



**Australian  
Association for the  
Education of the  
Gifted and  
Talented**

# Constitution of the Australian Association for the Education of the Gifted and Talented Limited

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Australian Public Company Limited by Guarantee  
ACN 057 423 202  
ABN 38 057 423 202



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# Constitution of the Australian Association for the Education of the Gifted and Talented Limited

(Australian Public Company Limited by Guarantee ACN 057 423 202 ABN 38 057 423 202)

## Preliminary

### 1. Name of the Company

The name of the company is the Australian Association for the Education of the Gifted and Talented Limited (in this constitution “AAEGT” or the “Company”).

### 2. Type of company

The Company is a not-for-profit Public Company Limited by Guarantee. It is registered by ASIC as a special purpose company.

### 3. Limited liability of Members

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

### 4. The guarantee

Each Member must contribute an amount not more than \$1.00 (the guarantee) to the property of the Company if the Company is wound up while the Member is a Member, or within 12 months after they stop being a Member, and this contribution is required to pay for the:

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

### 5. Definitions

In this Constitution, words and phrases have the meaning set out in clauses 71-73.

## Purpose and Powers

### 6. Purpose

The purpose for which the AAEGT is established is to advance education by promoting and protecting the educational entitlement and well-being of the gifted and talented. The AAEGT pursues this purpose through a range of activities and services that may include but are not limited to:

- (a) Providing national leadership in Gifted and Talented Education.
- (b) Advocating on behalf of our members for the educational and well-being needs of gifted and talented students.
- (c) Working with politicians and governments towards legislative and policy inclusion of gifted and talented students to achieve their recognition and inclusion in schools and Australian society.
- (d) Promoting research and advancing scholarship in Gifted and Talented Education.
- (e) Collaborating to provide and communicate evidence about gifted and talented students, their intellectual and affective needs, and appropriate educational provisions.
- (f) Recognising outstanding practice and eminence in the scholarship of Gifted and Talented Education.

## **7. Powers**

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

- (a) the powers of an individual, and
- (b) all the powers of a Company Limited by Guarantee under the Corporations Act 2001 (Cth).

## **8. Not-for-profit**

8.1 The Company must not distribute any income or assets directly or indirectly to its Members, except as provided in clauses 46 and 69.

8.2 Clause 8.1 does not stop the Company from doing the following things, provided they are done in good faith:

- (a) paying a Member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the Company, or
- (b) making a payment to a Member in carrying out the Company's purpose.

## **9. Amending the constitution**

9.1 The Members may amend this Constitution by passing a Special Resolution.

## **Members**

### **10. Affiliation, Membership, and Register of Members**

10.1 Affiliation: Not-for-profit State and Territory associations and not-for-profit organisations which have similar a purpose to the Company may apply to affiliate with the Company by paying an annual levy to the Company and agreeing to work in support of the Company.

10.2 The Members of the Company are defined by two categories:

10.2.1 Individual Members:

10.2.1.1 who are members of Affiliates at the time of the annual census who consent to be Members of the AAEGT, and whose name, address and email details have been provided to the AAEGT.

10.2.1.2 who are individuals whose principal place of residence is in a location where no affiliated association exists through whom they could obtain membership of the AAEGT, who pay an individual membership and provide their name, address and email details to the AAEGT.

10.2.2 Life Members who are long-serving Members of the AAEGT and who have been awarded Life-membership of the AAEGT in recognition of their service.

10.3 The Company must establish and maintain a Register of Affiliates and Members which is a part of the Company records (refer to clause 58).

10.3.1 The Company must establish and maintain a Register of Affiliates. The Register of Affiliates must be kept by the Secretary and must contain contact details for Affiliates, including:

- (a) name of the association or organisation,
- (b) name and contact details of any office bearers including, for example, their President, Secretary and Treasurer,
- (c) address of the association or organisation,

- (d) email of the association or organisation, and
  - (e) dates the association or organisation became affiliated and ceased to be affiliated.
- 10.3.2 The register of Members must be kept by the Secretary and must contain Members':
  - (a) name,
  - (b) address,
  - (c) email, and
  - (d) dates the membership started and ended.
- 10.4 Access to the Register of Members In accordance with the relevant legislation (Corporations Act, 2001)
  - 10.4.1 The Company must give current Members access to the Register of Members. Access to this will be provided upon a written request made to the Secretary.
  - 10.4.2 Information that is accessed from the Register of Members must only be used in a manner relevant to the interests or rights of Members.
- 10.5 Affiliation levies and Membership fees
  - 10.5.1 An annual affiliation levy will be determined by the Board and calculated on the number of State or Territory affiliate's members. Levies are payable at such times and in such manner as determined by the Board.
  - 10.5.2 An annual membership fee will be determined by the Board and is payable at such times and in such manner as determined by the Board.
  - 10.5.3 The rights and privileges of an Affiliate or Member who has not paid any affiliation levy or membership fee by the due date are suspended until the money is paid.
  - 10.5.4 The Board may at its discretion determine that no levy or fee, in full or in part, is payable by an Affiliate or a Member.

