

# CONSTITUTION OF AUSTRALASIAN RETAIL CREDIT ASSOCIATION LIMITED

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## 1. Name

- 1.1. The name of the Company (hereinafter called "the Association") is the "Australasian Retail Credit Association."
- 1.2. The registered office of the Association shall be situated in New South Wales or in such other place as the Board may from time to time determine.

## 2. Definitions

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

"**the Act**" means the Corporations Act, 2001.

"**Annual General Meeting**" means the general meeting of Members held each year as required by the Act and this Constitution.

"**Association**" means the abovementioned company.

"**Board**" means the Board of Directors as constituted in accordance with this Constitution.

"**Chief Executive Officer**" means the Chief Executive Officer of the Association from time to time.

"**Code of Conduct**" means any code of conduct of the Association (as amended from time to time) that is made in accordance with this Constitution.

"**Constitution**" means this Constitution.

"**Director**" means a member of the Board.

"**General Meeting**" means a meeting of Members other than the Annual General Meeting.

"**Initial Members**" means those legal persons who have agreed to become or remain Members as at the date of the adoption of this Constitution,

"**Member**" means any member who has been duly admitted to the Association in accordance with this Constitution.

"**Membership**" means membership of the Association.

"**Office**" means the registered office for the time being of the Association.

"**Officer**" means an officer as defined in the Act.

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

"**Chief Executive Officer**" means an individual appointed by the Board to perform the duties of a Chief Executive Officer of the Association.

"**In writing**" or "**written**" includes printing, lithography and other modes of reproducing or representing words in a visible form.

## 3. Interpretation

- 3.1. The "replaceable rules" now and hereafter contained in the Act do not apply to the Association unless repeated in this Constitution.
- 3.2. This Constitution is subject to the Act. To the extent that any of the provisions in this Constitution are inconsistent with the Act and might prevent the Association being registered under the Act, those provisions will be inoperative and have no effect.
- 3.3. A decision of the Board on the construction or interpretation of this Constitution, or on any By-laws made pursuant to this Constitution or on any matter arising therefrom, is conclusive and binding on all Members of the Association, subject to such construction or interpretation being varied or revised by the Members of the Association in General Meeting or by the Supreme Court of New South Wales.
- 3.4. Unless the context or subject matter otherwise requires:
  - 3.4.1. words indicating one gender include the other gender and vice versa; and

3.4.2. words indicating the singular include the plural and vice versa.

3.5. Any reference to a clause means a clause of this Constitution, unless specified otherwise.

## **4. Objects & Capacity**

4.1. The objects of the Association are:

4.1.1. To provide a forum for senior credit executives from Lenders and Credit Reporting Agencies in Australia and New Zealand to discuss and examine retail credit issues.

4.1.2. To develop and promote policies and Codes of Conduct for the betterment of the retail credit industry and where appropriate lobby for legislative change to assist in achieving that outcome.

4.1.3. To promote responsible lending and best practice in consumer credit management in relation to credit reporting.

4.2. Subject to clauses 5, 6, 7 and 8, the Association has the legal capacity and all of the powers provided by the Act.

## **5. Non-profit**

5.1. The income and property of the Association whenever and however derived will be applied solely towards the promotion of the objects of the Association as set out in this Constitution and no portion of it is to be transferred directly or indirectly by way of profit to Members or Directors. This does not prevent the payment in good faith:

5.1.1. For goods supplied in the ordinary and usual course of business;

5.1.2. Of interest at a reasonable rate on money borrowed from any Member;

5.1.3. Of reasonable and proper rent for premises demised or let by any Member to the Association;

5.1.4. Of remuneration to any officers or servants of the Association in return for any services rendered to the Association, where the provision of the service and the amount payable has the prior approval of the Board, and is not more than an amount which commercially would be reasonable payment for the service;

5.1.5. Of out-of-pocket expenses incurred by a Director in the performance of any duty as a Director where the amount payable does not exceed any amount previously approved by the Board;

5.1.6. Of any salary or wage due to a Director as an employee of the Association where the terms of employment have been approved by the Board;

5.1.7. A financial benefit to a Director to which subsection 243K(&A) of the Act refers, or payment of an insurance premium in respect of a contract insuring a Director to which subsection 243K(7B) of the Act refers, provided that the financial benefit and/or insurance premium has the prior approval of the Board;

5.1.8. Of remuneration to Directors, where the remuneration has the prior approval of the Board and where the amount payable is approved by ordinary resolution of Members in a General Meeting.

