

CORPORATIONS ACT 2001

CONSTITUTION OF
AUSTRALIAN WEB INDUSTRY ASSOCIATION LTD

ACN: 622 271 710

A COMPANY LIMITED BY GUARANTEE

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Part A The Company

1. Type of Company

The Company:

- (a) is a public company limited by guarantee;
- (b) has been established and will operate predominantly for the promotion, development and attainment of its Objects.

2. Objects

The objects of the Company are:

- (a) To further the advancement of the web industry within Australia;
- (b) To educate the general public about the role of professionals in the web industry;
- (c) To foster greater ties with like-minded organisations;
- (d) To aid in the personal and professional development of Members;
- (e) To contribute to the success of Members;
- (f) To promote fellowship.

3. Powers

- (a) Subject to this Constitution, the Company has the legal capacity and all the powers provided under the Act.
- (b) The Company does not have the power to issue shares.

4. Replaceable Rules

The Replaceable Rules do not apply to the Company except to the extent they are expressly contained in this Constitution.

5. Not for profit

- (a) The Company is a non-profit organisation and shall not carry on business for the purpose of profit or gain to its individual Members and no portion of its income, property, profits and financial surplus may be paid, distributed to or transferred, directly, indirectly, by way of dividend, property, bonus or otherwise by way of profit, to the Members, or the Board or their relatives, except as provided by this Constitution.
- (b) Subject to clause 5(c), the income and property of the Company:
 - (i) must be applied solely towards the promotion, development and attainment of the Objects; and
 - (ii) must not, in part or otherwise, be directly or indirectly paid, transferred or distributed to any Member.
- (c) Nothing in this Constitution prevents payment:
 - (i) of reasonable and proper remuneration to any Member, Officer or Director employed by the Company;
 - (ii) to any Member, Officer or Director for goods or services supplied in the ordinary and usual way of business on arm's length terms;
 - (iii) of interest on money borrowed from a Member, Officer or Director, at a rate not exceeding interest at a rate for the time being charged by the Company's bankers for overdrawn accounts;
 - (iv) of reasonable and proper rent for premises demised or let by any Member, Officer or Director where approved by resolution of the Board;

- (v) of an amount pursuant to clause 50(b);
- (vi) of insurance premiums pursuant to clause 68; and
- (vii) of an amount of an indemnity under clause 69, to the extent permitted by the Act.

Part B Membership

6. Incorporated Association Members to become Company Members

- (a) If the whole of the funds and other assets of the Incorporated Association become the absolute property of the Company after its incorporation then every Person who, at the date of incorporation of the Company is a member of the Incorporated Association and who within 120 days of the date of incorporation agrees in writing to become a member of the Company, shall be admitted by the Board to membership of the Company.
- (b) Every Member of the Company who prior to agreeing to become a Member has paid a subscription due as a member of the Incorporated Association shall not be liable to pay any further sum by way of annual subscription to the Company for the period prior to the date that the membership of the Incorporated Association would have expired.

7. Application

Any Person may apply for membership of the Company by submitting to the Secretary:

- (a) an application for membership in the form approved by the Board from time to time, noting the class of membership being applied for; and
- (b) payment of the application fee and the annual subscription applicable to the class of membership the Person wishes to apply for.

8. Admission

- (a) The Board will review each application for membership within 60 days following receipt of the application.
- (b) The Board is entitled to use any criteria for determining whether to accept or reject an application for membership.
- (c) If the Board determines to accept an application for membership, the Secretary will, as soon as possible:
 - (i) enter the name of the applicant in the Register; and
 - (ii) notify the applicant of the Board's determination –and an applicant becomes a Member and is entitled to exercise the rights of membership when the name of the applicant is entered in the Register.
- (d) If the Board determines not to accept an application for membership, the Secretary will, as soon as possible:
 - (i) notify the applicant of the Board's determination; and
 - (ii) return to the applicant the entrance fee and annual subscription paid by the applicant, if any –and the Board is not bound to give reasons why the application for membership was not accepted.

9. Suspension or Expulsion

- (a) If the Board considers that a Member should be suspended or expelled from membership of the Company because their conduct is detrimental to the interests of the Company, the Board must communicate in writing to the Member –
 - (i) details of the action proposed to be taken by the Company, and provide details of the general meeting of Members at which a decision will be made; and
 - (ii) particulars of that conduct, not less than 14 days before the date of the meeting referred to in clause 9(a)(i).
- (b) At the meeting referred to in clause 9(a)(i), the Members:
 - (i) must afford the Member concerned a reasonable opportunity to be heard by, or to make representations in writing;
 - (ii) must following a decision being made on whether to suspend or expel that Member, communicate it to that Member;
 - (iii) must within 7 days update the Register to reflect the decision to suspend or expel a Member.
- (c) Members suspended or expelled shall not be eligible for any refund of fees paid.