## **11. Who can be an Affiliate or Member**

- 11.1 Any Australian association or not-for-profit organisation with a similar purpose may affiliate with the AAEGT on payment of a levy.
- 11.2 Membership is open to all individuals who are members of an Affiliate, or whose predominant place of residence is in a location which does not have an affiliated association through whom they could gain membership of the AAEGT.
- 11.3 Life membership of the AAEGT may be granted by the Board from time to time to long-standing Members in recognition of their service to the Company. Life-members are not required to be members of affiliated organisations. Life-membership does not convey voting rights.

## **12. How to apply to become an Affiliate**

- 12.1 Australian associations or not-for-profit organisations may apply in writing to the Secretary of the Company to become an Affiliate by stating that they:
  - (a) want to affiliate,
  - (b) support the purpose of the Company,
  - (c) agree to pay the affiliation levy, and

(d) provide a copy of their constitution.

### **13. How to apply to become a Member**

13.1 Members of an Affiliate may elect to become an Individual Member of the AAEGT when they join their State or Territory association by agreeing to their contact details being recorded on the AAEGT's Register of Members. The Affiliate provides a list of their members who have elected to become a Member of the AAEGT and includes their contact details on their members' behalf.

13.2 An individual whose predominant place of residence is in a location which does not have an affiliated association or organisation through whom they can obtain membership of the AAEGT may apply to become a Member of the Company by writing to the Secretary stating that they:

- (a) want to become a Member,
- (b) support the purpose of the Company,
- (c) agree to pay the membership fee, and
- (d) agree to comply with the Company's Constitution, including paying the guarantee under clause 4 if required.

### **14. The Board to decide whether to approve Affiliation or Membership**

14.1 The Board must consider an application for Affiliation or Membership within a reasonable time after the Secretary receives the application.

14.2 If the Board approves an application, the Secretary must as soon as possible:

- (a) enter the new Affiliate or Member on the Register, and
- (b) write to the applicant to tell them that their application was approved, and the date that their Affiliation or Membership started (see clause 10.3).

14.3 If the Board rejects an application, the Secretary must write to the applicant as soon as possible to tell them that their application has been rejected. The Board is not required to provide an explanation of the reason for rejection.

### **15. When an applicant becomes an Affiliate or a Member**

15.1 An applicant will become an Affiliate or a Member when they are entered on the Register of Affiliates and Members.

### **16. When an Affiliate stops being an Affiliate**

16.1 An Affiliate stops being an Affiliate if they:

- (a) are wound up or otherwise dissolved or deregistered (for an incorporated Affiliate);
- (b) resign, in writing, to the Secretary;
- (c) are expelled under clause 19;
- (d) have not responded within two months to a written request from the Secretary that they confirm in writing that they want to remain an Affiliate; or
- (e) affiliation levies are outstanding for two (2) calendar months.

16.2 Outstanding Monies

- 16.2.1 An Affiliate shall continue to be liable for any unpaid affiliation levies or other fees that had fallen due and were unpaid at the date they stop being an Affiliate.
- 16.2.2 An Affiliate may be required to pay any monies that were outstanding when resigning before being allowed to re-apply for affiliation.

## **17. When a Member stops being a Member**

- 17.1 A Member stops being a Member if they:
  - (a) die;
  - (b) resign, by writing to the Secretary;
  - (c) are expelled under clause 19;
  - (d) have not responded within two months to a written request from the Secretary that they confirm in writing that they want to remain a Member; or
  - (e) membership fees are outstanding for two (2) calendar months.
- 17.2 Outstanding Monies
  - 17.2.1 A person shall continue to be liable for any unpaid membership fees or other fees that had fallen due and were unpaid at the date they stop being a Member.
  - 17.2.2 A Member may be required to pay any monies that were outstanding when resigning before being allowed to re-apply for membership.

## **Dispute resolution and disciplinary procedures**

### **18. Dispute resolution**

- 18.1 The dispute resolution procedure in this clause applies to disputes (disagreements) under this constitution between an Affiliate or Member or Director and:
  - (a) one or more Members,
  - (b) one or more Directors, or
  - (c) the Company.
- 18.2 An Affiliate or Member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 19 until the disciplinary procedure is completed.
- 18.3 Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.
- 18.4 If those involved in the dispute do not resolve it under clause 18.3, they must within 10 days:
  - (a) tell the Board about the dispute in writing,
  - (b) agree or request that a mediator be appointed, and
  - (c) attempt in good faith to settle the dispute by mediation.
- 18.5 The mediator must:
  - (a) be chosen by agreement of those involved, or
  - (b) where those involved do not agree:
    - i. for disputes between Members, a person chosen by the Board, or

- ii. for other disputes, a person chosen by either the Commissioner of the Australian Charities and Not-for-profits Commission or the president of the Law Institute or Society in the State or Territory in which the Company has its registered office.

