



## **Constitution**

**The Order of Australia Association**

**ABN: 40 008 612 664**

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## FOREWORD

The Australian system of honours and awards was established in 1975. At this time The Queen approved the institution of the Order of Australia: 'an Australian society of honour for according recognition to Australian citizens and other persons for achievement or meritorious service'.

The Queen is the Sovereign Head of the Order of Australia and the Governor-General is the Principal Companion and as Chancellor is charged with the administration of the Order.

The Order of Australia Association was founded in Canberra on Saturday 26 January 1980. Governors-General have graciously agreed to be the Patron of the Association.

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### 1. NAME OF THE COMPANY

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The name of the Company is The Order of Australia Association.

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### 2. TYPE OF COMPANY

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

(b) Subject to this Constitution, each person who is a Member and each person who was a Member during the year ending on the day of the commencement of the winding up of the Company, undertakes to contribute to the property of the Company for:

- (i) payment of debts and liabilities of the Company;
- (ii) payment of the costs, charges and expenses of winding up; and
- (iii) any adjustment of the rights of the contributories among Members.

(c) The amount that each Member and each person who was a Member during the year ending on the day of the commencement of the winding up of the Company is liable to contribute is limited to \$10.00.

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### 3. REPLACEABLE RULES

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This Constitution displaces the Replaceable Rules to the extent that it is inconsistent with any Replaceable Rules (but not Replaceable Rules which mandatorily apply to a public company).

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### 4. DEFINITIONS AND INTERPRETATION

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(a) In this Constitution, unless there is something in the subject or context which is inconsistent:

**Act** means the *Corporations Act 2001*.

**Association** shall mean the Order of Australia Association

**Australia** means the Commonwealth of Australia.

**Board** means the National Board comprising the Directors of the Company referred to in clause 14.

**Branch** means a Branch of the Company established pursuant to clause 23.

**Branch Committee** shall be those Members of a Branch elected by the Members of that Branch to act in nominated capacities pursuant to clause 23.C and as defined in the By-laws of the Company and the Rules of that Branch.

**By-laws** means the by-laws of the Company made pursuant to clause 34 or as authorised by this Constitution.

**Chairman** means a chairman of a meeting or general meeting appointed in accordance with clause 12.

**Committee** means a committee of the National Board established in accordance with clause 22.

**Company** means The Order of Australia Association.

**Constitution** means this Constitution as amended or supplemented from time to time.

**Deductible Contribution** means a contribution that is deductible under Items 7 or 8 of the table in subsection 30-15(2) of the ITAA 1997 as amended from time to time.

**Deputy National Chairman** means the person holding that office under this Constitution.

**Director** means a member of the Board and includes any person holding the position of a director of the Company and Directors means the directors for the time being of the Company or as the context permits such number of them as have authority to act for the Company.

**Executive Committee** is established pursuant to clause 22.

**Honorary Member** is any person, elected by a general meeting of the Company, to the class of Honorary Life Member for outstanding service to the Association.

**ITAA 1997** means Income Tax Assessment Act 1997 (Cth) as amended from time to time.

**Life Member** means a Member of the Company who has elected under clause 7(e) to pay a life membership subscription.

**Member** means a member of the Company pursuant to clause 6 and includes a Life Member and an Honorary Life Member

**Member Present** means, in connection with a meeting of general meeting of Members, a Member being present in person or by proxy or by attorney.

**National Chairman** means the person holding that office under this Constitution.

**National Secretary** means the person holding office as the secretary of the Company.

**National Membership Secretary** means the person holding that office under this Constitution.

**Office** in relation to the Board means each of the offices of President, National Chairman, Deputy National Chairman, National Secretary, National Treasurer and National Membership Secretary and other officers as defined.

**Officer** has the same meaning as given to that term in section 9 of the Act.

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**Patron** means the Governor-General of Australia, or any other person appointed by the Board as patron of the Association in accordance with clause 9.

**President** means the President of the Company referred to in clause 14.

**Proxy** is the power of a person exercising a written authorisation to vote or act for the signer of the authorisation at a meeting where the signer having the power to act is absent.

**Qualified Applicant** means a natural person who has received and currently holds an award whether substantive or honorary in the Order of Australia. A corporation is not a qualified applicant.

**Register** means the register of Members to be kept pursuant to the Act.

**Registered Office** means the registered office for the time being of the Company.

**Replaceable Rules** means the replaceable rules applicable to a public company limited by guarantee set out in the Act.

**Responsible Person** means an individual who:

- (i) performs a significant public function;
- (ii) is a member of a professional body having a code of ethics or rules of conduct;
- (iii) is officially charged with spiritual functions by a religious institution;
- (iv) is a director of a company whose shares are listed on the Australian Stock Exchange;
- (v) has received formal recognition from government for services to the community; or
- (vi) is approved as a Responsible Person by the Commonwealth Commissioner of Taxation.

**State** means a State of Australia

**Territory** means the Australian Capital Territory and the Northern Territory.

(b) In this Constitution, unless there is something in the subject or context which is inconsistent:

- (i) the singular includes the plural and vice versa;
- (ii) each gender includes the other gender;
- (iii) the word "person" means a natural person and any partnership, association, body or entity whether incorporated or not;
- (iv) the words "writing" and "written" include any other mode of representing or reproducing words, figures, drawings or symbols in a visible form;
- (v) where any word or phrase is defined, any other part of speech or other grammatical form of that word or phrase has a cognate meaning;

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- (vi) a reference to any clause or schedule is to a clause or schedule of this Constitution;
  - (vii) a reference to any statute, proclamation, rule, code, regulation or ordinance includes any amendment, consolidation, modification, re-enactment or reprint of it or any statute, proclamation, rule, code, regulation or ordinance replacing it.
- (c) An expression used in a particular Part or Division of the Act that is given by that Part or Division a special meaning for the purposes of that Part or Division has, unless the contrary intention appears, in any clause that deals with a matter dealt with by that Part or Division the same meaning as in that Part or Division.
- (d) Headings do not form part of or affect the construction or interpretation of this Constitution.