10. Classes of Membership

- (a) By special resolution, the Company may create different classes of membership and may confer on each such newly created class of membership such rights, privileges or benefits as the Company sees fit.
- (b) Where different classes of membership have been created, the Board may, on accepting an application for membership, admit an applicant to the class of membership applied for, or an alternate class which appears appropriate to the Board.
- (c) Where the Member is admitted to an alternate class, the Member shall receive a refund, or be liable for, any difference in fees between the class originally applied for and the class admitted to.

11. Membership Fees

The Board will determine:

- (a) the quantum; and
- (b) the due date –

of any entrance fee, the annual subscription and any other amount which an applicant or a Member is required to pay to be admitted or remain as a Member.

12. Rights of Members

The rights of a Member are not transferable.

13. Liabilities of Members

The liability of a Member is limited to the extent of the Member's guarantee. This liability shall continue for the duration of the Member's membership and for a period of 12 months following its cessation.

14. Cessation of Membership

A Member's membership of the Company will terminate upon:

- (a) the Secretary receiving a letter of resignation from the Member;

- (b) the bankruptcy or death of a Member who is a natural person;
- (c) the insolvency or winding up of a Member who is a body corporate; or
- (d) the Board resolving to terminate the membership by reason of the Member's failure to pay an amount due to the Company; or
- (e) the Member engaging in conduct that, in the reasonable opinion of the Board, is directly or indirectly contrary or detrimental to the Objects, subject to section 9.

15. Consequences of cessation of Membership

A Person who for any reason ceases to be a Member:

- (a) will remain liable for all moneys due by that Member to the Company in addition to any sum not exceeding \$10.00 for which the Member may be liable under Clause 79;
- (b) must not make any claim, monetary or otherwise, on the Company, its funds or property except as a creditor; and
- (c) must not represent themselves as being a Member.

16. Consequences of expulsion

Any Member expelled from the Company pursuant to clause 14(d) may at any time apply to the Board to be readmitted as a Member, in accordance with this Constitution.

17. Ineligibility to be Director

No person may be a Director of the Company following expulsion unless subsequently readmitted as a Member.

Part C Member Details and Notices

18. Register

- (a) The Secretary must maintain a Register at the Registered Office or such other place as the Board decides from time to time, subject to section 172 of the Act.
- (b) A person does not become a Member until his or her or its name is actually recorded in the Register.

19. Notices Generally

- (a) The Company may give any notice to a Member or Director:
 - (i) personally;
 - (ii) in the case of a Member, by sending it by post to the address of the Member in the Register or any alternative address nominated by the Member;
 - (iii) in the case of a Director, by sending it by post to the address of the Director in the register of directors or any alternative address nominated by the Director; or
 - (iv) by sending it to the email address nominated by the Member or Director (if any).
- (b) A notice is deemed to be given:
 - (i) if sent by post, 3 days after it is posted; and
 - (ii) if sent by email, on the Business Day after it is sent.
- (c) Each Member must notify the Secretary within 14 days of any change of name or service address and each such change will be recorded in the Register.

Part D General Meetings

20. Convening General Meetings

There will be a General Meeting if:

- (a) the Board calls one;
- (b) the Members request one in accordance with section 249D of the Act;
- (c) the Members call one in accordance with section 249E or section 249F of the Act.

21. Annual General Meeting

Subject to the Act, a General Meeting, to be called the 'Annual General Meeting', must be held at least once in every calendar year.

22. Meeting at Several Venues

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.

23. Contents of Notice of General Meetings

Notice of a General Meeting must:

- (a) set out 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) state the general nature of the meeting's business;
- (c) if a motion or special resolution is to be proposed and/or considered at the meeting – state the motion or special resolution;
- (d) state the method through which members are to cast a ballot (including in electronic form) including any applicable deadline;
- (e) if a Member is entitled to appoint a proxy – contain a statement setting out the following information:
 - (i) that the Member has a right to appoint a proxy; and
 - (ii) whether or not the proxy needs to be a Member; and
- (f) be worded and presented in a clear, concise and effective manner.

24. Period of Notice of General Meetings

- (a) If:
 - (i) in the case of the Annual General Meeting – all the Members entitled to attend and vote at the meeting agree beforehand;
 - (ii) in the case of any other General Meeting – Members with at least 95% of the votes that may be cast at the meeting agree beforehand; and
 - (iii) there is no motion before the meeting for removal of an auditor –a General Meeting may proceed on such notice as the Members referred to in this clause 24 agree.
- (b) Otherwise, at least 21 days' notice must be given of a General Meeting.