- 18.6 A mediator chosen by the Board under clause 18.5(b)i:
- (a) may be a Member or former Member of the Company,
  - (b) must not have a personal interest in the dispute, and
  - (c) must not be biased towards or against anyone involved in the dispute.

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

## **19. Disciplining Affiliates or Members**

- 19.1 In accordance with this clause, the Board may resolve to warn, suspend or expel an Affiliate or Member from the Company if the Board considers that:
- (a) the Affiliate or Member has breached this Constitution, or
  - (b) the Affiliate or Member's behaviour is causing, has caused, or is likely to cause harm to the Company.
- 19.2 At least 14 days before the Board's meeting at which a resolution under clause 18 will be considered, the Secretary must notify the Affiliate or Member in writing:
- (a) that the Board is considering a resolution to warn, suspend or expel the Affiliate or Member,
  - (b) that this resolution will be considered at a Board meeting and the date of that meeting,
  - (c) what the Affiliate or Member is said to have done or not done,
  - (d) the nature of the resolution that has been proposed, and
  - (e) that the Affiliate or Member may provide an explanation to the Board, and details of how to do so.
- 19.3 Before the Board passes any resolution under clause 19, the Affiliate or Member must be given a chance to explain or defend themselves by:
- (a) sending the Board a written explanation before that Board meeting, and/or
  - (b) speaking at the meeting.
- 19.4 After considering any explanation under clause 19.3, the Board may:
- (a) take no further action,
  - (b) warn the Affiliate or Member,
  - (c) suspend the Member's rights as a Member for a period of no more than 12 months,
  - (d) expel the Affiliate or Member,
  - (e) refer the decision to an unbiased, independent person on conditions that the Board considers appropriate (however, the person can only make a decision that the Board could have made under this clause), or

- (f) require the matter to be determined at a general meeting.
- 19.5 The Board cannot fine an Affiliate or Member.
- 19.6 The Secretary must give written notice to the Affiliate or Member of the decision under clause 19.4 as soon as possible.
- 19.7 Disciplinary procedures must be completed as soon as reasonably practical.
- 19.8 There will be no liability for any loss or injury suffered by the Affiliate or Member as a result of any decision made in good faith under this clause.

## **General meetings of Members**

### **20. General meetings called by Directors**

- 20.1 The Directors may call a general meeting.
- 20.2 If Members with at least 5% of the votes that may be cast at a general meeting make a written request to the Company for a general meeting to be held, the Board must:
  - (a) within 21 days of the Members' request, give all Members notice of a general meeting, and
  - (b) hold the general meeting within 2 months of the Members' request.
- 20.3 The percentage of votes that Members have (in clause 20.2) is to be worked out as at midnight before the Members request the meeting.
- 20.4 The Members who make the request for a general meeting must:
  - (a) state in the request any resolution to be proposed at the meeting,
  - (b) sign the request, and
  - (c) give the request to the Board.
- 20.5 Separate copies or emails of a document setting out the request may be signed by Members if the wording of the request is the same in each copy.

### **21. General meetings called by Members**

- 21.1 If the Board does not call the meeting within 21 days of being requested under clause 20.2, 5% or more of the Members who made the request may call and arrange to hold a general meeting.
- 21.2 To call and hold a meeting under clause 21.1 the Members must:
  - (a) as far as possible, follow the procedures for general meetings set out in this Constitution,
  - (b) call the meeting using the list of Members on the Company's Register of Members, which the Company must provide to the Members making the request at no cost, and
  - (c) hold the general meeting within three months after the request was given to the Board.

21.3 The Company must pay the Members who request the general meeting any reasonable expenses they incur because the Board did not call and hold the meeting.

## **22. Annual general meeting**

22.1 A general meeting, called the annual general meeting, must be held:

- (a) within 5 months of the end of the Company's financial year, and
- (b) at least once in every calendar year.

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

- (a) a review of the Company's activities,
- (b) a review of the Company's finances,
- (c) the financial reviewer's report,
- (d) the acknowledgement of continuing Directors,
- (e) the announcement of new Directors,
- (f) a proposed budget, and
- (g) the appointment and payment of financial reviewers, if any.

22.3 The chair of the annual general meeting must give Members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the Company.

## **23. Notice of general meetings**

23.1 Notice of a general meeting must be given to:

- (a) each Member entitled to vote at the meeting, and
- (b) each Director.

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

23.3 Subject to clause 23.4, notice of a meeting may be provided less than 21 days before the meeting if:

- (a) for an annual general meeting, all the Members entitled to attend and vote at the annual general meeting agree beforehand, or
- (b) for any other general meeting, Members with at least 95% of the votes that may be cast at the meeting agree beforehand.

23.4 Notice of a meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:

- (a) remove a Director, or
- (b) appoint a Director in order to replace a Director who was removed.

23.5 Notice of a general meeting must include:

- (a) the place, date and time for the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this),
- (b) the general nature of the meeting's business, and

(c) if applicable, that a special resolution is to be proposed and the words of the proposed resolution.

