONS TO VOTES

- (1) An objection may be raised to the qualification of a voter only at the meeting or adjourned meeting at which the vote objected to is given or tendered.
- (2) Any such objection shall be referred to the Chairperson of the General Meeting, whose decision is final.
- (3) A vote not disallowed pursuant to such an objection is valid for all purposes.
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MEMBERS' REPRESENTATIVES

40. PROXIES

A Voting Member of the Company who is entitled to attend and cast a vote at a General Meeting may appoint a person (whether or not a Member of the Company) as the Voting Member's proxy to attend and vote for the Voting Member at the meeting.

41. APPOINTMENT OF PROXY

- (1) An instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing or, if the appointor is a corporation, either under seal or executed in accordance with the Act or under the hand of an officer or attorney duly authorised.
- (2) 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 in the resolution except as specified in the instrument.
- (3) An instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a secret ballot.

42. FORM OF PROXY

An instrument appointing a proxy shall be in a form that is similar as the circumstances allow to the form shown in Schedule 1 hereof.

43. VALIDITY OF PROXY APPOINTMENT

An instrument appointing a proxy shall not be treated as valid unless the instrument, and the power of attorney or other authority (if any) under which the instrument is signed or a notarially certified copy of that power or authority, is or are deposited, not less than forty eight (48) 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 (24) hours before the time appointed for the taking of the poll, at the registered office of the Company or at such other place in Australia as is specified for that purpose in the notice convening the meeting.

44. VALIDITY OF PROXY VOTE

A vote given in accordance with the terms of an instrument of proxy or of a power of attorney is valid notwithstanding the previous death or unsoundness of mind of the principal, the revocation of the instrument (or of the authority under which the instrument was executed) or of the power, if no intimation in writing of the death, unsoundness of mind or revocation before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

DIRECTORS

45. QUALIFICATION OF DIRECTORS

A person appointed to and holding office as an Elected Director must be:–

- (1) a Voting Member; or
 - (2) the Delegate of a Corporate Voting Member,
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and a Director who is not a Voting Member of the Company shall be entitled to receive notices of and attend and speak at meetings of the Company's Members.

46. MINIMUM NUMBER OF DIRECTORS

The number of the Directors shall be not less than three (3).

47. ALTERING THE NUMBER OF DIRECTORS

The Company may from time to time by resolution passed at a General Meeting fix the number of Directors or increase or reduce the number of Directors (but so that the number shall be not less than three).

48. COMPOSITION OF THE BOARD

- (1) The Board shall be composed of:-
 - (a) the Elected Directors, being the President, two (2) Vice-Presidents and two (2) other Directors; and
 - (b) the Convenors, each of whom shall hold office as Director without the need to be elected to such office.
- (2) If a Vice-President is subsequently elected as a Convenor, the number of Directors comprising the Board shall be reduced accordingly.
- (3) Not more than two (2) Delegates of the same Voting Member may become or remain as a Director at any one time.

49. TENURE OF DIRECTORS

- (1) An Elected Director shall hold office for a term of three (3) years and may hold office for no more than three (3) consecutive terms.
- (2) A Convenor's term of office as a Director shall correspond with his or her term of office as a Convenor unless such person is an Elected Director.

50. ELECTION OF ELECTED DIRECTOR BY MEMBERS

- (1) At each Annual General Meeting:-
 - (a) if the meeting is the first Annual General Meeting after 1 January 2014, all current Elected Directors shall retire from office at the conclusion of the Annual General Meeting and the President, two (2) Vice-Presidents and two (2) other Directors shall be elected to replace the retiring Elected Directors;
 - (b) if the meeting is the first Annual General Meeting after 1 January 2015, the President shall retire from office at the conclusion of the Annual General Meeting and a President shall be elected to replace the retiring President;
 - (c) if the meeting is the first Annual General Meeting after 1 January 2016, one (1) Vice-President and one (1) Director (selected by means of a lottery from among the serving Vice-Presidents and Directors conducted by the Secretary in sufficient time to be included in the notice of Annual General Meeting referred to in Article 50(3)) shall retire from office at the conclusion of the Annual
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General Meeting, and one (1) Vice-President and one (1) Director shall be elected to replace the retiring Elected Directors; and

- (d) if the meeting is the first Annual General Meeting after 1 January 2017, the Vice-President and the Director elected at the first Annual General Meeting after 1 January 2014 shall retire from office at the conclusion of the Annual General Meeting, and one (1) Vice-President and one (1) Director shall be elected to replace the retiring Elected Directors.
- (2) At every Annual General Meeting after and including the first Annual General Meeting after 1 January 2015, an Elected Director is elected for a period of three (3) years, concluding at the conclusion of the third Annual General Meeting occurring after their election.
- (3) At least forty-two (42) days prior to an Annual General Meeting, the Secretary shall notify all Full Members in writing as to the number of vacancies for Elected Directors which shall occur at the Annual General Meeting and shall enclose a nomination form with that notification. All nominations shall be accompanied by a short biographical note about the nominated person and shall be delivered to the Chief Executive Officer at least thirty (30) days prior to the Annual General Meeting. Notice of the Annual General Meeting shall be accompanied by the details of the persons nominated.
- (4) The Elected Directors shall be elected to their respective offices by a simple majority of Voting Members by a secret ballot conducted at each Annual General Meeting.
- (5) If, at any Annual General Meeting at which an election of Directors ought to take place, the places of the retiring Directors are not filled up, the retiring Directors, or such of them as have not had their places filled up, shall (if willing to act) continue in office until the next Annual General Meeting and so on until their places are filled up, unless and except insofar as it shall be determined at such meeting to reduce the number of Directors.