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## **5. OBJECTS AND PURPOSES**

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- (a) The Objects of the Company are:
- (i) Promoting loyalty to the Sovereign as Head of State of Australia
  - (ii) To foster love of and pride in Australian citizenship and to promote good citizenship by example, by encouragement, and by:
    - (A) awards to individuals, institutions and organisations which operate in Australia to alleviate poverty, promote harmony, or otherwise benefit communities in Australia; and
    - (B) encouraging continuing meritorious appointments to and awards of the Order of Australia and upholding the high principles and prestige of the Australian System of Honours and Awards.
  - (iii) To encourage the development and maintenance of a constructive and positive sense of national unity amongst Australians.
  - (iv) Education of the Australian community by promoting awareness in the Australian community of Australia's history, its national institutions, traditions and culture.
- (b) The Powers of the Company are:
- (i) To afford means for Members of the Company to conduct commemorative or other functions from time to time for the purposes of promoting the above objects.
  - (ii) To afford means for Members of the Company to conduct activities from time to time for the purposes of promoting the above objects.
- (c) The Company can only exercise the powers in section 124(1) of the Act to:
- (i) carry out the objects of the Company set out in clause 5(a); and
  - (ii) do all things incidental or convenient in relation to the exercise of power under clause 5.
- (d) The income and property of the Company will only be applied towards the promotion of the objects of the Company set out in clause 5. No income or property of the Company will be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus or otherwise to

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any Member of the Company. However nothing in this Constitution will prevent payment in good faith to a Member:

- (i) in return for any services rendered or goods supplied in the ordinary and usual course of business to the Company where that payment is at arm's length.
  - (ii) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent to the Company; or
  - (iii) of reasonable and proper rent for premises leased by any Member to the Company.
- (e) No payment shall be made to any Director other than the payment:
- (i) of out of pocket expenses incurred by the Director in the performance of any duty as a Director where the amount payable does not exceed an amount previously approved by the Board; and
  - (ii) for any service rendered to the Company by the Director in a professional or technical capacity, other than in the capacity as Director, where the provision of the service has the prior approval of the Board and where the amount payable is approved by the Board and is not more than an amount which commercially would be reasonable for the service.

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## **6. MEMBERS**

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- (a) The Members of the Company shall consist of:
- (i) the Members of the Company at the date of adoption of this Constitution; and
  - (ii) the qualified applicants who are admitted to membership by the Board after the date of adoption of this Constitution.
- (b) There shall be two classes of Members, namely:
- (i) Members; and
  - (ii) Honorary Life Members appointed in accordance with clause 6(d).
- (c) **Members:**
- (i) An eligible applicant may on lodging an application in the form prescribed by the National Board from time to time, accompanied by the prescribed subscriptions, be admitted as a Member by the National Membership Secretary acting on behalf of the National Board.
  - (ii) A person admitted as a Member shall be deemed to have agreed to be bound by the provisions of this Constitution and the By-laws made hereunder from time to time, and to have agreed to observe all the provisions thereof.
  - (iii) All members shall be entitled to receive notice of general meetings, to attend and vote thereat and shall be eligible to hold any office in the Company.



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(d) **Honorary Life Members:**

- (i) Upon the recommendation of the National Board, a general meeting of the Company may elect any person who has given outstanding service to the Company to the class of Honorary Life Member.
- (ii) A recommendation of the National Board pursuant to paragraph (e)(i) shall only be made where 90 percent of all Directors and Proxies present in person at a meeting of the National Board vote in favour of the recommendation.
- (iii) The number of Honorary Life Members who may be elected is limited to one per year.
- (iv) A person elected as an Honorary Life Member, shall have or retain all the rights, privileges and obligations of a Member but shall not be liable to pay any subscription or levy to the Company.

(e) **Membership Entitlements – not transferable**

A right, privilege or obligation which a person has by reason of being a Member of the Company:

- (i) is not capable of being transferred or transmitted to another person, and;
- (ii) terminates on cessation of the person's membership except where constrained by the application of provisions for the winding up of the Company.

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**7. ENTRANCE FEE AND SUBSCRIPTIONS**

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- (a) Each Member shall pay such entrance fee and annual or life subscriptions (in total or by instalments) to the Company as are determined from time to time by the Board.
- (b) Annual subscriptions shall be due and payable upon the anniversary of the date of joining the Company in each year.
- (c) The Board may resolve to impose a levy upon Members as is determined by it, subject to that levy not exceeding one year's annual subscription.
- (d) Any levy imposed by the Board pursuant to this Article shall be due and payable on the date specified in the resolution imposing the levy.
- (e) A Member may, and a person upon application to membership may, elect to pay a life membership subscription in such sum as may be determined from time to time by the Board and any member or person so electing and paying such subscription shall not thereafter be liable to pay any further annual subscription to the Company.

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**8. CESSATION OF MEMBERSHIP**

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A person ceases to be a Member of the company if the person:

- (i) dies, or
- (ii) resigns membership, by notice in writing to the National Secretary

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- (iii) ceases to hold the award by virtue of which the person was an Qualified Applicant for membership of the Company.
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## **9. PATRONS**

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The National Board may appoint a Patron who shall hold office until:

- (i) he dies; or
- (ii) he resigns the office by notice in writing to the Company; or
- (iii) he ceases to hold the office by virtue of which he was appointed as Patron; or
- (iv) he is removed from the office of Patron by a decision of the Board..
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## **10. GENERAL MEETINGS**