## **6. Limited Liability & Members' Guarantee**

6.1. The liability of the Members is limited.

6.2. Every Member undertakes to contribute an amount not exceeding two dollars (\$2.00) to the assets of the Association in the event of the same being wound up while that person is a Member or within one year afterwards for:

- payment of the debts and liabilities of the Association contracted before the time when that person ceased to be a Member
- the costs, charges and expenses of winding up the Association; and

- for the adjustment of the rights of the contributories amongst themselves.

## 7. Winding Up

- 7.1. If the Association is wound up or dissolved and there remains any assets after the satisfaction of all its debts and liabilities, the excess will not be paid to or distributed among the Members, but will be given or transferred to:
  - 7.1.1.a body or organisation which has objects which in the Board's opinion are consistent with the objects of the Association; or
  - 7.1.2.a registered or exempt charity for the purposes of the Income Tax Assessment Act 1997.
- 7.2. A gift or transfer may only be made to a body, organisation or charity described in clause 6.3 if the body, organisation or charity prohibits the distribution of its income and property among its members to an extent at least as great as is imposed on the Association under or by virtue of clause 5.1 of this Constitution.

## 8. Membership

- 8.1. The Members of the Association are the Initial Members and such other legal persons the Board admits to Membership in accordance with this Constitution. Membership is held by a legal person and each legal person may only hold one Membership. Membership may be divided into the following classes:
  - Initial Members; and
  - Members other than Initial Members.
- 8.2. Membership is limited to the following categories of legal persons:
  - 8.2.1. Credit providers; or
  - 8.2.2. Credit reporting agencies.
- 8.3. Nominations for Membership:
  - 8.3.1. must be made by a Member in writing in the form set out in Appendix 1 to the Constitution; and
  - 8.3.2. must be lodged with the Chief Executive Officer.
- 8.4. As soon as practical after receiving the nomination for Membership, the Chief Executive Officer must refer the nomination to the Board which is to determine whether to approve or reject the nomination at the next Board meeting after receipt of the application.
- 8.5. As soon as practical after the Board makes that determination, the Chief Executive Officer must:
  - 8.5.1. notify the nominee in writing that the Board approved or rejected the nomination (whichever is applicable), and
  - 8.5.2. if the Board approved the nomination, request the nominee to pay (within 28 days after receipt by the nominee of the notification) the sum payable under this Constitution by a Member as entrance fee and annual subscription.
- 8.6. The Chief Executive Officer must, on payment by the nominee of the amounts referred to above within the period referred to above, enter the nominee's name in the register of Members and, on the name being so entered, the nominee becomes a Member .
- 8.7. Upon being admitted to Membership and informed of the admission, the nominee shall be bound by this Constitution and any Code of Conduct.
- 8.8. Each Member must give particulars of its address to the Chief Executive Officer with, (if those particulars have not already been stated on the Membership application) and must notify the Chief Executive Officer in writing of any subsequent change of address. The address so given shall be deemed to be the Member's registered address for the purpose of the issue of notices.

- 8.9. Each Member must give the Chief Executive Officer particulars of its nominated representative and an alternate representative and must notify the Chief Executive Officer in writing of any subsequent change of nominated representative or alternative.
- 8.10. Each Member may, where it believes that it is appropriate or necessary do so, pursue its separate interests and take action that may be contrary to a position proposed or taken by the Association.
- 8.11. A Member will cease to be entitled to any of the rights or privileges of Membership if any fees dues and payable to the Association remain unpaid for three (3) months and the Member has been given written notice of the default. All rights and privileges of Membership will be reinstated on payment of all arrears, except where the arrears are not paid in full within three (3) months of the date of the written notice of default, in which case the Board may terminate the Membership.