51. CASUAL VACANCY OF DIRECTORS

- (1) In the event of a vacancy or vacancies in the office of a Director or offices of Directors, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of Directors, they may act only for the purpose of increasing the number of Directors to a number sufficient to constitute such a quorum or of convening a General Meeting for that purpose.
 - (2) If the vacancy arises from the departure of an Elected Director (including the President or Vice President) or as a result of the election of an Elected Director to the office of President or Vice President, and provided such person is not a Convenor, the vacancy shall be filled by the Board and the person so appointed shall hold office for the same period as the vacating Elected Director.
 - (3) If the vacancy arises from the departure of a Convenor and provided such person is not an Elected Director, the Sectional Committee which the vacating Director represented shall elect a new Convenor who shall hold office as a Director and the person so appointed shall hold office for the same period as the vacating Director .
 - (4) If the vacancy arises from the departure of a Vice-President who was also a Convenor:–
 - (a) the Sectional Committee which the vacating Director represented shall elect a new Convenor and the person so appointed shall hold office for the same period as the vacating Convenor; and
 - (b) the vacancy of an Elected Director shall be filled by the Board from one of its number and the person so appointed shall hold office for the same period as the vacating Elected Director.
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52. DEFECTS IN APPOINTMENT OF DIRECTORS

All acts done by any meeting of the Directors or of a committee of Directors or by any person acting as a Director are, notwithstanding that it is afterwards discovered that there was some defect in the appointment of a person to be a Director or a member of the committee, or to act as, a Director, or that a person so appointed was disqualified, as valid as if the person had been duly appointed and was qualified to be a Director or to be a member of the committee.

53. APPOINTMENT OF AN ALTERNATE DIRECTOR

- (1) A Director may, with the approval of the other Directors (such approval not to be unreasonably withheld), appoint a person (being a Full Member or a Delegate of a Full Member a member of a Sectional Committee) to be an Alternate Director in his or her place during such period as he or she thinks fit.
- (2) An Alternate Director is entitled to notice of meetings of the Directors and, if the appointor is not present at such a meeting, is entitled to attend and vote in his or her stead.
- (3) An Alternate Director may exercise any powers that the appointor may exercise and the exercise of any such power by the Alternate Director shall be deemed to be the exercise of the power by the appointor.
- (4) An Alternate Director is not required to have any membership qualifications.
- (5) The appointment of an Alternate Director may be terminated at any time by the appointor notwithstanding that the period of the appointment of the Alternate Director has not expired, and terminates in any event if the appointor ceases to hold office as a Director.
- (6) An appointment, or the termination of an appointment, of an Alternate Director shall be effected by a notice in writing signed by the Director who makes or made the appointment and served on the Company.

54. REMOVAL OF A DIRECTOR

The Members may at any time and from time to time, in accordance with the provisions of s 203D of the Act remove any Director provided that the total number of directors shall not at any time fall below the minimum fixed by this Constitution.

55. LOSS OF OFFICE

- (1) In addition to the circumstances in which the office of a Director becomes vacant by virtue of the Act, the office of a Director becomes vacant if the Director:–
 - (a) dies or becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
 - (b) resigns from office by notice in writing to the Company;
 - (c) being an Elected Director, is expelled or suspended as a Member in accordance with this Constitution;
 - (d) being a Convenor but not a Vice-President, ceases to hold office as a Convenor.
- (2) A Director shall be deemed to have offered to resign from the Board on the occurrence of any one or more of the following events:–
 - (a) is absent without the consent of the Directors, or without arranging for a duly appointed Alternate Director to attend in his or her place, from two (2) consecutive Board meetings;

- (b) breaches a section contained in Division 1 of Part 2D.1 of the Act;
- (c) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of that interest as required by Article 62;
- (d) being a Delegate and an Elected Director, ceases to be a Delegate either by virtue of removal as such or due to the expulsion or suspension of the Corporate Member for which he was appointed as Delegate;

and the Board may, by simple majority, decide whether or not to accept the deemed offer of resignation.

56. REMUNERATION OF DIRECTORS

No Director shall be remunerated for services rendered to the Company in the capacity of a Director.

57. REIMBURSEMENT OF EXPENSES

A Director shall be entitled to receive:—

- (1) reimbursement of out-of-pocket expenses incurred in carrying out the duties of a director where the payment does not exceed the amount previously approved by the Board; or
- (2) payment for any service rendered to the Company in a professional or technical capacity where the provision of that service has the prior approval of the Board and the amount payable is approved by a resolution of the Board and is on reasonable commercial terms; or
- (3) payment as an employee of the Company where the terms of employment have been approved by resolution of the Board.