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- (a) General meetings of the Company shall be held as required by law<sup>1</sup> and, subject thereto, such meetings shall be held at such times and places as are determined by the Board.
- (b) Any general meeting of the Company may be convened at two or more venues using any technology that gives the Members a reasonable opportunity to participate in the meeting.
- (c) The Board may, whenever it thinks fit, convene an extraordinary general meeting.
- (d) The Board shall, on the requisition of not less than 5 percent in number of the Members of the Company, call an extraordinary general meeting to be held as required by law but, in any case, not later than 3 months after the receipt by the Company of the requisition.
- (e) The requisition for an extraordinary general meeting shall state the objects of the meeting and the form of any motion proposed to be put to the meeting and shall be signed by the requisitionists and deposited at the registered office of the Company and may consist of several documents in like form each signed by one or more requisitionists.
- (f) If the Board does not, within 21 days after the deposit of the said requisition, proceed to convene an extraordinary general meeting, the requisitionists, or any of them representing more than one half of the total voting rights of all of them, may themselves, in the same manner as nearly as possible as that in which meetings are to be convened by the Board, call a meeting, but a meeting so convened shall not be held after the expiration of 4 months from the said date of deposit of the said requisition.
- (g) Any reasonable expenses incurred by the requisitionists by reason of the failure of the Board to convene an extraordinary general meeting shall be paid to the requisitionists by the Company.
- (h) Subject to any legal requirement relating to special resolutions and agreements for shorter notice, 21 days notice at least, exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which the notice is given, must be given specifying:
- (i) the place, day and hour of the meeting;
- (ii) the general nature of any business to be transacted at the meeting;
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<sup>1</sup> The Corporations Act 2001- Section 250N.

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- (iii) if a motion is proposed to be adopted, the details of and intention to propose that motion;
  - (iv) if the meeting is to be held in two or more places, the technology that will be used to facilitate this;
  - (v) any other information required by the Act.
- (i) The place, date and the hour of the meeting and in the case of special business the nature of that business, shall be given to such persons as are entitled to receive notices from the Company.
  - (j) All business that is transacted at an extraordinary general meeting and that is transacted at an annual general meeting would be conducted by way of special resolutions with the exception of the consideration of accounts, balance sheets, the reports of the Board and the Auditor and the fixing of his remuneration (if any).
  - (k) Any meeting referred to in this clause shall be deemed not to be duly convened if notice of the meeting as required by clause 10(h) has not been given.
  - (l) The accidental omission to give notice of any general meeting to or the non-receipt of notice of a meeting by any person entitled to receive notice will not invalidate the proceedings at or any resolution passed at the meeting.

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#### **11. CANCELLATION OR POSTPONEMENT OF GENERAL MEETING**

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- (a) Subject to the provisions of the Act and this Constitution, the Board may cancel a general meeting of the Company:
  - (i) convened by the Board; or
  - (ii) which has been convened by a Member or Members upon receipt by the Company of a written notice withdrawing the requisition signed by such requisitionists, being not less than 1 per centum in number of the members of the Company, as would reduce the number of remaining requisitionists to less than 5 per centum in number of the Members of the Company.
- (b) The Board may postpone a general meeting or change the venue at which it is to be held or vary the technology to be used at the meeting. No business shall be transacted at any postponed meeting other than the business stated in the notice to the Members relating to the original meeting.
- (c) Where any general meeting is cancelled or postponed or the venue for the same is changed:
  - (i) the Board must endeavour to inform each person entitled to receive notice of the meeting of the cancellation, the change of venue or the postponement of the meeting by any means permitted by this Constitution and in the case of the postponement of a meeting, the new place, date and time for the meeting; and
  - (ii) any failure to notify in any person entitled to receive notice of the meeting or failure of a person to receive a notice shall not affect the validity of the cancellation, the change of venue or the postponement of the meeting.

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**12. PROCEEDINGS AT GENERAL MEETINGS**

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- (a) No item of business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to that item of business and at the time when the meeting votes on that item of business. Subject to the provisions of clause 10.(b) and this clause 12, 10 percent in number of the Members of the Company or 50 Members (whichever is the less) present in person or by proxy or attorney and entitled to vote at the time for the commencement of the appointed meeting, shall constitute a quorum.
- (b) If within 30 minutes after the time appointed for holding a general meeting a quorum is not present:
- (i) the meeting if convened upon the requisition of Members shall be dissolved;
  - (ii) in any other case:
    - (A) it will stand adjourned to the same day in the next week at the same time and place or to such other day time and place as the Board may by notice to the Members appoint; and
    - (B) if at such adjourned meeting a quorum is not present within 30 minutes after the time appointed for the holding of the meeting the persons present, being not less than 10 members, shall constitute a quorum for the purpose of that meeting.
- (c) The President shall preside as chairman at every general meeting or in the event of his absence, or if there is no President or if he is not present within 15 minutes of the time appointed for the holding of the meeting or declines to act, the National Chairman shall preside as chairman of the meeting. In the event of there also being no National Chairman or if he is not present within 15 minutes of the time appointed for the holding of the meeting or if he declines to act, the Deputy National Chairman shall preside as Chairman of the meeting. In the event of there being no Deputy National Chairman or also if he is not present within 15 minutes of the time appointed for the holding of the meeting or he declines to act, the members present shall elect one of their number to be chair of the meeting, and that person shall be deemed chairman solely for that purpose.
- (d) The chairman may, with the consent of any meeting at which a quorum is present, and shall if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 10 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting, but, except for notice in that case, it shall not be necessary to give any notice of adjournment or of business to be transacted at an adjourned meeting.
- (e)
- (i) At any general meeting a resolution put to the vote of the meeting shall be decided on the show of hands unless a poll is demanded (before or on the declaration of the result of the show of hands) either by the Chairman or by at least three members present in person or by proxy.
  - (ii) Unless a poll is so demanded a declaration by the chairman that a resolution has on a show of hands been carried unanimously or carried by a particular majority or lost or not carried by a particular majority, an entry to that effect in the book containing the minutes of proceedings of the Company shall be conclusive evidence of the

fact without particulars of the number or proportion of the votes recorded in favour of or against the resolution.

(iii) The demand for a poll may be withdrawn.