25. Entitlement to Notice

- (a) Notice of every General Meeting must be given to:
 - (i) every Member entitled to vote at the meeting;
 - (ii) every Director; and
 - (iii) the auditor (if any) for the time being of the Company.

- (b) No other Person is entitled to receive notice of a General Meeting.

Part E Quorum for General Meetings

26. Quorum

- (a) No business shall be transacted at a General Meeting unless a quorum of Members is or has been present at the meeting.
- (b) A quorum is four Members entitled to attend and vote at a General Meeting.
- (c) If the Company has only one Member, that Member may pass a resolution by the Member recording it and signing the record.

27. No Initial Quorum

If a quorum is not present within half an hour from the time appointed for a General Meeting:

- (a) where the meeting was convened by request of Members – the meeting stands dissolved;
- (b) in any other case:
- (i) the meeting stands adjourned to the next calendar day at the same time and place, unless the Directors determine another date, time and / or place; and
- (ii) if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the meeting stands dissolved.

Part F Conduct of General Meetings

28. Chairperson

- (a) The Directors may elect an individual as Chairperson of a General Meeting.
- (b) Where a General Meeting is held and:
- (i) the Directors do not elect a Chairperson as provided in clause 28(a);
- (ii) that Chairperson is not present within 15 minutes of the scheduled meeting time; or
- (iii) that Chairperson is unwilling or unable to act or continue to act as Chairperson –

the Members present shall elect one of their number to act as Chairperson.

29. Voting

- (a) All motions and special resolutions must be voted on by members in a form specified by the Directors, either as a ballot by show of hands, or in an electronic advance ballot.
- (b) Unless required by the Act, motions from the floor will not be accepted at a General Meeting.

30. Ties

If voting on a resolution is tied, the Chairperson shall have a casting vote.

31. Voting Entitlement

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

- (a) a Member who is entitled to vote at a meeting may do so by electronic advance ballot;
- (b) a Member who owes the Company any overdue payment may not vote.

32. Objections to Votes

A Member entitled to vote on a resolution may object to the validity of a vote cast. Such objection:

- (a) may only be made at the meeting at which the ballot results for the vote objected to are announced (or at an adjournment of that meeting);
- (b) shall be referred to and determined by the Chairperson of the meeting, whose ruling is final; and
- (c) if not upheld has no effect.

33. Adjournment of General Meetings

- (a) The Chairman shall adjourn a General Meeting if so directed by a resolution of the meeting.
- (b) An adjourned meeting may transact only business:
 - (i) that remains unfinished from the original meeting; or
 - (ii) that is authorised by a unanimous resolution of all Members entitled to notice of the original meeting or to vote at the adjourned meeting.
- (c) If the date of an adjourned meeting is more than 30 days after the date of the meeting from which it is adjourned:
 - (i) the adjourned meeting is taken to be a new General Meeting for the purposes of clauses 20 to 25 (inclusive); and
 - (ii) notice to Members shall be given accordingly.
- (d) Otherwise it is not necessary to give any notice of:
 - (i) an adjournment; or
 - (ii) the business to be transacted at an adjourned meeting.

Part G Members' Representatives

34. Proxies

- (a) A Member who is entitled to vote at a General Meeting may appoint a person (whether or not also a Member) as the Member's proxy to vote for the Member at the General Meeting.
- (b) A Member's Proxy may vote:
 - (i) subject to the Act and this Constitution;
 - (ii) on a resolution the Member is entitled to vote on;
 - (iii) if the Member is not personally present at the General Meeting;
 - (iv) in accordance with any limitations or directions stated in a Proxy Appointment.
- (c) Subject to its terms of appointment and this Constitution, a Proxy may:
 - (i) speak; or
 - (ii) object to the validity of a vote cast at a General Meeting, as if the Proxy was the Member.

35. Appointment of Proxies

A Proxy Appointment:

- (a) must be in writing;
- (b) must be dated;
- (c) may be a standing appointment with or without time limit;
- (d) must be generally in the form of 83(f);
- (e) must be delivered to the Company (in original form or by way of Certified Copy) together with an original or Certified Copy of any Power of Attorney or other written authority by which any person (other than the relevant Member under their own hand) has executed it:

- (i) at least 5 business days before any meeting at which the Proxy wishes to act

–
by hand delivery, post, or email to the address or email address stated in the notice of meeting (and if none is stated, to the address or email address of the Company's principal place of business) – failing which the Proxy may not act at that meeting.

36. Innominate Proxies

A Proxy Appointment that does not name the Proxy

- (a) is not thereby invalid; and
- (b) is deemed to appoint the Chairperson of the meeting as proxy for the Member.

37. Power of Attorney

- (a) An attorney can act for a Member in any way permitted by law.
- (b) A person purporting to be a Member's attorney must produce to the Company or the Chairperson of a General Meeting (as applicable) on request either the original Power of Attorney or a Certified Copy.