58. POWERS OF DIRECTORS

- (1) Subject to the Act and to any other provision of this Constitution, the business of the Company shall be managed by the Directors and may exercise all such powers of the Company as are not, by the Act or by this Constitution, required to be exercised by the Company in General Meeting.
 - (2) Without limiting the generality of Article 58(1), the Directors may exercise all the powers of the Company to:—
 - (a) make regulations (other than the Constitution) for the conduct of the Company;
 - (b) admit persons to each class of membership of the Company and to transfer Members from one class to another;
 - (c) provide arrangements whereby Persons or organisations may become affiliated with the Company;
 - (d) arrange for the grant of certificates and awards and for the participating in any scheme for the grant thereof jointly with other industry bodies;
 - (e) determine the remuneration of the auditor or auditors;
 - (f) govern, arrange and regulate the finances, accounts, investments, property, business and all affairs whatsoever of the Company and for that purpose to engage professional or other assistance
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- (g) appoint bankers and any other officers or agents whom it may deem expedient to appoint and pay such reasonable fees or remuneration as it may think fit;
- (h) invest any moneys belonging to the company;
- (i) sell, buy, let, exchange, lease and accept leases of real and personal property on behalf of the Company;
- (j) acquire and maintain furniture, plant, equipment and apparatus and other means necessary for carrying on the work of the Company;
- (k) borrow money on behalf of the Company and for that purpose if the Board thinks fit, to mortgage or charge all or any part of the property of the company whether real or personal and to give such other security, whether upon real or personal property or otherwise, as the Board shall think fit;
- (l) draw, make accept endorse discount execute and issue promissory notes, bills of exchange bills of lading and other negotiable or transferable instrument; and
- (m) engage and determine the condition of service of and to discharge employees of the Company and to provide for the welfare of and make provisions or schemes of insurance, superannuation, pensions, retirement benefits, gratuities or benevolent arrangements for such employees and former employees of the Company and their dependants and relations.

59. APPOINTMENT OF COMPANY ATTORNEY

- (1) The Directors may, by power of attorney, appoint any person or persons (either by name or by reference to position or office held) to be the attorney or attorneys of the Company for such purposes, with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Directors), for such period and subject to such conditions as they think fit.
- (2) Any such power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorney as the Directors think fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in him.

60. DELEGATION OF POWERS

- (1) The Board shall have the power to:–
 - (a) form new committees;
 - (b) determine the function and purpose of each committee;
 - (c) determine membership eligibility;
 - (d) delegate any of their powers to a committee;
 - (e) determine the governance of each committee; and
 - (f) dissolve committees,from time to time as appears warranted to the Board.
 - (2) A committee to which any powers have been delegated under Article 60(1)(d) shall exercise the powers delegated in accordance with any directions of the Directors and a power so exercised shall be deemed to have been exercised by the Directors.
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- (3) The President shall be a member of each committee formed by the Board.
- (4) A committee may co-opt a Member or a Delegate or any other person for such period as the Committee shall determine.
- (5) A member of a committee shall be deemed to have offered to resign from the committee on the occurrence of any one or more of the following events:-
 - (a) is absent without the consent of the Chairperson of the committee from two (2) consecutive meetings of that committee;
 - (b) being a Member, is expelled or suspended as a Member in accordance with Article 19;
 - (c) being a Delegate, ceases to be a Delegate either by virtue of removal as such or due to the expulsion or suspension of the Corporate Member for which he was appointed as Delegate,and the committee may, by simple majority, decide whether or not to accept the deemed offer of resignation.
- (6) The members of such a committee may elect one of their number as Chairperson of their meetings.
- (7) Where such a meeting is held and:-
 - (a) a Chairperson has not been elected as provided by Article 60(6); or
 - (b) the person so elected is not present within fifteen (15) minutes after the time appointed for the holding of the meeting or is unwilling to act for all or part of the meeting,the members present shall elect one of their number to be Chairperson of the meeting or part of it.
- (8) A committee may meet and adjourn as it thinks proper.
- (9) Questions arising at a meeting of a committee shall be determined by a majority of votes of the members present and voting.
- (10) In the case of an equality of votes, the Chairperson shall not have a casting vote in addition to any vote the Chairperson may have in the capacity as a committee member.
- (11) A committee shall confine its activities to the purpose(s) for which it was formed as determined by reference to Article 60(1)(b) and shall not take any action or make any statement which might be prejudicial to the Company or any of its Members without prior reference to the Board.
- (12) Any breach of Article 60(11) may result in any one or more of the following:-
 - (a) a pecuniary penalty levied against involved committee members;
 - (b) suspension or expulsion of involved committee members.

61. DUTIES OF DIRECTORS

A Director, whether an Elected Director, a President or a Convenor, shall act consistently with the statutory duties of Officers as provided in the Act and with the common law duties imposed on Directors.

62. MATERIAL PERSONAL INTERESTS

- (1) Every Director shall observe the provisions of Section 191 of the Act relating to the disclosure of the interest of Directors in contracts or proposed contracts with the Company or of any office or property held by Directors which might create duties or interests in conflict with their duties or interests as Directors. It shall be permissible for a Director to give the other Directors a standing notice about a material personal interest provided such standing notice is given in accordance with Section 192 of the Act.
- (2) If a Director has a material personal interest which requires disclosure under the Act, the disclosure must be made before the Directors vote on any resolution which deals directly or indirectly with the material personal interest.
- (3) Where a Director has disclosed his material personal interest in a matter:–
 - (a) the Director at any meeting of Directors at which such matter is to be considered shall not be entitled to be present while the matter is being considered at the meeting nor to vote on any matter pertaining to the matter unless:–
 - (i) those Directors who do not have a material personal interest in the matter have passed a resolution that:–
 - (A) identifies the Director, the nature and extent of the Director's interest in the matter and its relation to the affairs of the Company; and
 - (B) states that those Directors are satisfied that the interest should not disqualify the Director from voting or being present; or
 - (ii) the interested Director has obtained a declaration or order made by the Australian Securities and Investments Commission or its successor which entitles the Director to be present and to vote;
 - (b) if the matter is approved by the Directors, that matter may proceed, notwithstanding the Director's conflict;
 - (c) the Director shall not be liable to account to the Company for any profit realised by any such transaction;
 - (d) any contract or arrangement entered into by or on behalf of the Company in which any Director shall be in any way interested cannot be avoided by the Company on the grounds of the interest of the Director in the contract or arrangement.
- (4) Provided the Director observes the provisions of sections 191 and 195 of the Act, no Director shall be disqualified by his office from contracting or entering into any arrangement with the Company either as vendor, purchaser or otherwise.