- (f) If a poll is duly demanded it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the chairman directs and the result of the poll shall be the resolution of the meeting at which the poll was demanded, but a poll demanded on the election of a Chairman or on a question of adjournment shall be taken forthwith.
- (g) In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is held shall be entitled to a second or casting vote.
- (h) At any general meeting each Member may vote in person or by proxy or by attorney. On a show of hands every Member, proxy, or attorney shall have one vote. On a poll every Member shall be entitled to cast one vote on his own behalf and one vote for every Member he represents by proxy or attorney.
- (i) A Member whose person or estate is liable to be dealt with in any way under the law relating to mental health may not vote whether on a show of hands or on a poll.
- (j) No objection shall be raised to the qualifications of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection shall be referred to the chairman of the meeting whose decision shall be final and conclusive.
- (k) The instrument appointing a proxy shall be in writing in the common or usual form under the hand of the appointor Member or his Attorney duly authorised. The instrument appointing the proxy shall be deemed to confer authority to demand or join in demanding a poll and shall be valid if in the following form or a form as near thereto as circumstances permit;

The Order of Australia Association

I ..... of ..... being a member of the Company hereby appoint .....of ..... as my proxy to vote for me and on my behalf at the annual/extraordinary general meeting of the Company to be held on the ..... day of ..... 20 and at any adjournment thereof.

Signed this ..... day of ..... 20.....

This form is to be used \*in favour of/against the resolution .....

.....  
SIGNATURE OF MEMBER

\*Strike out whichever is not desired.

(Unless otherwise instructed the proxy may vote as he thinks fit)

- (l) The instrument appointing a proxy and the Power of Attorney or any other authority, if any, under which it is signed shall be deposited with the National Secretary not less than five complete working days before the time for holding the general meeting or adjourned general meeting at which the person named in the instrument proposes to vote or in the case of a poll not less than five complete working days before the time appointed for the taking of the poll and, in default, the instrument of proxy shall not be treated as valid.
- (m) A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or revocation of the instrument or of the authority under

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which the instrument was executed if no intimation in writing of such death or revocation has been received by the National Secretary before the commencement of the general meeting or adjourned general meeting at which the instrument is used.

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**13. RIGHT OF NON-MEMBERS TO ATTEND GENERAL MEETING**

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- (a) The chairman of a general meeting may invite any person who is not a Member to attend and address a meeting.
  - (b) Any Auditor of the Company shall be entitled to attend and address a general meeting.
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**14. NUMBER AND APPOINTMENT OF DIRECTORS AND OFFICE BEARERS OF THE COMPANY**

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- (a) There shall be a Board of Directors of the Company which shall be known as “the Board”.
- (b) The Directors shall comprise:
  - (i) the National Chairman, the Deputy National Chairman, the National Secretary, the National Treasurer and the National Membership Secretary, and
  - (ii) the persons nominated by each Branch to be a Director of the Company as hereinafter provided.
- (c) **Branch Nominated Directors**
  - (i) Each Branch Committee may, at a Branch Committee meeting held prior to the annual general meeting, nominate one of the Members of the Branch to be a Director of the Company and he will become a Director by virtue of that nomination.
  - (ii) A Director nominated by a Branch Committee shall hold office for a term of one (1) year from the date of nomination by the Branch Committee and will be eligible for re-election.
  - (iii) A nomination by a Branch Committee shall be made in writing signed by the Branch Chairman or the Branch Secretary pursuant to a resolution of the Branch Committee and shall be lodged with the National Secretary and thereupon the person named therein shall be deemed to have been appointed as a Director of the Company with effect from the date of receipt by the National Secretary of such written nomination.
  - (iv) A Branch Committee which has made a nomination may, by notice in writing signed by the Branch Chairman or Branch Secretary pursuant to a resolution of the Branch Committee, revoke the nomination of a person made by it and nominate another of the members of the Branch to be a Director in his stead. Upon such notice being lodged with the National Secretary, the person whose nomination has been revoked shall be deemed to have vacated office as a Director and the person nominated in his stead shall be deemed to have been appointed a Director and shall hold office until the person in whose stead he was appointed would have vacated office.
- (d) **Non Branch Nominated Directors**
  - (i) The Board will, at its meeting prior to the annual general meeting, elect from the members a Chairman, a Deputy National Chairman, a

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National Secretary, a National Treasurer and a National Membership Secretary. The office bearers referred to in this subclause will hold office from the commencement of the day immediately following the annual general meeting next following their election and will be eligible for re-election<sup>2</sup>.

- (ii) If a Director nominated by a Branch Committee becomes President, National Chairman, Deputy National Chairman, National Secretary, National Treasurer or National Membership Secretary, he shall thereafter hold office as a Director by virtue of the holding of that Office. The Branch Committee which nominated him may upon his election to such office nominate another of the Members of the Branch to hold office as a Director from the date of such nomination until the annual general meeting next following that nomination.

**(e) Removal of directors**

- (i) The Company in general meeting may by special resolution remove any Director from office and such removal shall take immediate effect.
- (ii) If the Director who is removed from office pursuant to clause 14(e)(i).
- (A) was any one of the office bearers, the Board may elect another Member to fill the vacant Office. Any person so elected shall hold office only until the person in whose stead he was elected would have vacated office and shall be eligible for re-election; or
- (B) was not one of the office bearers, the Branch Committee which nominated him as a Director may thereupon nominate another Member of the Branch to fill the vacancy. Any person so nominated as a Director shall hold office only until the person in whose stead he was nominated would have vacated office and shall be eligible for renomination.
- (iii) The provisions of the preceding clause shall apply *mutatis mutandis*<sup>3</sup> if there shall occur a casual vacancy among any of the office bearers or amongst the persons nominated by a Branch.

**(f) President**

- (i) There shall be a President of the Company elected by the Board from the Members of the Company who shall be the Chairman of any general meeting of Members. The President shall not otherwise have any power or function in the Company.
- (ii) The President will be elected for a three (3) year term. Except in the case described in clause 14(f)(iv), the President will not be eligible for re-election as a Director for a period of at least one (1) year following the expiry of his term. Thereafter he will be eligible for election as a Director and for election to any other Office.

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<sup>2</sup> For the National Chairman see special provisions at clause 14 (g) (ii)

<sup>3</sup> *Mutatis mutandis* is a Latin phrase meaning "by changing those things which need to be changed" or more simply "the necessary changes having been made".

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- (iii) The President will be elected by the Board at its meeting prior to the annual general meeting, and will hold office from the conclusion of the annual general meeting immediately following the election until the conclusion of the annual general meeting held next after three years after his election.
  - (iv) If the President dies, is removed or resigns from office, the Board may elect another Member as President. Any Member so elected shall hold office for the balance of the term of the previous President, and is also eligible to be elected President for a further term upon expiry of the original appointment but so that the further term, when added to the balance of the term of the previous President served by him, shall not exceed three (3) years.