## 9. Cessation of membership

- 9.1. A legal person ceases to be Member, if the Member
  - 9.1.1.gives written notice of resignation to the Chief Executive Officer, or
  - 9.1.2.is expelled from the Association (as determined by the Board in accordance with rule xx);
  - 9.1.3.becomes insolvent, has a receiver, receiver and manager, administrator or liquidator appointed, or is wound up (except for the purposes of reconstruction or amalgamation);
  - 9.1.4.ceases to satisfy the criteria for admission to Membership.
- 9.2. A Member is not entitled to resign that Membership except in accordance with this rule.
- 9.3. A Member who has paid all amounts payable by the Member to the association in respect of its Membership may resign from Membership by first giving to the secretary written notice of at least 30 days of the Member's intention to resign and, on the expiration of the period of notice, the Member ceases to be a Member.
- 9.4. If a Member ceases to be a Member, the Chief Executive Officer must make an appropriate entry in the register of members recording the date on which the Member ceased to be a Member.
- 9.5. If a Member ceases to be a Member, the Member shall:
  - 9.5.1.continue to be liable for any entrance fees or annual subscriptions due but unpaid;
  - 9.5.2.continue to be liable for any and all arrears of subscriptions due and unpaid at the date of resignation;
  - 9.5.3.not be eligible to receive a refund for any part of the entrance fees or subscriptions paid; and
  - 9.5.4.continue to be liable for any sum not exceeding \$2.00 as a Member.
- 9.6. If any Member refuses or neglects to comply with the provisions of this Constitution, such Member may be suspended or expelled by resolution of the Board and such resolution need not state the grounds, facts or opinions upon which it is based, provided that:
  - 9.6.1. at least 7 days before the meeting at which such resolution is passed the Member concerned is given notice in writing of the particulars of the alleged failure to comply with the provisions of this Constitution and, before any resolution is moved, is given an opportunity to provide any explanation or defence (which may be given in writing or verbally);
  - 9.6.2.the meeting is held within 30 days of the date of the alleged failure to comply with the provisions of this Constitution;
  - 9.6.3.any resolution under this clause requires for its passing the affirmative vote of not less than two-thirds of the members of the Board (and the decision of the Board shall be final);
  - 9.6.4.any Member notified or any Member proposed to be notified may immediately be suspended from all privileges of the Association until such time as the meeting is held.

## **10. Register of members**

- 10.1. The Chief Executive Officer must establish and maintain the Register and must enter in it the full names, addresses, and email addresses of Members, the date upon which they became Members and the date upon which any Member ceased to be a Member. The Register must not be used for any other purpose..
- 10.2. The Register must be kept at the principal place of administration of the Association and must be open for inspection, free of charge, by any Member.

## **11. Rights and duties of Members**

- 11.1. Membership is not transferable whether by operation of law or otherwise. All rights and privileges of Membership cease on termination of Membership.
- 11.2. A Member must not enter into or give effect to any contract, arrangement or understanding under which a Member (or any associate of a Member) has or will receive any material benefit in consideration for voting in a particular way (including not voting) on any matter before a General Meeting.
- 11.3. Each Member must comply with each Code of Conduct, to the extent that such Code of Conduct applies to the business of that Member.
- 11.4. Each Member will have one vote.

## **12. Entrance Fee and Annual Subscription**

- 12.1. The Board may from time to time determine:
  - 12.1.1. whether an annual subscription fee will be payable; and
  - 12.1.2. the amount of annual subscription fee payable by each Member, and
  - 12.1.3. the amount of entrance fee
- 12.2. If a Member's Membership ceases, the Member's annual subscription fee is not refundable.
- 12.3. The annual subscription fee period will be computed from 1 July in each year, and annual subscription fees will be due in advance within 30 days of that date.
- 12.4. If a Member does not pay their Membership fee within 30 days after the fee becomes due, the Board will give notice to that Member of that fact and may, if the Membership fee remains unpaid after the expiration of 21 days from the date of that notice, declare that Member's Membership forfeited and the Member will then cease to be a Member.
- 12.5. The Board may determine that any Member who has been admitted to Membership between 1 January and 30 June in any year will pay only one-half of the annual Membership fee until that Member's next annual Membership fee falls due.

