

Last updated: 13 November 2019

CORPORATIONS ACT 2001

A company limited by guarantee

CONSTITUTION

of

AUSTRALASIAN MUSIC PUBLISHERS' ASSOCIATION LIMITED

1. Introduction

1.1 Definitions

1.1.1 In this constitution, unless the context otherwise requires:

Act means the Corporations Act 2001 (Cth);

AMCOS means Australasian Mechanical Copyright Owners Society Limited;

APRA means Australasian Performing Right Association Limited;

Board means the board of Directors of the Company;

Company means Australasian Music Publishers' Association Limited;

Directors means the Directors for the time being of the Company;

Music Publisher means a person bona fide carrying on business in Australia or New Zealand as a music publisher and who is a Publisher Full Member of APRA and/or a Full Member of AMCOS;

Nominated Representative means a person nominated in accordance with clause 4.5;

Register means the register of members kept in accordance with clause 4.6;

Seal means the common seal of the Company, if any; and

Secretary means a person appointed to perform the duties of a secretary of the Company.

- 1.1.2 Where a word or phrase is given a defined meaning another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.

1.2 Interpretation

- 1.2.1 Unless the context otherwise requires a word which denotes:

- (a) the singular denotes the plural and vice versa;
- (b) any gender denotes the other genders; and
- (a) a person includes an individual, a body corporate and a government.

- 1.1.2 Unless the context otherwise requires a reference to:

- (a) any legislation includes any regulation or instrument made under it and where amended, re-enacted or replaced means that amended, re-enacted or replacement legislation;
- (b) any other instrument where amended or replaced means that instrument as amended or replaced; and
- (c) a thing or amount is a reference to the whole and each part of it.

1.3 Corporations Act 2001

Except where the contrary intention appears in this constitution, an expression has, in a provision of this constitution which deals with a matter dealt with by a relevant provision of the Act , the same meaning as in that provision of the Act.

1.4 Replaceable rules excluded

To the extent permitted by law, the replaceable rules in the Corporations Act 2001 do not apply to the Company.

1.5 Headings

Headings must be ignored in the interpretation of this constitution.

1.6 References to and calculations of time

1.6.1 Where a period of time is specified and is to be calculated before or after a given day, act or event it must be calculated without counting that day or the day of that act or event.

1.6.2 A provision of this constitution, except that specifying the time for deposit of proxies with the Company, which has the effect of requiring anything to be done on or by a date which is not a business day must be interpreted as if it required it to be done on or by the next business day.

2. Purpose

2.1 Objects

2.1.1 The objects for which the Company is established are:

- (a) to promote and protect the interests of music publishers;
- (b) to promote for export and distribution overseas, the rights and interests of music publishers in relation to musical works and associated literary or dramatic works;
- (c) to develop new and existing export markets for music publishers;
- (d) to represent music publishers at any public enquiry, ministerial enquiry, Royal Commission, conference, convention, or any similar bearing or meeting which might touch upon the interests of music publishers whether held in Australia or elsewhere and to be a party to any proceedings before any tribunal established by any statute having jurisdiction over any matters affecting the interests of the Company or its members in relation to musical works and associated literary or dramatic works;
- (e) to promote or oppose legislation or other measures in Australia or elsewhere affecting the interests of music publishers or any of them, or conducive to the creation of other rights of a like nature;
- (f) to determine and from time to time to alter or vary:
 - (i) the annual subscriptions of members of the Company for the purposes of the normal administration of the Company; and

- (ii) special subscriptions of members of the Company where money is required by the Company for special purposes such as the support or opposition of legislation or the representation of the interests of the Company or music publishers on public enquiries or before any tribunal;
- (g) to enter into partnership or into any arrangement for sharing profits, union of interests, co-operation, joint adventure, reciprocal concession or otherwise with any person, association or company in Australia or elsewhere carrying on or engaged in any business or transaction which the Company is authorised to carry on or engage in or any business or transaction capable of being conducted so as directly or indirectly to benefit the Company, and to amalgamate with or become affiliated to or a member of any such association or company and to lend money to, guarantee the contracts of or otherwise assist any such person, association or company, and to take or otherwise acquire shares and securities of any such company, and to sell, hold, reissue, with or without guarantee, or otherwise deal with the same;
- (h) to take or otherwise acquire and hold shares in any other company having objects altogether or in part similar to those of the Company or carrying on any business capable of being conducted so as directly or indirectly to benefit the Company;
- (i) to remunerate any person or company for services rendered or to be rendered in placing or guaranteeing the placing of any debentures, debenture stock or other securities of the Company, or in or about the formation or promotion of the Company or the conduct of its business;
- (j) to appoint any agent or agents for the collection and recovery of any moneys receivable by the Company in the exercise of its powers or otherwise for the purpose of the exercise of any of such powers;
- (k) to lend money to such persons and on such terms as may seem expedient, and in particular to members and others having dealings with the Company and to guarantee the performance of contracts by any such persons;
- (l) to adopt such means of making known the operations of the Company as may seem expedient, and in particular by advertising in the media, by circulars, by publication of a website, books and periodicals;
- (m) to purchase, take on lease or in exchange, hire or otherwise acquire any real or personal property and any rights or privileges which the Company may think necessary or convenient for

the promotion of its objects, and to construct, maintain and alter any buildings or erections necessary or convenient for the work of the Company;

- (n) to sell, let, mortgage, dispose of or turn to account all or any of the property or assets of the Company as may be thought expedient with a view to the promotion of its objects;
- (o) to undertake and execute any trusts which may lawfully be undertaken by the Company and may be conducive to its objects;
- (p) to borrow or raise money for the purposes of the Company on such terms and on such security as may be thought fit;
- (q) to invest the moneys of the Company not immediately required for its purposes in or upon such investments, securities or property as may be thought fit;
- (r) to establish and support or aid in the establishment and support of any charitable associations or institutions and to subscribe or guarantee money for charitable purposes in any way connected with the purposes of the Company or calculated to further its objects;
- (s) generally to do all other things that may appear to the Company to be incidental or conducive to the attainment of the objects or any of them.