(g) **National Chairman**

- (i) There shall be a National Chairman of the Company elected by the Board from the Members of the Company who shall be a Director of the Company and shall be the Chairman of any meeting of the Board.
- (ii) The National Chairman will be elected for a two (2) year term and shall be eligible for re-election only once.
- (iii) If a meeting of the Board is held and the National Chairman is not present within 10 minutes after the time appointed for the holding of the meeting or, if present, does not wish to chair the meeting, then the Deputy National Chairman shall preside and if the Deputy National Chairman is also not present within 10 minutes after the time appointed for the holding of the meeting or does not wish to preside, the other Directors present must elect one of their number to be chairman of the meeting.
- (iv) The rulings of the National Chairman of a meeting of the Board on all matters relating to the order of business, procedure and conduct of the meeting shall be final and no motion of dissent from such rulings shall be accepted.

(h) The term of office of a Director commences:

- (i) In case of a Director who is an office bearer, from the earlier of the completion of the Annual General Meeting next following his election to that office and the date that office becomes vacant (but not earlier than the date of his election to that Office);
- (ii) In case of a Director nominated by a Branch, the term commences from the date upon which the office of Director nominated by that Branch becomes vacant (but not earlier than the date of his nomination by the Branch), and upon the National Secretary being so advised.

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**15. GENERAL RIGHT TO APPOINT AND REMOVE DIRECTORS**

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- (a) Subject to the Act, the group who appointed the Director to the position that gave rise to a casual vacancy may at any time appoint any Member as a Director to fill such casual vacancy. Any Director so appointed shall only hold office until the next annual general meeting of the Company after the appointment is made.



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- (b) The Board may act despite any vacancy in their body but if the number falls below the number fixed in accordance with clause 14 the Board may act for the purpose of increasing the number of Directors to the minimum or of convening a general meeting or in emergencies but for no other purpose.

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**16. VACATION OF OFFICE OF DIRECTORS**

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- (a) Any Director may retire from office on giving written notice to the Company at the Office of his intention to retire and the resignation shall take effect at the time expressed in the notice (provided the time is not earlier than the date of delivery of the written notice to the Company).
- (b) The position of a Director shall become vacant if the Director:
- (i) becomes bankrupt or makes any arrangement or composition with creditors generally;
  - (ii) becomes prohibited from being a director of a company by reason of any order made under the Act;
  - (iii) becomes a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
  - (iv) resigns by notice in writing to the Company;
  - (v) is absent without permission of the Board from meetings of the Board held for more than 6 months;
  - (vi) is removed from office by the branch which had appointed the Director by notice in writing to the National Secretary, which may be given without any reason being ascribed to it;
  - (vii) at the expiration of any period of office as a director beyond which he may not serve as a Director of the Company; or
  - (viii) A Director of the Board shall be deemed to have vacated his office if he is directly or indirectly interested in any contract or proposed contract with the Company, and fails to declare the nature of his interest in the manner required by law prior to the contract or proposed contract being discussed by the Board.

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**17. NEGOTIABLE INSTRUMENTS**

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All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for money paid to the Company must be signed, drawn, accepted, endorsed or otherwise executed as the case may be by such persons as shall be nominated by the Board.

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**18. CONFERMENT OF BOARD POWERS AND SUBCOMMITTEES**

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- (a) The Board may from time to time confer upon any one or more Directors for the time being or any other person as they may select such of the powers exercisable under this Constitution by the Board as it may think fit for such time and to be exercised for such purposes and on such terms and conditions and with such restrictions as it may think expedient provided that any such powers are to be carried out solely in furtherance of the objects of the Company.

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- (b) Powers conferred under this clause may be exercised concurrently with the powers of the Board in that regard and the Board may from time to time withdraw, revoke or vary all or any of such powers.

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## **19. CONTRACTS**

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- (a) The Company may enter into contracts or arrangements with other companies or bodies in which a Director has an interest, provided it does so according to the usual commercial terms and conditions that apply to such contracts or arrangements and provided that any such contracts or arrangements are entered into solely in furtherance of the objects of the Company.
- (b) A Director must disclose an interest in accordance with the Act and the Secretary must record all declarations in the minutes of the relevant meeting.
- (c) A Director who has an interest in a contract or arrangement made or proposed to be made by the Company and has disclosed this interest to the Board subject to compliance with section 195 and related provisions of the Act may not:
- (i) Vote on the matter;
  - (ii) Be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement.
  - (iii) Sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and
  - (iv) Vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.
- (d) The Company shall not make any payment for services rendered by a Director in a professional or technical capacity, and no such Director can obtain any pecuniary profit or benefit from the Company except where the provision of such services and the amount payable have prior approval of the Board, where the amount does not exceed an amount that is commercially reasonable for those services, and any such services were provided solely in furtherance of the objects of the Company.
- (e) A Director's failure to make disclosure under this clause does not render void or voidable a contract or arrangement in which the Director has a direct or indirect interest.
- (f) A general notice given to a particular meeting of the Board by a Director that the Director is an officer, a member of or otherwise interested in any specified corporation or firm stating the nature and the extent of the Director's interest in the corporation or firm shall, in relation to any matter involving the Company and that corporation or firm at that meeting, be a sufficient disclosure of the Director's interest.

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## **20. DIRECTORS' PROXIES**

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- (a) The provisions of this clause shall not apply to the President, the National Chairman, the Deputy National Chairman, the National Secretary, the National Treasurer or the National Membership Secretary.
- (b) A Director nominated to office by a Branch Committee may appoint a Member of that Branch to be a proxy in his place and may, without any consent, remove that proxy.
- (c) The provisions of clause 16 apply in the case of a proxy, mutatis mutandis.

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- (d) Subject to this Constitution a proxy is entitled to notice of meetings of the Board and if the appointor Director is not present at such a meeting, is entitled to attend and vote in his stead.
  - (e) A proxy may exercise any powers that the appointor may exercise and the exercise of any such power by such proxy shall be deemed to be the exercise of the power by a Director.
  - (f) A proxy shall not be counted as being present or as having voted if the Director for whom he is the alternate is so counted.
  - (g) A proxy shall automatically vacate office if his appointor Director vacates office as a Director or is removed from office.