## **13. Board of Directors**

- 13.1. The business and affairs of the Association as well as the custody and control of its funds will be managed by the Board+.
- 13.2. The Board will consist of not less than 3 and not more than 6 Directors.
- 13.3. The Members will elect the Board, from candidates nominated by Members, comprising:
  - 13.3.1. the chairperson and deputy chairperson of the Board; and
  - 13.3.2. such other Directors as desired by the Members.
- 13.4. In the event of a casual vacancy occurring in the membership of the Board, the Board may appoint a representative nominated by a Member to fill the vacancy and the Director so appointed is to hold office, subject to this Constitution, until the conclusion of the Annual General Meeting following the date of the appointment.

- 13.5. Nominations of candidates for election to the Board:
- 13.5.1. must be made in writing, signed by two Members and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination), and
  - 13.5.2. must be delivered to the Chief Executive Officer at least 7 days before the date fixed for the holding of the Annual General Meeting at which the election is to take place.
- 13.6. If on close of nominations the number of candidates for election as Directors is equal to or less than the number of vacancies, the nominated candidates will be declared elected at the Annual General Meeting, and the Board will fill any remaining positions in accordance with the procedure for filling casual vacancies in the Board.
- 13.7. If the number of nominations received exceeds the number of vacancies to be filled, a ballot must be held for the election and must be conducted at the Annual General Meeting. The candidate(s) receiving the greatest number of votes in their favour must be declared by the chairperson of the Annual General Meeting to be elected as Directors.
- 13.8. The term of each Board will be for 12 months and a Director will hold office until the conclusion of the Annual General Meeting after which they were elected, when they shall retire. A retiring Director is eligible for re-election.
- 13.9. All acts performed at any Board meeting or by any person acting as a Director will, notwithstanding that it afterwards it may be discovered that there was some defect in the appointment of the relevant Director or Directors or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.

## **14. Duties of Directors**

- 14.1. Each Director must act in the best interests of the Association as a whole and with due regard to the furtherance of the Association's objectives. Each Director must also act in accordance with all non-excludable duties or obligations owed by the Director to the Association or the Members under general law, the Act, or other provisions of this Constitution..
- 14.2. A Director will not, by virtue of their position as a Director, have access to customer information or confidential information relating to any of the other Members or their related bodies corporate. A Director is entitled to request and receive such information in aggregated and summary form provided that such information does not disclose confidential information about the assets, business or affairs of other Members.
- 14.3. If in a Director's reasonable opinion, they require any information to which they are not otherwise entitled in order to discharge their duty as a Director, the following procedure must be followed:
- 14.3.1. The Director must request the information from the Chief Executive Officer, providing details of why they believe they require access to the information;
  - 14.3.2. The Chief Executive Officer must promptly notify the Board of the request, and provide it with details of why the Director requires the information in question; and
  - 14.3.3. The Board must consider and determine whether to permit the Director access to the information requested and may impose conditions on the disclosure of the information requested, including notification of the release of the information to the relevant customer or data source.
- 14.4. The Directors recognise that the Chief Executive Officer may propose other restrictions regarding disclosure of information to a Director for approval by the Board.