2.1.2 Each object in clause 2.1.1 is independent of the other objects.

2.2 Powers

The Company can only exercise the powers in section 124(1) of the Act to:

- (a) carry out the objects in clause 2.1.1; and
- (b) do all things incidental or convenient in relation to the exercise of the power under paragraph (a).

2.3 Income

The income and property of the Company:

- (a) may only be applied to the carrying out of the objects of the Company referred to in clause 2.1.1 and the exercise of the powers referred to in clause 2.2; and

- (b) must not be paid directly or indirectly to any member, provided that nothing in this constitution prevents the payment in good faith by the Company of:
 - (i) reasonable and proper remuneration and expenses to any officer of the Company in accordance with clauses 12.8 and 12.9;
 - (ii) reasonable and proper remuneration and expenses to any employee of the Company or to any member or other person in return for services or goods provided to the Company in the usual course of business;
 - (iii) interest at market rates on money borrowed from any member;
 - (iv) market rent for premises let by any member to the Company; or
 - (v) disbursements of grants received by the Company on behalf of members from time to time.

3. Liability of members

3.1 Limitation

The liability of the members is limited.

3.2 Contribution

Each member must contribute to the assets of the Company, if it is wound up during the time he is a member or within 1 year afterwards, such amount as may be required (not exceeding \$2.00) for:

- (a) payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member;
- (b) the costs, charges and expenses of winding up the Company; and
- (c) the adjustment of the rights of the contributories among themselves.

4. Membership

4.1 Membership

- 4.1.1 For the purposes of the Act, the number of members of the company shall be unlimited.

4.1.2 The members of the Company shall be as follows:

- (a) all persons who are members at the date of adoption of this constitution; and
- (b) any person who is admitted to membership by the Board from time to time in accordance with this constitution.

4.1.3 Any Music Publisher shall be eligible for admission to membership of the Company.

4.2 Form of application

An application for membership must be:

- (a) in writing in the form set out in annexure A or as otherwise approved by the Board;
- (b) accompanied by such evidence as to eligibility for membership as the Board may from time to time determine; and
- (c) signed by the applicant.

4.3 Admission to membership

4.3.1 The Board shall consider each application and may, in its absolute discretion have full and unrestricted power to:

- (a) reject any application without assigning any reason for such rejection; or
- (b) admit the applicant as a member.

4.3.2 On admission to membership, the Company shall enter the name and details of the applicant in the Register, and issue a certificate to the applicant as to his membership in such form as the Board shall from time to time prescribe signed by a member of the Board or the Secretary.

4.4 Entitlements

Each member has the right to:

- (a) receive notices of and attend and be heard at any general meeting; and
- (b) vote at any general meeting.

4.5 Nominated Representatives

4.5.1 Each member that is a corporation may authorise such person as it thinks fit to act as its representative at any or all meetings of the Company and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation that he represents as that corporation could exercise if it were an individual member for the purposes of this constitution. Such a representative at any such meeting shall be deemed to be a member.

4.5.2 Each member that is a corporation must give the Company notice of the name, address and facsimile number, if any, of the Nominated Representative appointed by it.

4.5.3 If a member that is a corporation ceases to be a member of the Company:

- (a) the rights of the member's Nominated Representative under this constitution; and
- (b) the appointment or election of the member's Nominated Representative as a Director, or to any other office of the Company,

terminate on the day the member ceases to be a member of the Company.

4.5.4 If a member that is a corporation notifies the Secretary, in writing, of the termination of appointment of its Nominated Representative:

- (a) the rights of the member's Nominated Representative under this constitution; and
- (b) the appointment or election of the member's Nominated Representative as a director, or to any other office of the Company,

terminate on receipt by the Secretary of the notice of termination.

4.6 The Register

4.6.1 A register of members of the Company must be kept in accordance with the Act.

4.6.2 The following must be entered in the Register in respect of each member:

- (a) the full name of the member;
- (b) the address, telephone and facsimile number, if any, of the member;

- (c) the date of admission to and cessation of membership;
- (d) the full name, address and facsimile number, if any, of its Nominated Representatives; and
- (e) such other information as the Board from time to time requires.

4.7 Notification by members

Each member must notify the Secretary in writing of any change in the name, address, telephone or facsimile number of the member and any Nominated Representative of the member within 1 month after the change.

5. Membership fees

5.1 Admission fee

On admission or re-admission to membership, a member must pay the membership fee determined by the Board from time to time.

5.2 Annual fee

5.2.1 In addition to any amount payable under clause 5.1, each member must in accordance with this clause 5.2 pay the annual membership fee determined by the Board from time to time.

5.2.2 When a person is admitted or re-admitted as a member in the period:

- (a) 1 January to 30 June in any year, the member must on admission or re-admission pay the full annual membership fee for that year; and
- (b) 1 July and 31 December in any year, the member must on admission or re-admission pay half of the annual membership fee for that year.

5.2.3 Each member must, by 1 January each year, pay the annual membership fee for the period from that 1 January to the next 31 December.

6. Disciplining members

6.1 Directors' power

6.1.1 Subject to clause 6.1.2, the Board may:

- (a) terminate the membership of a member; or
- (b) suspend a member from membership for a specified period, or until the member satisfies any conditions considered appropriate by the Board,

where the Board considers that the member has:

- (c) refused or neglected to comply with a provision of this constitution; or
- (d) acted in a manner prejudicial to the interests of the Company,

6.1.2 The Secretary must serve on the member proposed to be disciplined, at the same time as the notice of meeting required to be served on the Board, a notice stating that:

- (a) the conduct of the member outlined in the notice will be considered at a meeting of the Board; and
- (b) the member may do either or both of the following:
 - (i) attend, or have its Nominated Representative attend, and speak at the meeting on its behalf; and
 - (ii) submit to the Secretary on or before the date of the meeting, written representations relating to the conduct of the member.