23.6 If a general meeting is adjourned (postponed) for one month or more, the Members must be given new notice of the resumed meeting.

#### **24. Quorum at general meetings**

24.1 For a general meeting to be held, a quorum of at least fifteen (15) Members must be present in person (refer to clause 27). No business may be conducted at a general meeting if a quorum is not present.

24.2 If there is no quorum present within 30 minutes after the starting time stated in the notice of general meeting, the general meeting is adjourned to the date, time and place that the chair specifies. If the chair does not specify one or more of those things, the meeting is adjourned to:

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

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

#### **25. Financial Reviewer's right to attend meetings**

25.1 The financial reviewer (if any) is entitled to attend any annual general meeting.

#### **26. Representatives of Members**

26.1 A Member may appoint as a representative:

- (a) one individual to represent the Member at meetings and to sign resolutions under clause 31, and
- (b) the same individual or another individual for the purpose of being appointed or elected as a Director.

26.2 The appointment of a representative by a Member must:

- (a) be in writing,
- (b) include the name of the representative,
- (c) be signed on behalf of the Member, and
- (d) be given to the Board or, for representation at a meeting, be given to the chair before the meeting starts.

26.3 A representative has all the rights of a Member relevant to the purposes of the appointment as a representative.

26.4 The appointment may be standing (ongoing).

#### **27. Using technology to hold meetings**

27.1 The Company may hold a general meeting at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate, including to hear and be heard.

27.2 Anyone using this technology is taken to be present in person at the meeting.

## **28. Chair for general meetings**

28.1 The President shall chair all general meetings of the Company.

28.2 If the President is not present, the Vice-president shall act as chair of the general meeting.

28.3 The Members present and entitled to vote at a general meeting may choose a Director or Member to be the chair for that meeting if:

- (a) the President and Vice-president are not present, or
- (b) the President and Vice-president are not present within 30 minutes after the starting time set for the meeting, or
- (c) the President and Vice-president are present but do not wish to act as chair of the meeting.

## **29. Role of the chair**

29.1 The chair is responsible for the conduct of the general meeting, and for this purpose must give Members a reasonable opportunity to make comments and ask questions.

29.2 The chair does not have a casting vote.

## **30. Adjournment of meetings**

30.1 If a quorum is present, a general meeting must be adjourned if a majority of Members present direct the chair to adjourn it.

30.2 Only unfinished business may be dealt with at a meeting resumed after an adjournment.

## **Members' Resolutions and statements**

### **31. Members' Resolutions and statements**

31.1 Members with at least 5% of the votes that may be cast on a Resolution may give:

- (a) written notice to the Company of a Resolution they propose to move at a general meeting (Members' Resolution), and/or
- (b) a written request to the Company that the Company give all of its Members a statement about a proposed Resolution or any other matter that may properly be considered at a general meeting (Members' statement).

31.2 A notice of a Members' Resolution must set out the wording of the proposed Resolution.

31.3 A request to distribute a Members' statement must set out the statement to be distributed and be signed by the Members making the request.

31.4 Separate copies of a document setting out the notice or request may be signed by Members if the wording is the same in each copy.

31.5 The number of votes that Members have (as described in clause 31.1) is to be worked out as at midnight before the request or notice is given to the Company.

- 31.6 If the Company has been given notice of a Members' Resolution under clause (a), the Resolution must be considered at the next general meeting held no more than two months after the notice is given.
- 31.7 This clause does not limit any other right that a Member has to propose a Resolution at a general meeting.

## **32. Company must give notice of proposed resolution or distribute statement**

- 32.1 If the Company has been given a notice or request under clause 31:
- (a) in time to send the notice of proposed Members' Resolution or a copy of the Members' statement to Members with a notice of meeting, it must do so at the Company's cost, or
  - (b) too late to send the notice of proposed Members' Resolution or a copy of the Members' statement to Members with a notice of meeting, then the Members who proposed the Resolution or made the request must pay the expenses reasonably incurred by the Company in giving Members notice of the proposed Members' Resolution or a copy of the Members' statement. However, at a general meeting, the Members may pass a Resolution that the Company will pay these expenses.
- 32.2 The Company does not need to send the notice of proposed Members' Resolution or a copy of the Members' statement to Members if:
- (a) it is more than 1,000 words long,
  - (b) the Board considers it may be defamatory,
  - (c) clause 32.1(b) applies, and the Members who proposed the Resolution or made the request have not paid the Company enough money to cover the cost of sending the notice of the proposed Members' Resolution or a copy of the Members' statement to Members, or
  - (d) in the case of a proposed Members' Resolution, the Resolution does not relate to a matter that may be properly considered at a general meeting or is otherwise not a valid Resolution able to be put to the Members.

## **Voting at general meetings**

### **33. How many votes a Member has**

- 33.1 Each Member or Member representative has one vote.
- 33.2 Where a Member is a school or institution, that Member has one vote.
- 33.3 Life Members do not have a vote.