## **16. Powers of the Board**

- 16.1. The management of the business and general affairs of the Association will be vested in the Board who, in addition to the powers and authorities conferred by this Constitution or otherwise may exercise all powers and do all acts and things as can be exercised or done by the Association and are not required to be

exercised or done by the Members in General Meeting. In particular, but without derogating from its general powers, the Board will have power from time to time:

- 16.1.1. To make such Codes of Conduct and by-laws not inconsistent with this Constitution as in the opinion of the Board are necessary or desirable in furtherance of the Association's objectives and for the proper control, administration and management of the Association's finances affairs, interests, effects and property of the Members and to amend or rescind from time to time any such Codes of Conduct and by-laws.
- 16.1.2. To enforce the observance of all Codes of Conduct and by-laws by suspension from enjoyment of Association privileges to any of them.
- 16.1.3. To appoint any delegate or delegates to represent the Association for any purpose with such powers as may be thought fit.
- 16.2. The Board may appoint a natural person to be the Chief Executive Officer, on such terms, conditions and remuneration as the Board determines. The Chief Executive Officer is responsible for the control and management of the business and day to day operations of the Association. The Board may from time to time, and upon such terms and conditions and with such restrictions as they deem fit, confer upon the Chief Executive Officer all or any of its powers (which the Board may at any time or times alter, revoke, withdraw or vary).

## **17. Meetings of the Board of Directors**

- 17.1. The Board must meet as often as required for the transaction of the business of the Association, but not less than 3 times in any 12 month period. The names of all Directors present and voting and minutes of all resolutions or proceedings of the Board must be entered in a book provided for the purpose. The quorum of the Board will be 3 Directors.
- 17.2. The chairman of the Board will, if present, preside at all meetings of the Board and in his absence the deputy chairman of the Board will preside. If both chairman and deputy chairman of the Board being absent the Directors present at the meeting will elect one of them to be chairman of the meeting.
- 17.3. A meeting of the Board may be called or held using any technology consented to by all Directors. The consent may be a standing one. A Director may only withdraw his or her consent within a reasonable period before the meeting.

## **18. Casual vacancies**

- 18.1. The office of Director will be immediately vacated and a casual vacancy created if that person:
  - 18.1.1. becomes disqualified from managing any company under Part 2D.6 of the Act and is not given permission to manage a company under Sections 206F or 206G of the Act;
  - 18.1.2. fails to disclose in accordance with the Act the nature of any material personal interest in a matter that relates to the affairs of the Association;
  - 18.1.3. becomes of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
  - 18.1.4. dies;
  - 18.1.5. is absent from 3 consecutive meetings of the Board without leave of absence from the Board;
  - 18.1.6. by notice in writing given to the Chief Executive Officer, resigns from office; or
  - 18.1.7. ceases to be a person nominated by a Member as its representative or is otherwise removed by Members.

## **19. Sub-Committees**

- 19.1. The Board may delegate any of its powers to a sub-committee or sub-committees consisting of such individuals as the Board may from time to time determine and may from time to time revoke, withdraw, alter or vary the delegation or the appointment of any member of a sub-committee.
- 19.2. Any sub-committee so constituted or individual or individuals so appointed will in the exercise of the powers so delegated conform to any regulations that may from time to time be imposed by the Board.
- 19.3. If a sub-committee has more than one member, a quorum for a meeting of that sub-committee is constituted by a majority of the members of the sub-committee.
- 19.4. Meetings of any sub-committee will be governed by the provisions of this Constitution which deal with Directors' meetings so far as they are applicable and are not inconsistent with any directions of the Board.