6.1.3 At a meeting referred to in clause 6.1.2, the Board must:

- (a) give the member or any Nominated Representative of the member an opportunity to make oral representations; and
- (b) give due consideration to these representations and any written representations submitted to the Secretary by the member at or prior to the meeting.

6.2 Suspension

6.2.1 If a member is suspended from membership for a specified period, that suspension is automatically revoked once that period expires.

6.2.2 If a member is suspended until it satisfies certain conditions, that suspension is only revoked when the Board determine that the conditions have been satisfied and that the suspension is revoked.

6.2.3 If a member's membership is suspended and that suspension is later revoked, the member's membership is reinstated and no new membership fees are payable.

6.3 Termination

If a member's membership is terminated, the member may apply for re-admission as a member at any time.

7. Cessation of membership

7.1 Resignation

7.1.1 A member may not resign from membership of the Company until it has paid all debts owed by the member to the Company.

7.1.2 Subject to clause 7.1.1, a member may resign from membership of the Company by giving written notice to the Secretary.

7.1.3 The resignation of a member takes effect 30 days from the date of receipt of the notice of resignation or such later date as is stated in the notice.

7.2 Cessation of membership

A member ceases to be a member:

- (a) on, in the reasonable opinion of the Board, failing to satisfy the requirements for membership under this constitution;
- (b) in the case of a member that is not an individual, on it being dissolved or otherwise ceasing to exist;
- (c) in the case of an individual, on death;
- (d) when the member's fees payable under clause 5 remain unpaid for 1 month;
- (e) on the Company terminating the member's membership by resolution passed at a Board meeting and in accordance with clause 6; or
- (f) on failing to give the Secretary the details of its Nominated Representative as required under clause 4.5 within 2 months after the Secretary requests that information from the member,

although the Board may reinstate the member on rectification of any such default or other action which is capable of remedy.

7.3 Automatic termination of membership

The membership of any member shall cease upon his ceasing to be a member of APRA and of AMCOS.

7.4 Other

7.4.1 No member shall be at liberty to transfer his membership or any rights or privileges attached to such membership to any other person.

7.4.2 All rights privileges and obligations of membership shall cease on the date of cesser of membership. In particular and without prejudice to the generality of the foregoing the member concerned shall cease to have any claim upon the assets of the Company.

8. General meetings

8.1 Convening

8.1.1 Except as permitted by law a general meeting must be held at least once in every calendar year.

8.1.2 A Director may convene a general meeting at any time.

8.1.3 A member may:

- (a) only request the Board to convene a general meeting in accordance with section 249D of the Act; and
- (b) not convene or join in convening a general meeting except under section 249E or 249F of the Act.

8.2 Notice

8.2.1 A notice of a general meeting must:

- (a) be given at least 21 days before the meeting;
- (b) specify the place, the day and the hour of meeting; and

(c) except as expressly set out in this constitution, state the general nature of the business to be transacted.

8.2.2 The accidental omission to give notice of any general meeting to, or the non receipt of a notice by, a person entitled to receive notice does not invalidate a resolution passed at the general meeting.

8.2.3 If the Secretary receives a written notice from 3 members requesting that business be brought before the next general meeting, the Secretary must include that business in the next notice of general meeting.

8.3 Cancellation or postponement

8.3.1 The Board may cancel or postpone the holding of any general meeting whenever it thinks fit (other than a meeting requisitioned by members under the Act).

8.3.2 Notice of the cancellation or postponement must be given to all persons entitled to receive notice of the meeting at least 7 days before the date for which the meeting was convened and must specify:

(a) the reason for the cancellation or postponement; and

(b) where the meeting is postponed, a date, time and place for holding the meeting.

8.3.3 There must be at least 21 days between the date on which a notice postponing the meeting is given and the date on which the meeting is to be held.

8.3.4 The only business that may be transacted at a postponed meeting is that specified in the original notice convening the meeting.

8.3.5 The accidental omission to give notice of the cancellation or postponement of any general meeting to, or the non receipt of a notice by, a person entitled to receive notice does not invalidate a resolution passed at the postponed meeting.

8.4 Representation of member

Any member may be represented at any general meeting by its Nominated Representative, a proxy or otherwise in accordance with this constitution or the Act, and if so represented is deemed to be present in person.

9. Proceedings at general meetings

9.1 Quorum

9.1.1 No business may be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.

9.1.2 A quorum is constituted by:

- (a) where there are 3 members or fewer, the quorum is equal to the number of members; and
- (b) where there are more than 3 members, the quorum is 5 members personally present.

9.2 Absence of quorum

If a quorum is not present within 30 minutes after the time appointed for the meeting, where the meeting was convened on the requisition of members, the meeting is dissolved, or in any other case:

- (a) the meeting stands adjourned to the day, and at the time and place, which the Board determine or, if no determination is made by the Board, to the same day in the next week at the same time and place; and
- (b) if at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the members present constitute a quorum.

9.3 Ordinary and special business

9.3.1 The business of an annual general meeting is:

- (a) to receive and consider the profit and loss account, the balance sheet, the reports of the Directors and the auditors and the Directors' statement required by the Act to be attached to the accounts of the Company;
- (b) where necessary, to appoint auditors; and
- (c) to transact any other business which under this constitution or the Act ought to be transacted at an annual general meeting.

9.3.2 All other business transacted at an annual general meeting and all business transacted at any other general meeting is special.

9.4 Appointment of chairperson

9.4.1 If the Board has elected one of the Directors as chairperson of its meetings, that person is entitled to preside as chairperson at every general meeting.

9.4.2 The Directors present at a general meeting must elect one of their number to be chairperson of the meeting if:

(a) a Director has not been elected as chairperson of Board meetings; or

(b) the chairperson is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act.

9.4.3 The members present at a general meeting must elect one of their number to be chairperson of the meeting if:

(a) there are no Directors present within 15 minutes after the time appointed for the holding of the meeting; or

(b) all Directors present decline to take the chair.

9.5 Chairperson's powers

Subject to the terms of this constitution and the Act, the chairperson's ruling on all matters relating to the order of business, procedure and conduct of the general meeting is final and no motion of dissent from a ruling of the chairperson may be accepted.