MEETINGS OF DIRECTORS

63. FREQUENCY OF BOARD MEETINGS

The Board of Directors may meet together for the despatch of business and adjourn and otherwise regulate its meetings as it thinks fit and determine the quorum necessary for the transaction of business.

64. CONVENING BOARD MEETINGS

A meeting of the Directors:–

- (1) may be convened by the President;
- (2) may be convened by the Acting President, being one of the Vice–Presidents nominated by the President;
- (3) may be convened by a simple majority of the Board of Directors;
- (4) must be convened within twenty one (21) days after receipt by the President or the Acting President of a written requisition from any four (4) Directors.

65. NOTICE OF BOARD MEETINGS

Reasonable notice in the circumstances must be given of all Board meetings unless all Directors consent to waive the requirement for notice of a Board meeting.

66. QUORUM FOR BOARD MEETINGS

- (1) Unless the Directors determine otherwise, the quorum for a meeting of Directors is a majority of Directors provided that each such person is a Director or an Alternate Director and is entitled under the Act to vote on a motion that may be moved at that meeting.
- (2) An Alternate Director shall be counted in a quorum if present as an Alternate Director.
- (3) The quorum must be present at all times during a meeting of Directors.

67. CHAIRPERSON OF BOARD MEETINGS

- (1) Subject to the provisions contained in Article 67(2), the President shall chair all Board meetings.
- (2) Where a meeting of the Directors is held and:-
 - (a) a President has not been elected as provided by Article 50(3); or
 - (b) the person so elected is not present within fifteen (15) minutes after the time appointed for the holding of the meeting or is unwilling to act for all or part of the meeting,the Directors present shall elect one of their number to chair such meeting or part of it.

68. VOTING AT BOARD MEETINGS

- (1) Subject to this Constitution, questions arising at a meeting of Directors shall be decided by a majority of votes of Directors present and voting and any such decision shall for all purposes be deemed a decision of the Directors.
- (2) Unless provided otherwise, each Director is entitled to cast one (1) vote on each matter for determination.

69. VOTING ON CONTENTIOUS ISSUES

If three (3) or more Directors so decide, a proposal or a resolution put to the Directors for determination may be classified as a "Contentious Resolution". Where a proposal or resolution is so classified, the matter shall be determined by secret ballot taken.

70. VOTING DEADLOCK

In the case of a deadlock in the voting on a particular motion:—

- (1) the Chairperson of the meeting shall not have a casting vote in addition to any vote the Chairperson may have in the capacity as a Director; and
- (2) the motion will not be carried.

71. VIRTUAL MEETINGS OF DIRECTORS

- (1) A meeting of Directors may be called or held using any technology consented to by all the Directors. A consent of a Director for the purposes of this Article may be a standing one. A Director may only withdraw his consent within a reasonable time before the meeting of Directors.
- (2) For the purposes of this Constitution, the contemporaneous linking together by an instantaneous communication device of a number of Directors not less than the quorum, whether or not any one or more of the Directors is out of Australia, shall be deemed to constitute a meeting of the Directors and all the provisions of this Constitution as to meetings of the Directors shall apply to any such meeting held by an instantaneous communication device so long as the following conditions are met:-
 - (a) All the Directors for the time being entitled to receive notice of the meeting of Directors (including any alternate for any Director) shall be entitled to notice of a meeting held by an instantaneous communication device and to be linked by an instantaneous communication device for the purpose of such meeting. Notice of any such meeting shall be given on the instantaneous communication device or in any other manner permitted by this Constitution; and
 - (b) Each of the Directors taking part in the meeting by an instantaneous communication device must be able to hear each other of the Directors taking part at the commencement of the meeting.
- (3) A Director may not leave a meeting held by an instantaneous communication device by disconnecting his instantaneous communication device unless he has previously expressly notified the Chairperson of the meeting of his intention to leave the meeting and a Director shall be conclusively presumed to have been present and to have formed part of the quorum at all times during such a meeting until such notified time of his leaving the meeting.
- (4) A minute of the proceedings at meetings held by an instantaneous communication device shall be sufficient evidence of such proceeding and of the observance of all necessary formalities if certified as a correct minute by the Chairperson of the meeting.
- (5) For the purpose of this Article “instantaneous communication device” shall include telephone, television or any other audio and/or visual device which permits instantaneous communication.

72. PASSING RESOLUTIONS WITHOUT MEETINGS

If all the Directors entitled to vote on a resolution have signed a document containing a statement that they are in favour of a resolution of the Directors in terms set out in the document, a resolution in those terms shall be deemed to have been passed at a meeting of the Directors held on the day on which the document was signed and at the time at which the document was last signed by a Director or, if the Directors signed the document on different days, on the day on which, and at the time at which, the document was last signed by a Director.

73. DEEMED DOCUMENT OF RESOLUTION

For the purposes of Article 72, two or more separate documents containing statements in identical terms each of which is signed by one or more Directors shall together be deemed to constitute one document containing a statement in those terms signed by those Directors on the respective days on which they signed the separate document.

SECTIONAL COMMITTEES

74. EXISTING SECTIONAL COMMITTEES

At the date of the adoption of this Constitution, the following Sectional Committees have been formed:–

- (1) the Schools Educational Publishers Committee, which represents the primary and secondary educational sectors of publishing;
- (2) the Tertiary and Professional Publishers Committee, which represents the tertiary and professional sectors of publishing;
- (3) the Trade Publishers Committee, which represents the trade sector of publishing;
- (4) the Independent Publishers Committee, which represents the interests of small and independent publishers.