### **34. Challenge to a Member's right to vote**

- 34.1 A Member or the chair may only challenge a person's right to vote at a general meeting at that meeting.
- 34.2 If a challenge is made under clause 34.1, the chair must decide whether or not the person may vote. The chair's decision is final.

### **35. How voting is carried out**

- 35.1 Voting must be conducted and decided by:
  - (a) a show of hands,
  - (b) a vote in writing, or
  - (c) another method chosen by the chair that is fair and reasonable in the circumstances.
- 35.2 On a show of hands, the chair's decision is conclusive evidence of the result of the vote.
- 35.3 The chair and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.
- 35.4 Members present in person via technology (see clause 27) and who cannot be seen for a show of hands may cast their vote by voice or by electronic or other means approved by the chair of the meeting.

### **36. When and how a vote in writing must be held**

- 36.1 A vote in writing may be demanded on any Resolution instead of or after a vote by a show of hands by:
  - (a) at least four Members present,
  - (b) Members present with at least 5% of the votes that may be passed on the resolution on the vote in writing (worked out as at the midnight before the vote in writing is demanded), or
  - (c) the chair.
- 36.2 A vote in writing must be taken when and how the chair directs, unless clause 36.3 applies.
- 36.3 A vote in writing must be held immediately if it is demanded under clause 36.1:
  - (a) for the election of a chair under clause 28, or
  - (b) to decide whether to adjourn the meeting.
- 36.4 A demand for a vote in writing may be withdrawn.

### **37. Appointment of proxy**

- 37.1 A Member may appoint a proxy to attend and vote at a general meeting on their behalf.
- 37.2 A proxy does not need to be a Member.
- 37.3 A proxy appointed to attend and vote for a Member has the same rights as the Member to:
  - (a) speak at the meeting,
  - (b) vote in a vote in writing (but only to the extent allowed by the appointment), and
  - (c) join in to demand a vote in writing under clause 36.1.
- 37.4 An appointment of proxy (proxy form) must be signed by the Member appointing the proxy and must contain:
  - (a) the Member's name and address,
  - (b) the Company's name,

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

- 37.5 A proxy appointment may be standing (ongoing).
- 37.6 Proxy forms must be received by the Company at the address stated in the notice under clause 62 or at the Company's registered address at least 48 hours before a meeting.
- 37.7 A proxy does not have the authority to speak and vote for a Member at a meeting while the Member is at the meeting.
- 37.8 Unless the Company receives written notice before the start or resumption of a general meeting at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing Member:
- (a) dies,
  - (b) is mentally incapacitated,
  - (c) revokes the proxy's appointment, or
  - (d) revokes the authority of a representative or agent who appointed the proxy.
- 37.9 A proxy appointment may specify the way the proxy must vote on a particular Resolution.

### **38. Voting by proxy**

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

## **Directors**

### **39. Composition of the Board and role of Directors**

- 39.1 The maximum number of Directors on the Board of Directors will be 11.
- 39.2 The Directors of the Company will be:
- (a) the elected Directors comprising a Director from each State and Territory where a nomination has been received,
  - (b) the Journal Editor, and
  - (c) an additional Director or Directors from any State and Territory, appointed by the Board to enable it to achieve its purpose, providing the total number of Directors does not exceed 11.

### **40. Election and appointment of Directors**

- 40.1 A person is eligible for election as a Director of the Company if they:

- (a) are a Member of the Company, or a representative of a Member of the Company (appointed under clause 26),
  - (b) give the Company their signed consent to act as a Director of the Company, and
  - (c) are not ineligible to be a Director under the Corporations Act or the ACNC Act.
- 40.2 Elections for elected Directors will be held prior to the annual general meeting in accordance with the procedures determined by the Board.
- 40.3 Where two or more candidates from the same State or Territory are nominated, a ballot will be held in accordance with the procedures determined by the Board for the conduct of the direct ballot by post and/or by electronic or other direct means of voting.
- 40.4 Elections are run on a State by State, Territory by Territory ballot.
- 40.5 If only one candidate is nominated from a particular State or Territory, then that candidate will be deemed elected.
- 40.6 The Board may appoint a person as a Director to fill a casual vacancy or as an additional Director if that person:
- (a) is a Member of the Company, or a representative of a Member of the Company (appointed under clause 26),
  - (b) gives the Company their signed consent to act as a Director of the Company, and
  - (c) is not ineligible to be a Director under the Corporations Act or the ACNC Act.
- 40.7 If the number of Directors is reduced to fewer than three, the continuing Directors may act for the purpose of increasing the number of Directors to three or calling a general meeting, but for no other purpose.

#### **41. Election of the Office-bearers (Executive) of the Company**

- 41.1 The Office-bearers of the Company will be the President, Vice-president, Secretary and Treasurer who will form an Executive.
- 41.2 The Board will elect the Office-bearers from amongst its number at its first meeting following the annual general meeting, or after a vacancy arises in the position of an Office-bearer.
- 41.3 The Executive of the Board may meet to do the work requested of it by the Directors, or complete work that is necessary for the everyday conduct of the business of the Company.
- 41.4 A quorum for any meeting of the Executive will be three (3).