9.6 Adjournment of meetings

9.6.1 The chairperson may, with the consent of any meeting at which a quorum is present, and must if so directed by the meeting, adjourn the meeting to another time and place.

9.6.2 The only business that may be transacted at any adjourned meeting is the business left unfinished at the meeting from which the adjournment took place.

9.6.3 When a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting.

9.6.4 Except as provided by clause 9.6.3, it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

10. Voting at general meetings

10.1 Voting rights

10.1.1 On a vote by show of hands each member present in person or by proxy at a general meeting has only one vote.

10.1.2 At any general meeting a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is demanded in accordance with clause 10.4.

10.1.3 On a poll, each member shall have one vote plus one additional vote for each complete two thousand and five hundred dollars of the amount properly allocated to that member by APRA and by AMCOS as his share of monies collected by them in respect of the exercise of the member's rights during the last financial year for which such allocations have been completed by APRA and AMCOS (**APRA AMCOS Earnings**).

10.1.4 If a member, being a corporation, is related to another member that is a corporation, for the purposes of determining voting entitlement, the APRA AMCOS Earnings of such related members shall be aggregated. The total number of votes so available shall then constitute the voting entitlement of that one of the related corporations which has the highest member's earnings, and each one of the other related corporations shall have one vote each.

10.1.5 Notwithstanding clauses 10.1.3 and 10.1.4, no member shall be entitled by way of votes to more than fifteen per centum of the total votes available to all members who are entitled to attend and vote at general meetings of the Company, provided that for the purpose of calculating the voting entitlement of a member pursuant to this subparagraph, then this limitation shall not be applied to the voting entitlement of other members.

10.2 Related members

10.2.1 If any member that is a corporation is or becomes related to another member being a corporation, it must notify the Secretary.

10.2.2 If any member has given a notice under clause 10.2.1 that it is related to another full member, then that other member need give no notification.

10.2.3 The notice must be in writing signed by a director or the secretary of the member giving the notice.

10.2.4 The notice must be given:

(a) where the relationship is already in existence at the date of adoption of this constitution, within 21 days of that date;

(b) in any other case, within 21 days of the date of formation of the relationship;

provided that in no case shall notice be given later than 10 days before the date on which any general meeting of members is to be held, or the date on which a meeting for the appointment of a Director is due to be held.

10.2.5 The Company may at any time, by notice to any member, require that member to inform the Company as to whether or not that member is related to any other member and if so, to identify that other member. Within 10 days of the giving of the notice by the Company the member must provide to the Company in writing the information requested. If so required by the Company, the information must be notified in the form of a Statutory Declaration by a director or the secretary of the member.

10.2.6 A notice once given shall remain in force in relation to all future meetings, provided that if after any notice has been given there is a change in the information contained in that notice, then a fresh notice shall be given within the time specified in 10.2.4 above specifying the change.

10.2.7 In the event that no member of a group of related corporations being members has given due notice as required by 10.2.1 or 10.2.5 above, or if the only notice given by a member of that group is false either by statement or omission, then each member of that group shall have only one vote each at any meeting held before a correct notice is duly given, provided that failure to enforce this restriction in relation to a vote taken at any such meeting shall not invalidate that vote.

10.2.8 For the purposes of determining whether a member being a corporation is related to another member being a corporation, the definition of "related corporation" in the Act and related definitions, shall apply.

10.3 Chairperson's vote at general meetings

The chairperson of a general meeting is not entitled to a second or casting vote.

10.4 Demand for a poll

10.4.1 A poll may be demanded by:

- (a) the chairperson;
- (b) at least 5 members entitled to vote on the resolution; or
- (c) members with at least 5% of the votes that may be cast on the resolution on a poll.

10.4.2 A poll may be demanded:

- (a) before a vote is taken;
- (b) before the voting results on a show of hands are declared; or
- (c) immediately after the voting results on a show of hands are declared.

10.4.3 The demand for a poll may be withdrawn.

10.4.4 The demand for a poll does not prevent the continuance of a meeting for the transaction of business other than the question on which a poll is demanded.

10.4.5 A poll demanded on a matter other than the election of a chairperson or on a question of adjournment must be taken when and in the manner the chairperson directs. The result of the poll is the resolution of the meeting at which the poll is demanded.

10.4.6 A poll demanded on the election of a chairperson or on a question of adjournment must be taken immediately.

10.5 Evidence of resolutions

Unless a poll is demanded in accordance with clause 10.4, a declaration by the chairperson that a resolution has on a show of hands been:

- (a) carried;
- (b) carried unanimously or by a particular majority; or
- (c) lost,

and an entry to that effect in the book containing the minutes of the proceedings of the Company, signed by the chairperson of that or the next succeeding meeting, is conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the resolution.

10.6 Objections

10.6.1 An objection may be raised to the qualification of a voter only at the meeting at which the vote objected to is given or tendered.

10.6.2 The objection must be referred to the chairperson of the meeting, whose decision is final.

10.6.3 A vote not disallowed following the objection is valid for all purposes.

10.7 Electronic voting

Notwithstanding any other provision in this constitution setting out a method of voting, including postal voting, the Board may institute procedures for voting electronically, and for the electronic appointment of proxies and Nominated Representatives, as it considers appropriate.

11. Proxies

11.1 Appointment

A member who is entitled to vote at a meeting may appoint proxies in accordance with the Act.

11.2 Form of proxy

11.2.1 A document appointing a proxy must be in the form set out in annexure B to this constitution or as otherwise approved by the Board from time to time.

11.2.2 The document appointing a proxy shall be in writing under the hand of the appointer or of his attorney duly authorised in writing or if the appointer is a corporation, either under seal or under the hand of an officer or attorney duly authorised.

11.3 Effect of proxy

11.3.1 An instrument appointing a proxy confers authority to demand or join in demanding a poll.

11.3.2 If a proxy is only for a single meeting it may be used at any postponement or adjournment of that meeting, unless the proxy states otherwise.