75. FORMATION AND DISSOLUTION OF SECTIONAL COMMITTEES

The Board, by a two-thirds majority, shall have the power to:–

- (1) form new Sectional Committees;
- (2) determine the function and purpose of each Sectional Committee;
- (3) determine membership eligibility;
- (4) determine the governance of each Sectional Committee; and
- (5) dissolve Sectional Committees,

from time to time as appears warranted to the Board.

76. COMPOSITION OF SECTIONAL COMMITTEE MEMBERS

- (1) Each Sectional Committee shall be comprised of:–
 - (a) the President; and
 - (b) up to eight (8) elected Sectional Committee Members.
- (2) A Sectional Committee may co-opt a Member or Delegate or any other persons for such period as the Sectional Committee shall determine by simple majority.
- (3) One of the elected Sectional Committee Members shall be elected as the Convenor of the Sectional Committee at each Annual General Meeting by those Voting Members who elected the Sectional Committee Members. The Convenor may be one of the two (2) Vice-Presidents, but must not be one of

the other Elected Directors.

77. ELIGIBILITY TO ELECT SECTIONAL COMMITTEE MEMBERS

- (1) Voting Members shall be eligible to elect Sectional Committee Members to a Sectional Committee:–
 - (a) which represents that publishing sector from which the Voting Member generates not less than the Threshold Turnover.
 - (b) which represents that publishing sector from which the Voting Member generates not less than one half of the Voting Member's annual sales turnover.
- (2) If the annual turnover of a Voting Member is below the Threshold Turnover, the Voting Member shall be eligible to elect Sectional Committee Members to:–
 - (a) the Independent Publishers Committee; and
 - (b) to a Sectional Committee which represents that publishing sector from which the Voting Member generates not less than one half of the Voting Member's annual sales turnover.

78. ELIGIBILITY FOR SECTIONAL COMMITTEE MEMBERSHIP

A person may be elected to hold office as a Sectional Committee Member if that person is:–

- (1) a Voting Member;
- (2) a Delegate of a Voting Member; or
- (3) a person nominated for a specified Sectional Committee by a Voting Member who is eligible to elect Sectional Committee Members for the specified Sectional Committee.

79. ROTATION AND TENURE OF SECTIONAL COMMITTEE MEMBERS

- (1) At each Annual General Meeting:–
 - (a) if the meeting is the first Annual General Meeting after 1 January 2014, all current Sectional Committee Members shall retire from office and Sectional Committee Members for each Sectional Committee shall be elected to replace the retiring Sectional Committee Members;
 - (b) if the meeting is the first Annual General Meeting after 1 January 2015, or is any Annual General Meeting which falls in a year which ends in an odd number after 2015, the Sectional Committee Members comprising the Trade Publishers Committee, the Independent Publishers Committee and the Children's Publishers Committee shall retire, and Sectional Committee Members for the Trade Publishers Committee, the Independent Publishers Committee and the Children's Publishers Committee shall be elected to replace the retiring Sectional Committee Members; and
 - (c) if the meeting is the first Annual General Meeting after 1 January 2016, or is any Annual General Meeting which falls in a year which ends in an even number after 2016, the Sectional Committee
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Members comprising the Schools Educational Publishers Committee, the Scholarly and Journal Publishers Committee, and the Tertiary and Professional Publishers Committee shall retire, and new Sectional Committee Members for the Schools Educational Publishers Committee, the Scholarly and Journal Publishers Committee and the Tertiary and Professional Publishers Committee shall be elected to replace the retiring Sectional Committee Members.

- (2) At every Annual General Meeting after and including the first Annual General meeting after 1 January 2015, each elected Sectional Committee Member is elected for a period of two (2) years, concluding at the conclusion of the second Annual General Meeting occurring after their election.

80. LOSS OF SECTIONAL COMMITTEE MEMBERSHIP

A Sectional Committee Member shall be deemed to have offered to resign from a Sectional Committee on the occurrence of any one or more of the following events:—

- (1) dies or becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (2) resigns from office by notice in writing to the Company;
- (3) is absent without the consent of the Convenor of the relevant Sectional Committee from two (2) consecutive meetings of that Sectional Committee;
- (4) being a Convenor, ceases to hold office as a Director;
- (5) being a Member, is expelled or suspended as a Member in accordance with Article 19;
- (6) being a Delegate, ceases to be a Delegate either by virtue of removal as such or due to the expulsion or suspension of the Corporate Member for which he was appointed as Delegate;
- (7) being a Convenor, ceases, in the reasonable opinion of the Board, to have any substantial commercial connection with the Sectional Committee (other than holding office as its Convenor) or with the publishing sector represented by that Sectional Committee,

and the Sectional Committee may, by simple majority, decide whether or not to accept the deemed offer of resignation.

81. FUNDING OF SECTIONAL COMMITTEES

- (1) Subject to Article 81(2), the Board shall allocate each Sectional Committee with a sum of money to be determined each year by the Board (which sum shall not be less than ten thousand dollars (\$10,000.00) to be used by the Sectional Committee to further its aims.
 - (2) Each Sectional Committee shall be entitled, but not obliged, to raise additional funds from its own members and/or from any other parties approved by the Sectional Committee.
 - (3) No Sectional Committee shall have authority to borrow funds under any circumstances nor to commit to expenditure unless funding for that expenditure has been received prior to the commitment.
 - (4) At a time to be determined by the Board each year, the Convenor of each Sectional Committee shall present to the Board for approval its annual budget for the expenditure of its annual funding allocation.
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- (5) The Board may:–
 - (a) approve the annual budget by a simple majority; or
 - (b) reject the annual budget by a three-quarter majority.
- (6) A Sectional Committee may not expend monies which have not been approved by the Board.

