



CONSTITUTION

CEMETERIES & CREMATORIA ASSOCIATION OF NEW SOUTH WALES INCORPORATED

Cemeteries & Crematoria Association of New South Wales

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1 Definitions & Interpretation

1.1 Definitions

In this Constitution:

ACDC means the Australian Commercial Disputes Centre.

Act means the *Associations Incorporation Act (NSW) 2009*.

Affiliate Member means a Member in the class referred to in clause 3.1(b)(ii).

Annual General Meeting means the General Meeting required to be held pursuant to section 37(2) of the Act and as referred to in clause 5.1.

Appeals Committee means a committee established by the Executive pursuant to clause 3.7 to hear appeals against a rejection of a Membership application.

Associate Member means a Member in the class referred to in clause 3.1(b)(iii).

Association means the Cemeteries and Crematorium Association of New South Wales Inc.

Category A Member means a Full Member which administers a Cemetery and/or Crematorium which in aggregate conducts up to 150 interments or cremations per year.

Category B Member means a Full Member which administers a Cemetery and/or Crematorium which in aggregate conducts between 151 and 500 interments or cremations per year.

Category C Member means a Full Member which administers a Cemetery and/or Crematorium which in aggregate conducts between 501 and 1000 interments or cremations per year.

Category D Member means a Full Member which administers a Cemetery and/or Crematorium which in aggregate conducts between 1001 and 1500 interments or cremations per year.

Category E Member means a Full Member which administers a Cemetery and/or Crematorium which in aggregate conducts between 1501 and 2000 interments or cremations per year.

Category F Member means a Full Member which administers a Cemetery and/or Crematorium which in aggregate conducts between 2001 and 3000 interments or cremations per year.

Category G Member means a Full Member which administers a Cemetery and/or Crematorium which in aggregate conducts between 3001 and 4000 interments or cremations per year.

Category H Member means a Full Member which administers a Cemetery and/or Crematorium which in aggregate conducts between 4001 and 5000 interments or cremations per year.

Category I Member means a Full Member which administers a Cemetery and/or Crematorium which in aggregate conducts more than 5000 interments or cremations per year.

Cemetery means a place where the remains of deceased persons may be buried in accordance with the *Public Health Regulation (NSW) 2012*.

Chairman means the person presiding over a meeting.

Code of Conduct means any principles and standards regarding ethical conduct and professional standards as referred to in clause 3.15, which are in force from time to time.

Constitution means this constitution of the Association, as amended from time to time.

Council has the meaning given to it in the *Local Government Act (NSW) 1993* and includes a reference to local councils, municipal councils and shire councils.

Crematorium (plural Crematoria) means a place where the remains of deceased persons may be cremated in accordance with the *Public Health Regulation (NSW) 2012*.

Designated Representative means a natural person appointed by a body corporate Member in accordance with clause 3.8.

Director-General means the Director-General of the NSW Office of Fair Trading.

Disciplinary Committee means a committee established by the Executive pursuant to clause 3.16 to hear appeals against decision of the Executive to suspend or expel a Member from Membership.

Executive means the committee of management of the Association established under clause 4.

Executive Member means a member of the Executive and includes an Office-bearer.

Extraordinary General Meeting means a meeting of the Members called under the provisions of clause 5.2.

Financial Full Member means a Full Member which has paid all moneys due and payable by that Full Member to the Association, other than the amount of the annual subscription payable and not overdue (as determined by clause 3.12(b)) in respect of the current Financial Year.

Financial Year means the year ending on 30 June.

Full Member means a Member in the class referred to in clause 3.1(b)(i).

General Meeting means a meeting of the Members and includes Annual General Meetings and Extraordinary General Meetings.

Guidelines means the Guidelines for Commercial Mediation issued by the ACDC from time to time.

Honorary Member means a Member in the class referred to in clause 3.1(b)(v).

Interment means the interment of bodily or created remains of a deceased person.

Life Member means a Member in the class referred to in clause 3.1(b)(iv).

Member means a member of the Association and includes a reference to:

- (a) Full Members;
- (b) Affiliate Members;
- (c) Associate Members;
- (d) Life Members; and
- (e) Honorary Members;

and **Membership** has a corresponding meaning.

Membership Committee means a Subcommittee of the Executive which considers Membership applications under clause 3.4(b).

Office means the official office of the Association.

Office-bearers means those Executive Members referred to in clause 4.2(b).

President means the Office-bearer referred to in clause 4.2(b)(i).

Public Officer means the person appointed from time to time to hold the position of public officer under the Act.

Register means the register of Members.

Regulation means the *Associations Incorporation Regulation* (NSW) 2010.

Secretary means:

- (a) the person holding office under this Constitution as secretary of the Association; or
- (b) if no such person holds that office – the Public Officer of the Association.

Special Resolution has the meaning given to it in section 39 of the Act.

Subcommittee means a subcommittee appointed by the Executive pursuant to clause 4.13.

Subcommittee Member means a member of a Subcommittee.

Vice-President means the Office-bearer referred to in clause 4.2(b)(ii).

Voting Designated Representative means the particular Designated Representative chosen by the Full Member to vote on its behalf at General Meetings.

1.2 Interpretation

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

- (a) the singular includes the plural and vice versa;
- (b) each gender includes the other two genders;
- (c) the word **person** means a natural person and any partnership, association, body or entity whether incorporated or not;
- (d) the words **writing** and **written** include any other mode of representing or reproducing words, figures, drawings or symbols in a visible form;
- (e) 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;
- (f) a reference to any clause or schedule is to a clause or schedule of this Constitution;
- (g) 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;
- (h) 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; and
- (i) headings do not form part of or affect the construction or interpretation of this Constitution.

2 Objects

2.1 Objects

The object of the Association is to promote the quality of service and general awareness of bereavement choices and memorialisation options which are available to the public, who rely on those in the bereavement industry for the utmost of care and assistance at their most special time of need. The Association achieves this through:

- (a) financially supporting community groups and individuals who are undertaking activities or projects which:
 - (i) further enhance the community's understanding of the role of its Cemeteries, Crematoria and memorial parks and gardens;
 - (ii) facilitate the conservation and preservation of significant objects within, or aspects of, Cemeteries, Crematoria and memorial parks and gardens;
 - (iii) promote industry related education and learning within the community;
 - (iv) assist in the enhancement of service provision to client families or the local community;
 - (v) enhance the sustainability of the operations of Cemeteries, Crematoria and memorial parks and gardens; and
 - (vi) promote general awareness of bereavement choices and memorialisation options;
- (b) promoting continuous improvement through knowledge sharing and professional services to the benefit of Members, the industry and the community;
- (c) providing free advice and support on various issues relating to the industry to community groups;
- (d) creating, providing and regularly improving upon the training and education available to those in the bereavement industry not only through the Association itself, but also through other industry related associations and educational institutions;
- (e) serving the industry through leadership and representation;
- (f) demystifying the event of death and helping remove the stigma and taboos attached with this most natural of occurrences in human life;
- (g) enabling administrators and operators in Cemeteries, Crematoria and memorial parks and gardens within New South Wales and the Australian Capital Territory to meet and share common interests and concerns;
- (h) projecting the industry in a positive sense by the use of modern methods, new techniques and a high standard of workmanship;
- (i) promoting to the community the services offered by those in the bereavement industry;
- (j) promoting the development of administrative and technical proficiency;
- (k) helping preserve the heritage and historical aspects of Cemeteries, Crematoria and memorial parks and gardens;
- (l) at the request of the New South Wales Government from time to time, reviewing existing or proposed policies which related to the bereavement

industry for the delivery of better outcomes to the community in the application of such policies;

- (m) promoting or opposing legislative and other measures affecting or likely to affect the industry; and
- (n) doing all such other things as may appear to be incidental or conducive to the attainment of the above purposes or that may be decided upon from time to time by the Members summoned in accordance with this Constitution.

3 Membership

3.1 Membership Qualification

- (a) Any person, firm, company, Council, Crown Reserve Trust or Church may apply for Membership of the Association. The Membership Committee will either recommend endorsement, rejection or otherwise deal with the application pursuant to clause 3.4, including its recommendation as to class and category of Membership.
- (b) The different classes of Membership are as follows:
 - (i) Full Members

Full Members are firms, Crown Reserve Trusts, companies, Churches, Councils or other organisations which administer the affairs of a Cemetery and/or Crematorium for the disposal and storage of human remains in NSW and ACT. Full Members are further categorised into Categories A through to I inclusive, dependent upon the aggregate number of interments and/or cremations conducted each year by the Full Member.
 - (ii) Affiliate Members

Affiliate Members are natural persons, firms, organisations or companies who are funeral directors or monumental masons.
 - (iii) Associate Members

Associate Members are natural persons, firms, organisations or companies who are suppliers to Members or otherwise associated with the industry.
 - (iv) Life Members

Life Members are individuals who, by reason of having made significant contributions to the industry and who have retired from direct involvement therein, have been so appointed by Members at an Annual General Meeting.
 - (v) Honorary Members

Honorary Members are individuals who, by reason of having provided valuable service to the industry (although not having been directly involved as a Full Member), have been so appointed by Members at an Annual General Meeting.