## **20. Meetings of Members**

- 20.1. The Annual General Meeting of the Association must be held no later than 5 months after the end of each financial year (at such time and place determined by the Board).
- 20.2. Each Member must be given not less than 21 clear days written notice of the Annual General Meeting.
- 20.3. General Meetings are to be held at the times and places prescribed by the Association in General Meeting or, if no time and place is prescribed, then as determined by the Directors. Every notice convening a General Meeting must be in writing and must specify the place the day and the hour of the meeting and such information concerning the business proposed to be transacted as is required to be given by this Constitution or the Act.
- 20.4. The Directors may convene a General Meeting of the Association whenever they think fit.
- 20.5. Any Member may make a written request (setting out reasons) to the chairman of the Board requesting that a General Meeting of the Association be convened by the Directors.
- 20.6. The business of the Annual General Meeting will be as follows:
  - 20.6.1. to confirm the minutes of the previous Annual General Meeting;
  - 20.6.2. to receive and consider the reports of the Board;
  - 20.6.3. to receive and consider the financial statements and the report of the auditor;
  - 20.6.4. to deal with any business of which due notice has been given in writing; and
  - 20.6.5. to deal with all business and notices of motion which shall be handed to the Chief Executive Officer at least 28 days prior to the date of the Annual General Meeting.
- 20.7. The chairman of the Board (if present) will be entitled to preside at all Annual General Meetings. In the event of the chairman being absent, the deputy chairman will preside and in the event of both of them being absent the Board will elect a member of the Board to be chairman of the Annual General Meeting.
- 20.8. Every question or motion submitted to the Annual General Meeting will be decided in the first instance by a show of hands and in the case of equality of votes the chairman will (both on a show of hands and on a poll) have a casting vote in addition to the vote to which he is entitled as a Member.
- 20.9. At any Annual General Meeting (unless a poll is demanded by the chairman or by at least five Members present and entitled to vote at the Annual General Meeting) a declaration by the chairman that a resolution has been carried or carried by a particular majority or lost or not carried by a particular majority, and any entry to that effect in the book of proceedings of the Association, will be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.
- 20.10. If a poll is demanded it must be taken in the manner and at such time and place as the chairman of the Annual General Meeting directs. The result of the poll will be deemed to be the resolution of the Annual General Meeting at which the poll was demanded, provided that a poll on the election of a chairperson of Annual General Meeting or any question of adjournment must be taken at the Annual General Meeting and

without adjournment. The demand for a poll will not prevent the continuance of the Annual General Meeting for the transaction of any business other than the question on which a poll has been demanded. The demand for a poll may be withdrawn. In case of any dispute as to the admission or rejection of a vote the Chairman shall determine the same and such determination made in good faith be final and conclusive.

- 20.11. The chairman of an Annual General Meeting may with the consent of the meeting adjourn the same from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 20.12. Any Annual General Meeting at which a quorum is present may be adjourned by resolution as the meeting may determine and no notice of such adjournment need be given.
- 20.13. Subject to the Act, proxy voting is permitted, with respect to voting for the election of the Board and upon resolutions considered at Annual General Meetings and at General Meetings.

## **21. Quorum for meetings**

- 21.1. At an Annual General Meeting or General Meeting called by the Directors, 4 Members who are present and entitled to vote will be a quorum. If a quorum is not present within 15 minutes of the time fixed for an Annual General Meeting or General Meeting, the meeting if convened on or by the requisition of Members will be dissolved. If convened by the Directors, it must be adjourned to the same day in the next week at the same time and place. If, at the adjourned meeting, a quorum is not present within 15 minutes of the time appointed for the meeting, the Members present will be a quorum.

## **22. Minutes of meetings**

- 22.1. The Board will cause minutes to be kept by the Chief Executive Officer in books provided for the purpose of recording:
  - 22.1.1. all appointments of officers made by the Association at the Annual General Meeting or by the Board, or of any business conducted at any General Meeting;
  - 22.1.2. the names of the Directors present at each meeting of the Board;
  - 22.1.3. the number of delegates of Members present and voting at General Meetings; and
  - 22.1.4. all resolutions and proceedings at all meetings of the Association.

## **23. Financial year**

- 23.1. The financial year of the Association will commence on the first day of July of each year and end on the last day of June of the following year.