82. PARTICIPATION IN SECTIONAL COMMITTEE ACTIVITIES

- (1) A Member who is eligible to elect Sectional Committee Members to a Sectional Committee shall be entitled to the benefits of, and to participate in, the activities of that Sectional Committee.
- (2) Where a Sectional Committee invites all Members to participate in a project or activity, the reports of the results of the project or activity will only be made available to those Members who have participated as required.

83. SCOPE OF INTEREST OF A SECTIONAL COMMITTEE

- (1) A Sectional Committee shall confine its activities to the purpose(s) for which it was formed and shall not take any action or make any statement which might be prejudicial to the Company or any of its Members without prior reference to the Board.
- (2) Any breach of Article 83(1) may result in any one or more of the following:–
 - (a) a pecuniary penalty levied against involved Sectional Committee Members;
 - (b) suspension or expulsion of involved Sectional Committee Members;
 - (c) a reduction or withdrawal of the annual funding allocation for the Sectional Committee.

OTHER OFFICERS

84. APPOINTMENT AND REMOVAL OF CHIEF EXECUTIVE OFFICER

- (1) The Board may from time to time appoint a person as Chief Executive Officer for such period and on such terms as they think fit, and, subject to the terms of any agreement entered into in a particular case. The person so appointed to the office of Chief Executive Officer be neither a Member nor a Delegate nor a Director.
- (2) The Chief Executive Officer may only be removed from office:–
 - (a) at a Board meeting convened for that purpose;
 - (b) by a simple majority of the Board.

85. DUTIES OF CHIEF EXECUTIVE OFFICER

The Chief Executive Officer shall, under the control of the Board:–

- (1) hold office as Secretary of the Company;
 - (2) attend all General Meetings and Board Meetings;
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- (3) keep minutes and all other proper records of the Company including such financial records as the honorary treasurer may direct;
- (4) oversee all the correspondence of the Company, the Board, all Sectional Committees and all other committees;
- (5) maintain true accounts of the monies received and expended by the Company and the assets and liabilities of the Company; and
- (6) with the assistance of the Treasurer (if any), prepare and present to the Annual General Meeting a proper set of accounts.

86. POWERS OF THE CHIEF EXECUTIVE OFFICER

- (1) The Board may, upon such terms and conditions and with such restrictions and as they think fit, confer upon a Chief Executive Officer any of the powers exercisable by them.
- (2) Any powers so conferred may be concurrent with, or be to the exclusion of, the powers of the Directors.
- (3) The Directors may at any time withdraw or vary any of the powers so conferred on a Chief Executive Officer.

87. HONORARY TREASURER

- (1) The Board may elect from its own number a person to hold office as honorary treasurer.
- (2) An honorary treasurer (if any) holds office on such terms and conditions, as to remuneration and otherwise, as the Directors determine.
- (3) The honorary treasurer (if any) shall:-
 - (a) supervise the recording of financial transactions and the preparation of the accounts and books of the Company;
 - (b) present a report to each Annual General Meeting dealing with the statutory and other accounts of the Company, its solvency and any other matter of significance or relevance relating to the Company's financial affairs.
- (4) If the Company does not have a person holding office as honorary treasurer, the Chief Executive Officer shall fulfil the functions described in Article 87(3).

88. OTHER STAFF

The Chief Executive Officer shall have the power to appoint such other staff as the Chief Executive Officer shall consider fit and to prescribe their duties and the terms of their service. All staff shall be subject to the direction of the Chief Executive Officer.

INSURANCE AND INDEMNITY OF APPLICABLE PERSONS

89. APPLICABLE PERSONS

The provisions of Articles 90, 91, 92 and 93 shall apply to Applicable Persons, which expression shall include:-

- (1) every person who is or has been an Officer of the Company;
- (2) every person who is or has been an Officer of a Related Body Corporate of the Company;
- (3) if the Directors determine, an employee or former employee of the Company or a Related Body Corporate of the Company;
- (4) if the Directors determine and to the extent permitted under the Act, an auditor or former auditor of the Company or a Related Body Corporate of the Company.

90. INSURANCE

- (1) To the extent permitted under the Act, the Company may pay, or agree to pay, a premium in respect of a contract insuring any one or more Applicable Persons against any liability incurred by the Applicable Person PROVIDED THAT the liability does not arise out of conduct involving:–
 - (a) a wilful breach of duty in relation to the Company or a Related Body Corporate of the Company; or
 - (b) a contravention of section 182 or 183 of the Act.
- (2) To the extent permitted under the Act, the Company may pay, or agree to pay, an Applicable Person for costs and expenses incurred by that Applicable Person in defending proceedings, whatever the outcome of the proceedings.

91. INDEMNITY

- (1) The Company does not exempt an Applicable Person from a liability to the Company incurred in their capacity as an Applicable Person.
 - (2) To the extent permitted by the Act, the Company indemnifies any Applicable Person against non legal costs incurred as an Applicable Person except:–
 - (a) for a liability owed to the Company or a Related Body Corporate of the Company;
 - (b) for a liability for a pecuniary penalty order under section 1317G or compensation order under section 1317H or section 1317HA of the Act;
 - (c) for a liability owed to a third party arising out of conduct involving a lack of good faith.
 - (3) To the extent permitted by the Act, the Company indemnifies any Applicable Person against legal costs incurred in defending an action for a liability incurred as an Applicable Person except:–
 - (a) in defending or resisting proceedings in which the Applicable Person is found to have a liability for which they could not be indemnified under Article 91(2); or
 - (b) in defending or resisting criminal proceedings in which the Applicable Person is found guilty; or
 - (c) in defending or resisting proceedings brought by the Australian Securities and Investments Commission (and any of its successors) or a liquidator for a court order if the grounds for making the order are found by a court to have been established; or
 - (d) in connection with proceedings for relief to the Applicable Person under the Act in which the Court denies relief.
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- (4) Where the costs and expenses incurred by an Applicable Person under Articles 91(1), 91(2) or 91(3) are recovered by the Company under an insurance policy taken out or paid for by the Company pursuant to Article 90, the extent of the indemnification of an Applicable Person shall be reduced accordingly.