3.2 Benefits of Membership

- (a) Each Full Member is entitled to:
 - (i) attend all General Meetings;
 - (ii) speak at all General Meetings; and
 - (iii) if a Financial Full Member, have one (1) vote at each General Meeting (subject to clause 5.10(b)).

- (b) Each Affiliate Member and each Associate Member is entitled to:
 - (i) attend all General Meetings;
 - (ii) speak at all General Meetings; andbut is not entitled to:
 - (iii) vote at General Meetings;
 - (iv) propose or move a motion at General Meetings; or
 - (v) be nominated to be an Executive Member.

- (c) Each Life Member and Honorary Member is entitled to:
 - (i) attend all General Meetings;
 - (ii) speak at all General Meetings; and
 - (iii) not have to pay any annual subscription;but is not entitled to:
 - (iv) vote at General Meetings;
 - (v) propose or move a motion at General Meetings; or
 - (vi) be nominated to be an Executive Member.

3.3 Nomination for Membership

- (a) Nomination for Membership of the Association:
 - (i) must be made in writing in the form as determined from time to time by the Executive. The application must be proposed and seconded by two Financial Full Members, who have each been Members for more than two (2) years, and the application form must be signed by the applicant;

- (ii) subject to clause 3.3(b), must be accompanied by payment of the annual subscription for the then current year; and
 - (iii) must be lodged with the Secretary.
- (b) Notwithstanding clause 3.3(a)(ii), the Executive has the unfettered discretion to:
- (i) waive; or
 - (ii) discount; or
 - (iii) extend the time for payment of;
- the annual subscription to be paid by an applicant.

3.4 Input from Full Members on Application

- (a) As soon as practicable after receiving a nomination for Membership, the Secretary must forward details of the application to all Full Members, giving them fourteen (14) days to respond with reasons as to why the nomination should be approved or rejected.
- (b) After the expiry of the fourteen (14) day period referred to in clause 3.4(a), the Secretary is to provide the Membership Committee with the Full Members' recommendations.
- (c) The Membership Committee is to determine whether to recommend to the Executive approval or rejection of the nomination, along with a recommendation as to the appropriate classification and categorisation of Membership for the applicant.
- (d) The Executive must consider the recommendations of the Membership Committee concerning the application and determine whether the application is accepted or rejected.

3.5 Notification of Decision

- (a) As soon as practicable after the Executive makes its determination pursuant to clause 3.4(d), the Secretary must notify the applicant and all the Full Members in writing of the decision of the Executive. The Executive shall not be required to provide its reasons for refusing an application for Membership.
- (b) Admission to Membership of the Association shall be conditional upon the successful applicant:
 - (i) subject to clause 3.3(b), paying the annual subscription as required by clause 3.3(a)(ii); and
 - (ii) agreeing to be bound by the Constitution and the Code of Conduct, and agreeing to such other conditions for admission to Membership as may be determined by the Executive from time to time.

- (c) The Secretary must, on satisfaction by the successful applicant of the conditions set out in clause 3.5(b), enter the applicant's name and class and category of Membership in the Register. On the name of the applicant being so entered, the applicant becomes a Member of the Association.

3.6 Appeal against Rejection of Application

- (a) If the Executive determines under clause 3.4(d) to reject an application for Membership, the Secretary must serve the applicant with a notice in writing:
 - (i) setting out the determination of the Executive;
 - (ii) stating that the applicant may address the Executive at an Executive meeting to be held not earlier than fourteen (14) days and not later than sixty (60) days after service of the notice:
 - (A) stating the date, place and time of that meeting; and
 - (B) informing the applicant that the applicant may do either or both of the following:
 - (1) attend and speak at that meeting;
 - (2) submit to the Executive at or prior to the date of the meeting, written representations relating to the determination.
- (b) At a meeting of the Executive held as referred to in clause 3.6(a), the Executive must:
 - (i) give the applicant an opportunity to make oral representations and allow the applicant to use any technology (reasonably available to the Executive) that gives the applicant a reasonable opportunity to do so;
 - (ii) give due consideration to any written representations submitted to the Executive by the applicant at or prior to the Executive meeting; and
 - (iii) by 75% majority, determine whether to confirm or to revoke the determination.
- (c) The applicant must be notified in writing of the decision of the Executive within seven (7) days. If the Executive resolves to confirm the rejection, the applicant must also be notified of the right of appeal available under clause 3.7.
- (d) A resolution confirmed by the Executive under clause 3.6(b) does not take effect:
 - (i) until the expiration of the period within which the applicant is entitled to appeal against the resolution where the applicant does not exercise the right of appeal within that period; and
 - (ii) where, within that period, the applicant exercises the right of appeal, unless and until the Appeals Committee confirms the resolution pursuant to clause 3.7.

3.7 Appeals Committee

- (a) The Executive will establish a committee for the purpose of reviewing rejected applications for Membership (**Appeals Committee**). The Appeals Committee will comprise of an independent panel of three experts, all

chosen by the Executive. The experts will be chosen based upon their experience with member based organisations. The Appeals Committee may seek advice from any relevant source.

- (b) An applicant may appeal to the Appeals Committee against a resolution of the Executive, which is confirmed under clause 3.6(b)(iii). Written notice of such an appeal must be lodged with the Secretary within seven (7) days of service of the notice required under clause 3.6(c).
- (c) Within thirty-five (35) days after receipt of a notice of appeal from the applicant pursuant to clause 3.7(b), the Appeals Committee must convene a meeting.
- (d) At the Appeals Committee meeting convened under clause 3.7(c):
 - (i) the applicant must be given the opportunity to state their case orally or in writing, or both using any technology (reasonably available to the Executive) that gives the applicant a reasonable opportunity to do so; and
 - (ii) the Appeals Committee must vote by ballot on the question of whether the resolution will be confirmed.
- (e) The Appeals Committee's decision pursuant to clause 3.7(d)(ii) is final. The applicant is not entitled to appeal the Appeals Committee's decision.
- (f) The applicant the subject of these proceedings is entitled to:
 - (i) subject to clause 3.7(f)(ii), bring a support person to any meeting with the Appeals Committee or the Executive, which meetings are being held pursuant to clause 3.6 or clause 3.7; and
 - (ii) if the support person is legally qualified, the applicant must notify the Appeals Committee or the Executive (as the case may be) at least five (5) business days before the meeting that the support person attending the meeting will be legally qualified.
- (g) Natural justice will be applied during every Membership process under this Constitution, requiring the Executive and Appeals Committee to act fairly, in good faith and without bias or conflict of interest when making its decision.

3.8 Representation of Members

- (a) A Full Member:
 - (i) may appoint, by means of written notification delivered to the Secretary, up to three (3) natural persons to act as its Designated Representatives;
 - (ii) may only appoint Designated Representatives from amongst its own employees, trustees or directors, who do not have a conflict of interest with the Association; and
 - (iii) must nominate who of its Designated Representatives is able to cast a vote or votes on its behalf at a General Meeting (hereinafter referred to as the **Voting Designated Representative**).

- (b) An Affiliate Member or Associate Member may appoint, by means of written notification delivered to the Secretary, one person to act as its Designated Representative.
- (c) The instrument by which a Member appoints a person to act as its Designated Representative pursuant to this clause 3.8 shall be in writing and be deposited at the Office at least seventy two (72) hours prior to any of the General Meetings.

3.9 Cessation of Membership

- (a) A Member is not entitled to resign from its Membership except in accordance with clause 3.9(b).
- (b) A Member who has paid all amounts due by the Member to the Association in respect of the Member's Membership may resign from Membership of the Association by first giving to the Secretary written notice of at least one (1) month (or such other period as the Executive may determine) of the Member's intention to resign and, on the expiration of the period of notice, the Member ceases to be a Member.
- (c) A Member ceases to be a Member of the Association:
 - (i) where that Member is an individual, upon that Member dying;
 - (ii) on the date that the Secretary receives written notice of resignation from that Member in accordance with clause 3.9(b);
 - (iii) upon that Member no longer satisfying the criteria for its respective class of Membership (unless transferred to another class of Membership by the Executive);
 - (iv) upon that Member becoming bankrupt or insolvent under administration or making an arrangement or composition with creditors of the Member's joint or separate estate generally;
 - (v) on being expelled from the Association pursuant to clause 3.15 or clause 3.16;
 - (vi) being a corporation or a firm which resolves to go into liquidation, enter into any scheme or arrangement with its creditors, is the subject of a petition for its winding up or appoints a receiver, liquidator, administrator or official manager; or
 - (vii) subject to clause 3.12(c), and upon the Executive exercising its discretion to expel the Member due to non-payment, the Member becoming six (6) months in arrears in respect of dues payable to the Association.
- (d) If a Member of the Association ceases to be a Member under this clause 3.9, the Secretary must make an appropriate entry in the Register recording the date on which the Member ceased to be a Member.
- (e) A Member who ceases to be a Member under this clause 3.9 shall continue to be liable for any other monies due by the Member to the Association.