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## 21. POWERS AND DUTIES OF THE BOARD

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- (a) The control management and conduct of the Company shall be vested in the Board which shall exercise all such powers of the Company as are not by the Act or by this Constitution required to be exercised in any other manner.
- (b) The Board may engage all such employees as it may consider necessary and shall regulate their duties and fix their remuneration.

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## 22. COMMITTEES OF THE BOARD

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- (a) The Board shall establish an **Executive Committee** comprising:
  - (i) the National Chairman;
  - (ii) the Deputy National Chairman;
  - (iii) the National Secretary;
  - (iv) the National Treasurer;
  - (v) the National Membership Secretary; and
  - (vi) the National President of the Order of Australia Association and the Secretary of the Order of Australia Foundation as *ex officio* members
- (b) The Executive Committee shall meet at such times and places as it shall determine. The Executive Committee may exercise all the powers and carry out all the duties and functions of the Board between meetings of the Board and when it does, the provisions of the clauses applicable to the Board shall apply to it, *mutatis mutandis*. The quorum for a meeting of the Executive Committee shall be three persons.
- (c) The Board may delegate any of its powers and duties to such other Committees as it thinks fit from time to time. Any such other Committee shall consist of at least one Director of the Board and such other persons as it may determine. The powers and duties delegated to such a Committee shall be upon such terms and conditions as the Board may determine, including the fixing of a quorum for a meeting thereof. The National Chairman and the National Secretary shall be *ex-officio* members of all such Committees. A Director shall be the Chairman of each Committee.
- (d) Each member of the Executive Committee and of any other Committee established by the Board shall have one vote except the person presiding at a meeting thereof who, in the event of there being an equality of votes, shall be entitled to a second or casting vote.

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- (e) For the purpose of this clause, a meeting of the Executive Committee or of any other Committee established by the Board shall mean:
- (i) a meeting of the members of such a Committee assembled in person on the same day at the same time and place; or
  - (ii) the members of such Committee communicating with each other by any technological means nominated by the Board or consented to by all of them whereby they are able simultaneously to hear each other and participate in discussion notwithstanding that they are not physically present in the same place; or
  - (iii) all members of the Committee consenting to electronic communication between the members where they are not able simultaneously to hear each other and participate in discussion.
- (f) A Committee must in exercise of the powers delegated to it conform to any directions and restrictions that may be imposed on it by the Board. A power so exercised shall be taken to be exercised by the Board.
- (g) A minute of all the proceedings and decisions of every Committee shall be made, entered and signed in the same manner in all respects as minutes of proceedings of the Board are required by the Act and this Constitution to be made entered and signed. A copy of these minutes shall be tabled at the next Board Meeting.
- (h) At the invitation of the National Chairman or the chairman of the Committee, a member or any other person may be invited to be present where their participation may advantage the business of the Board or the sub committee. No other person shall be present.

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### **23. BRANCHES OF THE COMPANY**

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- (a) The Board shall if possible maintain a Branch in each State and Territory.
- (b) The Members of each Branch shall comprise those Members of the Company residing within the geographical area of the State or Territory of the Branch provided however that a Member may, at any time, elect to be a Member of a different Branch if it would be more convenient for him.
- (c) Each Branch shall have a Branch Committee which shall comprise such persons and have such powers, functions and duties (in addition to those conferred by these clauses) as are specified in the By-laws.
- (d) Each Branch shall have such powers, functions and duties and conform to such requirements as may from time to time be promulgated by the Board in the By-laws.
- (e) Each Branch shall within its geographical area further the objects and conform to the policies of the Company.
- (f) The Board shall transfer to each Branch conforming to this Constitution and the By-laws such part of the subscriptions and levies received from Members who are also members of that Branch and such other funds as is determined from time to time by the Board.
- (g) A Branch does not have the power to impose any financial subscription or levy upon its Members.
- (h) A Branch shall not incur any financial liability in excess of funds in the hand of the Branch unless previously authorised by the Board so to do.

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- (i) A Branch may not borrow money nor seek or enter into an overdraft or credit arrangement or facility.
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#### **24. THE NATIONAL SECRETARY**

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The Board may vest in the National Secretary such powers, duties and authorities as it may from time to time determine and the National Secretary shall exercise all such powers and authorities subject at all times to the control and direction of the Board.

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#### **25. MEETINGS OF THE BOARD**

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- (a) The Board may meet together for the despatch of business, adjourn and otherwise regulate their meetings and proceedings as it thinks fit provided that they shall meet not less than twice each calendar year.
- (b) On the requisition of not less than three (3) members of the Board the Secretary shall convene a meeting of Board by giving at least seven days notice of the meeting to all Directors.
- (c) Notice of a meeting of Board may be given electronically.
- (d) A meeting of the Board shall mean the Directors communicating with each other by any technological means consented to by the Board whereby they are able simultaneously to hear each other and participate in discussions notwithstanding that they are not physically present in the same place. A Director so communicating shall be deemed to be present at the meeting. The consent may be a standing one. Any three (3) Directors may withdraw consent to the use of a particular technology within seven (7) days before a Board meeting.
- (e) All resolutions of the Directors passed at a meeting of the Board where a quorum is present but where notice of the meeting has not been given as required to each Director, or any act carried out pursuant to such resolution, shall, provided each Director to whom notice was not given subsequently agrees to waive the same, be as valid as if notice of the meeting had been duly given to all Directors.
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#### **26. QUORUM FOR BOARD MEETINGS**

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A majority of Directors entitled to attend a meeting of the Board who are present personally or by proxy (or participate in accordance with clause 25(d) form a quorum and a quorum must be present at all times during the meeting. A Director who is disqualified from voting on a matter pursuant to this Constitution shall not be counted in the quorum.