92. LOAN TO AN APPLICABLE PERSON

- (1) To the extent permitted by the Act, the Directors may give a loan or advance to an Applicable Person to assist with the payment of costs and expenses of the Applicable Person which may be incurred under Article 91, where, in the opinion of the Directors, the costs and expenses are likely to become an amount for which the Company may become liable.
- (2) If, upon a determination of the proceedings, the costs and expenses for which the loan or advance was given are not the liability of the Company, the loan or advance given to the Applicable Person shall be recoverable according to the terms of the loan or advance.

93. DEFINITION OF "PROCEEDINGS"

In Articles 90, 91 and 92, the term "proceedings" means any proceedings and any appeal in relation to any proceedings, whether civil or criminal, being proceedings in which it is alleged that the Applicable Person has done or omitted to do some act, matter or thing in his capacity under which the person has become an Applicable Person (including proceedings alleging that the Applicable Person was guilty of negligence, default, breach of trust or breach of duty in relation to the Company or a Related Body Corporate).

ADMINISTRATION

94. NOTICES

- (1) A notice may be given by the Company to any Member either:-
- (a) by serving it on him personally;
 - (b) by sending it by post to him at his address as shown in the Register or to the Service Address supplied by him to the Company for the giving of notices to him.
- (2) Where a notice is sent by:-
- (a) post, service of the notice shall be deemed to be effective by properly addressing, prepaying and posting a letter containing the notice, and to have been effected, in the case of a notice of a Member, on the day after the date of its posting and, in any other case, at the time at which the letter would be delivered in the ordinary course of post.
 - (b) by facsimile transmission, service of the notice shall be deemed to be effected within twenty four (24) hours of the transmission, unless the Company receives notification that the transmission was not successful.
 - (c) by electronic transmission, service of the notice shall be deemed to be effected within twenty four (24) hours of the transmission, unless the Company receives notification that the transmission was not successful.
- (3) A notice may be given by the Company to joint Members by giving the notice to the joint Member first named in the Register.
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95. MINUTES

The Directors will cause minutes of:-

- (1) all proceedings and resolutions of meetings of the Company's Members;
- (2) all proceedings and resolutions of meetings of the Directors, including meetings of a committee of Directors;
- (3) resolutions passed by Members without a meeting;
- (4) resolutions passed by Directors without a meeting,

to be duly entered into the books kept for that purpose in accordance with the Act.

96. EVIDENTIARY STANDING OF MINUTES

A minute recorded and signed in accordance with the Act is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.

97. INSPECTION OF MINUTE BOOKS AND OTHER DOCUMENTS

- (1) Books containing the minutes of the Company's Members and resolutions passed by Members without a meeting will be open for inspection by any Member free of charge.
- (2) Subject to the Act, the Directors shall determine whether and to what extent, and at what time and places and under what conditions, other documents of the Company will be open to the inspection of Members other than Directors, and a Member other than a Director does not have the right to inspect any document of the Company except as provided by law or authorised by the Directors or by the Company in General Meeting.

98. EXECUTION OF DOCUMENTS

- (1) The Company may have a Seal, known as the common seal, on which its name, its Australian Company Number and the words "Common Seal" are engraved.
- (2) If the Company has a seal the Chief Executive Officer shall provide for the safe custody of the Seal.
- (3) The Seal shall be used only by the authority of the Directors, or of a committee of the Directors authorised by the Directors to authorise the use of the Seal.
- (4) The Company may execute a document by affixing the Seal to the document where the fixing of the Seal is witnessed by:-
 - (a) two Directors; or
 - (b) one Director and the Chief Executive Officer; or
 - (c) one Director and another person appointed by the Directors for that purpose.

The signature of such persons may be affixed to the document by manual, autographic or mechanical means.

- (5) The Company may execute a document without using a seal if the document is signed by:-
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- (a) two Directors; or
 - (b) one Director and the Chief Executive Officer; or
 - (c) one Director and another person appointed by the Directors for that purpose.
- (6) A facsimile signature may not be affixed to a document unless the auditors, internal auditors or bankers of the Company have reported to the Board in writing that the document may be sealed in that manner.

99. CREATION, AMENDMENT AND REPEAL OF BY-LAWS

The Board has power to make By-Laws concerning membership application and qualification for membership of the Company and any other matter which the Board believes suitable for including in such By-Laws.

100. AMENDMENT OF CONSTITUTION

The Company may only alter this Constitution by Special Resolution passed at a General Meeting of the Members.

101. GOVERNING LAW

This Constitution is governed by the laws of New South Wales.

FINANCIAL MATTERS

102. APPLICATION OF INCOME AND PROPERTY

- (1) The income and property of the Company however derived will be applied solely towards the promotion of the objects of the Company as set out in this Constitution, and no portion of the income or the property of the Company will be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to Members of the Company.
- (2) Nothing in this Constitution shall prevent the payment in good faith:–
 - (a) of the payments contained in Articles 56 and 57 hereof;
 - (b) payment of insurance premiums to the extent permitted by the Act; and
 - (c) indemnification to the extent permitted by the Act and this Constitution.