11.3.3 A proxy may be revoked at any time by notice in writing to the Company.

11.4 Voting by proxy

11.4.1 An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy is not entitled to vote on the resolution except as specified in the instrument.

11.4.2 A vote given in accordance with the terms of an instrument of proxy or of a power of attorney is valid despite:

- (a) the previous death or unsoundness of mind of the principal; or
- (b) the revocation of the instrument (or of the authority under which the instrument was executed) or of the power,

if the Company has not received written notification of the death, unsoundness of mind or revocation at the registered office of the Company before the commencement of the meeting at which the instrument is used or the power is exercised.

11.4.3 A proxy must be a member of the Company or a Nominated Representative of a member.

12. Directors

12.1 Number of Directors

12.1.1 Subject to the Act, until otherwise determined by the members in general meeting, the number of Directors must not be less than 6 nor more than 15.

12.1.2 Alternate Directors are not to be treated as Directors for the purpose of determining the minimum or maximum number of Directors holding office.

12.2 Eligibility

Subject to clause 12.3, a person is not eligible to be elected as a director at a general meeting unless:

- (a) the person is a Nominated Representative;
- (b) the person (not being a retiring director) gives written notice to the Company that the person is a candidate for election to the office of director at the meeting at least 60 days before the meeting; and

- (c) the notice referred to in paragraph (b) is signed by a member other than the person being nominated as a director in support of the nomination.

12.3 Composition

The Directors comprise those persons in office as at the conclusion of the annual general meeting at which this constitution is adopted and such other persons appointed or elected in accordance with this clause 12.

12.4 Insufficient Directors

In the event of a vacancy in the office of a director, the remaining Directors may act to appoint a person to fill the vacancy, 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 convening a general meeting.

12.5 Rotation and removal of Directors

12.5.1 Subject to clause 12.2, elections to fill all vacancies for Directors arising from retirement or otherwise shall take place by poll in accordance with this Constitution.

12.5.2 At each annual general meeting, each director appointed under clause 12.4 since the last annual general meeting must retire from office.

12.5.3 At each annual general meeting, one-third of the Directors (excluding any director referred to in clause 12.5.2 and rounded down, if necessary, to the nearest whole number) must retire from office as Directors.

12.5.4 The Directors who must retire at an annual general meeting in accordance with clause 12.5.3 are those who have been longest in office since their last election but, as between persons who were last elected as Directors on the same day, those to retire must be determined by agreement among themselves or, in the absence of agreement, by lot.

12.5.5 The Company may fill the office vacated by a director under clause 12.5.2 or 12.5.3 by electing a person to that office in accordance with this Constitution.

12.5.6 A Director retiring from office under clause 12.5.2 or 12.5.3, or 12.5.4 may stand for re-election in accordance with this Constitution.

12.5.7 The retirement of a Director from office under clause 12.5.2 or 12.5.3 and the re-election of the Director or the election of another person to that office (as the case may be) takes effect at the conclusion of the meeting at which the retirement and re-election or election occur.

12.5.7A Voting in the election of Directors in all cases shall be by ballot paper on which the voter shall mark his votes by endorsing a tick opposite the names of each eligible candidate for whom he wishes to vote, being not more candidates than the number of Directors to be elected. Those of the candidates equal to the number to be elected who respectively receive the highest number of votes shall be deemed elected.

12.5.7B If the number of the duly nominated candidates does not exceed the number to be elected, then all such candidates shall be deemed elected without a ballot at the annual general meeting next following their nomination.

12.5.7C In addition to any electronic voting procedures instituted under clause 10.7, postal voting for the election of Directors shall be available to any member entitled to vote on request by the member in writing to the Company within 5 days after the giving of notice of the general meeting at which the member wishes to vote. If a member requests to vote by post:

- (a) the Company will arrange for the appropriate documentation to be sent to the member in accordance with the Company's postal voting procedures determined by the Board from time to time;
- (b) postal votes shall be exercised personally and not by proxy. A member which is a corporation shall exercise its postal vote by its representative appointed under clause 4.5;
- (c) the non receipt by any member of a voting paper or any associated documentation shall not invalidate the ballot;
- (d) all voting papers received by the Secretary by 7 days before the date fixed for the general meeting shall be counted in the ballot;
- (e) prior to the general meeting the scrutineers shall aggregate the postal votes with the votes cast in accordance with procedures instituted under clause 10.7, and shall count or cause to be counted the votes received in accordance this Constitution; and

- (f) in the event of an equality of votes in favour of any 2 or more eligible candidates, the eligible candidates to be elected shall, prior to the general meeting, be determined by drawing lots in the manner determined by the Chairman.

12.5.7D All votes must be counted before each annual general meeting and the Secretary must declare the result of the ballot, and the election of Directors occurs, at the annual general meeting.

12.5.7E The scrutineers shall be two persons appointed by the Board, or failing appointment by the Board, by the Chairman for the election, who are partners or employees of the Company's auditors;

12.5.7F No voting paper shall be declared informal:

- (a) because votes are endorsed for a lesser number of candidates than the number of Directors to be elected; or
- (b) because the method of completing the voting paper has not been strictly followed, if the scrutineers consider that nevertheless the voting intention has been made clear.

12.5.7G Ballot papers shall be destroyed after the declaration of an election, unless the Chairman of the meeting otherwise directs.

12.5.8 The Company may by resolution in general meeting remove a director from office and appoint another person as a replacement.

12.6 Resignation

12.6.1 Any Director may retire from office on giving notice in writing to the Company of his intention to do so.

12.6.2 The resignation of a Director takes effect from the date of receipt of the notice of resignation or such later date as is stated in the notice.

12.7 Vacation of office

In addition to the circumstances in which the office of a Director becomes vacant by virtue of the Act or another provision of this constitution, the office of Director becomes vacant if the Director:

- (a) becomes an insolvent under administration;
- (b) 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;

- (c) is absent without the consent of the Directors from the meetings of the Directors held during a continuous period of 6 months and the Directors resolve that the office of that director be vacated; or
- (d) becomes prohibited from being a director by reason of an order made under the Act.