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#### **27. VOTING AT BOARD MEETINGS**

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- (a) A resolution of the Board must be passed by a majority of votes of the Directors and proxies present at the meeting who vote on the resolution. A resolution passed by a majority of the votes cast by the Directors and proxies will for all purposes be taken to be a determination of the Board.
- (b) Each Director or his proxy shall have one vote.
- (c) In case of an equality of votes at a meeting of the Board, the Chairman has a casting vote in addition to a deliberative vote.

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**28. RESOLUTIONS BY DIRECTORS**

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- (a) The Board may pass a resolution without a Board meeting being held if a majority of the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. For this purpose, signatures can be contained in more than one document
- (b) An electronic transmission which is received by the Company and which purports to have been signed or sent by a Director shall for the purposes of this clause be taken to be in writing and signed by that Director at the time of the receipt of the transmission by the Company in legible form.

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**29. VALIDATION OF ACTS OF DIRECTORS**

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All acts done:

at any meeting of the Board; or

by any person acting as a Director,

shall, even if it is discovered afterwards that there was a defect in the appointment or continuance in office of any such Director or person or that they or any of them were disqualified or were not entitled to vote, be as valid as if every such person had been duly appointed or had continued in office and was duly qualified to be a Director and had been entitled to vote.

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**30. MINUTES OF MEETINGS OF THE BOARD AND ITS COMMITTEES**

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- (a) The Board and each Committee of the Board must cause minutes to be kept in accordance with the Act for the purposes of recording:
  - (i) the names of the Directors, Committee Members and other persons (whose presence may be recorded as a total number of Members) present at each meeting;
  - (ii) all orders, resolutions and proceedings of general meetings and of meetings of Directors and of Committees;
  - (iii) such matters as are required by the Act or by any governmental authority or legislative or regulatory enactment to be recorded in the record books of the Company including without limitation all declarations made or notices given by any Director or Committee Member or other person of his interest in any contract or proposed contract or the holding of any office or property whereby any conflict of duty or interest may arise.
- (b) Such minutes shall be signed by the Chairman of the meeting, or the Chairman of the next succeeding meeting and minutes which purport to be signed accordingly shall be received in evidence without any further proof as sufficient evidence that the matters and things recorded by such minutes actually took place or happened as recorded and of the regularity of such matters and things and that the same took place at a meeting duly convened and held.

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**31. COMMON SEAL AND EXECUTION OF DOCUMENTS**

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- (a) The Board shall provide for the safe custody of the common seal of the Company.

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- (b) The common seal shall not be affixed to an instrument except by the authority of a resolution of the Board, the Executive Committee or of a Committee authorised by the Board in that behalf. Every instrument to which the common seal is affixed shall be signed by a Director of the Board and shall be countersigned by another member thereof, the National Secretary or some other person appointed by the Board for the purpose.
  - (c) Without limiting the manner in which the Company may execute any contract, including as permitted under the Act, the Company may also execute any agreement, deed or other document by two Directors signing the same.
  - (d) Nothing in this Constitution requires the Company to execute any agreement, deed or other document under common seal for the same to be effectively executed by the Company.

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### **32. ACCOUNTS AND INSPECTION**

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- (a) The Company shall:
  - (i) keep such accounting records as correctly record and explain the transactions of the Company and its financial position;
  - (ii) keep its accounting records in such a manner as will enable the preparation from time to time of true and fair accounts of the Company and its accounts to be conveniently and properly audited as required by law;
  - (iii) keep records that explain all transactions and other acts that the Company engages in that are relevant to the objects in clause 5 and that also explain how gifts of money and property, or Deductible Contributions, and any money received because of those gifts or Deductible Contributions are applied to the objects in clause 5 and the records shall be retained for at least 5 years after the completion of the transactions or acts to which they relate; and
  - (iv) keep any other records or make any other filings as required by law.
- (b) The Board and each Branch Committee shall cause to be laid before each annual general meeting of the Company or the Branch:
  - (i) a copy of the accounts made out for the last financial year of the Company or the Branch;
  - (ii) a copy of the report of the Board or the Branch Committee made out in respect of that financial year;
  - (iii) a copy of an auditor's report on the accounts of the Company; and
  - (iv) a copy of the statement by the Board required by law to be attached to the accounts of the Company.

Paragraphs (iii) and (iv) shall not apply to Branch Committees.

- (c) All monies and accounts administered by Branches and Regional Groups are the property of the Company.

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### **33. AUDITOR**

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An Auditor of the Company shall be appointed by resolution of the Board.

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**34. BY-LAWS**

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- (a) The Board shall have power from time to time to make such By-laws (not inconsistent with this Constitution) as are in its opinion necessary or desirable for the proper control, administration and management of the affairs, operations, finances, interests, effects and property of the Company, including its Branches and the conduct of elections to Offices in the Company, and to amend and repeal from time to time such By-laws.
- (b) Notwithstanding the foregoing provisions of this clause, the Company in general meeting may amend or repeal any of the By-laws made by the Board.
- (c) The By-laws shall be binding on all Members and have the same effect as this Constitution.
- (d) For the avoidance of doubt, to the extent the By-laws are inconsistent with the Constitution and particularly the objects of the Company, the Constitution has precedence.

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**35. SERVICE OF NOTICES**

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- (a) A notice may be given by the Company to any Member by:
  - (i) serving it on the Member personally; or
  - (ii) sending it by post to the Member or leaving it at the Member's address shown in the Register or otherwise the address supplied by the Member to the Company for the giving of notices; or
  - (iii) facsimile to the facsimile number supplied by the Member to the Company for the giving of notices; or
  - (iv) sending it to the electronic address supplied by the Member to the Company for the giving of notices; or
  - (v) posting the relevant information on the Company website.
- (b) Any Member who has not left at or sent to the National Office his place of address for inclusion in the Register as the place at which notices may be given to the Member shall not be entitled to receive any notice.
- (c) Where a notice is sent by post, service of the notice shall be taken to be effected by properly addressing, prepaying and posting a letter containing the notice and shall be deemed to have been effected on the day after the date of posting. Service of a notice to a Member outside Australia shall be deemed to have been made in the ordinary course of the post.
- (d) Where a notice is sent by electronic means to a number or electronic address supplied by the Member, service of the notice shall be taken to be effected on the business day after it is sent.
- (e) The Company shall not be required to give notice to any person in respect of a Member who is dead, bankrupt or whose person or property is subject to management under any law.
- (f) Evidence of service may be in the form of a certificate given by any Officer of the Company which shall be conclusive evidence of service.