3.10 Membership Entitlements not Transferable

- (a) A right, privilege or obligation which a person, corporation, firm, Church, Crown Reserve Trust or Council has by reason of being a Member of the Association:
- (i) is not capable of being transferred or transmitted to another person or organisation; and
 - (ii) terminates on cessation of Membership of the person, firm, corporation, Church, Crown Reserve Trust or Council.
- (b) In the event that a Full Member is merged with or taken over by an entity which is not, at the time of the merger or take over, a Member, and the merger or take over results in the Full Member changing its legal identity, then:
- (i) the new entity will be entitled to apply for Membership with the Association;
 - (ii) the Executive may decide that the new entity will not be required to have its Membership application reviewed by the Membership Committee, nor its application proposed and seconded by other Members as normally required by clause 3.3(a)(i); and
 - (iii) pursuant to its power in clause 3.3(b), the Executive can take into account the annual subscription already paid by the Full Member for that current year when determining the annual subscription to be paid by the new entity when applying for Membership.
- (c) In the event that two (2) or more existing Members merge with each other, or one (1) or more existing Members take over one (1) or more other existing Members, and the merger or take over results in:
- (i) any of the existing Members involved no longer being eligible for their previous class or category of Membership; or
 - (ii) a new entity being created which would not be eligible for the same class or category of Membership as the previous Members which constitute the new entity;
- (hereinafter collectively referred to as the **Changed Entity**), then:
- (iii) the Changed Entity will be entitled to apply for Membership in the appropriate class or category with the Association;
 - (iv) the Executive may decide that the Changed Entity will not be required to have its Membership application for the appropriate class or category of Membership reviewed by the Membership Committee, nor its application proposed and seconded by other Members as normally required by clause 3.3(a)(i); and

- (v) pursuant to its power in clause 3.3(b), the Executive can take into account the annual subscription already paid by the previous Members for that current year when determining the annual subscription to be paid by the Changed Entity when applying for Membership in the new class or category.

3.11 Register of Members

- (a) The Secretary must establish and maintain a Register of Members of the Association.
- (b) The Register shall contain in respect of each Member:
 - (i) the name, address, telephone and fax numbers and email and web address where applicable (and in the case of a company or firm, the registered office, or principal place of business);
 - (ii) the date of admission to and class and category of current Membership of the Association;
 - (iii) the name of the Designated Representatives as appointed pursuant to clause 3.8; and
 - (iv) that Member's financial status.
- (c) The Register must be kept at the Office and must be open for inspection, free of charge, to any Member at any reasonable hour.

3.12 Fees and Subscriptions

- (a) Subject to clause 3.12(c), the annual subscription payable annually by each class and category of Member shall be as determined by the Executive.
- (b) Subject to clause 3.12(c), after such annual subscriptions are set, they shall be due and payable to the Association within thirty (30) days of the invoice being issued.
- (c) The Executive may in its discretion:
 - (i) determine that no annual subscription is payable by a Member or Members (in whole or in part) in a given year; and
 - (ii) extend the time for payment of the annual subscription by any Member.
- (d) No part of any annual subscription shall be refunded to a Member who ceases to be a Member in accordance with clause 3.9.

3.13 Members' Liabilities

The liability of a Member to contribute towards the payment of the debts and liabilities of the Association or the costs, charges and expenses of the winding up of the Association is limited to the amount, if any, unpaid by the Member in respect of Membership of the Association as required by clause 3.12.

3.14 Resolution of Internal Disputes

- (a) Disputes between Members (in their capacity as Members) of the Association, and disputes between Members and the Association, are to be made in writing to the Secretary outlining all the issues.
- (b) The Secretary, upon receiving notice of a complaint, shall convene a meeting of the Executive within twenty eight (28) days to consider the matter.
- (c)
 - (i) For the matter to proceed, the Executive must first secure authority from the complainant to forward the complaint to the accused.
 - (ii) If authority is not secured, the Executive will advise the complainant that the complaint cannot be pursued.
 - (iii) Upon receiving the authority referred to in clause 3.14(c)(i), the Executive will send (by certified mail with receipt acknowledgement attached) within fourteen (14) days the complaint to the accused in an envelope marked "Private and Confidential".
 - (iv) The Member, who is the subject of the complaint, shall be asked to respond to the Executive in writing within fourteen (14) days.
 - (v) From the response the Executive may attempt to resolve the issue by direct written communication with the complainant. If considered appropriate, the Executive may conduct personal interviews with the parties involved.
 - (vi) If the complaint is resolved, the Executive will inform the parties in writing.
 - (vii) If a satisfactory resolution cannot be obtained, then the Executive will refer the matter to mediation administered by the ACDC.
- (d) At least seven (7) days before a mediation session is to commence, the parties are to exchange statements of the issues that are in dispute between them and supply copies to the mediator.
- (e) The mediation will be conducted in accordance with the Guidelines which are operating at the time the matter is referred to the ACDC. The terms of the Guidelines, which set out the procedures to be adopted, the process of selection and the costs involved, will apply.
- (f) No party may begin legal proceedings in connection with a dispute between the parties unless a mediation under clause 3.14(e) has taken place.
- (g) The limitation in clause 3.14(f) above does not apply:
 - (i) if a party wants to apply for equitable relief or urgent interlocutory relief (and clause 3.14(e) does not apply in the circumstances);

- (ii) to a party who attempts in good faith to comply with clause 3.14(e), but cannot do so because another party(s) does not comply with that clause; or
 - (iii) if the mediation cannot take place within a reasonable time, for reasons beyond the control of the party who wishes to commence proceedings.
- (h) The parties agree that no proceedings will be commenced by them prior to the fulfilment of the process set out above other than in the circumstances stipulated by clause 3.14(g).

3.15 Complaints against and Disciplining of Members

- (a) The Executive has the power to adopt and implement a Code of Conduct setting out the standards of ethical and professional practice and conduct for Members, to be promulgated by the Executive and published to Members.
- (b) The Code of Conduct may be amended by the Executive from time to time and, as amended, be promulgated by the Executive and published to Members.
- (c) Every Member shall be bound to accept, and in the execution of its activities abide by, the standards of practice and conduct expressed in the Code of Conduct as amended from time to time.
- (d) A complaint may be made to the Executive by any person that a Member of the Association:
 - (i) has persistently refused or neglected to comply with a provision or provisions of the Code of Conduct or the Constitution; or
 - (ii) has persistently and wilfully acted in a manner prejudicial to the interests of the Association.
- (e) On receiving such a complaint, the Executive:
 - (i) must cause notice of the complaint to be served on the Member concerned; and
 - (ii) must give the Member at least fourteen (14) days from the time the notice is served within which to make a submission to the Executive in connection with the complaint; and
 - (iii) must take into consideration any submissions made by the Member in connection with the complaint.
- (f) The Executive may, by a 75% resolution, expel the Member from the Association or suspend the Member from Membership of the Association for a specified period if, after considering the complaint and any submissions made in connection with the complaint, the Executive is satisfied that the facts alleged in the complaint have been proved.

- (g) If the Executive expels or suspends a Member, the Secretary must, within seven (7) days after the action is taken, cause written notice to be given to the Member of:
 - (i) the action taken;
 - (ii) the reasons given by the Executive for having taken that action; and
 - (iii) the Member's right of appeal under clause 3.16.
- (h) The expulsion or suspension from Membership does not take effect:
 - (i) until the expiration of the period within which the Member is entitled to appeal against the resolution concerned; or
 - (ii) if within that period the Member exercises the right of appeal, unless and until the Disciplinary Committee confirms the resolution under clause 3.16;

whichever is the later.