12.8 Determination of fees

- 12.8.1 The Directors may be paid by way of fees for their services the reasonable and proper amounts, if any, determined from time to time by the Company in general meeting.
- 12.8.2 Directors' fees accrue from day to day.

12.9 Payment for expenses

In addition to their fees, the Directors may, on resolution of the Company in general meeting, be paid all travelling, accommodation and other expenses reasonably and properly incurred by them:

- (a) in attending and returning from meetings of the Directors or any committee of the Directors or any general meetings; or
- (b) otherwise in the execution of their duties as Directors.

13. Alternate Directors

13.1 Power to appoint

A Director may appoint any person to act as an alternate director in place of the appointor whenever the appointor is unable to act personally by reason of illness, absence or any other cause and may do so generally, for a meeting, for any other purpose or for a specified period.

13.2 Rights and powers

- 13.2.1 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 place.
- 13.2.2 An alternate director may exercise any powers that the appointor may exercise and the exercise of any power by the alternate director is deemed to be the exercise of the power by the appointor.

13.3 Suspension or revocation

13.3.1 A Director may revoke or suspend the appointment of an alternate director appointed by him.

13.3.2 The Directors may suspend or remove an alternate director by resolution after giving the appointor 7 days' notice of their intention so to do.

13.4 Form

13.4.1 Each appointment, revocation or suspension under clause 13.1 or 13.3.1 must be made by notice in writing signed by the director making it.

13.4.2 The notice may be given by facsimile.

13.5 Termination of appointment

In addition to the circumstances in which the office of a Director becomes vacant by virtue of the Act or another provision of this constitution, the appointment of an alternate director terminates:

- (a) if the Director for whom the alternate director acts as alternate ceases to hold office as director;
- (b) on the happening in respect of the alternate director of any event which causes a Director to vacate the office of director; or
- (c) if by writing left at the registered office of the Company the alternate director resigns from the appointment.

14. Powers and duties of Directors

14.1 General management

14.1.1 The business of the Company is to be managed by the Board who may exercise all those powers of the Company as are not, by the Act or by this constitution, required to be exercised by the Company in general meeting.

14.1.2 Without limiting the powers of management conferred on the Board by any other provision of this constitution, the Board may exercise all the powers of the Company to:

- (a) borrow money;

- (b) mortgage or charge any property or business of the Company or all or any of its uncalled capital;
- (c) issue debentures; and
- (d) give any other security for any debt, liability or obligation of the Company or of any other person.

14.1.3 No decision made or resolution passed by the Company in general meeting invalidates any prior act of the Board which would have been valid if that decision or resolution had not been made or passed.

14.2 Negotiable instruments

All cheques, promissory notes, bankers drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Company may be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any 2 Directors or in such other manner as the Board determines from time to time.

14.3 Appointment of attorney

14.2.1 The Board may appoint any person to be an attorney of the Company:

- (a) for the purposes;
- (b) with the powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Board);
- (c) for the period; and
- (d) subject to the conditions,

they think fit.

14.2.2 Any power of attorney may contain those provisions for the protection and convenience of persons dealing with the attorney that the Board thinks fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.

15. Proceedings of Directors

15.1 Meetings of Directors

15.1.1 The Directors may meet together for the despatch of business and adjourn and otherwise regulate their meetings as they think fit.

15.1.2 The Directors are to be treated as present together when in communication by telephone or other means of audio or audio-visual communication if each of the Directors participating in the communication is able to hear each of the other participating Directors.

15.2 Convening of meeting

Any director may at any time, and a Secretary must on the requisition of any Director, convene a meeting of the Board.

15.3 Notice of meeting

15.3.1 Notice of every Board meeting must be given to each Director, except that it is not necessary to give notice to any Director who is absent from Australia and has not left with the Secretary a facsimile number at which he may be given notice.

15.3.2 Subject to clause 15.3.3, any notice of a meeting of the Board may be given in writing or orally, and by facsimile, telephone or any other means of communication and must be given at least 5 days prior to the meeting.

15.3.3 All Directors may waive in writing the required period of notice for a particular meeting.

15.4 Quorum

15.4.1 No business may be transacted at any meeting of the Board unless a quorum of the Directors is present at the time when the meeting proceeds to business.

15.4.2 Unless otherwise determined by the Company in general meeting, at a meeting of the Board a quorum is present if there are present at the meeting 3 Directors.

15.4.3 An alternate director is counted in a quorum at a meeting at which the Director who appointed the alternate is not present (provided that the alternate is, under the Act, entitled to vote).

15.5 Absence of quorum

If a quorum is not present within 30 minutes after the time appointed for the meeting:

- (a) the meeting stands adjourned to the day, and at the time and place, which 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; and
- (b) if at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, meeting, the Directors present constitute a quorum.

15.6 Appointment of chairperson of Directors

15.6.1 The Board may elect a chairperson of its meetings and determine the period for which the person elected is to hold office.

15.6.2 If a chairperson has not been elected, or if at any meeting the chairperson is not present within 15 minutes after the time appointed for holding the meeting or is unwilling to act, the Directors present may choose one of their number to be chairperson of the meeting.

15.7 Chairperson's vote at Director's meetings

A chairperson is not entitled to a second or casting vote.

15.8 Voting rights

Subject to this constitution, at each Board meeting each Director present has 1 vote.

15.9 Decisions

15.9.1 Decisions of the Board will be effective if passed by a vote of a majority of those Directors present and entitled to vote at the meeting who are Nominated Representatives of the members.

15.9.2 A person who is an alternate director is entitled (in addition to his own vote if he is a director) to one vote on behalf of each director whom he represents as an alternate director at the meeting and who is not present at the meeting.

15.10 Teleconference

15.10.1 For the purpose of this constitution the contemporaneous linking together in oral communication by telephone, audio-visual or other instantaneous means (Teleconference) of a number of the Directors (being not less than a quorum) constitutes a meeting of the Board.