#### **42. Term of office**

- 42.1 The Journal Editor will be appointed by the Board and holds that position for 10 years, or until they retire. After 10 years they may only be re-appointed or re-elected by a special resolution.
- 42.2 A Director other than the Journal Editor who has held office for a continuous period of eight years or more may only be re-appointed or re-elected by a Special Resolution.

- 42.3 An elected Director's term of office starts at the end of the relevant annual general meeting and ends at the end of the second annual general meeting following their election.
- 42.4 At each annual general meeting:
- (a) any Director appointed by the Board to fill a casual vacancy or as an additional Director must retire, and
  - (b) a Director whose term of office expires under clause 42.2 or 42.3 may nominate for election or re-election, subject to clause 42.2.

#### **43. When a Director stops being a Director**

- 43.1 A Director stops being a Director if they:
- (a) give written notice to the Company of resignation as a Director,
  - (b) die,
  - (c) are removed as a Director by a resolution of the Members,
  - (d) stop being a Member of the Company,
  - (e) are a representative of a Member, and that Member stops being a Member,
  - (f) are a representative of a Member, and the Member notifies the Company that the representative is no longer a representative,
  - (g) are absent for three (3) consecutive Board meetings without approval from the Board, or
  - (h) become ineligible to be a Director of the Company under the Corporations Act or the ACNC Act.

### **Powers of directors**

#### **44. Powers of Directors**

- 44.1 The Directors are responsible for managing and directing the activities of the Company to achieve the purpose set out in clause 6.
- 44.2 The Directors may use all the powers of the Company except for powers that, under the Corporations Act or this Constitution, may only be used by Members.
- 44.3 The Directors must decide on the responsible financial management of the Company including:
- (a) any suitable written delegations of power under clause 45, and
  - (b) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.
- 44.4 The Directors cannot remove a Director or financial reviewer. Directors and financial reviewers may only be removed by a Members' resolution at a general meeting.

#### **45. Delegation of Directors' powers**

- 45.1 The Directors may delegate any of their powers and functions to a committee, a Director, an employee of the Company (such as a chief executive officer) or any other person, as they consider appropriate.

- 45.2 The delegation must be recorded in the Company's minute book.
- 45.3 The Directors may establish a number of committees to assist with achieving the purpose of the Company.

#### **46. Payments to Directors**

- 46.1 The Company must not pay fees to a Director for acting as a Director.
- 46.2 The Company may:
- (a) pay a Director for work they do for the Company, other than as a Director, if the amount is no more than a reasonable fee for the work done, or
  - (b) reimburse a Director for expenses properly incurred by the Director in connection with the affairs of the Company.
- 46.3 Any payment made under clause 46.2 must be approved by the Board.
- 46.4 The Company may pay premiums for insurance indemnifying Directors, as allowed for by law (including the Corporations Act) and this Constitution.

#### **47. Execution of documents**

- 47.1 The Company may execute a document without using a common seal if the document is signed by:
- (a) two Directors of the Company, or
  - (b) a Director and the Secretary.

### **Duties of Directors**

#### **48. Duties of Directors**

- 48.1 The Directors must comply with their duties as Directors under legislation and common law (judge-made law), which are:
- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a Director of the Company,
  - (b) to act in good faith in the best interests of the Company and to further the purpose of the Company set out in clause 6,
  - (c) not to misuse their position as a Director,
  - (d) not to misuse information they gain in their role as a Director,
  - (e) to disclose any perceived or actual material conflicts of interest in the manner set out in clause 49,
  - (f) to ensure that the financial affairs of the Company are managed responsibly, and
  - (g) not to allow the Company to operate while it is insolvent.

#### **49. Conflicts of Interest**

- 49.1 A Director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of Directors (or that is proposed in a circular resolution):
- (a) to the other Directors, or

- (b) if all the Directors have the same conflict of interest, to the Members at the next general meeting, or at an earlier time if reasonable to do so.
- 49.2 The disclosure of a conflict of interest by a Director must be recorded in the minutes of the meeting.
- 49.3 Each Director who has a material personal interest in a matter that is being considered at a meeting of Directors (or that is proposed in a circular resolution) must not, except as provided under clauses 49.4:
  - (a) be present at the meeting while the matter is being discussed, or
  - (b) vote on the matter.
- 49.4 A Director may still be present and vote if:
  - (a) their interest arises because they are a Member of the Company, and the other Members have the same interest,
  - (b) their interest relates to an insurance contract that insures, or would insure, the Director against liabilities that the Director incurs as a Director of the Company (see clause 67),
  - (c) their interest relates to a payment by the Company under clause 66 (indemnity), or any contract relating to an indemnity that is allowed under the Corporations Act,
  - (d) the Australian Securities and Investments Commission (ASIC) makes an order allowing the Director to vote on the matter, or
  - (e) the Directors who do not have a material personal interest in the matter pass a resolution that:
    - (i) identifies the Director, the nature and extent of the Director's interest in the matter and how it relates to the affairs of the Company, and
    - (ii) says that those Directors are satisfied that the interest should not stop the Director from voting or being present.