3.16 Right of Appeal of Disciplined Member

- (a) The Executive will establish a committee for the purpose of conducting disciplinary proceedings against a Member (**Disciplinary Committee**). The Disciplinary Committee will comprise of an independent panel of three experts, all chosen by the Executive. The experts will be chosen based upon the nature of the alleged misconduct by the Member. The Disciplinary Committee may seek advice from any relevant source.
- (b) A Member may appeal to the Disciplinary Committee against a resolution of the Executive, which is made under clause 3.15(f). Written notice of such an appeal must be lodged with the Secretary within seven (7) days of service of the notice required under clause 3.15(g)(iii).
- (c) Within thirty-five (35) days after receipt of a notice of appeal from the Member pursuant to clause 3.16(b), the Disciplinary Committee must convene a meeting.
- (d) At the Disciplinary Committee meeting convened under clause 3.16(c):
 - (i) the Member must be given the opportunity to state their case orally or in writing, or both using any technology (reasonably available to the Executive) that gives the Member a reasonable opportunity to do so; and
 - (ii) the Disciplinary Committee must vote by ballot on the question of whether the resolution will be confirmed.
- (e) The Disciplinary Committee's decision, pursuant to clause 3.16(d)(ii) is final. The Member is not entitled to appeal the Disciplinary Committee's decision.
- (f) The Member the subject of these disciplinary procedures is entitled to:
 - (i) subject to clause 3.16(f)(ii), bring a support person to any meeting with the Disciplinary Committee or the Executive, which meetings are being held pursuant to clause 3.15 or clause 3.16; and

- (ii) if the support person is legally qualified, the Member must notify the Disciplinary Committee or the Executive (as the case may be) at least five (5) business days before the meeting that the support person attending the meeting will be legally qualified.
- (g) Natural justice will be applied during every disciplinary process under clause 3.15 or clause 3.16, requiring the Executive and Disciplinary Committee to act fairly, in good faith and without bias or conflict of interest when making its decision.

4 The Executive

4.1 Powers of the Executive

- (a) The Executive of the Association, subject to the Act, the Regulation, this Constitution and to any resolution passed by the Association in General Meeting:
 - (i) is to govern the affairs of the Association;
 - (ii) may exercise all such functions as may be exercised by the Association, other than those functions that are required by this Constitution to be exercised by a General Meeting of Members; and
 - (iii) has power to perform all such acts and do all such things as appear to the Executive to be necessary or desirable for the proper governance of the affairs of the Association.
- (b) In exercising its powers as contained in clause 4.1(a), the Executive must at all times act in accordance with the best interests of the Association (and not the disparate interests of particular Members).

4.2 Composition of Executive

- (a) As from the Annual General Meeting in 2013, the Executive is to consist of:
 - (i) the Office-bearers of the Association; and
 - (ii) five (5) Designated Representatives of Full Members of the Association;each of whom is to be elected at the Annual General Meeting under clause 4.4 for a two (2) year term.
- (b) The Office-bearers of the Association are to be the Designated Representatives of the Full Members and consist of:
 - (i) the President; and
 - (ii) the Vice-President.
- (c) The Executive (including the Office-bearers) shall comprise of the following groupings (hereinafter referred to as **Groupings**):

- (i) one (1) Designated Representative of a Category A Member or a Category B Member;
- (ii) one (1) Designated Representative of a Category C Member or a Category D Member;
- (iii) three (3) Designated Representatives from amongst Category E Members, Category F Members, Category G Members, Category H Members and Category I Members; and
- (iv) two (2) other Designated Representatives of Full Members;

all of whom are to be elected in accordance with clause 4.4.

- (d) For the purposes of clarity, a Full Member may have more than one Designated Representative on the Executive at any one time.

4.3 Term

- (a)
 - (i) Subject to clause 4.3(b), each Executive Member is, subject to this Constitution, to hold office until the conclusion of the second Annual General Meeting following the date of the Executive Member's election, but is eligible for re-election for a further two terms of two (2) years each.
 - (ii) Once an Executive Member has served the maximum term of six (6) consecutive years, the Executive Member is only eligible for reappointment to the Executive:
 - (A) after a period of at least two (2) years has expired since the expiry of the Executive Member's previous term on the Executive; or
 - (B) where insufficient nominations are received to fill the positions on the Executive pursuant to clause 4.4; or
 - (C) where there is a casual vacancy in the office of an Executive Member that cannot otherwise be filled in accordance with clause 4.8(a)(i).
- (b) Notwithstanding anything else herein contained, in relation to those Executive Members elected at the Annual General Meeting in 2013:
 - (i) the President and three (3) other Executive Members will be elected for an initial term of two (2) years; and
 - (ii) the remaining three (3) Executive Members will be elected for an initial term of one (1) year.
- (c) For the purpose of clause 4.3(b), the Executive Members shall nominate from amongst their number who shall hold each office for two (2) years and who shall hold office for (1) year. If the Executive Members cannot reach agreement on the term of office, the Executive Members for the respective terms will be drawn by lot.

- (d) Those Executive Members who have an initial term of one (1) year pursuant to clause 4.3(b)(ii) will not have that one (1) year count toward the maximum term they can hold office under clause 4.3(a)(i).
- (e) If any person is elected to the Executive at the Annual General Meeting in 2013, who was holding office immediately prior to that Annual General Meeting, the period served by that person prior to the Annual General Meeting in 2013 shall not count toward the maximum term they can hold office under clause 4.3(a)(i).

4.4 Election of Executive Members

- (a) Nominations of candidates for election as the President of the Association or as Executive Members:
 - (i) must be made in writing in the form set out in Annexure B (or as determined from time to time by the Executive) by two (2) Financial Full Members and signed by the candidate; and
 - (ii) must be delivered to the Secretary of the Association at least seven (7) days before the date fixed for the holding of the Annual General Meeting at which the election is to take place.
- (b) As soon as practicable after the close of nominations, the Secretary must circulate to all Full Members the names and details of the candidates nominating for office.
- (c)
 - (i) If the term of office of the President will expire at the upcoming Annual General Meeting, the Full Members will first vote to elect a person to the office of President. In the event of a tie in the votes for two (2) candidates for the office of President, a second secret ballot will be held for the election of one of those two (2) candidates for the office of President. If the second secret ballot also results in a tie in the votes for those two (2) candidates, the President will be elected by lot from those two (2) candidates.
 - (ii) Once the President has been elected, the Full Members will then elect persons:
 - (A) to fill all remaining vacancies on the Executive;
 - (B) to the extent possible, in a manner which fulfils the composition set out in clause 4.2(c).
- (d) If the term of office of the President will not expire at the upcoming Annual General Meeting, the Full Members will only vote to elect persons:
 - (i) to fill all remaining vacancies on the Executive;
 - (ii) to the extent possible, in a manner which fulfils the composition set out in clause 4.2(c).
- (e)

- (i) If only one candidate is nominated for a particular Grouping (which has a vacancy) as defined by clauses 4.2(c)(i), 4.2(c)(ii), or 4.2(c)(iii), that candidate is automatically elected to the Executive for that Grouping.
- (ii)
 - (A) If more than one candidate is nominated for each Grouping (which has a vacancy) as defined by clauses 4.2(c)(i), 4.2(c)(ii), or 4.2(c)(iii), the candidate with the most votes is elected to that Grouping. In the event of a tie in the votes for two (2) candidates for a particular vacancy in a Grouping, a second secret ballot will be held for the election of one of those two (2) candidates for that vacancy. If the second secret ballot also results in a tie in the votes for those two (2) candidates, the President will have a casting vote as to who of the two (2) candidates is to be elected to fill that vacancy.
 - (B) Those candidates (if any) who were nominated for one of these particular Groupings (as referred to in clause 4.4(e)(ii)(A)), but are unsuccessful in being elected pursuant to clause 4.4(e)(ii)(A), may be eligible to be elected for the Grouping defined by clause 4.2(c)(iv) (provided that there is a vacancy in that Grouping).
- (iii) In the event that no candidate has been nominated for a vacancy in a particular Grouping, the vacancy in that Grouping can be filled by a candidate from any other Grouping.
- (iv) For the purposes of clarity, the President will, by virtue of being a Designated Representative of a Full Member of a particular category, satisfy one of the positions in the Groupings listed in clause 4.2(c).
- (f) If insufficient nominations are received to fill the vacancies on the Executive in the composition set out in clause 4.2(c), those positions can be filled by other nominated candidates, regardless of the category or categories of Membership of those other nominated candidates.
- (g) If, despite clause 4.4(f), there are still insufficient nominations received to fill all vacancies on the Executive, further nominations are to be called for at the Annual General Meeting.
- (h) If insufficient further nominations are received at the Annual General Meeting, any vacant positions remaining on the Executive are taken to be casual vacancies.
- (i) All elections which take place pursuant to this clause 4.4 will be done by way of a secret ballot on a first-past-the-post basis.