38. Validity of Proxy votes

A vote cast by a Proxy is not invalidated by:

- (a) the prior death of the Member who appointed the Proxy;
- (b) that Member's bankruptcy;
- (c) the appointment of any guardian or equivalent in consequence of that Member's mental incapacity;
- (d) the revocation of any power of attorney by which the Proxy Appointment was executed;
- (e) the termination of that Member's membership;
- (f) the revocation of the Proxy Appointment –
- (g) if neither the Proxy nor the Company was in fact aware of the vitiating factor when the vote was cast.

39. Corporate Representatives

A Corporate Member may:

- (a) appoint in writing one or more individuals as its representative/s to exercise all or any of the powers the Member may exercise;
- (b) identify its representative by name or office;
- (c) make a standing appointment of its representative;

- (d) include in its instrument of appointment restrictions on the powers of the representative, which shall be binding –

provided that only one such person shall exercise the Member's powers at any one time.

40. Resolutions without Meetings

- (a) Subject to clause 40(c), an ordinary resolution is passed as if by a General Meeting if a simple majority of the Members entitled to vote on the resolution participate in an electronic advance ballot stating that they are in favour of it.
- (b) Subject to clause 40(c), a special resolution is passed as if by a General Meeting if at least 75% of the Members entitled to vote on the resolution participate in an electronic advance ballot stating that they are in favour of it.
- (c) Clause 40(a) does not apply to a resolution under section 329 of the Act to remove an auditor.
- (d) A resolution under clause 40(a) is passed at the closing of the electronic ballot.

Part H Directors

41. Minimum Number

- (a) There must be at least five, and no more than 11 Directors.

42. Qualification of Directors

- (a) A Director need not be a Member.
- (b) A Director who is not a Member is entitled to receive notices of and attend and speak at General Meetings.
- (c) No more than five Board members may be resident in the same state of Australia.
- (d) A maximum of two Directors employed either full or part time from any one business or corporate entity may be Directors at any one time.
- (e) A Director must agree to bound by a –
 - (i) duty of care and diligence;
 - (ii) duty to act in the best interests of the Company and for a proper purpose;
 - (iii) duty not to misuse the position or information.

43. Nomination

- (a) Any Member may nominate a candidate for election as a Director at an Annual General Meeting.
- (b) Nominations must be made in the form and manner as the Board determines from time to time.
- (c) The Company must give written notice to Members of each person who is a candidate for election as a Director:
 - (i) in the notice of the Annual General Meeting; or
 - (ii) otherwise, at least 5 business days before the Annual General Meeting in which the election is to take place.

44. Appointment of Directors at AGM

- (a) A Director may be appointed at an Annual General Meeting in accordance with this clause 44.
- (b) A person is only eligible for election as a Director at an Annual General Meeting if he or she has been nominated in accordance with clause 43.

- (c) A candidate nominated in accordance with clause 43 will be eligible for election as a Director at the Annual General Meeting in accordance with the following provisions:
- (i) if the number of candidates for election as Directors is equal to or less than the number of vacancies, the Chairperson of the Annual General Meeting must declare those candidates elected as Directors;
 - (ii) if the number of candidates for election as Directors is greater than the number of vacancies, a ballot must be held;
 - (iii) each Member entitled to vote and voting on a ballot may vote for a number of candidates equal to the number of vacancies;
 - (iv) the Chairperson must declare the candidates receiving the greatest number of votes in their favour elected as Directors;
 - (v) if a vacancy is unable to be filled due to votes being tied, the names of candidates who received the same number of votes must be put to a further ballot immediately;
 - (vi) elected Directors take office immediately after the end of the Annual General Meeting at which they are elected.

45. Appointment of Directors between AGMs

- (a) A Director may be appointed between Annual General Meetings in accordance with this clause 45.
- (b) The Directors may, by resolution:
 - (i) appoint a new Director to fill a casual vacancy; and
 - (ii) appoint additional Directors subject to any maximum number fixed.

46. Term of Office of Director

- (a) Subject to clause 46(b) and the other provisions of this Constitution, a Director holds office until the second Annual General Meeting after that Director's last appointment or re-election.
- (b) A Director appointed under clause 45 holds office until the next Annual General Meeting following that Director's appointment.
- (c) Directors whose terms of office have expired shall retire at the Annual General Meeting and shall be eligible for re-election.
- (d) Subject to the minimum number of Director not being less than five, the Members in General Meeting may resolve not to replace retiring Directors or Directors who have vacated office.

47. Casual Vacancy of Director

If there are one or more vacancies in the office of Director and the remainder are:

- (a) quorate – they may continue to act for all purposes;
- (b) inquorate – they may act only for the purpose of appointing sufficient new Directors to restore a quorum.