103. AUTHORITY TO DEAL WITH FUNDS

- (1) The administration of all funds of the Company shall be subject to the control of the Board.
 - (2) The Board shall have the power to prescribe the persons or committees which shall have the power to:–
 - (a) give receipts for money;
 - (b) sign cheques;
 - (c) enter into contracts;
 - (d) impose liabilities upon the Company; and
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- (e) pledge the credit of the Company.
- (3) The Board shall have the power to determine that a development fund shall be created for the purpose of funding matters related to the development of the Company.

104. ACCOUNTING RECORDS

- (1) The Chief Executive Officer will cause to be kept proper books of account in which will be kept true and complete accounts of the affairs and transactions of the Company. Proper books will not be deemed to be kept unless the books give a true and fair view of the state of the Company's affairs and explain its transactions.
- (2) The Company's financial year shall end on the 31st day of December of each year.
- (3) The books of account shall be kept in such place as the Board shall determine.

105. INSPECTION OF ACCOUNTING RECORDS

Subject to the Act, the Directors shall determine whether and to what extent, and at what time and places and under what conditions, the accounting records of the Company will be open to the inspection of Members other than Directors, and a Member other than a Director does not have the right to inspect any accounting document or record of the Company except as provided by law or authorised by the Directors or by the Company in General Meeting.

106. AUDIT

- (1) A registered company auditor must be appointed. No appointment of an auditor shall be effective unless the auditor has first tendered to the Company a signed consent to so act.
- (2) The auditor must be neither an officer of nor a contractor to the Company.
- (3) The Company must at each Annual General Meeting, if there is a vacancy in the office of auditor, appoint an auditor to fill the vacancy.
- (4) An auditor appointed pursuant to Article 106(3) shall hold office until resignation or removal from office or until the auditor is not capable of acting as auditor for any reason.
- (5) An auditor may be removed by resolution passed at a General Meeting.
- (6) Where an auditor resigns or is removed in accordance with Article 106(5), the Board may appoint another person to be the auditor.
- (8) The auditor appointed pursuant to Article 106(6) shall remain as auditor until the next Annual General Meeting, whereupon his appointment shall be subject to the ratification or otherwise of the Members.

107. DIVIDENDS AND RESERVES

No payment of dividends or other distributions to Members shall be made.

WINDING UP

108. PROCEDURE

The Company may be dissolved by a special resolution of Members at a meeting of the Company Members.

109. CONTRIBUTION OF MEMBERS ON WINDING UP

Every Member of the Company undertakes to contribute to the assets of the Company in the event of the Company being wound up while he or she is a Member, or within one year of ceasing to be a Member such amount as may be required not exceeding ten dollars (\$10.00), for the payment of the debts and liabilities of the Company contracted whilst the Member or past Member as the case may be was a Member of the Company, and the costs charges and expenses of winding up and for the adjustment of the rights of the contributors amongst themselves.

110. DISTRIBUTION OF PROPERTY ON WINDING UP

Where on the winding up of the Company or dissolution of the Company, there is a surplus of assets after satisfying all the Company's liabilities and expenses, the surplus will not be paid or distributed to the Members of the Company but will be given or transferred to such other institution or company having similar objects to those described in Article 4, is an institution or body and which prohibits the distribution of income, profit or assets to its Members and which has gained approval from the Deputy Commissioner of Taxation to be recognised as a body whose income is exempt from taxation. Such institution or company will be determined by the Members of the Company on or before the time of such winding up or dissolution, failing such determination the institution or company shall be determined by application to the Supreme Court in the deemed State of registration.

SCHEDULE 1

AUSTRALIAN PUBLISHERS ASSOCIATION LIMITED

I/We

being a Member/Members of the abovenamed Company, hereby appoint

.....of.....

or, in his absence,

.....of.....

as my/our proxy to vote for me/us on my/our behalf at the meeting of the Members of the Company to be held on the day of, 20... and at any adjournment of that meeting.

SIGNED this day of, 20...

SIGNATURE
OF MEMBER: _____

[SIGNATURE]

This form is to be used * in favour of/* against the resolution(s).

* Strike out whichever is not desired.

To be inserted if desired.

SCHEDULE 2

AUSTRALIAN PUBLISHERS ASSOCIATION LIMITED

MEMBERSHIP CLASSES – ELIGIBILITY – Article 5

Name of Membership Class	Eligibility criteria
Full	A Person which is a Publisher.
Associate	A Person which is:- <ul style="list-style-type: none"><li data-bbox="528 703 1401 736">(a) a Person engaged in a Publishing Activity that is not eligible for Full Membership;<li data-bbox="528 763 1401 853">(b) a Person engaged in a Publishing Activity that is a government or government-funded organisation which is precluded from casting or does not wish to cast a vote in a trade organisation;<li data-bbox="528 880 1401 969">(c) a Person engaged in a Publishing Activity that is a part of the same Financial Group as a Full Member provided that the Full Member is that entity of the Financial Group with the largest turnover;<li data-bbox="528 996 1401 1030">(d) otherwise deemed by the Board to be suitable for Associate Membership; or<li data-bbox="528 1057 1401 1146">(e) a Person engaged in a Publishing Activity whose Financial Group includes a Bookseller but where the turnover of the Person generated from its Bookselling Activity is greater than that generated from its Publishing Activity.
Honorary Life	A natural person who, in the opinion of the Board, has rendered outstanding service to the Company or its predecessor.