## **24. Accounts and audit**

- 24.1. The Board will cause correct accounts and books to be kept showing the financial affairs of the Association and the particulars usually shown in books of account of a like nature and showing in particular (but not limited to):
  - 24.1.1. All sums of money received and expended by the Association and the matters in respect of which the receipt and expenditure takes place.
  - 24.1.2. All sales and purchases of goods by the Association.
  - 24.1.3. The assets credits and liabilities of the Association.
- 24.2. The books of account will:
  - 24.2.1. be kept at the registered office of the Association or at such other place as the Board thinks fit;
  - 24.2.2. always be open to the inspection of the Directors; and

- 24.2.3. be open to the inspection of Members at such times and places as determined by the Board from time to time.
- 24.3. The Association must, within 4 months after the end of the Association's financial year or not less than 21 days before each Annual General Meeting (whichever is the earlier), send to each Member, but subject to Section 316 of the Act, either:
- 24.3.1. copy of the financial report required under Section 295 of the Act, a copy of the directors' report required under Section 298 of the Act and a copy of the auditor's report required under Section 308 of the Act; or
- 24.3.2. a copy of the concise report that complies with Section 314(2) of the Act.
- 24.4. Once at least in every year the accounts of the Association shall be examined by one or more qualified member of a recognised Institute Association or Body of Accountants.

## **25. Auditors**

- 25.1. Auditors may be appointed and their duties regulated in accordance with the provisions of Sections 324 and 325 of the Act.

## **26. Notices**

- 26.1. A notice may be given by the Association to any Member either personally, or by sending the notice to the facsimile number or electronic address (if any) nominated by the Member, or by sending it by post to it or its registered address or if it has no registered address within the State of New South Wales to the address if any within the said State supplied by it to the Association for the giving of notices.
- 26.2. Where a notice is sent by post service of the notice shall be deemed to be effective by properly addressing prepaying and posting the notice and shall be deemed to have been effected in the case of a notice convening a meeting on the day following that on which the same shall have been posted and in any other case at the time at which the notice would have been delivered in the ordinary course of post.
- 26.3. Where a notice is sent by facsimile or by other electronic means, the notice is taken to have been given on the day following that on which the notice was sent.

## **27. Indemnity**

- 27.1. Every person who is or was an officer of the Association may, if the Board so determines be indemnified, to the maximum extent permitted by law, out of the property of the Association against any liability (other than a liability for legal costs) to another person incurred as such an officer except in relation to:
- 27.1.1. a liability owed to the Association or a related body corporate; or
- 27.1.2. a liability for a pecuniary penalty order under Section 1317G of the Act or a compensation order under Section 1317H of the Act; or
- 27.1.3. a liability that is owed to someone other than the Association or a related body corporate and did not arise out of conduct in good faith.
- 27.2. Every person who is or was an officer of the Association may if the Board so determines be indemnified, to the maximum extent permitted by law, out of the property of the Association against any legal costs incurred as such an officer except:
- 27.2.1. in defending or resisting proceedings in which the person is found to have a liability for which the person could not be indemnified under Section 199A(2) of the Act; or
- 27.2.2. in defending or resisting criminal proceedings in which the person is found guilty; or
- 27.2.3. in defending or resisting proceedings brought by the Australian Securities and Investments Commission or a liquidator for a court order if the grounds for making the order are found by the Court to have been established; or

- 27.2.4. in connection with proceedings for relief to the person under the Act in which the Court denies the relief
- 27.3. The Association may pay a premium for a contract insuring a person who is or was an officer of the Association against a liability (other than one for legal costs) arising out of that person's conduct as such an officer except in relation to
  - 27.3.1. conduct involving a wilful breach of duty in relation to the Association; or
  - 27.3.2. a contravention of Sections 182 or 183 of the Act.

## **28. Miscellaneous**

- 28.1. Any heading attached to any provisions of this Constitution will not affect the interpretation of this Constitution.
- 28.2. The Association will give a copy of this Constitution to any Member within 7 days if that Member:
  - 28.2.1. asks the Association, in writing, for a copy; and
  - 28.2.2. pays a fee (up to the fee prescribed by the Act) if required by the Association

## **29. Amendments to Constitution**

- 29.1. This Constitution may only be altered or amended by special resolution at an Annual General Meeting or General Meeting of Members entitled to vote on such a resolution. The majority required for passing of a resolution relating to such alterations or amendments to this Constitution will be 75% of the Members eligible to vote, and present at the meeting.
- 29.2. We, the several persons whose names are subscribed being subscribers to this Constitution hereby agree to the foregoing Constitution.