4.5 Secretary

- (a) There shall be a Secretary of the Association who shall be appointed by the Executive upon such terms and conditions as may be determined by the Executive.
- (b) The Secretary of the Association shall, as soon as practicable after being appointed as Secretary, lodge notice with the Association of their address and all contact details.
- (c) It is the duty of the Secretary to keep minutes and/or records of:
 - (i) all proceedings at Executive, General Meetings and all other meetings;
 - (ii) all appointments of Office-bearers and Executive Members; and
 - (iii) the names of Executive Members present at the Executive meeting or at a General Meeting.
- (d) The Executive may vest in the Secretary such powers and authorities as it may from time to time determine, and the Secretary so appointed shall exercise all such powers and authorities subject to this Constitution.
- (e) The Executive shall have the powers to suspend or remove the Secretary.

4.6 President

- (a) The President shall hold office for a term of two (2) years.
- (b) A Designated Representative of a Full Member can be re-elected, pursuant to clause 4.4(c), as President for two (2) further terms of two (2) years.
- (c) Once a Designated Representative has served the maximum term of six (6) consecutive years as President, that Designated Representative is not eligible for re-election as President until a period of at least two (2) years has expired since the expiry of the person's previous term as President.

4.7 Vice-President

- (a) The Executive Members shall elect from amongst themselves a Vice-President.
- (b) The Vice-President shall hold office for a term of two (2) years, subject to being an Executive Member for that term of two (2) years.
- (c) An Executive Member can be re-elected as Vice-President for two (2) further terms of two (2) years, on the condition that the person is still an Executive Member.
- (d) Once an Executive Member has served the maximum term of six (6) consecutive years as Vice-President, that Executive Member is not eligible for re-election as Vice-President until a period of at least two (2) years has expired since the expiry of the Executive Member's previous term as Vice-President.

4.8 Casual Vacancies

- (a)

- (i) Subject to clause 4.8(a)(ii), in the event of a casual vacancy occurring in the Executive, the Executive may appoint a Designated Representative of a Full Member to fill the vacancy, and the person so appointed is to hold office, subject to this Constitution, until the conclusion of the Annual General Meeting next following the date of the appointment. The Designated Representative appointed by the Executive pursuant to this clause 4.8(a) does not have to be from the same Full Member (or category of Full Member) as the Full Member (or category of Full Member) whose Designated Representative vacated.
- (ii)
 - (A) In the event that the office of President becomes vacant, the Vice-President will assume the office of President until the conclusion of the Annual General Meeting next following the date of the appointment of the Vice-President to the office of President.
 - (B) In the circumstances outlined in clause 4.8(a)(ii)(A), the office of Vice-President will remain vacant until the conclusion of the Annual General Meeting next following the date of the appointment of the Vice-President to the office of President.
- (b) For the purposes of this Constitution, a casual vacancy in the office of an Executive Member occurs if:
 - (i) the Executive Member dies; or
 - (ii) the Executive Member ceases to be a Designated Representative of a Full Member; or
 - (iii) the Full Member for whom they are a Designated Representative ceases to be a Full Member of the Association; or
 - (iv) the Executive Member becomes an insolvent under administration within the meaning of the *Corporations Act (Clth) 2001*; or
 - (v) the Executive Member resigns from office by notice in writing given to the Secretary; or
 - (vi) the Executive Member is removed from office under clause 4.9; or
 - (vii) the Executive Member becomes a mentally incapacitated person; or
 - (viii) the Executive Member is absent without the consent of the Executive from all meetings of the Executive held during a continuous period of six (6) months.
- (c) The Executive may act despite any vacancy in their body, but if the number falls below three (3), the Executive may act:
 - (i) for the purpose of:

- (A) increasing the number of Executive Members to three (3);
or
 - (B) convening a General Meeting; or
 - (ii) in emergencies;
- but for no other purpose.
- (d) In the event that:
- (i) a Full Member is merged with or taken over by another Full Member(s); and
 - (ii) the new or changed entity (resulting from that merger or take over) consequently has more than one Designated Representative on the Executive as an Executive Member; and
 - (iii) the new or changed entity remains a Full Member or successfully reapplies to be a Full Member pursuant to clause 3.10(b);
- and:
- (iv) the Executive Members from the new or changed entity; and
 - (v) the Executive; and
 - (vi) the new or changed entity;
- all agree that all of the Executive Members from the new or changed entity should remain on the Executive post the merger or take over, then all of those Executive Members shall remain on the Executive for the remainder of their respective terms of office.

4.9 Removal of Executive Member

- (a) The Association in General Meeting may by resolution:
 - (i) remove any Executive Member from office before the expiration of the Executive Member's term of office; and
 - (ii) appoint another person (who is a Designated Representative of a Full Member) to hold office until the expiration of the term of office of the Executive Member so removed.
- (b) Notice of intention to move the resolution to remove an Executive Member, along with the alleged grounds for the removal, must be given to the Association at least two (2) months before the General Meeting is to be held. The proposed resolution, along with the alleged grounds for the removal, are to be on the agenda for that General Meeting.
- (c) The Association must give the Executive Member a copy of the notice referred to in clause 4.9(b) as soon as practicable after it is received.
- (d) The Executive Member is entitled to put his or her case to the Members by:
 - (i) giving the Association a written statement for circulation to the Members; and
 - (ii) speaking to the motion at the General Meeting.

- (e) The written statement is to be circulated by the Association to Members by:
 - (i) sending a copy to everyone to whom notice of the meeting is sent if there is time to do so; or
 - (ii) if there is not time to comply with clause 4.9(e)(i) – having the statement distributed to Members attending the General Meeting and read out at the meeting before the resolution is voted on.
- (f) The Executive Member's statement does not have to be circulated to Members if it is more than 1,000 words long or defamatory.

4.10 Executive Meetings and Quorum

- (a) The Executive must meet at least three (3) times in each period of twelve (12) months at such place and time as the Executive may determine.
- (b) Additional meetings of the Executive may be convened by the President or by any Executive Member.
- (c) Oral or written notice of a meeting of the Executive must be given by the Secretary to each Executive Member at least seven (7) days before the time appointed for the holding of the meeting (or such other period as may be unanimously agreed upon by the Executive Members).
- (d) Notice of a meeting given under clause 4.10(c) above must specify the general nature of the business to be transacted at the meeting, except business which the Executive Members present at the meeting unanimously agree to treat as urgent business.
- (e) Subject to clause 4.10(f), an Executive meeting may be convened or held using any technology consented to by a majority of the Executive Members. The consent may be a standing one. An Executive Member may withdraw consent to the use of a particular technology within a reasonable time period before an Executive meeting.
- (f) The particular technology used to convene or hold an Executive meeting, pursuant to clause 4.10(e), must be available and accessible to all Executive Members who wish to attend the Executive meeting.
- (g) All resolutions of the Executive Members passed at a meeting of the Executive where a quorum is present but where notice of the meeting has not been given as required to each Executive Member, or any act carried out pursuant to such resolution, shall, provided each Executive Member 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 Executive Members.

4.11 Quorum

- (a) Any four (4) members of the Executive constitute a quorum for the transaction of the business of a meeting of the Executive. An Executive Member who is disqualified from voting on a matter pursuant to clause 4.16 shall be counted in the quorum despite that disqualification.
- (b) No business is to be transacted by the Executive unless a quorum is present and if, within half an hour of the time appointed for the meeting, a

quorum is not present, the meeting is to stand adjourned to the same place and at the same hour of the same day in the following week.

- (c) If at the adjourned meeting a quorum is not present, within half an hour of the time appointed for the meeting, the Executive Members present (being at least three (3)) is to constitute a quorum for that meeting.
- (d) A quorum must be present at all times during the meeting.

4.12 President

At a meeting of the Executive:

- (a) the President or, in the President's absence, the Vice-President is to preside; or
- (b) if the President and the Vice-President are absent or unwilling to act, one of the remaining Executive Members, as chosen by the Executive Members present at the meeting, is to preside.

4.13 Subcommittees

- (a) The Executive may, by instrument in writing, delegate to one or more Subcommittees (consisting of such Designated Representative(s) or Member(s) as the Executive thinks fit) the exercise of such of the functions of the Executive as are specified in the instrument, other than:
 - (i) this power of delegation; and
 - (ii) a function which is a duty imposed on the Executive by the Act or by any other law.
- (b) Each Subcommittee must have at least one (1) Executive Member as a Subcommittee Member.
- (c) A function the exercise of which has been delegated to a Subcommittee under this Constitution may, while the delegation remains unrevoked, be exercised from time to time by the Subcommittee in accordance with the terms of the delegation.
- (d) A delegation under this clause 4.13 may be made subject to such conditions or limitations as to the exercise of any function, or as to time or circumstances, as may be specified in the instrument of delegation.
- (e) Despite any delegation under this Constitution, the Executive may continue to exercise any function delegated.
- (f) Any act or thing done or suffered by a Subcommittee acting in the exercise of a delegation under this Constitution has the same force and effect as it would have if it had been done or suffered by the Executive.
- (g) The Executive may, by instrument in writing, revoke wholly or in part any delegation under this Constitution.
- (h) A Subcommittee may meet and adjourn, as it thinks proper.