## **Board meetings**

### **50. When the Board meets**

- 50.1 The Board may decide how often, where and when it meets.

### **51. Calling Board meetings**

- 51.1 A Director may call a Board meeting by giving reasonable notice to all the other Directors.
- 51.2 A Director may give notice in writing or by any other means of communication that has previously been agreed to by all the Directors.

### **52. Chair for Board meetings**

- 52.1 The President is entitled to chair Board meetings.
- 52.2 If the President is not present the Vice-president shall chair the Board meeting.
- 52.3 The Directors present may choose a Director or Member to be the chair for that meeting if:
  - (a) the President and Vice-president are not present, or

- (b) the President and Vice-president are not present within 30 minutes after the starting time set for the meeting, or
- (c) the President and Vice-president are present but do not wish to act as chair of the meeting.

### **53. Quorum at Board meetings**

- 53.1 Unless the Board determines otherwise, the quorum for a Board meeting is a majority (more than 50%) of Directors.
- 53.2 A quorum must be present for the whole Board meeting.

### **54. Using technology to hold Board meetings**

- 54.1 The Board may hold its meetings by using any technology (such as video or teleconferencing) that is agreed to by all of the Directors.
- 54.2 The Directors' agreement may be a standing (ongoing) one.
- 54.3 A Director may only withdraw their consent within a reasonable period before the meeting.

### **55. Passing Directors' Resolutions**

- 55.1 A Directors' Resolution must be passed by a majority of the votes cast by Directors who are present and entitled to vote on the Resolution.

### **56. Circular Resolutions of Directors**

- 56.1 The Directors may pass a Circular Resolution without a Board meeting being held.
- 56.2 A Circular Resolution is passed if all the Directors entitled to vote on the Resolution sign or otherwise agree to the Resolution in the manner set out in clause 56.3 or clause 56.4.
- 56.3 Each Director may sign:
  - (a) a single document setting out the Resolution and containing a statement that they agree to the Resolution, or
  - (b) separate copies of that document, as long as the wording of the Resolution is the same in each copy.
- 56.4 The Board may send a Circular Resolution by email to the Directors and the Directors may agree to the Resolution by sending a reply email to that effect, including the text of the Resolution in their reply.
- 56.5 A Circular Resolution is passed when the last Director signs or otherwise agrees to the resolution in the manner set out in clause 56.3 or clause 56.4.

## **Secretary**

### **57. Appointment and role of Secretary**

- 57.1 The Company must have at least one Secretary, who may also be a Director.

- 57.2 A Secretary must be appointed by the Board (after giving the Company their signed consent to act as Secretary of the Company) and may be removed by the Board.
- 57.3 The Board must decide the terms and conditions under which the Secretary is appointed, including any remuneration.
- 57.4 The role of the Secretary includes (but is not limited to):
- (a) maintaining a Register of the Company's Affiliates and Members,
  - (b) sending notices to Members of elections or general meetings,
  - (c) notifying ACNC of any changes to the Company,
  - (d) maintaining the minutes and other records of general meetings (including notices of meetings), Board meetings, Executive meetings, and Circular Resolutions, and
  - (e) managing the handover of Company records from retiring Office-bearers to incoming Office-bearers.

## Minutes and records

### 58. Minutes and records

- 58.1 The Register of Affiliates and Members under clause 10.3 are deemed to be part of the Company records.
- 58.2 The Company must, within one month, make and keep the following records:
- (a) minutes of proceedings and Resolutions of general meetings,
  - (b) a copy of a notice of each general meeting, and
  - (c) a copy of a Members' statement distributed to Members under clause 32.
- 58.3 The Company must, within one month, make and keep the following records:
- (a) minutes of proceedings and Resolutions of Board meetings (including meetings of the Executive and committees), and
  - (b) minutes of Circular Resolutions of Directors.
- 58.4 Minutes and records of the Company should be kept indefinitely.
- 58.5 To allow Members to inspect the Company's records:
- (a) the Company must give a Member access to the records set out in clause 58.2, and
  - (b) the directors may authorise a member to inspect other records of the Company, including records referred to in clause 58.3 and clause 59.1.
- 58.6 The Board must ensure that minutes of a general meeting, a Board meeting or an Executive meeting are signed within a reasonable time after the meeting by:
- (a) the chair of the meeting, or
  - (b) the chair of the next meeting.
- 58.7 The Board must ensure that minutes of the passing of a Circular Resolution of Directors are signed by a Director within a reasonable time after the Resolution is passed.