48. Vacation of Office of Director

The office of a Director becomes vacant:

- (a) in any circumstances prescribed by the Act; and
- (b) if the Director:
 - (i) resigns by notice in writing to the Company;
 - (ii) is removed by the Members in General Meeting;

- (iii) dies;
- (iv) becomes of unsound mind;
- (v) becomes a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (vi) for three consecutive months is absent from all meetings of the Directors without being excused by the Directors; or
- (vii) holds any other office of profit under the Company without the consent of the Directors.

49. Defects in Appointment of Directors

- (a) An act by a Director is effective even if their appointment, or the continuance of their appointment, is invalid because the Company or the Director did not comply with this Constitution or the Act.
- (b) Clause 49(a) does not necessarily mean that an act by such a Director:
 - (i) binds the Company in its dealings with third parties; or
 - (ii) makes the Company liable to a third party.

50. Remuneration of Directors

- (a) No Director will be paid any remuneration for their services as a Director.
- (b) A Director will be entitled to:
 - (i) reimbursement by the Company of travelling and other expenses properly and reasonably incurred in attending Board meetings or General Meetings or otherwise incurred in connection with the Company's business;
 - (ii) payment by the Company for any service rendered to the Company in a professional or technical capacity on reasonable commercial terms; and
 - (iii) payment of remuneration as an employee of the Company –
where approved by resolution of the Board.

51. Directors' Powers

- (a) The business of the Company shall be managed by or under the direction of the Directors.
- (b) The Directors may exercise all the powers of the Company except any powers that the Act or this Constitution reserves to a General Meeting.
- (c) For the purposes of clause 51(b), a power is reserved to a General Meeting if it is expressly stated that a General Meeting may exercise it.
- (d) Without limiting clause 51(b), the Directors may borrow money, issue debentures, charge any property or business of the Company, give any other security for a debt, liability or obligation of the Company or of any other person.
- (e) Cheques, promissory notes, bills of exchange and other negotiable instruments, and receipts for money paid to the Company, shall be signed, drawn, accepted, endorsed or otherwise executed, as the Directors decide.

52. Delegation

- (a) The Directors may delegate any of their powers to:
 - (i) a committee of Directors;
 - (ii) a Director;
 - (iii) an employee of the Company; or
 - (iv) any other person –

and may revoke the delegation.

- (b) The delegate must exercise the powers delegated in accordance with any directions of the Directors.
- (c) The exercise of the power by the delegate is as effective as if the Directors had exercised it.

53. Directors' Committees

- (a) The Directors may:
 - (i) establish committees consisting of such of their number as they think fit;
 - (ii) delegate any of their powers to a committee under clause 52; and
 - (iii) direct a committee as to any matter or the exercise of any power.
- (b) A committee may elect one of their number as chairperson of their meetings.
- (c) If a previously elected chairperson is not present within fifteen minutes after the time appointed for a committee meeting or is unwilling to act for all or part of the meeting, the members present shall elect one of their number to stand in as chairperson.
- (d) A committee may meet and adjourn as it decides.
- (e) Questions at a committee meeting shall be decided by a majority of the members present and voting.
- (f) The chairperson of a committee shall not have a casting vote.

54. Attorney of Company

The Directors may cause the Company to execute a power of attorney:

- (a) in favour of any person or persons for such purposes, with such powers and discretions otherwise exercisable by the Directors, for such period and on such terms as the Directors think fit;
- (b) containing such provisions for the protection and benefit of persons dealing with the attorney as the Directors think fit; and
- (c) if the Directors think fit, authorising the attorney to delegate any of the powers or discretions vested in the attorney.

55. Directors' Duties

A Director shall act in accordance with the Act and all other laws, including the general law.

56. Material Personal Interests

- (a) A Director:
 - (i) must disclose material personal interests in a matter that relates to the affairs of the Company in accordance with section 191 of the Act;
 - (ii) may give the other Directors a standing notice about a material personal interest in accordance with section 192 of the Act.
- (b) Except where permitted by the Act, a Director who has a material personal interest in a matter that relates to the affairs of the Company and that is being considered at a meeting of Directors:
 - (i) must not be counted in a quorum;
 - (ii) must not vote on the matter; and
 - (iii) must not be present while the matter is being considered at the meeting.

Part I Board Meetings

57. Frequency

The Directors may meet, adjourn and otherwise regulate its meetings as they think fit.

58. Convening meetings

A meeting of Directors shall be convened:

- (a) by direction or agreement of the Directors;
- (b) by a Secretary on the requisition of any Director.

59. Notice of Board meetings

Unless all Directors consent to waive the requirement for notice, reasonable notice in the circumstances must be given of all Board meetings.