- (i) The Executive may co-opt other interested persons to a Subcommittee:
 - (i) for a specific purpose;
 - (ii) in an advisory capacity; and
 - (iii) for a designated time period.
- (j) The meetings and proceedings of any Subcommittee consisting of more than one person will be governed by the provisions for regulating the meetings and proceedings of the Executive contained in this Constitution.
- (k) A minute of all the proceedings and decisions of every Subcommittee shall be made, entered and signed in the same manner in all respects as minutes of proceedings of the Executive are required by this Constitution to be made, entered and signed. A copy of such Subcommittee minutes shall be tabled at the next Executive meeting.

4.14 Voting and Decisions

- (a) Questions arising at a meeting of the Executive (or of any Subcommittee) are to be determined by a majority of the votes of Executive Members (or Subcommittee Members) present and voting at the meeting.
- (b) Each Executive Member present at a meeting of the Executive or of any Subcommittee (including the person presiding at the meeting) is entitled to one vote on any question. The person presiding may exercise a second or casting vote.
- (c) Any act or thing done or suffered or purporting to have been done or suffered by the Executive or by a Subcommittee, is valid and effectual notwithstanding any defect that may afterwards be discovered in the appointment or qualification of any Executive Member or Subcommittee Member.

4.15 Circular Resolutions

- (a) The Executive may pass a resolution without an Executive meeting being held if a majority of the Executive Members 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) A facsimile transmission which is received by the Association and which purports to have been signed by an Executive Member shall for the purposes of this clause 4.15 be taken to be in writing and signed by that Executive Member at the time of the receipt of the facsimile transmission by the Association in legible form.
- (c) An email transmission which is received by the Association and which purports to have been sent by an Executive Member shall for the purposes of this clause 4.15 be taken to be in writing and signed by that Executive Member at the time of the receipt of the email transmission by the Association.

4.16 Conflicts of Interest

- (a) The Association may enter into contracts or arrangements with other companies or bodies in which an Executive Member has an interest, provided it does so according to the usual commercial terms and conditions which apply to such contracts or arrangements.
- (b) An Executive Member must disclose an interest in accordance with the Act and the Secretary must record all declarations in a separate book which is kept for that purpose.
- (c) An Executive Member who has an interest in a contract or arrangement made by the Association and has disclosed this interest to the Executive, must not, unless the Executive determines otherwise:
 - (i) be present during any deliberation of the Executive with respect to the matter; or
 - (ii) take part in any decision of the Executive with respect to the matter;

but that Executive Member may be counted in determining whether or not a quorum is present at any meeting of the Executive considering that contract or arrangement or proposed contract or arrangement.
- (d) For the purposes of the making of a determination by the Executive under clause 4.16(c), an Executive Member who has a direct or indirect interest in a matter to which the disclosure relates, must not:
 - (i) be present during any deliberation of the Executive for the purpose of making the determination; or
 - (ii) take part in the making by the Executive of the determination.
- (e) The Association shall not make any payment for services rendered by an Executive Member in a professional or technical capacity, except where the provision of such services and the amount payable have prior approval of the Executive and where the amount does not exceed an amount that is commercially reasonable for those services.
- (f) An Executive Member's failure to make disclosure under this clause 4.16 does not render void or voidable a contract or arrangement in which the Executive Member has a direct or indirect interest.
- (g) A general notice given to the Executive by an Executive Member that the Executive Member is an officer, a member of, or otherwise interested in any specified corporation or firm stating the nature and the extent of the Executive Member's interest in the corporation or firm shall, in relation to any matter involving the Association and that corporation or firm after the giving of the notice, be a sufficient disclosure of the Executive Member's interest, provided that the extent of the interest is no greater at the time of first consideration of the relevant matter by the Executive than was stated in the notice.

5 General Meetings

5.1 Annual General Meetings

- (a) The Association must, at least once in each calendar year and within the period of six (6) months after the expiration of each Financial Year, convene an Annual General Meeting of its Members.

- (b) Clause 5.1(a) has effect subject to any extension or permission granted by the Director-General under the Act.
- (c) The Annual General Meeting of the Association is, subject to the Act and to clauses 5.1(a) and 5.1(b), to be convened on such date and at such place and time as the Executive thinks fit.
- (d) An Annual General Meeting must be specified as such in the notice convening it.
- (e) In addition to any other business which may be transacted at an Annual General Meeting, the business of an Annual General Meeting is to include the following:
 - (i) to confirm the minutes of the preceding Annual General Meeting and any other preceding General Meetings;
 - (ii) to receive from the Executive reports on the activities of the Association during the last preceding Financial Year;
 - (iii) to elect for any vacancies in the positions of the President and Executive Members;
 - (iv) to receive and consider the following statements:
 - (1) the income and expenditure of the Association during its last Financial Year;
 - (2) the assets and liabilities of the Association at the end of its last Financial Year; and
 - (3) any mortgages, charges and other securities of any description affecting any of the property of the Association at the end of its last Financial Year.

5.2 Extraordinary General Meetings

- (a) The Executive may, whenever it thinks fit, convene an Extraordinary General Meeting of the Association.
- (b) The Executive must convene at least one Extraordinary General Meeting in each Financial Year.
- (c) The Executive must, on the requisition in writing of a least five (5) Full Members, convene an Extraordinary General Meeting of the Association.
- (d) A requisition of Full Members for an Extraordinary General Meeting pursuant to clause 5.2(c):
 - (i) must state the purpose or purposes of the Extraordinary General Meeting; and
 - (ii) must be signed by the Full Members making the requisition; and
 - (iii) must be lodged with the Secretary; and

- (iv) may consist of several documents in a similar form, each signed by one of more of the Full Members making the requisition.
- (e) Full Members with more than fifty per cent (50%) of the votes of all of the Full Members who make a request under clause 5.2(c) may call and arrange to hold an Extraordinary General Meeting if the Executive fails to convene an Extraordinary General Meeting to be held within one (1) month after the date on which a requisition of the Full Members for the meeting is lodged with the Secretary pursuant to clause 5.2(d).
- (f)
 - (i) An Extraordinary General Meeting convened by a Full Member or Full Members as referred to in clause 5.2(e) must be convened as nearly as is practicable in the same manner as General Meetings are convened by the Executive, and any Full Member who consequently incurs the reasonable expenses usually associated with calling and conducting such a meeting is entitled to be reimbursed by the Association for any reasonable expense so incurred.
 - (ii) For the purposes of clause 5.2(f)(i), reasonable expenses do not include any travel and accommodation associated with attending the Extraordinary General Meeting.
- (g) At an Extraordinary General Meeting which has been convened by the Full Members pursuant to clause 5.2(c), only business notified on the agenda can be dealt with at that meeting.

5.3 General Meetings

- (a) A General Meeting of the Association may be convened at two (2) or more venues using any technology that gives the Members a reasonable opportunity to participate in the meeting.
- (b)
 - (i) The Chairman of a General Meeting may invite any person who is not a Member to attend and address a meeting.
 - (ii) Any auditor of the Association shall be entitled to attend and address a General Meeting.
- (c) Subject to this Constitution the Executive may cancel a General Meeting of the Association:
 - (i) convened by the Executive; or
 - (ii) which has been convened by Full Members pursuant to clause 5.2(c) upon receipt by the Association of a written notice withdrawing the requisition signed by those Full Members.
- (d) The Executive may postpone a General Meeting (unless it has been convened by the Members pursuant to clause 5.2(c)) or change the venue at which it is to be held. 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.
- (e) Where any General Meeting is cancelled or postponed or the venue for a General Meeting is changed:

- (i) the Executive must endeavour to notify in writing 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 writing any person entitled to receive notice of the meeting or failure of a person to receive a written notice shall not affect the validity of the cancellation, the change of venue or the postponement of the meeting.

5.4 Quorum

- (a)
 - (i) No item of business is to be transacted at a General Meeting unless a quorum of Members entitled under this Constitution to vote is present at all times during the meeting.
 - (ii) Four (4) Financial Full Members present in person by a Voting Designated Representative or a proxy constitute a quorum for the transaction of the business of General Meetings.
- (b) If within half an hour after the appointed time for the commencement of a General Meeting a quorum is not present, the meeting:
 - (i) if convened on the requisition of Full Members, is to be dissolved; and
 - (ii) in any other case, is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to Members given before the day to which the meeting is adjourned) at the same place.
- (c) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the meeting is to proceed.