### 59. Financial and related records

- 59.1 The Company must make and keep written financial records that:

- (a) correctly record and explain its transactions and financial position and performance, and
  - (b) enable true and fair financial statements to be prepared and to be reviewed.
- 59.2 The Company must also keep written records that correctly record its operations.
- 59.3 The Company must retain its financial records for at least 7 years.
- 59.4 The Directors must take reasonable steps to ensure that the Company's records are kept safe.

## By-laws

### 60. By-laws

- 60.1 The Board may pass a Resolution to make By-Laws to give effect to this Constitution.
- 60.2 Members and Directors must comply with By-Laws as if they were part of this Constitution.

## Notice

### 61. What is notice

- 61.1 Anything written to or from the Company under any clause in this Constitution is written notice and is subject to clauses 62 to 64, unless specified otherwise.

### 62. Notice to the Company

- 62.1 Written notice or any communication under this Constitution may be given to the Company, the Directors or the Secretary by:
  - (a) delivering it to the Company's registered office,
  - (b) posting it to the Company's registered office or to another address chosen by the Company for notice to be provided, or
  - (c) sending it to an email address or other electronic address notified by the Company to the members as the Company's email address or other electronic address.

### 63. Notice to members

- 63.1 Written notice or any communication under this Constitution may be given to a member:
  - (a) in person,
  - (b) by posting it to, or leaving it at the address of the Member in the Register of Members or an alternative address (if any) nominated by the Member for service of notices,
  - (c) sending it to the email or other electronic address nominated by the Member as an alternative address for service of notices (if any), or
  - (d) if agreed to by the Member, by notifying the Member at an email or other electronic address nominated by the Member, that the notice is available at a specified place or address (including an electronic address).
- 63.2 If the Company does not have an address for the Member, the Company is not required to give notice.

#### **64. When notice is taken to be given**

- 64.1 A notice is taken to be given when it has been:
- (a) delivered in person, or left at the recipient's address, and is taken to be given on the day it is delivered,
  - (b) sent by post, and is taken to be given on the third day after it is posted with the correct payment of postage costs,
  - (c) sent by email, or other electronic method, and is taken to be given on the business day after it is sent, or
  - (d) given under clause 63.1(d) and is taken to be given on the business day after the notification that the notice is available is sent.

### **Financial year**

#### **65. Company's financial year**

- 65.1 The Company's financial year is from 1 June to 31 May, unless the Board passes a Resolution to change the financial year.

### **Indemnity, insurance and access**

#### **66. Indemnity**

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

#### **67. Insurance**

- 67.1 To the extent permitted by law (including the Corporations Act), and if the Board considers it appropriate, the Company may pay or agree to pay a premium for a contract insuring a person who is or has been an officer of the Company against any liability incurred by the person as an officer of the Company.

#### **68. Directors' access to minutes, records and documents**

- 68.1 A Director has a right of access to the minutes and records of the Company at all reasonable times.

- 68.2 If the Board agrees, the Company must give a Director or former Director access to other documents (not being Company records):
- (a) certain documents, including documents provided for or available to the Directors, and
  - (b) any other documents referred to in those documents.

## Winding up

### 69. Surplus assets not to be distributed to Members

- 69.1 If the Company is wound up, any surplus assets must not be distributed to a Member or a former Member of the Company, unless that Member or former Member is a charity described in clause 70.1.

### 70. Distribution of surplus assets

- 70.1 Subject to the Corporations Act and any other applicable Act, and any court order, any surplus assets that remain after the Company is wound up must be distributed to associations or not-for-profit organisations whose purpose or object is similar to the Company's purpose.
- 70.2 The decision as to the associations or not-for-profit organisations to be given the surplus assets must be made by a Special Resolution of Members at or before the time of winding up. If the Members do not make this decision, the Company may apply to the Supreme Court to make this decision.

## Definitions and interpretation

### 71. Definitions

In this Constitution:

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

**Company** means the AAEGT described in clause 1

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

**elected chair** means a person elected by the Directors to be the Company's chair under clause 52

**general meeting** means a meeting of Members and includes the annual general meeting

**financial reviewer** means a person who has a financial or accounting qualification who completes the annual review of the Company's financial records.

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

**Purpose** means the same as the object of the Company

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

**Special Resolution** means a Resolution:

- (a) of which notice has been given, and
- (b) that has been passed by at least 75% of the votes cast by Members present and entitled to vote on the Resolution.

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

## **72. Reading this Constitution with the Corporations Act**

- 72.1 The Replaceable Rules set out in the Corporations Act do not apply to the Company.
- 72.2 The Corporations Act overrides any clauses in this Constitution which are inconsistent with the Act.
- 72.3 A word or expression that is defined in the Corporations Act or used in that Act and covering the same subject, has the same meaning as in this Constitution.

## **73. Interpretation**

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

## **74. Transitional Rules**

- 74.1 Once the new Constitution is approved, the existing Board will continue until the next annual general meeting.
- 74.2 The Board may introduce any transitional procedures or rules required to assist in the implementation of the new Constitution.
- 74.3 At the conclusion of the next annual general meeting following the adoption of the new Constitution, this clause will no longer be needed and will be deleted.