60. Quorum for Board meetings

- (a) At a Board meeting, a quorum must be present when any vote is taken.
- (b) A quorum is:
 - (i) such number of Directors as the Board determines from time to time by resolution of a meeting that is itself quorate; and
 - (ii) in the absence of such determination, four Directors.

61. Chairperson of Board meetings

- (a) The Directors shall from time to time elect:
 - (i) a Director as Chairperson;
 - (ii) another Director as Deputy Chairperson –of Board meetings, and may vary or revoke such election.
- (b) If at a Board meeting:
 - (i) a Chairperson or Deputy Chairperson has not been elected; or
 - (ii) the elected Chairperson or Deputy Chairperson is not present within 15 minutes after the scheduled starting time or is unwilling to act for all or part of the meeting –the Directors present shall elect a Director to be Chairperson of such meeting or part of it.

62. Voting at Board meetings

Subject to clause 56(b) at a Board meeting:

- (a) each Director has one vote on their own account;
- (b) unless this Constitution states otherwise, motions shall be decided by a majority of votes of Directors present and voting;
- (c) any such decision is for all purposes to be deemed a decision of the Directors;
- (d) in case of a deadlock on a motion, the Chairperson has a casting vote.

63. Virtual Board Meetings

- (a) A 'Virtual Board Meeting'
 - (i) is a meeting held without all Directors being physically present; and
 - (ii) if conducted in accordance with this Constitution, is a Board meeting.

- (b) A Virtual Board Meeting may be conducted using any real-time (or nearly real-time) communications technology that is approved by all Directors for the purpose.
- (c) An approval under clause 63(b) stands until withdrawn.
- (d) This Constitution applies to a Virtual Board Meeting as far as feasible.
- (e) A Director may not disconnect from a Virtual Board Meeting without reasonable notice to the Chairperson and a Director shall be conclusively presumed to have been present at all times during such a meeting until such notice is given.
- (f) A minute of the proceedings of a Virtual Board Meeting is sufficient evidence of such proceeding and of the observance of all necessary formalities if certified as correct by the Chairperson.

64. Board resolutions without meetings

- (a) A resolution is passed as if by a Board Meeting if 75% of the Directors entitled to vote on the resolution sign (including by electronic signature) a document:
 - (i) setting out the resolution; and
 - (ii) stating that they are in favour of it.
- (b) A resolution under clause 64(a) is passed when the document is signed by the last Director whose execution is required under that clause.
- (c) A document for the purposes of clause 64(a):
 - (i) may comprise two or more separate but identical documents executed in parts, which together shall be deemed to constitute one document;
 - (ii) may be received by the Company at its Registered Office (or other place appointed by the Chairperson) by post or other electronic means or by being delivered personally.

Part J Secretary

65. Secretary

- (a) The Directors must, in accordance with the Act, appoint one or more Secretaries.
- (b) A Secretary holds office on the terms and conditions that the Directors determine.

66. Defects in Appointment of Secretary

- (a) An act by a Secretary is effective even if their appointment, or the continuance of their appointment, is invalid because the Company or the Secretary did not comply with this Constitution or the Act.
- (b) Clause 66(a) does not necessarily mean that an act by such a Secretary:
 - (i) binds the Company in its dealings with third parties; or
 - (ii) makes the Company liable to a third party.

Part K Insurance and Indemnity

67. Applicable Persons

- (a) Clauses 68, 69 and 70 apply to Applicable Persons.
- (b) Applicable Persons are:
 - (i) every past or present Officer of the Company;

- (ii) every person past or present Officer of a Related Body Corporate of the Company;
- (iii) if the Directors decide, a past or present employee of the Company or of a Related Body Corporate of the Company;
- (iv) if the Directors decide and to the extent permitted under the Act – a past or present auditor of the Company or of a Related Body Corporate of the Company.

68. Insurance

- (a) As far as the Act permits, the Company may pay the costs of insuring an Applicable Person against any liability incurred as an Applicable Person and not arising out of conduct involving:
 - (i) a wilful breach of duty in relation to the Company or a Related Body Corporate of the Company; or
 - (ii) a breach of sections 182 or 183 of the Act.

69. Indemnity

- (a) The Company indemnifies an Applicable Person against liability (other than for legal costs) incurred as an Applicable Person except:
 - (i) a liability to the Company or a Related Body Corporate;
 - (ii) a liability for a pecuniary penalty order under section 1317G of the Act or a compensation order under section 1317H of the Act or 1317HA of the Act;
 - (iii) a liability that is owed to someone other than the Company or a Related Body Corporate and did not arise out of conduct in good faith.