15.10.2 The provisions of this constitution relating to a meeting of the Board apply to a Teleconference insofar as they are not inconsistent with the provisions of this clause 15.10.

15.10.3 The following provisions apply to a Teleconference:

- (a) each of the Directors taking part in the meeting must be able to hear and be heard by each of the other Directors taking part at the commencement of the meeting and each director so taking part is deemed for the purposes of this constitution to be present at the meeting; and
- (b) at the commencement of the meeting each director must announce his presence to all other Directors taking part in the meeting.

15.10.4 If the Secretary is not present at a Teleconference one of the Directors present must take minutes of the meeting.

15.10.5 A minute of the proceedings of a Teleconference is sufficient evidence of the proceedings and of the observance of all necessary formalities if the minute is certified to be a correct minute by the chairperson of the meeting.

15.11 Circulated resolutions

15.11.1 If:

- (a) all Directors at that time present in Australia; and
- (b) any Director absent from Australia who has left a facsimile number at which he may be given notice,

have signed a document containing a statement that they are in favour of a resolution of the Board in terms set out in the document, a resolution in those terms is deemed to have been passed at a meeting of the Board held on the day and at the time on which the document was last signed by a Director.

15.11.2 For the purposes of clause 15.11.1, 2 or more separate documents containing statements in identical terms, each of which is signed by one or more Directors, together constitute one document containing a

statement in those terms signed by those Directors on the respective days on which they signed the separate documents.

15.11.3 A reference in clause 15.11.1 to all the Directors does not include a reference to a director who, at a meeting of the Board, would not be entitled to vote on the resolution.

15.11.4 Every resolution passed under clause 15.11.1 must as soon as practicable be entered in the minutes of the Board meetings.

15.11.5 A facsimile addressed to or received by the Company and purporting to be signed by a Director for the purpose of this clause 15.11 is deemed to be a document in writing signed by that Director.

15.12 Committees

15.12.1 The Board may:

(a) delegate any of its powers to committees consisting of such Directors or other persons as they think fit and may revoke the delegation; and

(b) appoint advisory committees.

15.12.2 Any committee formed under clause 15.12.1 must conform to any regulations that may from time to time be imposed on it by the Board.

15.12.3 Unless otherwise determined by the Board, the meetings and proceedings of a committee are governed by the provisions in this constitution regulating the meetings and proceedings of the Board.

15.12.4 The Board may at any time by resolution revoke any delegation of power or disband any committee established under this clause 15.12.

15.13 Validation of acts

All acts done:

(a) at any meeting of the Board or a committee of the Board; or

(b) by any person acting as a director,

are, although it is afterwards discovered that there was some defect in the appointment or continuance in office of any of the persons concerned or that any of them were disqualified or were not entitled to

vote, as valid as if each of them had been duly appointed and had duly continued in office and was entitled to vote.

16. Directors' interests

16.1 Prohibition

16.1.1 Except to the extent permitted by the Act and subject to clause 16.1.2, a director who has a material personal interest in a matter that is being considered at a meeting of the Board must not:

- (a) be counted in a quorum;
- (b) vote on the matter; or
- (c) be present while the matter is being considered at the meeting.

16.1.2 If a Director who has a material personal interest in a matter that is being considered at a meeting of the Board is not prohibited by the Act from being present at the meeting and voting, the Director may be present, be counted in the quorum and may be heard but may not vote on the matter.

16.2 Existence of interest

16.2.1 A Director may, to the extent permitted by the Act and with the consent of the Company in general meeting:

- (a) enter into contracts or arrangements or have dealings with the Company either as vendor, purchaser, mortgagee or otherwise;
- (b) be interested in any contract, operation, undertaking or business entered into, undertaken or assisted by the Company or in which the Company is or may be interested;
- (c) hold an office or position of profit with the Company or any body corporate in which the Company is a member or otherwise interested; or
- (d) retain for the Director's own benefit any profit or benefit arising from any such relationship or transaction.

16.2.2 The Director is not, because of entering into any relationship or transaction referred to in clause 16.2.1:

- (a) disqualified from the office of director; or

- (b) liable to account to the Company for any profit arising from the relationship or transaction by reason of being a Director of the Company or of the fiduciary relationship between the Director and the Company.

16.2.3 For the purpose of clause 16.2.1, Company includes any subsidiary of the Company and any other company in which the Company or any subsidiary of the Company is or becomes a shareholder or is otherwise interested.

16.3 Disclosure

Subject to any other requirements of the Act, the nature of the Director's interest referred to in clause 16.2 must be disclosed by the Director before or at the meeting of the Board at which the matter is first taken into consideration (if the interest then exists) or in any other case at the first meeting of the Board after the Director becomes so interested.

17. By-laws

17.1 Power

The Board may from time to time make such by-laws as it consider necessary to provide for:

- (a) criteria for eligibility for membership of the Company;
- (b) the proper control, administration of the Company's affairs, operations, finances, interests, effects and property; and
- (c) such other matters as they consider relevant.

17.2 By-laws

A by-law:

- (a) is subject to this constitution;
- (b) must not be inconsistent with this constitution; and
- (c) is binding on all members and Directors and has the same effect as this constitution.

17.3 Amending and repealing by-laws

17.3.1 The Board may, subject to the requirements of any person or authority having jurisdiction in respect of a matter dealt with in the by-laws, amend and repeal by-laws from time to time.

17.3.2 Notwithstanding clause 17.3.1, the Company in general meeting may, subject to the requirements of any person or authority having jurisdiction in respect of a matter dealt with in the by-laws, amend or repeal any by-law made by the Board.

18. Minutes

The Board must carry out the obligations imposed on the Company by the Act to cause minutes of meetings to be kept.

19. Secretary

A Secretary holds office on such terms, as to remuneration and otherwise, as the Board determines.

20. Seal

20.1 Effect

This clause 20 has effect only if the Company has a Seal.

20.2 Safe custody

The Board must provide for the safe custody of the Seal.

20.3 Affixing

20.3.1 The Seal may not be affixed to any instrument except by the authority of a resolution of the Board or of a committee of the Board authorised by the Board.