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**36. NOTICES OF GENERAL MEETING**

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Notice of every general meeting must be given in any manner authorised by this Constitution to:

- (i) every Member; and
- (ii) the auditor for the time being of the Company.

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**37. WINDING UP**

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- (a) Subject to clause 41, if any surplus remains following the winding up of the Company, the surplus will not be paid to or distributed amongst Members, but will be given or transferred to another institution or corporation which has:
  - (i) objects which are charitable at law and similar to the objects of the Company as set out in clause 5; a constitution which requires its income and property to be applied in promoting its objects; and
  - (ii) a constitution which prohibits it from paying or distributing its income and property amongst its Members to an extent at least as great as imposed on the Company by clause 37; and
  - (iii) endorsement as a charitable entity in accordance with Division 50 of the ITAA 1997
- (b) The identity of the corporation or institution is to be determined by the Members by resolution at or before the time of dissolution and failing such determination being made, by the Supreme Court of the Australian Capital Territory.

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**38. INDEMNITY**

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- (a) To the extent permitted by law and subject to the restrictions in section 199A of the Act the Company indemnifies every person who is or has been an officer of the Company against:
  - (i) any liability (other than for legal costs) incurred by that person as an officer of the Company (including liabilities incurred by the officer as an officer of a subsidiary of the Company where the Company requested the officer to accept that appointment); or
  - (ii) reasonable legal costs incurred in defending an action for a liability incurred by that person as an officer of the Company (including legal costs incurred by the officer as an officer of a subsidiary of the Company where the Company requested the officer to accept that appointment).
- (b) The amount of any indemnity payable under clause 38 will include an additional amount (GST Amount) equal to any GST payable by the officer being indemnified (Indemnified Officer) in connection with the indemnity (less the amount of input tax credit claimable by the Indemnified Officer in connection with the indemnity). Payment of any indemnity which includes a GST Amount is conditional upon the Indemnified Officer providing the Company with a GST tax invoice for the GST Amount.

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- (c) For the purposes of this clause, Officer means:
- (i) a Director; or
  - (ii) an elected officer of a Branch Committee, or
  - (iii) the Editor of the *The Order*, the national magazine of the Order of Australia Association.

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### **39. PAYMENT OF INDEMNITY POLICY PREMIUM**

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(a) To the extent permitted by law, the Company may at the discretion of the Board enter into and/or pay a premium in respect of a policy of insurance insuring an Officer (or former Officer) of the Company against any liability incurred by such person in that capacity (whether in respect of acts or omissions prior to or after the date of the issue of the policy or both) except for:

- (i) a liability arising out of conduct involving a wilful breach of duty in relation to the Company; or
- (ii) a contravention of sections 182 or 183 of the Act.

(b) The Board shall have the discretion to approve the terms and conditions of any such policy of insurance.

(c) Where an Officer (or former Officer) has the benefit of an indemnity pursuant to an insurance policy in respect of his actions or omissions then the Company shall not be required to indemnify the Officer under clause 38 except to the extent that the indemnity affected by the insurance policy does not fully cover the person's liability.

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### **40. INDEMNITY TO CONTINUE**

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The indemnity granted by the Company contained in clauses 38 and 39 shall continue in full force and effect notwithstanding the deletion or modification of that clause, in respect of acts and omissions occurring prior to the date of the deletion or modification.

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### **41. ORDER OF AUSTRALIA ASSOCIATION FUND**

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(a) The Company shall maintain a fund to be solely applied to the objects in clause 5 of this Constitution:

- (i) to which gifts of money or property, or Deductible Contributions, for those objects are to be made;
- (ii) to which money received by the Company because of those gifts, or Deductible Contributions, is to be credited; and
- (iii) that does not receive any other money or property (the '**Fund**').

(b) The name of the Fund shall be 'Order of Australia Association Fund'.

(c) The Company must use the following only for the objects set out clause 5 of the Constitution:

- (i) gifts, or Deductible Contributions, made to the Fund; and
- (ii) any money received because of those gifts or Deductible Contributions.

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- (d) Receipts for gifts must state:
- (i) the name of the Fund as stated in clause 41(b);
  - (ii) the Australian Business Number of the Company; and
  - (iii) the fact that the receipt is for a gift.
- (e) Receipts for Deductible Contributions must state:
- (i) the name of the Fund as stated in clause 41(b);
  - (ii) the Australian Business Number of the Company;
  - (iii) the fact that the Deductible Contribution was made in return for either or both:
    - (A) a right to attend or participate in a specific fund-raising event;
    - (B) the purchase of goods and services at an auction held at a fund-raising event;
  - (iv) the amount of the Deductible Contribution if the Deductible Contribution is money; and
  - (v) the GST inclusive market value of the minor benefit provided in return for the Deductible Contribution.
- (f) At the first instance of:
- (i) the winding up of the Fund; or
  - (ii) the Fund ceasing to be specifically listed as a deductible gift recipient in Division 30 of the ITAA 1997;
- any surplus assets of the Fund remaining after the payment of liabilities attributable to the Fund shall not be paid to or distributed to the Members, but shall be given or transferred to some other fund, authority or institution having objects similar to the objects of the Fund, and whose rules shall prohibit the distribution of its or their income among its or their members, such fund, authority or institution is to be eligible for tax deductibility of donations under Subdivision 30-BA of the ITAA 1997.
- (g) The assets and income of the Fund shall be applied solely in the furtherance of the objects in clause 5 and no portion shall be distributed directly or indirectly to any individual except as bona fide compensation for services rendered or expenses incurred on behalf of the Fund.
- (h) The Company must maintain a separate bank account for the Fund.
- (i) The Directors shall ensure that the Fund shall be controlled by an executive committee consisting of a majority of Responsible Persons.
- (j) The Company shall invite the public to make contributions to the Fund.
- (k) The Australian Taxation Office must be notified of any alterations made to this clause 41 of the Constitution.