70. Indemnity for certain legal costs

- (a) The Company must not directly or indirectly indemnify an Applicable Person against legal costs incurred in defending an action for a liability incurred as an officer or auditor of the Company if the costs are incurred in defending or resisting:
 - (i) proceedings in which the person is found to have a liability for which they could not be indemnified under clause 69;
 - (ii) criminal proceedings in which the person is found guilty;
 - (iii) proceedings brought by ASIC or a liquidator for a court order if the grounds for making the order are found by the court to have been established; or
 - (iv) a liability to the Company or a Related Body Corporate –or in connection with proceedings for relief to the person under this Act in which the Court denies the relief.
- (b) Clause 70(a) does not apply to costs incurred in responding to actions taken by ASIC (including proceedings by ASIC for an order under section 206C, 206D or 206E of the Act (disqualification), section 232 of the Act (oppression), section 1317E, 1317G, 1317H or 1317HA of the Act (civil penalties) or section 1324 of the Act (injunction)) or a liquidator as part of an investigation before commencing proceedings for the court order.
- (c) When permitted by the Act, the Company may be able to give an Applicable Person a loan or advance in respect of legal costs.
- (d) For the purposes of this clause, the outcome of proceedings is the outcome of the proceedings and any appeal in relation to them.
- (e) Subject to the previous parts of this clause 70 and to the Act, the Company indemnifies an Applicable Person against liability for legal costs incurred as an

Applicable Person if the Directors consider the costs are likely to become an amount for which the Company may become liable.

- (f) The Company's indemnity under this clause 70 is reduced by an amount equal to any receipt under an insurance policy taken out or paid for by the Company pursuant to clause 68, the extent of the indemnification of an Applicable Person shall be reduced accordingly.

Part L Administration

71. Minutes

- (a) The Directors must ensure that minutes are recorded and retained of all:
 - (i) proceedings of General Meetings;
 - (ii) proceedings of Board meetings
 - (iii) proceedings of committees of Directors;
 - (iv) resolutions of the Members, with or without a meeting;
 - (v) resolutions of the Directors, with or without a meeting –
duly entered into books kept for that purpose in accordance with the Act.
- (b) A minute recorded and signed in accordance with the Act is evidence of the proceeding or resolution to which it relates, unless proved otherwise.

72. Inspecting Records

- (a) Minutes of the proceedings and resolutions of the Members shall be open for inspection by any Member at no charge.
- (b) Subject to the Act:
 - (i) a Member other than a Director does not have the right to inspect any document of the Company except as provided by law or authorised by the Directors or a General Meeting; and
 - (ii) the Directors shall decide what, if any, access Members will be allowed to the accounting and other documents and records of the Company and under what conditions.

73. Executing Documents

- (a) The Company is not required to have a common seal.
- (b) The Company may execute a document if it is signed by:
 - (i) one Director and the Chairperson;
 - (ii) one Director and the Deputy Chairperson;
 - (iii) Four Directors.
- (c) The signature of a signatory to a document may be by:
 - (i) manual, autographic or mechanical means; or
 - (ii) any means that complies with the Electronic Transactions Act of a State or Territory in which the document is intended to have force.

74. Creation, Amendment and Repeal of By-Laws

The Board has the power to make, amend and repeal by-laws concerning membership and qualification for membership of the Company and any other matters which the Board believes suitable for including in such by-laws.

75. Amendment of Constitution

This Constitution may be altered by special resolution passed at a General Meeting of the Members.

Part M Financial

76. Accounts

The Directors must:

- (a) ensure that proper books of account are kept:
- (b) including true and complete accounts of; and
- (c) giving a true and fair view of the state of –

the business, affairs and transactions of the Company and distribute copies of every financial report and statement (including every document required by law to be attached to them) as required by the Act).

77. Audit

- (a) A registered company auditor must be appointed where required under the Act.
- (b) A General Meeting may by ordinary resolution:
 - (i) appoint a registered company auditor who:
 - (A) has first supplied the Company with a signed consent to so act; and
 - (B) is not an officer of the Company;
 - (ii) remove an auditor;
 - (iii) fill a vacancy in the office of auditor.
- (c) An auditor shall hold office until they:
 - (i) resign;
 - (ii) are removed; or
 - (iii) are not capable of acting as auditor for any reason.

Part N Deregistration and winding up

78. Procedure

If:

- (a) the requirements of s 601AA of the Act are satisfied; and
 - (b) all the Members unanimously agree –
- the Company may apply to be deregistered.

79. Contribution of Members on Winding Up

Each Member of the Company undertakes to contribute to the assets of the Company in the event of the Company being wound up while he or she or it is a Member or within one year of ceasing to be a Member for the payment:

- (a) of the debts and liabilities of the Company contracted before he or she or it ceased to be a Member; and
- (b) of the costs, charges and expenses of winding up; and
- (c) for adjustment of the rights of the contributors among themselves –

such amount as may be required, not exceeding \$10.00.