20.3.2 Every instrument to which the Seal is affixed must be signed by at least 1 Director and countersigned by another Director, a Secretary or another person appointed by the Board to countersign that document or a class of documents in which that document is included.

20.3.3 A Director may sign or countersign as Director any instrument to which the Seal is affixed although the instrument relates to a contract, arrangement, dealing or other transaction in which he is interested and

his signature is effective with respect to compliance with the requirements of this constitution as to the affixing of the Seal despite his interest.

20.4 Signatures by mechanical means

The Board may determine generally or in a particular case that the signature of a director, Secretary or other person appointed by the Board for the purpose of signing documents to which the Seal is affixed may be written by a specified mechanical means on documents which bear evidence of examination by the auditor.

21. Accounts, audit and records

21.1 Accounts

21.1.1 The Board must cause proper accounting and other records to be kept in accordance with the Act.

21.1.2 The Board must distribute copies of every profit and loss account and balance sheet (including every document required by law to be attached to them) as required by the Act.

21.2 Audit

21.2.1 A registered company auditor must be appointed.

21.2.2 The remuneration of the auditor must be fixed and the auditor's duties regulated in accordance with the Act.

21.3 Inspection

21.3.1 Subject to the Act the Board determines:

- (a) whether and to what extent;
- (b) at what times and places; and
- (c) under what conditions,

the accounting records and other documents of the Company or any of them are open to the inspection of members other than the Board.

21.3.2 A member other than a Director does not have the right to inspect any document of the Company except as:

- (a) provided by law; or
- (b) authorised by the Board or the Company in general meeting.

22. Notices

22.1 Means of giving notices

A notice may be given to the addressee by:

- (a) delivering it in writing to the street address of the addressee;
- (b) sending it by prepaid ordinary post to the street address of the addressee;
- (c) sending it by facsimile to the facsimile number of the addressee; or
- (d) sending it by email to the email address of the addressee,

specified in the Register or by such other method of communication allowed by the Act.

22.2 Time notices are given

A notice is to be regarded as given:

- (a) if delivered, at the time of delivery;
- (b) if sent by post, on the 3rd day after posting;
- (c) if sent by facsimile, at the time transmission is completed; or
- (d) if sent by email, at the time transmission is completed.

22.3 Proof of giving notices

Proof of the sending of a notice by facsimile or email and the time of completion of transmission may be established by production of a transmission report by the machine or program from which the facsimile or email was sent which indicates that the facsimile was sent in its entirety to the facsimile number of the addressee.

22.4 Notice of general meeting

22.4.1 Notice of every general meeting must be given in the manner authorised by the Act constitution to:

- (a) every member;
- (b) every Director;
- (c) every Nominated Representative; and
- (d) the auditor for the time being of the Company.

22.4.2 No other person is entitled to receive notice of general meetings.

23. Indemnity

23.1 Right to indemnity

Subject to this clause 23, to the extent permitted by law the Company indemnifies each officer (as defined for the purposes of section 199A of the Act) against any liability to another person incurred by the officer as an officer of the Company.

23.2 Restrictions

The indemnity referred to in clause 23.1 does not indemnify an officer against a liability:

- (a) owed to the Company or a related body corporate as defined in section 50 of the Act(Related Body Corporate);
- (b) for a pecuniary penalty order under section 1317G of the Act or a compensation order under section 1317H of the Act; or
- (c) that is owed to someone other than the Company or a Related Body Corporate and did not arise out of conduct in good faith.

23.3 Legal costs

23.3.1 The indemnity referred to in clause 22.1 does not indemnify an officer against legal costs incurred in defending an action for a liability incurred as an officer of the Company if the costs are incurred:

- (a) in defending or resisting proceedings in which the officer is found to have a liability for which the officer could not be indemnified under clause 23.2;
- (b) in defending or resisting criminal proceedings in which the officer is found guilty;
- (c) in defending or resisting proceedings brought by the Australian Securities and Investments Commission or a liquidator for a court order if the grounds for making the order are found by the court to have been established; or
- (d) in connection with proceedings for relief to the officer under the Act in which the court denies the relief.

23.3.2 For the purposes of this clause 23.3, the outcome of proceedings is the outcome of the proceedings and any appeal in relation to the proceedings.

23.4 Insurance premiums

The Company may, in accordance with the Act, pay the premiums on contracts insuring a person who is or has been an officer of the Company.

24. Winding up

If on the winding up of the Company there remains after satisfaction of all its debts and liabilities any property, that property may only be paid or distributed to one or more organisations having similar objects to the Company and rules prohibiting the distribution of their assets to members. The organisation or organisations are to be determined by the Company in general meeting prior to the winding up of the Company, or, if no such determination is made, by court order.

25. Amalgamation

Where it furthers the objects of the Company to amalgamate with any one or more other organisations having similar objects, the other organisation or organisations must have rules prohibiting the distribution of its or their assets and income to members and must be exempt from income tax.

ANNEXURE A

APPLICATION FOR MEMBERSHIP OF AUSTRALASIAN MUSIC PUBLISHERS ASSOCIATION LIMITED

(name)

applies for membership of the Australasian Music Publishers Association Limited and agrees to be bound by its constitution.

.....

Signature

.....

Name (please print)

.....

Office held

ANNEXURE B PROXY FORM

AUSTRALASIAN MUSIC PUBLISHERS' ASSOCIATION LIMITED ACN 000 173 688

(Company)

PROXY FORM

.....

[Insert name]

ACN (if any):

of

[Insert address]

being a member of the Company, appoints:

.....

[Insert name]

ACN (if any):

of

[Insert address]

or, in their absence the Chairman of the meeting, as my proxy to vote as the proxy sees fit for me and on my behalf at the annual general meeting of the Company to be held at ## am/pm on ## 200# and any adjournment of the meeting.

.....

Signature

.....

Name (please print)

Dated:

The proxy form must be signed by the appointing member or the member's authorised attorney, or if the member is a corporation, signed under seal or by the member's authorised officer or attorney.