5.5 Notice of General Meeting

- (a) Except if the nature of the business proposed to be dealt with at a General Meeting requires a Special Resolution of the Association, the Secretary must, at least fourteen (14) days before the date fixed for the holding of the General Meeting, give a notice to each Member specifying the:
 - (i) place;
 - (ii) date; and
 - (iii) time;

of the meeting and the nature of the business proposed to be transacted at the meeting.

- (b) If the nature of the business proposed to be dealt with at a General Meeting requires a Special Resolution of the Association, the Secretary must, at least twenty one (21) days before the date fixed for the holding of the General Meeting, cause notice to be given to each Member specifying, in addition to the matters required under clause 5.5(a) the intention to propose the resolution as a Special Resolution.
- (c) No business other than that specified in the notice convening the General Meeting shall be transacted at the meeting, except:
 - (i) in the case of an Annual General Meeting, business which may be transacted under clause 5.1(e);
 - (ii) to confirm the minutes of the preceding General Meeting and/or Extraordinary General Meetings; and
 - (iii) to receive from the Executive reports on the activities of the Association.
- (d) A Member desiring to bring any business before a General Meeting may give notice in writing of that business to the Secretary who must include that business in the next notice calling a General Meeting, given after receipt of the notice from the Member.
- (e) 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.

5.6 Chairman

- (a) The President or, in the President's absence, the Vice-President, is to preside as Chairman at each General Meeting of the Association.
- (b) Where a General Meeting is held and both the President and the Vice-President are not present within fifteen (15) minutes after the time appointed for the holding of the meeting or both are unwilling to act:
 - (i) another Executive Member chosen by the Executive Members who are present shall be Chairman of the meeting; and
 - (ii) failing clause 5.6(b)(i), the Full Members present must elect one of their number to preside as Chairman at the meeting.
- (c) The rulings of the Chairman of a General Meeting on all matters relating to the order of business, which business can be discussed, procedure and conduct of the meeting shall be final and no motion of dissent from such rulings shall be accepted.

5.7 Adjournment

- (a) The Chairman of a General Meeting at which a quorum is present:
 - (i) may, with the consent of the majority of Full Members present at the meeting;

- (ii) must if the meeting so directs;

adjourn the meeting from time to time and place to place, but no business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.

- (b) If a General Meeting is adjourned for fourteen (14) days or more, the Secretary must give written or oral notice of the adjourned meeting to each Member of the Association stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.
- (c) Except as provided in clause 5.7(b), notice of an adjournment of a General Meeting or of the business to be transacted at an adjourned meeting is not required to be given.
- (d) A resolution passed at a meeting resumed after an adjournment is passed on the day it was passed.

5.8 Making of Decisions

- (a) A question arising at a General Meeting (excluding elections held pursuant to clause 4.4) is to be determined on a show of hands, unless a poll is demanded by:
 - (i) the Chairman of the meeting;
 - (ii) at least four (4) Financial Full Members present before a show of hands has taken place.
- (b) Before a vote on a resolution is taken, the Chairman must inform the meeting whether any proxy votes have been received and the identities of those proxies who have been nominated to represent a Full Member or a Voting Designated Representative.
- (c) A declaration by the Chairman that a resolution has, on a show of hands, been carried or lost, or an entry to that effect in the minute book of the Association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- (d) If a poll is demanded at a General Meeting, the poll must be taken:
 - (i) immediately in the case of a poll which relates to the election of the Chairman of the meeting or to the question of an adjournment;
or
 - (ii) in any other case, in such manner and at such time before the close of the meeting as the Chairman directs;and the resolution of the poll on the matter is taken to be the resolution of the meeting on that matter.
- (e) Notwithstanding anything else herein contained, any poll which is conducted must be conducted by way of a secret ballot.

- (f) If a poll is demanded the number of votes available to a Member shall be determined in accordance with clause 5.10(b).
- (g) The demand for a poll may be withdrawn.
- (h) As soon as practicable following a declaration of a poll, all ballot papers will be destroyed.

5.9 Special Resolution

- (a) A Special Resolution is required to amend the Constitution and in any other circumstance required by the Act.
- (b) Subject to the Act, a resolution of the Association is a Special Resolution:
 - (i) if the notice of the General Meeting at which the Special Resolution is to be passed was given to the Members no later than twenty one (21) days before the date on which the meeting is held; and
 - (ii) if it is supported by at least three quarters of the votes cast by Financial Full Members which were in attendance at the General Meeting through a Voting Designated Representative or a proxy.

5.10 Voting

- (a) On any question arising at a General Meeting (excluding elections held pursuant to clause 4.4), the voting in the first instance shall be by a show of hands with Financial Full Members having the right to one (1) vote each. Where a Full Member has nominated more than one (1) Designated Representative pursuant to clause 3.8(a), only the Voting Designated Representative may participate on the show of hands.
- (b) In the event of a poll, then the voting shall be recorded on the following basis for Full Members:

(i)	Category A Member	1 vote
(ii)	Category B Member	2 votes
(iii)	Category C Member	3 votes
(iv)	Category D Member	4 votes
(v)	Category E Member	5 votes
(vi)	Category F Member	6 votes
(vii)	Category G Member	7 votes
(viii)	Category H Member	8 votes
(ix)	Category I Member	9 votes
- (c) All votes must be given personally by the:
 - (i) Full Member's Voting Designated Representative;
 - (ii) Full Member's Voting Designated Representative's proxy; or

- (iii) Full Member's proxy.
- (d) In the case of an equality of votes on a question at a General Meeting, the Chairman of the meeting is entitled to exercise a casting vote.
- (e) Notwithstanding anything else herein contained, a Voting Designated Representative or proxy is not entitled to vote at any General Meeting unless the Full Member is a Financial Full Member.
- (f) No person other than:
 - (i) a Financial Full Member;
 - (ii) a Voting Designated Representative of a Financial Full Member;
 - (iii) a proxy of a Voting Designated Representative of a Financial Full Member; or
 - (iv) a proxy of a Financial Full Member;
 shall be entitled to vote at a General Meeting.
- (g) Any challenge as to the qualification of a person to vote at a General Meeting or the validity of any vote tendered may only be raised at the meeting and must be determined by the Chairman whose decision shall be final and conclusive and a vote allowed by the Chairman shall be valid for all purposes.

5.11 Appointment of Proxies

- (a) Each:
 - (i) Voting Designated Representative of a Financial Full Member; and
 - (ii) Financial Full Member;
 is entitled to appoint:
 - (iii) the Voting Designated Representative of another Financial Full Member; or
 - (iv) the Chairman of the General Meeting;
 as the Voting Designated Representative's or Full Member's proxy to attend and vote for the Voting Designated Representative or Full Member at the General Meeting.
- (b) If a Voting Designated Representative or a Full Member appoints a proxy, the proxy is entitled to vote on a show of hands and on a poll.
- (c) The instrument appointing a proxy must be in writing signed by:
 - (i) the Financial Full Member or its attorney duly authorised in writing or its authorised officer; or
 - (ii) the Financial Full Member's Voting Designated Representative or his or her attorney duly authorised in writing.

- (d) An instrument of proxy may be expressed to be a standing appointment. An instrument of proxy for a specified meeting is only valid for that meeting and any postponement or adjournment of that meeting.
- (e) An instrument of proxy may be revoked at any time by notice in writing to the Association.
- (f) An instrument appointing:
 - (i) a proxy and the power of attorney or other authority (if any) under which it is signed or executed or a certified copy of that power or authority; or
 - (ii) an attorney to exercise a Full Member's voting rights at a General Meeting or a certified copy of that power of attorney,
 must be deposited at the Office or at such other place as is specified for that purpose in the notice convening the General Meeting not less than seventy two (72) hours (or such shorter period as the Executive may allow) before the time appointed for the holding of the meeting or adjourned meeting as the case may be at which the person named in the instrument proposes to vote. In default, the instrument of proxy or the power of attorney will not be treated as valid.
- (g) For the purposes of clause 5.11(f) it will be sufficient that any document required to be lodged by a Full Member or a Voting Designated Representative be received in legible form by facsimile at the place at which the document is required to be delivered by the Full Member or the Voting Designated Representative and the document shall be regarded as received at the time the facsimile was received at that place.
- (h) For the purposes of clause 5.11(f) it will be sufficient that any document required to be lodged by a Full Member or a Voting Designated Representative be received in legible form by email if the notice of meeting so permits at the address and in the form specified in the notice and the proxy shall be regarded as received at the time of the receipt of the email transmission by the Association.
- (i) The notice appointing the proxy is to be in the form set out in Annexure A of this Constitution.
- (j) Unless a Full Member or a Voting Designated Representative by the instrument of proxy directs the proxy to vote in a certain manner, the proxy may vote as the proxy thinks fit on any motion or resolution. Otherwise the proxy shall follow the voting instructions contained in the instrument of proxy.
- (k) The Chairman of a General Meeting may require any person acting as a proxy to establish to the satisfaction of the Chairman that he is the person nominated as proxy in the form of proxy lodged under this Constitution. If the person is unable to establish his identity he may be excluded from voting either upon a show of hands or upon a poll.

5.12 Postal Ballots Not Permitted

Postal ballots must not be undertaken at or in respect of any meeting.

6 Indemnity

6.1 Indemnity

To the extent permitted by law every Executive Member and employee (and former Executive Member and employee) of the Association shall be indemnified out of the funds of the Association against all costs, expenses and liabilities incurred as such an Executive Member or employee (or former Executive Member or employee). However, no such Executive Member or employee (or former Executive Member or employee) shall be indemnified out of the funds of the Association under this clause 6.1 unless:

- (a) it is in respect of a liability to another person (other than the Association or a related body corporate to the Association) where the liability to the other person does not arise out of conduct involving a lack of good faith; or
- (b) it is in respect of a liability for costs and expenses incurred:
 - (i) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the Executive Member or employee (or former Executive Member or employee) or in which the Executive Member or employee (or former Executive Member or employee) is acquitted; or
 - (ii) in connection with an application, in relation to such proceedings, in which the court grants relief to the Executive Member or employee (or former Executive Member or employee).

6.2 Payment of Indemnity Policy Premium

- (a) To the extent permitted by law the Association may at the discretion of the Executive enter into and/or pay a premium in respect of a policy of insurance insuring an Executive Member or employee (or former Executive Member or employee) of the Association 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 a liability arising out of conduct involving a wilful breach of duty in relation to the Association.
- (b) The Executive shall have the discretion to approve the terms and conditions of any such policy of insurance.
- (c) Where an Executive Member or employee (or former Executive Member or employee) has the benefit of an indemnity pursuant to an insurance policy in respect of his actions or omissions then the Association shall not be required to indemnify the Officer under clause 6.1 except to the extent that the indemnity affected by the insurance policy does not fully cover the person's liability.

6.3 Indemnity to Continue

The indemnity granted by the Association contained in clauses 6.1 and 6.2 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.

7 Not for Profit

7.1 Source of Funds

- (a) The funds of the Association are to be derived from annual subscriptions of Members, donations, and such other sources as the Executive may determine.
- (b) All money received by the Association must be deposited as soon as practicable and without deduction to the credit of the Association's bank account.

7.2 Management of Funds

- (a) Subject to any resolution passed by the Association in General Meeting, the funds of the Association are to be used in pursuance of the objects of the Association in such manner as the Executive determines or as otherwise directed by Members in General Meeting.
- (b) All cheques, drafts, bills or exchange, promissory notes and other negotiable instruments must be signed by any two (2) Executive Members or other persons authorised to do so by the Executive.

7.3 Income and Property

- (a) The income and property of the Association will only be applied towards the promotion of the objects of the Association.
- (b) No income or property of the Association will be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus or otherwise to any Member of the Association. 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 Association;
 - (ii) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent to the Association; or
 - (iii) of reasonable and proper rent for premises leased by any Member to the Association.

7.4 Remuneration of Executive Members

No payment shall be made to any Executive Member (except any employed Executive Members in their capacity as an employee of the Association) other than the payment:

- (a) of out of pocket expenses incurred by the Executive Member in the performance of any duty as an Executive Member where the amount payable does not exceed an amount previously approved by the Executive; and
- (b) for any service rendered to the Association by the Executive Member in a professional or technical capacity, other than in the capacity as Executive Member, where the provision of the service has the prior approval of the Executive and where the amount payable is approved by the Executive and is not more than an amount which commercially would be reasonable for the service.

7.5 Winding Up

- (a) If any surplus remains following the winding up of the Association, the surplus will not be paid to or distributed amongst Members, but will be given or transferred to another institution(s) or corporation(s) which has:

- (i) objects which are similar to the objects of the Association;
 - (ii) a constitution which requires its income and property to be applied in promoting its objects; and
 - (iii) 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 Association by clause 7.4(b).
- (b) The identity of the corporation(s) or institution(s) referred to in clause 7.5(a) is to be determined by the Members in writing at or before the time of dissolution and failing such determination being made, by application to the Supreme Court of New South Wales for determination.

8 Miscellaneous

8.1 Minutes of Meetings

- (a) Minutes of meetings will be provided as follows:
- (i) minutes of all General Meetings will be provided to all Members and Executive Members; and
 - (ii) minutes of meetings of the Executive will only be provided to Executive Members.
- (b) Subject to clause 4.5(c), the Executive must cause minutes to be kept for the purposes of recording:
- (i) the names of the Executive Members present at each meeting of the Executive and of Executive Members present at each meeting of a Subcommittee;
 - (ii) all orders, resolutions and proceedings of General Meetings and of meetings of the Executive and of Subcommittees;
 - (iii) such matters as are required by the Act to be recorded in the record books of the Association including, without limitation, all declarations made or notices given by any Executive Member 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.
- (c) 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.

8.2 Alteration of Objects

The statement of objects and this Constitution may be altered, rescinded or added to only by a Special Resolution of the Financial Full Members of the Association.

8.3 Accounts and Inspection of Books

- (a) Proper books of account are to be kept with respect to:

- (i) all sums of monies received and expended by the Association in the manner in respect of which the receipt and expenditure takes place;
 - (ii) all sales and purchases of goods by the Association; and
 - (iii) the assets and liabilities of the Association.
- (b) The records, books of account and other documents of the Association shall be kept at the Office or such other place or places as the Executive thinks fit, and shall be open to inspection, free of charge, by any Member of the Association at any reasonable hour.
- (c) A properly qualified auditor shall be appointed at an Annual General Meeting and their duties regulated in accordance with Australian Auditing Standards.
- (d) The President shall cause to be prepared and to be made before the Annual General Meeting an audited income and expenditure account and balance sheet of the Association made up to the end of each Financial Year.

8.4 Service of Notices

- (a) For the purpose of this Constitution, a notice may be served by or on behalf of the Association upon any person:
- (i) by delivering it to the person personally; or
 - (ii) by sending it by pre-paid post to the address of the person; or
 - (iii) by sending it by either facsimile transmission or electronic transmission to an address specified by the person for giving or serving the notice.
- (b) For the purpose of this Constitution, a notice is taken, unless the contrary is proved, to have been given or served:
- (i) in the case of a notice given or served personally, on the date on which it is received by the addressee; and
 - (ii) in the case of a notice sent by pre-paid post, on the date which it would have been delivered in the ordinary course of post; and
 - (iii) in the case of a notice sent by facsimile transmission or some other form of electronic transmission, on the date it was sent, or if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on the date.
- (c) Any Member who has not left at or sent to the 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.

Annexure A FORM OF APPOINTMENT OF PROXY

***Cemeteries & Crematoria Association of New South Wales Inc.
(incorporated under the Associations Incorporation Act (NSW) 2009)***

I, _____
(full name)

being a(n) Voting Designated Representative/authorised person/attorney of _____

being a Financial Full Member of the Cemeteries & Crematoria Association of New South Wales Inc.

hereby appoint _____ of _____
(full name of proxy) (Business Name)

being a Voting Designated Representative of a Financial Full Member of the Cemeteries & Crematoria Association of New South Wales Inc, or failing the person so named, or if no person is named, the **Chairman of the Meeting** as my proxy to vote for me on my behalf at the (Annual/Extraordinary) General Meeting of the Association to be held on the

_____ day of _____
(month and year)

and at any adjournment of that meeting.

- my proxy is authorised to vote in favour of/against (delete as appropriate) the resolution (insert details)

.....
Signature of Voting Designated Representative/authorised
person/attorney of a Financial Full Member appointing the proxy

Date:

NOTE: A proxy vote may not be given to a person who is not the Chairman or a Voting Designated Representative of a Full Member of the Association.

**Annexure B NOMINATION FORM
FOR MEMBERSHIP OF THE EXECUTIVE**

*Cemeteries & Crematoria Association of New South Wales Inc.
(incorporated under the Associations Incorporation Act (NSW) 2009)*

We the undersigned Voting Designated Representatives of Financial Full Members of the Association hereby nominate:

_____ Signature of Nominee _____
(full name)

for the position of:

at the Annual General Meeting to be held on _____

Proposer Second:

Full Member: Full Member:

Signed: Signed:

Date: Date:

The following background information on the nominee is provided for Members' information. For identification purposes, please attach a small photograph of the nominee, if possible.