80. Distribution of Property on Winding Up

Where property remains after the winding up or dissolution of the Company and satisfaction of all its debts and liabilities, it must not be paid to or distributed among the Members but must be given or transferred to another fund, authority, institution or company:

- (a) having objects similar to the Objects;
- (b) whose constitution prohibits the distribution of its income and property among its members –

and which fund, authority, institution or company is to be determined by the Members of the Company at or before the time of the winding up or dissolution.

Part O Dispute Resolution

81. Disputes and mediation

- (a) The grievance procedure set out in this rule applies to disputes under these rules between –
 - (i) a Member and another Member; or
 - (ii) a Member and the Board; or
 - (iii) a Member and the Company; or
 - (iv) if the Company provides services to non-Members, those non-Members who receive services from the Company, and the Company.
- (b) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.
- (c) If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within 30 days of the meeting, hold a meeting in the presence of a mediator.
- (d) The mediator must be –
 - (i) a person chosen by agreement between the parties; or
 - (ii) in the absence of agreement –
 - (A) in the case of a dispute between a Member and another Member, a person appointed by the Board; or
 - (B) in the case of a dispute between a Member or relevant non-Member and the Company, a person who is a mediator appointed to, or employed with, a not for profit organisation.
- (e) A Member of the Company can be a mediator.
- (f) The mediator cannot be a Member who is a party to the dispute.
- (g) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- (h) The mediator, in conducting the mediation, must –
 - (i) give the parties to the mediation process every opportunity to be heard;
 - (ii) allow due consideration by all parties of any written statement submitted by any party; and
 - (iii) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.

- (i) The mediator must not determine the dispute.
- (j) The mediation must be confidential and without prejudice.
- (k) If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute through the applicable state administrative tribunal or otherwise at law.

Part P Dictionary

82. Dictionary

In this Constitution, unless the context indicates otherwise:

the expression:	means:
Act	Corporations Act 2001 (Cth)
Annual General Meeting or AGM	the General Meeting required to be held under clause 21
Applicable Person	as in clause 67
Board	the board of Directors of the Company at any time
Business Day	in relation to receipt of any notice – a day that is not a Saturday, Sunday or Public Holiday in the locale of the recipient in any other case – a day that is not a Saturday, Sunday or Public Holiday in the locale of the Company's Registered Office
Certified Copy	a copy of a document certified as a true and complete copy by a person qualified to witness a statutory declaration or affidavit in the place the copy is certified
Company	the entity whose name upon Incorporation was the name indicated by this Constitution, whatever its name may be from time to time
Corporate Member	a Member which is a corporation
Directors	the directors for the time being of the Company
General Meeting	a meeting of the Members of the Company
Incorporated Association	the WA-based Australian Web Industry Association Inc.
Incorporation	the initial registration of the Company
Member	a member of the Company within the meaning of section 231 of the Act
Officer	as in section 9 of the Act

Person	a natural person or any other entity capable in law of suing or being sued in its own name
Proxy Appointment	as in clause 35
Register	the register of members required to be maintained under section 168(a) of the Act
Registered Office	the registered office of the Company from time to time
Related Body Corporate	as in section 50 of the Act
Replaceable Rules	replaceable rules in the Act
Seal or Common Seal	any common seal of the Company
Secretary	the secretary for the time being of the Company, and if there are joint secretaries, any one or more of them
Virtual Board Meeting	as in clause 63

Part Q Interpretation

83. Interpretation

- (a) The Acts Interpretation Act, 1901 (Cth) shall apply in the interpretation of this Constitution as if it were an act of the Commonwealth.
- (b) Except so far as the contrary intention appears in this Constitution, an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Act, the same meaning as in that provision of the Act.
- (c) Words importing any one gender shall be deemed and taken to include all genders and the singular to include the plural and the plural the singular unless the contrary as to gender or number is expressly provided.
- (d) A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it.
- (e) Entitlement to vote on a resolution includes entitlement to:
 - (i) notice of any meeting that considers the resolution;
 - (ii) attend that meeting;
 - (iii) vote in accordance with this Constitution.
- (f) Unless stated otherwise, a reference to voting is a reference to voting in any manner permitted by this Constitution.

Part R Form of Proxy Appointment

I / We [Name/s] being a Member / Members of [Company Ltd] ACN [#], appoint:

Full name of Proxy

Address of Proxy

or, if that person is absent:

Full name of alternative Proxy

Address of alternative Proxy

as my / our proxy to vote for me / us at the General Meeting of the Company to be held on and at:

Date of meeting

Place of meeting

and at any adjournment of that meeting.

Signed:

Date:

