



L A W Y E R S

CONSTITUTION

**PHONOGRAPHIC PERFORMANCE
COMPANY OF AUSTRALIA LIMITED
(ACN 000 680 704)**

A Public Company Limited by shares

**(as amended pursuant to Special
Resolution passed on 7 May 2014)**

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PHONOGRAPHIC PERFORMANCE COMPANY OF AUSTRALIA LIMITED
ACN 000 680 704

A Public Company Limited by shares

CONSTITUTION

OBJECTS

The objects for which for Company is established are as follows:

- (a) to be or become the owners or licensees of copyrights in any Protected Sound Recordings or Music Videos, and to exercise and enforce all rights and remedies under the Act and any other laws in force from time to time in respect of Communication Rights and Public Performance Rights;
- (b) to exercise and enforce on behalf of the owners or licensees of copyrights in Protected Sound Recordings and Music Videos all rights and remedies under the Act in respect of Communication Rights and Public Performance Rights;
- (c) in the exercise or enforcement of any Communication Rights and Public Performance Rights:
 - (i) to grant licences and enter into any licensing arrangements with respect to the Communication Rights and Public Performance Rights, including any amounts payable, and to rescind or vary any such licences or licensing arrangements;
 - (ii) to seek and obtain any order from the Copyright Tribunal with respect to the Communication Rights and Public Performance Rights and to seek and obtain any variation of any order of the Copyright Tribunal; and
 - (iii) to collect, recover, receive and give effectual discharges for all royalties, fees and other monies payable, including under any licences, licensing arrangements or orders, in respect of any Communication Rights and Public Performance Rights, by taking all necessary actions including legal action;

- (iv) to restrain and recover damages for the infringement of Communication Rights and Public Performance Rights of any Relevant Copyright Owner or the Company, and to release, settle or refer to arbitration any legal actions or disputes in relation to such Communication Rights and Public Performance Rights;
- (d) to acquire any rights in respect of the performance or communication of sound recordings whether or not any copyrights shall subsist in relation to such sound recordings, and to exercise, enforce and license those rights;
- (e) to act, either by itself or by its officers or employees, as the agent or attorney of any person entitled or claiming to be entitled to any right in the performance or communication of any sound recording, including Communication Rights and Public Performance Rights;
- (f) to obtain from Relevant Copyright Owners such assignments, assurances powers of attorney, or other instruments as may be deemed necessary or expedient for enabling the Company to exercise and enforce all the above rights and remedies, and to execute, exercise or enforce all such assignments, assurances, powers of attorney or other instruments;
- (g) to purchase and maintain all insurances that the Board considers necessary for the proper operation of the Company;
- (h) to establish, support, aid or participate in any charitable or benevolent associations, institutions or funds, especially those which encourage and promote the musical or dramatic arts or the musical or acting professions;
- (i) to distribute net annual income to Licensors and Artists, under the terms of the Distribution Policy and Direct Distribution Scheme, and to appoint any agent or attorney for the collection and recovery of any moneys receivable by the Company in the exercise of its powers; and
- (i) to provide grants or undertake other expenditures that the Board considers will contribute to the promotion of the Company and its objects, and increasing the demand for blanket licences of Communication Rights and Public Performance Rights.

1. DICTIONARY

The Dictionary in Attachment A:

- (a) defines some of the terms used in this constitution;
- (b) sets out the rules of interpretation which apply to this constitution; and
- (c) clarifies the effect of the *Corporations Act* on this constitution.

2. SHARE CAPITAL

2.1 Shares

- (a) Subject to this constitution, the directors have the right to issue Shares or grant options over unissued Shares to any person:
 - (i) meeting the eligibility requirements set out in rule 2.2; and
 - (ii) making an application for admission as a Shareholder under rule 2.7,and on any further conditions they think fit.
- (b) Shares referred to in paragraph (a) may have preferred, deferred or other special rights or special restrictions about voting, return of capital, participation in the property of the Company on a winding up or otherwise, as the directors think fit.
- (c) This rule must not be construed so as to adversely affect any special rights of holders of any shares or class of shares.

2.2 Eligibility to be a Shareholder

- (a) Subject to paragraph (b), a person is eligible to apply for admission as a Shareholder, and to remain a Shareholder, if:
 - (i) the person is a Licensor;
 - (ii) the person is an Australian citizen, Australian protected person or a person resident in Australia, or is incorporated in accordance with the laws of Australia; and
 - (iii) Distributions allocated by the Company to the person are at least 6% of the Distributable Sum over each of the 3 Financial Years immediately prior to the date of the person's application for admission as a Shareholder. In calculating the

Distributable Sum for the purposes of this rule, all amounts available to be paid to other persons under the terms of the Direct Distribution Scheme will be excluded irrespective of whether or not such amounts were paid under the Direct Distribution Scheme.

- (b) Where there is, in respect of a Protected Sound Recording or a Music Video, a Relevant Copyright Owner and one or more Agents, then only one Agent shall be eligible to be a Shareholder (as agreed between the Agents and Relevant Copyright Owner, or failing agreement, as determined by the Board), unless the Relevant Copyright Owner and the Agents have agreed that the Relevant Copyright Owner may apply to be a Shareholder instead of the Agents.
- (c) The Board may require from time to time the submission of such evidence as it considers reasonably necessary to establish that any person is a Relevant Copyright Owner or an Agent.

2.3 Preference shares

- (a) Subject to this constitution, a person is entitled to be issued with a preference share by the Company upon:
 - (i) meeting the eligibility requirements set out in rule 2.4; and
 - (ii) making an application for admission as a Preference Shareholder under rule 2.7.
- (b) Preference shares referred to in paragraph (a) have the special rights or special restrictions set out in rule 2.5.

2.4 Eligibility to be a Preference Shareholder

- (a) Subject to paragraph (b), a person is eligible to apply for admission as a Preference Shareholder, and to remain a Preference Shareholder, if the person:
 - (i) is a Licensor;
 - (ii) is an Australian citizen, Australian protected person or a person resident in Australia, or is incorporated in accordance with the laws of Australia; and
 - (iii) is not a Shareholder.

- (b) Where there is, in respect of a Protected Sound Recording or a Music Video, a Relevant Copyright Owner and one or more Agents, then only one Agent shall be eligible to be a Preference Shareholder (as agreed between the Agents and Relevant Copyright Owner, or failing agreement, as determined by the Board), unless the Relevant Copyright Owner and the Agents have agreed that the Relevant Copyright Owner may apply to be a Preference Shareholder instead of the Agents.
- (c) The Board may require from time to time the submission of such evidence as it considers reasonably necessary to establish that any person is a Relevant Copyright Owner or an Agent.

2.5 Rights attached to preference shares

Each preference share has the following rights and restrictions:

- (a) **repayment of capital:** the right, in priority to any other class of shares, to repayment of the first 1 cent out of the capital of the Company or such other nil or nominal amount determined by the Board in its discretion:
 - (i) in a winding up or reduction of capital; and
 - (ii) in the case of a redeemable preference share, on redemption;
- (b) **dividends from profits:** no right to payment out of the profits of the Company of a dividend;
- (c) **participation in surplus assets and profits:** no rights to participate in the profits or property of the Company other than as set out in this rule 2.5 whether on a winding up, reduction of capital or, in the case of a redeemable preference share, on redemption;
- (d) **attending general meetings and receiving documents:** the same right as a Shareholder to:
 - (i) receive notice of and to attend a general meeting; and
 - (ii) receive other notices to Shareholders, reports and audited accounts;
- (e) **voting:** the right to vote in the following circumstances and in no other circumstances:
 - (i) in accordance with rule 5.8; or

- (ii) on a proposal that affects rights attached to the preference share.
- (f) **redemption:** the Company may redeem a preference share from a Preference Shareholder for no or nominal consideration, determined in the discretion of the Board:
 - (i) upon any of the events in rule 3 occurring in relation to that Preference Shareholder;
 - (ii) if the Preference Shareholder applies for admission as a Shareholder, and is issued with Shares; or
 - (iii) if the Preference Shareholder gives written notice to the Company that the Preference Shareholder no longer wishes to be a Preference Shareholder;
- (g) **conversion to ordinary share:** if a Preference Shareholder meets the eligibility criteria for becoming a Shareholder in accordance with rule 2.2 and makes an application for admission as a Shareholder under rule 2.7, the Board may resolve to convert the preference share held by that Preference Shareholder to one or more ordinary shares;
- (h) **limit to 1 share:** the number of preference shares to which a Preference Shareholder may be entitled is limited to 1;
- (i) **restrictions on transfer:** preference shares may not be transferred except to a Related Body Corporate of the Preference Shareholder; and
- (j) **other restrictions:** the restrictions, if any, specified in the certificate for the preference share.

2.6 Joint holders of shares

Where two or more persons are registered as the holders of a share they hold it as joint tenants with rights of survivorship subject to the following provisions:

- (a) the Company is not bound to register more than three of those persons as joint holders of the share;
- (b) each of those persons and their respective legal personal representatives are liable severally as well as jointly for all payments, including calls, which ought to be made in respect of the share;

- (c) subject to paragraph (b), on the death of any one of them the Company is entitled to recognise the survivor or survivors as the only person or persons who have any title to the share;
- (d) any one of those persons may give effective receipts for any distribution or payment in respect of the share; and
- (e) the Company is not bound to issue more than one certificate for the share and delivery of a certificate to any one of those persons is sufficient delivery to all of them.

2.7 Application

- (a) Any person who is eligible to be a Shareholder under rule 2.2 or a Preference Shareholder under rule 2.4 may apply to the Secretary for admission as a Shareholder or Preference Shareholder respectively.
- (b) An application for membership must be made in writing, signed by the applicant, and in a form acceptable to the Board.
- (c) The Board may require any applicant to supply such evidence of eligibility as the Board considers reasonably necessary.
- (d) When the Board is satisfied that the applicant is eligible, the Board:
 - (i) may admit the applicant as a Shareholder (if applying to be a Shareholder) and issue the applicant no more than three Shares in the capital of the Company, provided always that the Company may not have more than 10 Shareholders at any one time; or
 - (ii) may admit the applicant as a Preference Shareholder (if applying to be a Preference Shareholder) and issue the applicant no more than one preference share.

2.8 Certificates

Each member is entitled, without payment, to receive a certificate for shares issued as required under the *Corporations Act*.

2.9 Equitable interests in shares

- (a) The Company may treat the registered holder of a share as the absolute owner of that share.
- (b) The Company is not bound by or compelled in any way to recognise an equitable, contingent, future, partial or other right or interest in a share or unit of a share, even if the Company has notice of that right or interest.

2.10 Entrance Fees and Levies

- (a) On admission as a Shareholder, each must pay such an entrance fee as the Board may from time to time determine (if any), provided that the Board may determine a different rate as between holders of different classes of shares, but may not discriminate between holders of the same class of shares.
- (b) Where, in the opinion of the Board, the income of the Company for a given period will be insufficient to meet the Company's expenses, the Board may impose a levy on Shareholders, provided that the Board may impose a different levy on different Shareholders where the Board considers it equitable. Each Shareholder will be notified in writing of any levy imposed, which must be paid immediately.

2.11 Variation of Rights

- (a) If at any time the share capital of the Company is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may, whether or not the Company is being wound up, be varied with the consent in writing of the holders of three-quarters of the issued shares of that class, or with passing of a special resolution of the shareholders of that class.
- (b) The rights attaching to a class of shares will not be deemed to be varied by the issue of further equal-ranking shares in that class, unless otherwise provided by the terms of issue of those shares.

2.12 No Mortgage

- (a) A Shareholder must not create or permit to subsist any mortgage, charge or other encumbrance over any of the Shares (or any interest in those Shares).

- (b) A Preference Shareholder must not create or permit to subsist any mortgage, charge or other encumbrance over any of the preference shares (or any interest in those preference shares).

3. FORFEITURE, INDEMNITIES, LIEN AND SURRENDER

3.1 Forfeiture and Cancellation

- (a) If any of the following events occur, the Board may determine that the relevant Shareholder or Preference Shareholder forfeits all Shares or preference shares in the capital of the Company registered in their name:
 - (i) in the case of a Shareholder, , the Shareholder failing to satisfy rule 2.2(a)(iii) for a continuous period of three Financial Years, or ceasing to meet any other eligibility criteria in rule 2.2;
 - (ii) in the case of a Preference Shareholder, the Preference Shareholder ceasing to meet the eligibility criteria in rule 2.4(a);
 - (iii) the Shareholder or Preference Shareholder (being a company) becoming insolvent or going into compulsory or voluntary liquidation, except in cases of corporate reconstruction or amalgamation;
 - (iv) the Shareholder or Preference Shareholder is held by any court, exercising either civil or criminal jurisdiction, to have contravened any provision of the Act relating to an infringement of copyright;
 - (v) the Shareholder or Preference Shareholder (being a company), becomes a Related Body Corporate of a company whose interests or primary business is, in the opinion of the Board, contrary to the interests of the Company or its Shareholders;
 - (vi) the Shareholder or Preference Shareholder, in the opinion of the Board, has willfully and persistently refused to perform its obligations towards the Company or conducted itself so as to bring discredit on the Company or to disrupt the activities of the Company and to make continued membership undesirable in the interests of the other Shareholders or Preference Shareholders. The Company shall not deliberate upon any motion pursuant to this subparagraph (vi) until at least 14 days after the Shareholder or Preference Shareholder has been notified of the complaint against it. The Shareholder or

Preference Shareholder shall be entitled to answer the complaint either in writing delivered to the Secretary prior to the date on which the Company is to deliberate on such a motion or by appearing before the Company at the appropriate time; or

- (vii) in the case of a Shareholder, the Shareholder has declined to pay any sum due and payable to the Company including, but not limited to, any fees or levies pursuant to this constitution.

- (b) Unless the Board unanimously resolves otherwise, a Shareholder who at any time holds more than three shares (by acquisition or otherwise), forfeits all Shares in the capital of the Company registered in its name, other than the first three Shares acquired by that Shareholder, such that no Shareholder may hold more than three Shares at any time.

- (c) Unless the Board unanimously resolves otherwise, a Preference Shareholder who at any time holds more than one preference share, or a Share as well as a preference share (by acquisition or otherwise), forfeits all preference shares in the Company registered in its name other than the first preference share acquired by that Preference Shareholders such that no Preference Shareholder may hold more than one preference share at a time.

- (d) Immediately upon a share in the capital of the Company becoming forfeited under paragraphs (a), (b) or (c), the rights attaching to that share are suspended until the conclusion of the next general meeting of the Company and the Company may, by resolution at that general meeting, cancel that share in accordance with section 258D of the Corporations Act and remove the name of that shareholder from the Company register.

3.2 Indemnity for payments by the Company

- (a) A member or, if the member is dead, the member's legal personal representative, must indemnify the Company against any liability which the Company has under any law to make a payment for or on account of that member including in respect of:
 - (i) shares held by that member, solely or jointly;
 - (ii) a transfer or transmission of shares by a member; or
 - (iii) money owed to the member.

- (b) Paragraph (a) includes, without limitation, a payment arising from:
 - (i) the death of that member;
 - (ii) the non-payment of any income tax, capital gains tax, wealth tax or other tax by that member or the legal personal representative of that member; or
 - (iii) the non-payment of any estate, probate, succession, death, stamp or other duty by that member or the legal personal representative of that member.
- (c) The member or, if the member is dead, the member's legal personal representative, must pay to the Company immediately on demand:
 - (i) the amount required to reimburse the Company for a payment described in paragraph (a); and
 - (ii) interest on any part of that amount which is unpaid from the date the Company makes the payment until the date the Company is reimbursed in full for that payment, at a rate determined under rule 3.5.
- (d) This rule is in addition to any right or remedy the Company may have under the law which requires it to make the payment.
- (e) The directors may:
 - (i) exempt a share from all or any part of this rule 3.2; and
 - (ii) waive or compromise all or any part of any payment due to the Company under this rule 3.2.

3.3 Surrender of shares

- (a) The directors may accept a surrender of a share by way of compromise of any claim as to whether or not that share has been validly issued or in any other case where the surrender is within the powers of the Company.
- (b) Any share surrendered under paragraph (a) may be disposed of in the same manner as a forfeited share.

3.4 General provisions applicable to a disposal of shares under this constitution

- (a) Where any shares are disposed of under this constitution in the circumstances provided for in rules 4.1(b), 4.1(c), or 4.3(c), the directors may:
 - (i) receive the purchase money or consideration given for the shares on the disposal;
 - (ii) effect a transfer of the shares and, if necessary, execute, or appoint a person to execute, on behalf of the former holder an instrument of transfer of the shares or any other instrument for the purpose of giving effect to the disposal; and
 - (iii) register as the holder of the shares the person to whom the shares have been disposed of.
- (b) The title of a person to whom shares are disposed of under this constitution is not affected by an irregularity or invalidity in connection with that disposal.
- (c) The remedy of any person aggrieved by a disposal of shares under this constitution is limited to damages only and is against the Company exclusively.
- (d) The proceeds of a disposal of shares under this constitution must be applied in the payment of:
 - (i) first, the expenses of the disposal;
 - (ii) secondly, all money presently payable by the former holder whose shares have been disposed of; and
 - (iii) finally, any remaining proceeds must be paid to the former holder as soon as practicable. The former holder must first deliver to the Company the certificate for the shares that have been disposed of or any other proof of title as the directors may accept.
- (e) A statement in writing signed by a director or secretary of the Company to the effect that a share in the Company has been:
 - (i) duly disposed of under rule 3.3; or
 - (ii) duly forfeited under rule 3.1,

on a date stated in the statement is conclusive evidence of the facts stated in the statement as against all persons claiming to be entitled to the share and of the right of the Company to forfeit or otherwise dispose of the share.

3.5 Interest payable by member

- (a) For the purposes of rule 3.2(c)(ii), the rate of interest payable to the Company is:
 - (i) if the directors have fixed a rate, the rate so fixed; or
 - (ii) in any other case, 10% per annum.
- (b) Interest payable under rule 3.2(c)(ii) accrues daily and may be capitalised monthly or at other intervals the directors think fit.

4. TRANSFER AND TRANSMISSION OF SHARES

4.1 No Disposal of Shares

- (a) Subject to any rights or restrictions attached to any shares or class of shares, a Shareholder or Preference Shareholders may only dispose of Shares or Preference Shares in the manner allowed by this rule 4.
- (b) Subject to rule 3.1, a Shareholder may transfer all of its Shares to a Related Body Corporate of the Shareholder, provided that the Related Body Corporate satisfies the eligibility criteria in rule 2.2.
- (c) Subject to rule 3.1, a Preference Shareholder may transfer its preference share to a Related Body Corporate of the Preference Shareholder, provided that the Related Body Corporate satisfies the eligibility criteria in rule 2.4.

4.2 Transfer of shares

- (a) If permitted under rule 4.1, a member may transfer its shares by an instrument in writing in any usual form or in any other form that the directors approve.
- (b) A transferor of shares remains the holder of the shares transferred until the transfer is registered and the name of the transferee is entered in the register of members in respect of the shares.

- (c) The Company must not charge a fee for the registration of a transfer of shares.
- (d) An instrument of transfer referred to in paragraph (a) must be signed by or on behalf of both the transferor and the transferee unless the transfer:
 - (i) relates only to fully paid shares and signature by the transferee has been dispensed with by the directors; or
 - (ii) is a sufficient transfer of marketable securities for the purposes of the *Corporations Act*.
- (e) An instrument of transfer referred to in paragraph (a) must be duly stamped if required by law to be stamped.
- (f) An instrument of transfer referred to in paragraph (a) must be left for registration at the registered office of the Company, or at such other place as the directors determine, accompanied by any evidence which the directors require to prove the title of the transferor or the transferor's right to the shares including the share certificate, if any, and to prove the right of the transferee to be registered as the owner of the shares.
- (g) Subject to the powers vested in the directors under rules 4.3 and 4.5, where the Company receives an instrument of transfer complying with paragraphs (d), (e) and (f), the Company must register the transferee named in the instrument as the holder of the shares to which it relates.
- (h) The Company may retain any registered instrument of transfer received by the Company under paragraph (f) for any period the directors think fit.
- (i) Except in the case of fraud, the Company must return any instrument of transfer received under paragraph (f) which the directors decline to register to the person who deposited it with the Company.
- (j) The directors may, to the extent permitted by law, waive all or any of the requirements of rule 4.2.

4.3 Transmission of shares

- (a) In the case of the death of a member, the only persons the Company will recognise as having any title to the member's shares or any benefits accruing in respect of those shares are:

- (i) the legal personal representative of the deceased where the deceased was a sole holder; and
- (ii) the survivor or survivors where the deceased was a joint holder,

provided that the person meets the eligibility criteria in rule 2.2 in the case of Shares, or rule 2.4 in the case of preference shares.

- (b) Nothing in paragraph (a) releases the estate of a deceased member from any liability in respect of a share, whether that share was held by the deceased solely or jointly with other persons.
- (c) A person who becomes entitled to a share as a result of a Transmission Event may elect:
 - (i) to be registered as the holder of the share by signing and serving on the Company a notice in writing stating that election; or
 - (ii) to nominate some other person to be registered as the transferee of the share by executing or otherwise effecting a transfer of the share to that other person,

provided that the person to be registered as the holder of the share satisfies the eligibility criteria in rule 2.2 in the case of a Share, or rule 2.4 in the case of a preference share, and provided that the person produces any evidence the directors require to prove that person's entitlement to the share.

- (d) The provisions of this constitution relating to the right to transfer, and the registration of transfers of, shares apply, so far as they can and with such changes as are necessary, to any transfer under paragraph (c)(ii) as if the relevant Transmission Event had not occurred and the transfer were executed or effected by the registered holder of the share.
- (e) If two or more persons become jointly entitled to a share under a Transmission Event, on registration as the holders of the share, those persons are taken to hold the share as joint tenants subject to rule 2.6.

4.4 Power to decline registration of transfers

Subject to any special rights conferred on the holders of any shares or class of shares, the directors may, in their absolute discretion, decline to register any transfer of shares.

4.5 Power to suspend registration of transfers

The directors may suspend the registration of transfers at the times and for the period the directors think fit, but the period of suspension must not exceed a total of 30 days in any year.

5. GENERAL MEETINGS

5.1 Convening of general meetings

- (a) A general meeting may be convened by:
 - (i) the directors by resolution of the board; or
 - (ii) members or the court in accordance with sections 249E, 249F and 249G of the *Corporations Act*.
- (b) A general meeting must be convened by the directors in accordance with section 249D of the *Corporations Act*.
- (c) Subject to paragraph (e), the directors may postpone, cancel or change the venue for a general meeting by giving notice not later than five business days before the time at which the general meeting was to be held to each person who is at the date of the notice:
 - (i) a member;
 - (ii) a director; or
 - (iii) an auditor of the Company.
- (d) A notice postponing or changing the venue for a general meeting must specify the date, time and place of the general meeting.
- (e) A general meeting convened under section 249D of the *Corporations Act* may not be postponed beyond the date by which section 249D requires it to be held and may not be cancelled without the consent of the member or members who requested it.

5.2 Notice of general meetings

- (a) Subject to this constitution and to the rights or restrictions attached to any shares or class of shares, notice of a general meeting must be given within the time limits prescribed by

the *Corporations Act* and in the manner authorised by rule 13.1 to each person who is at the date of the notice:

- (i) a member;
 - (ii) a director; or
 - (iii) an auditor of the Company.
- (b) A notice of a general meeting must specify the date, time and place of the meeting and, except as provided in paragraph (c), state the general nature of the business to be transacted at the meeting and any other matters required under the *Corporations Act*.
- (c) It is not necessary for a notice of an AGM to state that the business to be transacted at the meeting includes the consideration of the annual financial report and the reports of the directors and auditor or the appointment or fixing of the remuneration of the auditor of the Company.
- (d) A person may waive notice of any general meeting by notice in writing to the Company.
- (e) The non-receipt of notice of a general meeting or proxy form by, or a failure to give notice of a general meeting or a proxy form to, any person entitled to receive notice of a general meeting under this rule 5.2 does not invalidate any act, matter or thing done or resolution passed at the general meeting if:
- (i) the non-receipt or failure occurred by accident or error; or
 - (ii) before or after the meeting, the person:
 - A. has waived or waives notice of that meeting under paragraph (d); or
 - B. has notified or notifies the Company of the person's agreement to that act, matter, thing or resolution by notice in writing to the Company.
- (f) A person's attendance at a general meeting:
- (i) waives any objection that person may have to a failure to give notice, or the giving of a defective notice, of the meeting unless the person at the beginning of the meeting objects to the holding of the meeting; and

- (ii) waives any objection that person may have to the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting or in paragraph (c), unless the person objects to considering the matter when it is presented.

5.3 Admission to general meetings

- (a) The chair of a general meeting may refuse admission to a person, or require that person to leave and remain out of the meeting, if that person:
 - (i) has a camera, tape recorder or video camera, or another audio or visual recording device;
 - (ii) has a placard or banner;
 - (iii) has an article which the chair considers to be dangerous, offensive or liable to cause disruption;
 - (iv) refuses to produce or to permit examination of any article, or the contents of any article, in the person's possession;
 - (v) behaves or threatens to behave in a dangerous, offensive or disruptive manner; or
 - (vi) is not:
 - A. a member or a proxy, attorney or Representative of a member;
 - B. a director;
 - C. an auditor of the Company;
 - D. a legal adviser to the Company; or
 - E. a person requested by the Board to attend the meeting..
- (b) A person requested by the Board or the chair to attend a general meeting is entitled to be present, whether the person is a member or not.

5.4 Quorum at general meetings

- (a) No business may be transacted at any general meeting, except the election of a chair and the adjournment of the meeting, unless a quorum of members is present in person or by proxy when the meeting proceeds to business and remains present throughout the meeting.
- (b) A quorum consists of:
 - (i) if the number of Shareholders entitled to vote is 5 or more - 4 of those Shareholders; or
 - (ii) if less than 5 Shareholders are entitled to vote – all Shareholders.
- (c) If a quorum is not present within 30 minutes after the time appointed for a general meeting:
 - (i) where the meeting was convened by, or at the request of, a member or members, the meeting must be dissolved; or
 - (ii) in any other case:
 - A. the meeting stands adjourned to such day, and at such time and place, as the directors determine or, if no determination is made by the directors, to the same day in the next week at the same time and place; and
 - B. if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

5.5 Chair of general meetings

- (a) The chair of directors must preside as chair at each general meeting if present within 15 minutes after the time appointed for the meeting and willing to act.
- (b) If at a general meeting:
 - (i) there is no chair of directors;
 - (ii) the chair of directors is not present within 15 minutes after the time appointed for the meeting; or

- (iii) the chair of directors is present within that time but is not willing to act as chair of the meeting,

the directors present may elect a person present to chair the meeting.

- (c) Subject to paragraph (a), if at a general meeting:

- (i) a chair has not been previously elected by the directors; or
- (ii) a previously elected chair is not available or is not willing to act as a chair of the meeting (or part of the meeting),

the members present must elect as chair of the meeting another person who is present and willing to act.

5.6 Conduct of general meetings

- (a) The chair of a general meeting is responsible for the general conduct of the meeting and for the procedures to be adopted at the meeting and may require the adoption of any procedures which are in his or her opinion necessary or desirable for:

- (i) proper and orderly debate or discussion, including limiting the time that a person present may speak on a motion or other item of business before the meeting; and
- (ii) the proper and orderly casting or recording of votes at the general meeting, whether on a show of hands or on a poll, including the appointment of scrutineers.

- (b) Subject to sections 250S and 250T of the *Corporations Act*, the chair of a general meeting may at any time he or she considers it necessary or desirable for the proper and orderly conduct of the meeting:

- (i) terminate debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the members present; or
- (ii) allow debate or discussion on any business, question, motion or resolution being considered by the meeting to continue.

- (c) Subject to sections 250S and 250T of the *Corporations Act*, the chair of a general meeting may:
 - (i) refuse to allow debate or discussion on any business, question, motion or resolution which is not within the business referred to in the notice of meeting or rule 5.2(c); and
 - (ii) refuse to allow any amendment to be moved to a resolution of which notice has been given under rule 5.2(a).
- (d) A decision by a chair under paragraphs (a), (b) or (c) is final.
- (e) The chair of a general meeting may at any time during the course of the meeting adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting.
- (f) If the chair exercises his or her right under paragraph (e), it is in the chair's sole discretion whether to seek the approval of the members present to the adjournment.
- (g) If the chair does seek the members' approval, the chair must adjourn the meeting if the members present with a majority of votes agree or direct that the chair must do so.
- (h) The chair's rights under paragraph (e) are exclusive and, unless otherwise required by the chair, no vote may be taken or demanded by the members present in respect of any adjournment.
- (i) No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (j) It is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
- (k) Where a meeting is adjourned, the directors may postpone, cancel or change the venue of the adjourned meeting but a general meeting convened under s249D of the *Corporations Act* may not be postponed beyond the date by which s249D requires it to be held and may not be cancelled without the consent of the member or members who requested it.

5.7 Decisions at general meetings

- (a) Except in the case of any resolution which as a matter of law requires a special majority, questions arising at a general meeting are to be decided by a majority of votes cast by the members present at the meeting, subject to rule 5.8(a) and any such decision is for all purposes a decision of the members.
- (b) In the case of an equality of votes upon any proposed resolution, the chair of the meeting has a casting vote in addition to any vote the chair has in his or her capacity as a representative of a Shareholder.
- (c) A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is demanded before a vote by show of hands is taken or before or immediately after the declaration of the result of the show of hands:
 - (i) by the chair of the meeting;
 - (ii) by at least two Shareholders present and entitled to vote on the relevant resolution; or
 - (iii) by a Shareholder or Shareholders present at the meeting and representing at least 20% of the votes that may be cast on the resolution on a poll.
- (d) A demand for a poll does not prevent the continuance of a general meeting for the transaction of any business other than the question on which the poll has been demanded.
- (e) Unless a poll is duly demanded, a declaration by the chair of a general meeting that a resolution has on a show of hands been carried or carried unanimously, or carried by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (f) If a poll is duly demanded at a general meeting, it will be taken when and in the manner the chair of the meeting directs, and the result of the poll will be the resolution of the meeting at which the poll was demanded.
- (g) A poll cannot be demanded at a general meeting on the election of a chair of the meeting.
- (h) The demand for a poll may be withdrawn.

5.8 Voting rights

- (a) Subject to this constitution and to any rights or restrictions attached to any shares or class of shares, at a general meeting:
 - (i) on a show of hands:
 - A. every Shareholder present or voting by proxy has one vote; and
 - B. Preference Shareholders who are present or voting by proxy together have one vote, to be decided by a majority of Preference Shareholders present or voting by proxy.
 - (ii) on a poll:
 - A. every Shareholder present or voting by proxy has one vote, provided that if a Shareholder is a Related Body Corporate of another Shareholder, both the Related Body Corporate and that other Shareholder shall together only be entitled to one vote; and
 - B. Preference Shareholders who are present together have one vote, to be decided by a majority of Preference Shareholders present or voting by proxy.
- (b) Where a person present at a general meeting represents personally or by proxy, attorney or Representative more than one member, the following rules apply to a vote taken on a show of hands:
 - (i) the person is entitled to one vote only despite the number of members the person represents; and
 - (ii) the person's vote will be taken as having been cast for all the members the person represents.
- (c) A joint holder may vote at any meeting in person or by proxy, attorney or representative as if that person was the sole holder. If more than one joint holder tenders a vote, the vote of the holder named first in the register must be accepted to the exclusion of the other or others.

- (d) The parent or guardian of an infant member may vote at a general meeting on evidence being produced of the relationship or of the appointment of the guardian as the directors may require and any vote so tendered by a parent or guardian of an infant member must be accepted to the exclusion of the vote of the infant member.

- (e) A person entitled to a share as a result of a Transmission Event may vote at a general meeting in respect of that share in the same manner as if that person were the registered holder of the share if, not less than 48 hours before the meeting, the directors have:
 - (i) admitted that person's right to vote at that meeting in respect of the share; or
 - (ii) been satisfied of that person's right to be registered as the holder of, or to transfer, the share,and any vote tendered by that person must be accepted to the exclusion of the vote of the registered holder of the share.

- (f) Where a member holds any share on which any call due and payable to the Company or any other amount then payable by the Shareholder to the Company has not been duly paid:
 - (i) that member is only entitled to be present at a general meeting and vote if other shares are held by that member on which no call is then due and payable; and
 - (ii) upon a poll, that member is not entitled to vote in respect of that share but may vote in respect of any other shares held upon which no call is then due and payable.

- (g) An objection to the qualification of a person to vote at a general meeting:
 - (i) must be raised before or immediately after the result of the motion on which the vote objected to is given or tendered; and
 - (ii) must be referred to the chair of the meeting, whose decision is final.

- (h) A vote not disallowed by the chair of a meeting under paragraph (g) is valid for all purposes.

5.9 Representation at general meetings

- (a) Subject to this constitution, each member entitled to vote at a meeting of members may attend and vote:
 - (i) in person or, where a member is a body corporate, by its Representative;
 - (ii) by proxy or, if the member is entitled to cast two or more votes at the meeting, by not more than two proxies; or
 - (iii) by not more than two attorneys.
- (b) A proxy, attorney or Representative may be a member of the Company but does not have to be a member.
- (c) A proxy, attorney or Representative may be appointed for all general meetings, or for any number of general meetings, or for a particular general meeting.
- (d) Unless otherwise provided in the *Corporations Act* or in the appointment, an appointment of a proxy, attorney or Representative will be taken to confer authority:
 - (i) to agree to a meeting being convened by shorter notice than is required by the *Corporations Act* or by this constitution;
 - (ii) to speak to any proposed resolution on which the proxy, attorney or Representative may vote;
 - (iii) to demand or join in demanding a poll on any resolution on which the proxy, attorney or Representative may vote;
 - (iv) even though the appointment may refer to specific resolutions and may direct the proxy, attorney or Representative how to vote on those resolutions:
 - A. to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
 - B. to vote on any procedural motion, including any motion to elect the chair, to vacate the chair or to adjourn the meeting; and
 - C. to act generally at the meeting; and

- (v) even though the appointment may refer to a specific meeting to be held at a specified time or venue, where the meeting is rescheduled or adjourned to another time or changed to another venue, to attend and vote at the re-scheduled or adjourned meeting or at the new venue.
- (e) The chair of a meeting may require any person purporting to act as a proxy, attorney or Representative to establish to the satisfaction of the chair that the person has been validly appointed as a proxy, attorney or Representative and is the person named in the relevant instrument of appointment, failing which the person may be excluded from attending or voting at the meeting.
- (f) Where a member appoints two proxies or attorneys to vote at the same general meeting and the authority of one is not conditional on the other failing to attend or vote, the following rules apply:
 - (i) where the appointment does not specify the proportion or number of the member's votes each proxy or attorney may exercise, each proxy or attorney may exercise half of the member's votes;
 - (ii) on a show of hands, neither proxy or attorney may vote; and
 - (iii) on a poll, each proxy or attorney may only exercise the voting rights the proxy or attorney represents.
- (g) An instrument appointing a proxy or attorney may direct the manner in which the proxy or attorney is to vote in respect of a particular resolution and, where an instrument so provides, the proxy or attorney is not entitled to vote on the proposed resolution except as directed in the instrument.
- (h) A proxy or attorney may not vote at a general meeting or adjourned meeting unless the instrument appointing the proxy or attorney, and the original or a certified copy of the power of attorney or other authority (if any) under which the instrument is signed, are received:
 - (i) at the registered office of the Company, the fax number at its registered office or at another place, fax number or electronic address specified for that purpose in the notice convening the meeting; and
 - (ii) by the time specified in the notice of meeting.

- (i) Unless the Company has received written notice of the matter by the time and at the place or in the manner set out in paragraphs (h)(i) and (h)(ii), a vote cast by a proxy or attorney is valid even if, before the proxy or attorney votes:
 - (i) a Transmission Event occurs in relation to the appointer; or
 - (ii) the member revokes the proxy's or attorney's appointment; or
 - (iii) the member revokes the authority under which a third party appointed the proxy or attorney; or
 - (iv) the member transfers the share in respect of which the proxy or attorney was appointed.
- (j) The authority of a proxy or attorney to speak and vote for a member at a general meeting is suspended while the member is present at the meeting.

6. DIRECTORS

6.1 Number of directors

- (a) The minimum number of directors is three.
- (b) Unless otherwise determined by the Company in general meeting by special resolution, the maximum number of directors is fifteen and will be constituted in accordance with rule 6.2.

6.2 Appointment of directors

- (a) Each Shareholder is entitled to appoint one director to the Board (**Shareholder Director**), and remove or replace that Shareholder Director from time to time, subject to paragraph (g). An appointment, or the termination of an appointment, of a Shareholder Director must be in writing signed by the Shareholder who makes or made the appointment and does not take effect unless and until the Company has received notice in writing of the appointment or termination.
- (b) Two directors are to be appointed by the Preference Shareholders, or if there are no Preference Shareholders, by the Shareholders, in each case on the direction of the majority of the Financial Licensors, excluding Shareholders (**Licensor Director**), on the following terms:

- (i) each Licensor Director must be, and remain during his or her term as a Licensor Director, a managing director of or person holding an equivalent position of a Financial Licensor;
 - (ii) the term of each Licensor Director commences on the date of appointment of that Licensor Director, and expires on or around the second anniversary of the appointment of that Licensor Director upon the appointment of a new Licensor Director. The terms for service of the two Licensor Directors must be staggered so that the term of one Licensor Director expires each year and an election to fill that position is held, while the other Licensor Director continues to act as Licensor Director for the following year;;
 - (iii) each Financial Licensor will be entitled to nominate a candidate and vote for the Licensor Directors, in accordance with the process of nominating and voting for the Licensor Directors determined by the Board from time to time, and conducted by the Secretary; and
 - (iv) the Secretary will conduct nominations for and an election of a new Licensor Director, and appoint a new Licensor Director as soon as reasonably practicable, if any of the circumstances set out in rule 6.3 arise in relation to the Licensor Director.
- (c) Shareholder Directors will appoint two directors, in accordance with the direction of the majority of Artists, in accordance with the following terms (**Artist Directors**):
- (i) each Artist Director must be, at the time of appointment as an Artist Director, a Financial Artist;
 - (ii) the term of an Artist Director commences on the date of appointment of that Artist Director, and expires on or around the second anniversary of the appointment of that Artist Director upon the appointment of a new Artist Director. The terms for service of the two Artist Directors must be staggered so that the term of one Artist Director expires each year and an election to fill that position is held, while the other Artist Director continues to act as Artist Director for the following year;
 - (iii) each Artist who has at any time been allocated a Distribution shall be entitled to nominate and vote for an Artist Director, in accordance with the process of nominating and voting for Artist Directors determined by the Board from time to time, and conducted by the Secretary; and

- (iv) the Secretary will conduct nominations for and an election of a new Artist Director, and appoint a new Artist Director as soon as practical if any of the circumstances in rule 6.3 arise in relation to an Artist Director.
- (d) The Board will, by majority vote (excluding the Manager Director), invite a person to be a Manager Director. The Board will invite a nomination from the Music Managers' Forum, the Association of Artist Managers, or similar industry body as determined by the Board (excluding the Manager Director). The Board may appoint the nominated person as a Manager Director if the appointment is acceptable to the Board. The Board may remove or replace the Manager Director with the approval of a majority of the Board (excluding the Manager Director).
- (e) Any change to the process for nominating, voting for and appointing Artist Directors requires the approval of at least one of the Artist Directors, as well as a majority of the Board.
- (f) Any change to the process for nominating, voting for and appointing Licensor Directors, requires the approval of at least one of the Licensor Directors, as well as a majority of the Board.
- (g) If the number of Shareholders exceeds the number of Shareholder Director positions available (so that the maximum number of directors in rule 6.1(b) is not exceeded):
 - (i) Shareholders who have held Shares for a longer period of time will have priority in appointing a Shareholder Director, until the maximum number of directors in rule 6.1(b) is reached; and
 - (ii) the other Shareholders will not be entitled to appoint a Shareholder Director, but will have the same right as Preference Shareholders to nominate and vote for a Licensor Director.
- (h) The directors in office on the date that this constitution was adopted by the Company continue in office, but on the terms and conditions set out in this constitution.
- (i) Notwithstanding paragraph (a), if a Shareholder is a Related Body Corporate of another Shareholder, both the Related Body Corporate and that other Shareholder shall together only be entitled to appoint one Shareholder Director.

6.3 Vacation of office

In addition to the circumstances prescribed by the *Corporations Act* or by the terms of a director's appointment, the office of a director becomes vacant:

- (a) upon the expiry of the term of that director, if any;
- (b) if the director:
 - (i) becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health;
 - (ii) becomes bankrupt or insolvent or makes any arrangement or composition with his or her creditors generally;
 - (iii) is convicted of an indictable offence and the directors do not within one month of that conviction resolve to confirm the director's appointment or election (as the case may be) to the office of director;
 - (iv) fails to attend meetings of the directors for more than three consecutive meetings without leave of absence from the directors; or
 - (v) resigns by notice in writing to the Company;
- (c) if the director is a Shareholder Director, and the Shareholder who appointed that Shareholder Director has forfeited its Shares, had its Shares bought back by the Company, or otherwise ceases to be entitled to be a Shareholder; or
- (d) if the director is a Licensor Director, and ceases to be a managing director of or hold an equivalent position with a Financial Licensor.

6.4 Remuneration of directors

- (a) Each director is entitled to the remuneration out of the funds of the Company as the directors determine.
- (b) The remuneration of directors:
 - (i) may be a stated salary or a fixed sum for attendance at each meeting of directors or both; or

- (ii) may be a share of a fixed sum determined by the Company in general meeting to be the remuneration payable to all directors which is to be divided between the directors in the proportions agreed between them or, failing agreement, equally,

and if it is a stated salary under paragraph (b)(i) or a share of a fixed sum under paragraph (b)(ii), will be taken to accrue from day to day.
- (c) In addition to their remuneration under paragraph (a), if any, the Board may determine that each director is entitled to be paid all travelling and other expenses properly incurred by them in connection with the affairs of the Company, including:
 - (i) attending and returning from general meetings of the Company or meetings of the directors or of committees of the directors; or
 - (ii) carrying out authorised Company business agreed in advance by the Board.
- (d) If a director renders or is called on to perform extra services or to make any special exertions in connection with the affairs of the Company, the directors may arrange for a special remuneration to be paid to that director, either in addition to or in substitution for that director's remuneration under paragraph (a).
- (e) Nothing in paragraph (a) restricts the remuneration to which a director may be entitled as an officer of the Company or of a related body corporate in a capacity other than director, which may be either in addition to or in substitution for that director's remuneration under paragraph (a).
- (f) The directors may, subject to the *Corporations Act*:
 - (i) at any time after a director dies or otherwise ceases to hold office as a director, pay to the director or a legal personal representative, spouse, relative or dependant of the director, in addition to the remuneration of that director under paragraph (a), a pension or lump sum payment for past services rendered by that director; and
 - (ii) cause the Company to enter into a contract with the director for the purpose of providing for or giving effect to that payment.
- (g) The directors may establish or support, or assist in the establishment or support of, funds and trusts to provide pension, retirement, superannuation or similar payments or benefits to or in respect of the directors or former directors.

6.5 Share qualification

- (a) A director is not required to hold any shares in the Company to qualify for appointment.
- (b) A director is entitled to attend and speak at general meetings even if he or she is not a member of the Company.

6.6 Interested directors

- (a) A director may hold any other office or place of profit, other than auditor, in the Company or a related body corporate in conjunction with his or her directorship. A director may be appointed to that office or place of profit on the terms as to remuneration, tenure of office and otherwise as the directors think fit.
- (b) A director of the Company may be a director or other officer of:
 - (i) a related body corporate;
 - (ii) a body corporate promoted by the Company; or
 - (iii) a body corporate in which the Company is interested, as shareholder or otherwise, or be otherwise interested in any of those bodies corporate. A director is not accountable to the Company for any remuneration or other benefits received by the director as a director or officer of that body corporate or from having an interest in that body corporate.
- (c) The directors may exercise the voting rights conferred by shares in any body corporate held or owned by the Company as the directors think fit. This includes voting in favour of any resolution appointing a director as a director or other officer of that body corporate, or voting for the payment of remuneration to the directors or other officers of that body corporate. A director may, if permitted by law, vote in favour of the exercise of those voting rights even if he or she is, or may be about to be appointed, a director or other officer of that other body corporate.
- (d) A director is not disqualified merely because of being a director from contracting with the Company in any respect including, without limitation:
 - (i) selling any property to, or purchasing any property from, the Company;

- (ii) lending any money to, or borrowing any money from, the Company with or without interest and with or without security;
 - (iii) guaranteeing the repayment of any money borrowed by the Company for a commission or profit;
 - (iv) underwriting or guaranteeing the subscription for securities in the Company or in a related body corporate or any other body corporate promoted by the Company or in which the Company may be interested as a shareholder or otherwise, for a commission or profit; or
 - (v) being employed by the Company or acting in any professional capacity, other than auditor, on behalf of the Company.
- (e) No contract made by a director with the Company and no contract or arrangement entered into by or on behalf of the Company in which any director may be in any way interested is avoided or rendered voidable merely because the director holds office as a director or because of the fiduciary obligations arising out of that office.
- (f) No director contracting with the Company or being interested in any arrangement involving the Company is liable to account to the Company for any profit realised by or under a contract or arrangement of that kind merely because the director holds office as a director or because of the fiduciary obligations arising out of that office.
- (g) Subject to paragraph (h), a director who is in any way interested in a contract or arrangement or proposed contract or arrangement may, despite that interest:
- (i) be counted in determining whether or not a quorum is present at any meeting of directors considering that contract or arrangement or proposed contract or arrangement;
 - (ii) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement to which the Seal is affixed; and
 - (iii) vote in respect of the contract or arrangement or proposed contract or arrangement or any matter arising out of those things.
- (h) Paragraph (g) does not apply if, and to the extent that, it would be contrary to the *Corporations Act*.

- (i) The directors may make regulations requiring the disclosure of interests that a director, and any person deemed by the directors to be related to or associated with the director, may have in any matter concerning the Company or a related body corporate. Any regulations made under this rule bind all directors and apply in addition to any obligations imposed on the directors by the *Corporations Act* to disclose interests to the Company.

6.7 Powers and duties of directors

- (a) The directors are responsible for managing the business of the Company and may exercise to the exclusion of the Company in general meeting all the powers of the Company which are not required, by the *Corporations Act* or this constitution to be exercised by the Company in general meeting.
- (b) Without limiting the generality of paragraph (a), the directors may exercise all the powers of the Company to borrow or otherwise raise money, to charge any property or business of the Company or all or any of its uncalled capital and to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.
- (c) The directors may determine how cheques, promissory notes, bankers drafts, bills of exchange or other negotiable instruments or other documents must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by or on behalf of the Company.
- (d) The directors may pay out of the Company's funds all expenses of the promotion, formation and registration of the Company and the vesting in it of the assets acquired by it.
- (e) The directors may:
 - (i) appoint or employ any person to be an officer, agent or attorney of the Company for the purposes, the period and on the conditions as they think fit;
 - (ii) resolve to delegate any of their powers to an officer, agent or attorney and the officer, agent or attorney must exercise the powers delegated in accordance with any directions of the directors;
 - (iii) authorise an officer, agent or attorney to delegate all or any of the powers, discretions and duties vested in the officer, agent or attorney; and

- (iv) subject to any contract between the Company and the relevant officer, agent or attorney, remove or dismiss any officer, agent or attorney of the Company at any time, with or without cause.
- (f) A power of attorney may contain such provisions for the protection and convenience of the attorney or persons dealing with the attorney as the directors think fit.

6.8 Proceedings of directors

- (a) The directors may hold meetings for the despatch of business and adjourn and otherwise regulate their meetings as they think fit.
- (b) Subject to the *Corporations Act*, the contemporaneous linking together by a form of technology of a number of the directors sufficient to constitute a quorum, constitutes a meeting of the directors and all the provisions in this constitution relating to meetings of the directors apply, so far as they can and with such changes as are necessary, to meetings of the directors held using a form of technology.

6.9 Convening of meetings of directors

- (a) A director may, whenever the director thinks fit, convene a meeting of the directors.
- (b) A secretary must, on the requisition of a director, convene a meeting of the directors.

6.10 Notice of meetings of directors

- (a) Subject to this constitution, notice of a meeting of directors must be given to each person who is at the time of giving the notice:
 - (i) a director, other than a director on leave of absence approved by the directors; or
 - (ii) an alternate director appointed under rule 6.15 by a director on leave of absence approved by the directors.
- (b) A notice of a meeting of directors:
 - (i) must specify the time and place of, or form of technology for, the meeting;
 - (ii) need not state the nature of the business to be transacted at the meeting;

- (iii) may be given in person, by post or, subject to the *Corporations Act*, by a form of technology; and
 - (iv) will be taken to have been given to an alternate director if it is given to the director who appointed that alternate director.
- (c) A director or alternate director may waive notice of a meeting of directors by notifying the Company to that effect in person, by post or by a form of technology.
- (d) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, a director does not invalidate any act, matter or thing done or resolution passed at the meeting if:
 - (i) the non-receipt or failure occurred by accident or error;
 - (ii) before or after the meeting, the director or an alternate director appointed by the director:
 - A. has waived or waives notice of that meeting under paragraph (c); or
 - B. has notified or notifies the Company of his or her agreement to that act, matter, thing or resolution personally, by post or by a form of technology;
or
 - (iii) the director or an alternate director appointed by the director attended the meeting.
- (e) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, an alternate director of a director on leave of absence approved by the directors does not invalidate any act, matter or thing done or resolution passed at the meeting if:
 - (i) the non-receipt or failure occurred by accident or error;
 - (ii) before or after the meeting, the alternate director or the director who appointed the alternate director:
 - A. has waived or waives notice of that meeting under paragraph (c); or

- B. has notified or notifies the Company of his or her agreement to that act, matter, thing or resolution personally, by post or by a form of technology;
or
 - (iii) the alternate director or the director who appointed the alternate director attended the meeting.
- (f) Attendance by a person at a meeting of directors waives any objection that person and:
- (i) if the person is a director, an alternate director appointed by that person; or
 - (ii) if the person is an alternate director, the director who appointed that person as alternate director,
- may have to a failure to give notice of the meeting.

6.11 Quorum at meetings of directors

- (a) No business may be transacted at a meeting of directors unless there is a quorum of directors at the time the business is dealt with.
- (b) A quorum consists of five directors, consisting of:
 - (i) all Shareholder Directors; and
 - (ii) at least two of any of the Artist Directors, Licensor Directors and Manager Director.
- (c) If there is a vacancy in the office of a director, the remaining director or directors may act but, if the number of remaining directors is not sufficient to constitute a quorum at a meeting of directors, the remaining director or directors may act only in an emergency or for the purpose of increasing the number of directors to a number sufficient to constitute a quorum or of convening a general meeting of the Company.

6.12 Chair and deputy chair of directors

- (a) The directors may elect one of the directors to the office of chair of directors and may determine the period for which that director is to be chair of directors.

- (b) The directors may elect one of the directors to the office of deputy chair of directors and may determine the period for which that director is to be deputy chair of directors.
- (c) The office of chair of directors or deputy chair of directors may be treated as an extra service or special exertion performed by the director holding that office for the purposes of rule 6.4(d) if:
 - (i) the directors resolve to do so; and
 - (ii) the total amount fixed by the Company for remuneration of non-executive directors under rule 6.4(a) will not be exceeded.
- (d) The chair of directors must (if present within 10 minutes after the time appointed for the holding of the meeting and willing to act) preside as chair at each meeting of directors.
- (e) If at a meeting of directors:
 - (i) there is no chair of directors;
 - (ii) the chair of directors is not present within 10 minutes after the time appointed for the holding of the meeting; or
 - (iii) the chair of directors is present within that time but is not willing to act as chair of the meeting or of part of the meeting,then if the directors have elected a deputy chair of directors, the deputy chair of directors must (if present within 10 minutes after the time appointed for the holding of the meeting and willing to act) preside as the chair of the meeting or part of it.
- (f) Subject to paragraphs (d) and (e), if at a meeting of directors:
 - (i) there is no deputy chair of directors;
 - (ii) the deputy chair of directors is not present within 10 minutes after the time appointed for the holding of the meeting or of part of the meeting; or
 - (iii) the deputy chair of directors is present within that time but is not willing to act as chair of the meeting or part of the meeting,

the directors present must elect one of themselves to be chair of the meeting or part of the meeting.

6.13 Decisions of directors

- (a) A meeting of directors at which a quorum is present is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the directors under this constitution.
- (b) Subject to paragraphs (c) and (d), any question arising at a meeting of directors is to be decided by a majority of votes cast by the directors present and entitled to vote on that question and a decision of that kind is for all purposes a determination of the directors.
- (c) In the case of an equality of votes upon any proposed resolution, the chair of the meeting has a casting vote in addition to any vote the chair has in his or her capacity as a director.
- (d) Directors present and entitled to vote on a question under paragraph (b) shall have the following number of votes:
 - (i) if the director is a Shareholder Director, two votes;
 - (ii) if the director is a Licensor Director, one vote;
 - (iii) if the director is an Artist Director, one vote;
 - (iv) if the director is the Manager Director, one vote.

6.14 Written resolutions

- (a) An act, matter or thing is taken to have been done or a resolution passed by a meeting of the directors, if a document containing a statement to that effect is assented to by all of the directors other than:
 - (i) a director on leave of absence approved by the directors;
 - (ii) a director who disqualifies himself or herself from considering the act, matter or thing in question on the grounds that he or she is not entitled at law to do so or has a conflict of interest; and

(iii) a director who the directors reasonably believe is not entitled to do the act, matter or thing or to vote on the resolution in question,

and the directors who assent to the document would have constituted a quorum at a meeting held to consider that act, matter, thing or resolution.

- (b) The act, matter or thing is taken to have been done or the resolution passed when the document is last assented to by a director.
- (c) Two or more separate documents in identical terms each of which is assented to by one or more directors are to be taken as constituting one document.
- (d) A director may signify assent to a document by signing the document or by notifying the Company of the director's assent in person or by post, fax, electronic, telephone or other method of written, audio or audio visual communication.
- (e) Where a director signifies assent to a document otherwise than by signing the document, the director must by way of confirmation sign the document at the next meeting of the directors attended by that director, but failure to do so does not invalidate the act, matter, thing or resolution to which the document relates.
- (f) Where a document is assented to in accordance with this rule 6.14, the document is to be taken as a minute of a meeting of directors.

6.15 Alternate directors

- (a) A Shareholder Director may appoint a person to be that Shareholder Director's alternate director for a period which that Shareholder Director thinks fit.
- (b) A Licensor Director, Artist Director or Manager Director may not appoint any alternate director.
- (c) An alternate director may be a member or a director of the Company but need not be a member or a director.
- (d) One person may act as alternate director to more than one director.
- (e) An alternate director is entitled, if the appointer does not attend a meeting of directors, to attend and vote in place of and on behalf of the appointer.

- (f) An alternate director is entitled to a separate vote for each director the alternate director represents in addition to any vote the alternate director may have as a director in his or her own right.
- (g) In the absence of the appointer, an alternate director may exercise any powers that the appointer may exercise and the exercise of that power by the alternate director is to be taken to be the exercise of the power by the appointer.
- (h) The office of an alternate director is vacated if and when the appointer vacates office as a director.
- (i) The appointment of an alternate director may be terminated at any time by the appointer even though the period of the appointment of the alternate director has not expired.
- (j) An appointment, or the termination of an appointment, of an alternate director must be in writing signed by the director who makes or made the appointment and does not take effect unless and until the Company has received notice in writing of the appointment or termination.
- (k) An alternate director is not to be taken into account in determining the minimum or maximum number of directors allowed under this constitution.
- (l) In determining whether a quorum is present at a meeting of directors, a director or an alternate director who attends the meeting is to be counted once only.
- (m) An alternate director is entitled to be paid the remuneration which the directors think fit, either in addition to or in reduction of the remuneration payable to the director for whom the alternate director acts as alternate.
- (n) An alternate director is not entitled to be remunerated by the Company for his or her services as alternate director except as provided in paragraph (m).
- (o) An alternate director, while acting as a director, is responsible to the Company for his or her own acts and defaults and is not to be taken to be the agent of the director by whom he or she was appointed.

6.16 Committees of directors

- (a) The directors may resolve to delegate any of their powers to a committee or committees consisting of such number of directors or others as they think fit.

- (b) A committee to which any powers have been so delegated must exercise the powers delegated in accordance with any directions of the directors.
- (c) The provisions of this constitution applying to meetings and resolutions of directors apply, so far as they can and with such changes as are necessary, to meetings and resolutions of a committee of directors.
- (d) Membership of a committee of directors may be treated as an extra service or special exertion performed by the members of the committee for the purposes of rule 6.4(e) if:
 - (i) the directors resolve to do so; and
 - (ii) the total amount fixed by the Company for remuneration of non-executive directors under rule 6.4(a) will not be exceeded.

6.17 Delegation to individual directors

- (a) The directors may resolve to delegate any of their powers to one director.
- (b) A director to whom any powers have been so delegated must exercise the powers delegated in accordance with any directions of the directors.
- (c) Acceptance of such a delegation may be treated as an extra service or special exertion performed by the delegate for the purposes of rule 6.4(e) if:
 - (i) the directors resolve to do so; and
 - (ii) the total amount fixed by the Company for remuneration of non-executive directors under rule 6.4(a) will not be exceeded.

6.18 Validity of acts

An act done by a person acting as a director or by a meeting of directors or a committee of directors attended by a person acting as a director is not invalidated by reason only of:

- (a) a defect in the appointment of the person as a director;
- (b) the person being disqualified to be a director or having vacated office; or
- (c) the person not being entitled to vote,

if that circumstance was not known by the person or the directors or committee, as the case may be, when the act was done.

7. EXECUTIVE OFFICERS

7.1 Secretaries

The directors must appoint at least one secretary and may appoint additional secretaries.

7.2 Chief executive officer

The Board may appoint a person as the chief executive officer of the Company or to a similar position, who is not required to be a director, but who reports to the Board.

7.3 Provisions applicable to all executive officers

- (a) A reference in this rule 7.3 to an executive officer is a reference to a secretary or chief executive officer appointed under this rule 7.
- (b) The appointment of an executive officer may be for the period, at the remuneration and on the conditions the directors think fit.
- (c) Subject to any contract between the Company and the relevant executive officer, an executive officer of the Company may be removed or dismissed by the directors at any time, with or without cause.
- (d) The directors may:
 - (i) confer on an executive officer the powers, discretions and duties as they think fit, and may resolve to delegate any powers, discretions and duties vested in or exercisable by the directors;
 - (ii) withdraw, suspend or vary any of the powers, discretions and duties conferred on an executive officer; and
 - (iii) authorise the executive officer to delegate all or any of the powers, discretions and duties conferred on the executive officer.
- (e) An executive officer is not required to hold any shares to qualify for appointment.

- (f) An act done by a person acting as an executive officer is not invalidated by reason only of:
- (i) a defect in the person's appointment as an executive officer; or
 - (ii) the person being disqualified to be an executive officer,
- if that circumstance was not known by the person when the act was done.

8. SEALS

8.1 Adoption of common seal

- (a) The Company may execute documents in any way permitted by the Corporations Act.
- (b) The directors may provide for the Company to have a seal or for the Company to no longer have a common seal.
- (c) Rules 8.2, 8.3, 8.4 and 8.5 only apply if the Company has a common seal.

8.2 Use of Seal

- (a) The Seal must be used only by the authority of the directors or a committee of the directors authorised by the directors to authorise the use of the Seal.
- (b) The authority to use the Seal may be given before or after the Seal is used.
- (c) Subject to paragraph (b) and rule 8.5, until the directors otherwise determine, the fixing of the Seal to a document must be witnessed by a director and by another director, a secretary or another person appointed by the directors to witness that document or a class of documents in which that document is included.

8.3 Duplicate seal

- (a) The Company may have for use in place of its common seal outside the state or territory where its common seal is kept one or more duplicate seals, each of which must be a facsimile of the common seal of the Company with the addition on its face of the words "duplicate seal" and the name of the place where it is to be used.

- (b) A document sealed with a duplicate seal is to be taken as having been sealed with the common seal of the Company.

8.4 Share seal or certificate seal

- (a) The Company may have for use on certificates for securities of the Company in place of its common seal one or more duplicate seals, each of which must be a facsimile of the common seal of the Company with the addition on its face of the words "share seal" or "certificate seal".
- (b) A certificate for securities of the Company sealed with a share seal or certificate seal is to be taken as having been sealed with the common seal of the Company.

8.5 Sealing and signing of certificates

The directors may determine either generally or in a particular case that the seal and the signature of any director, secretary or other person is to be printed on or affixed to any certificates for securities in the Company by some mechanical or other means.

9. LICENCES AND DISTRIBUTIONS

9.1 Grant of Licences to the Company

- (a) The Company may take a Licence in respect of Protected Sound Recordings and Music Videos from either a Relevant Copyright Owner or an Agent, regardless of whether the Licensor is a Shareholder or Preference Shareholder.
- (b) Where there is, in respect of a Protected Sound Recording or a Music Video, a Relevant Copyright Owner and an Agent, then the Company may only take a Licence from the Agent.
- (c) When, in respect of a Protected Sound Recording or a Music Video, a Relevant Copyright Owner has appointed more than one Agent or an Agent has appointed another Agent, the Company may only take a Licence from the Agent nominated by the Board.
- (d) The Board may require from time to time the submission of such evidence as it considers reasonably necessary to establish that any person is a Relevant Copyright Owner or an Agent.

- (e) Notwithstanding anything to the contrary in this rule 9.1, the Company may take either a Licence or an assignment of copyright in respect of either Protected Sound Recordings or Music Videos from any Relevant Copyright Owner or Agent who is a Foreign Licensor provided that the agreement pursuant to which the Company takes such a Licence or assignment may be terminated by the Company immediately upon the Foreign Licensor appointing an Agent who is a resident of, or is incorporated in accordance with the laws of, Australia.

9.2 Collection, Allocation and Distribution of Money

- (a) The Company shall take all reasonable steps to ensure that it collects all amounts due to it by virtue of the granting of Licences to users of Protected Sound Recordings and/or Music Videos of either the Communication Right and/or the Public Performance Right.
- (b) The Company may apply moneys received by the Company in respect of the rights, licences or authorities granted by Licensors to the Company, and all income arising from investing such moneys, towards:
 - (i) all reasonable expenses in relation to the administration, management, operation (including legal expenses) and promotion of the Company;
 - (ii) any amounts necessary to satisfy any liability of the Company to pay any tax, levy, impost, deduction, charge, duty or withholding tax (together with any related interest, penalty, fine and expense in connection with any of them);
 - (iii) such fees to the directors of the Company as are fixed by the Shareholders of the Company in general meeting;
 - (iv) such payments, subscriptions, grants, prizes, donations or other disbursements for the purpose of or in connection with promoting the objects of the Company, as determined by the Board from time to time;
 - (v) any amounts that the Board considers are necessary to constitute reserves for:
 - A. the purchase, maintenance, repair or replacement of such furniture, fixtures, fittings, office equipment or machinery and other items as are required for the proper administration and management of the Company; and

- B. any future or contingent liability of the Company (including any liability which will arise for salaries, wages, rental and other outgoings of a regular nature);
- (c) The Company may hold any part of the Distributable Sum, received on or after 1 July 2005, on trust in a separate account for the Beneficiaries until it is allocated and distributed amongst the Beneficiaries in accordance with the Distribution Policy and Direct Distribution Scheme.
- (d) The Distributable Sum must, in respect of each Accounting Period, be allocated and paid as follows:
 - (i) as to Protected Sound Recordings, an amount equivalent to the percentage of Gross Receipts attributable to Licences of the Communication Right and the Public Performance Right in respect of those Protected Sound Recordings;
 - (ii) as to Music Videos, an amount equivalent to the percentage of Gross Receipts attributable to Licences of the Communication Right and the Public Performance Right in respect of those Music Videos.
- (e) Subject to paragraph (d), the Board must:
 - (i) in respect of an Accounting Period allocate the Distributable Sum in accordance with the Distribution Policy and Direct Distribution Scheme having regard to paragraph (f); and
 - (ii) fix and determine from time to time (not less than once each Accounting Period) the entitlement of Beneficiaries to a Distribution.
- (f) In exercising its powers under paragraph (e), the Board shall be entitled to consider all matters which the Board considers relevant, but must take all reasonable steps to ensure that a Beneficiary's entitlement to an allocation from the Distributable Sum is fairly determined.
- (g) The Board must fix the times for distributing the Distributions allocated to Beneficiaries, which must take place as soon as is reasonably possible time after the allocation of the Distributions.
- (h) Subject to paragraphs (d), (e), (f) and (g), allocations and distributions made by the Board shall be final and binding.

- (i) A member or Licensor may not direct the Company to pay an amount at a particular time.
- (j) Without prejudice to any other rights and remedies, where the Board is satisfied that moneys allocated or distributed by the Company to a Beneficiary out of the Distributable Sum constitute an over-distribution, the over-distribution may be deducted from any subsequent allocation or distribution made by the Company to that Beneficiary.
- (k) The Company must not distribute dividends to the Shareholders or Preference Shareholders.
- (l) As soon as is reasonably possible after any allocation, any Distribution which has not been distributed to a Beneficiary for one of the following reasons:
 - (i) because that Beneficiary cannot be located;
 - (ii) because there is a dispute as to the person entitled to the Distribution; or
 - (iii) because the accumulated Distributions allocated to that Beneficiary are less than ten dollars (\$10.00) or such other sum as is determined by the Board from time to time,must be retained in the Trust Account.
- (m) The Board shall be required to distribute the moneys deposited into the Trust Account pursuant to paragraph (l) to a Beneficiary as soon as is reasonably practicable upon the happening of one of the following events:
 - (i) if the moneys are deposited pursuant to paragraph (l)(i), upon the Beneficiary being located;
 - (ii) if the moneys are deposited pursuant to paragraph (l)(ii), upon the resolution of that dispute and in accordance with the terms of that resolution; and
 - (iii) if the moneys are deposited pursuant to paragraph (l)(iii), upon the accumulation of Distributions exceeding ten dollars (\$10.00) or such other sum as is determined by the Board from time to time.
- (n) Unless the Board is satisfied that special circumstances exist which justify the retention of a deposit in the Trust Account, at the expiry of four years from the date of a deposit of moneys into the Trust Account, such deposit shall be withdrawn from the Trust Account

and shall thereafter form part of the Distributable Sum for the then current Accounting Period.

9.3 Modifications to the Distribution Policy and Direct Distribution Scheme

- (a) The written policies of the Company in relation to the Distribution Policy and Direct Distribution Scheme in existence immediately prior to the date of adoption of this constitution, continue after the date of this constitution.
- (b) The Board must obtain the approval of any modification of the Direct Distribution Scheme and the Distribution Policy (but only if it materially adversely affects Distributions in respect of Protected Sound Recordings featuring Australian Artists) from at least two directors, being either a Manager Director and Artist Director, or two Artist Directors.
- (c) The Company must obtain the agreement of any Licensor that any Distributions made will be subject to the Direct Distribution Scheme, as amended from time to time by the Board.
- (d) The Board must ensure that the Direct Distribution Scheme makes available for payment to Australian Artists 50% of Distributions in respect of a Protected Sound Recording featuring Australian Artists to be payable directly to those Australian Artists, provided that such Artists have satisfied the eligibility and registration requirements of the Direct Distribution Scheme.
- (e) Before making any Distributions, the Company may deduct such amounts for charitable purposes as determined in accordance with the Distribution Policy, provided that such contributions to charitable purposes do not exceed 2.5% of Distributions in any Accounting Period.
- (f) The Board has the discretion to administer and determine the terms and mechanics of the Distribution Policy and Direct Distribution Scheme, subject to this rule 9.3.

10. WINDING UP

10.1 Distribution of surplus

Subject to this constitution and to the rights or restrictions attached to any shares or class of shares:

- (a) if the Company is wound up and the property of the Company is more than sufficient:
 - (i) to pay all of the debts and liabilities of the Company; and
 - (ii) the costs, charges and expenses of the winding up,

the excess must be divided among the members in proportion to the shares held by them, irrespective of the amounts paid or credited as paid on the shares;
- (b) for the purpose of calculating the excess referred to in paragraph (a), any amount unpaid on a share is to be treated as property of the Company;
- (c) the amount of the excess that would otherwise be distributed to the holder of a partly paid share under paragraph (a) must be reduced by the amount unpaid on that share at the date of the distribution; and
- (d) if the effect of the reduction under paragraph (c) would be to reduce the distribution to the holder of a partly paid share to a negative amount, the holder must contribute that amount to the Company.

10.2 Division of property

- (a) If the Company is wound up, the liquidator may, with the sanction of a special resolution:
 - (i) divide among the members the whole or any part of the property of the Company; and
 - (ii) determine how the division is to be carried out as between the members or different classes of members.
- (b) A division under paragraph (a) may be otherwise than in accordance with the legal rights of the members and, in particular, any class may be given preferential or special rights or may be excluded altogether or in part.
- (c) Where a division under paragraph (a) is otherwise than in accordance with the legal rights of the members, a member is entitled to dissent and to exercise the same rights as if the special resolution sanctioning that division were a special resolution passed under section 507 of the *Corporations Act*.

- (d) If any of the property to be divided under paragraph (a) includes securities with a liability to calls, a person entitled under the division to any of the securities may within 10 days after the passing of the special resolution referred to in that rule, by notice in writing direct the liquidator to sell the person's proportion of the securities and to account for the net proceeds and the liquidator must, if practicable, act accordingly.
- (e) Nothing in this rule 10.2 adversely affects any right to exercise any statutory or other power which would have existed if this rule were omitted.
- (f) Rule 10.2 applies, so far as it can and with necessary changes, to a division by a liquidator under paragraph (a) as if references in rule 10.2 to the directors and to a distribution or capitalisation were references to the liquidator and to the division under paragraph (a) respectively.

11. MINUTES AND RECORDS

11.1 Minutes

The directors must cause minutes of:

- (a) all proceedings and resolutions of general meetings;
- (b) proceedings and resolutions of meetings of the directors and of committees of the directors; and
- (c) resolutions passed by directors without a meeting,

to be recorded and entered in books kept for that purpose, within one month after the meeting is held or the resolution is passed.

11.2 Signing of minutes

- (a) Minutes of a meeting must be signed by the chair of the meeting or the chair of the next meeting within a reasonable time after the meeting.
- (b) Minutes of the passing of a resolution without a meeting must be signed by a director within a reasonable time after the resolution is passed.

11.3 Minutes as evidence

A minute that is recorded and signed in accordance with rules 11.1 and 11.2 is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.

11.4 Inspection of records

- (a) A member or Licensor has the right to inspect any books, records or documents of the Company, to the extent that those books, records or documents relate to the allocation or distribution of the Distributable Sum to that member or Licensor.
- (b) Subject to the *Corporations Act* and paragraph (b), the directors may determine to what extent, and at what time and places and under what conditions, the books, records and other documents of the Company or any of them will be open to the inspection of any person (other than directors).

12. INDEMNITY AND INSURANCE

12.1 Persons to whom rules 12.2 and 12.4 apply

Rules 12.2 and 12.4 apply:

- (a) to each person who is or has been a director, alternate director or executive officer (within the meaning of rule 7.3(a)) of the Company;
- (b) to such other officers or former officers of the Company or of its related bodies corporate as the directors in each case determine; and
- (c) if the directors so determine, to any auditor or former auditor of the Company or of its related bodies corporate.

12.2 Indemnity

The Company must indemnify, to the extent permitted by law, each person to whom this rule 12.2 applies for all losses or liabilities incurred by the person as an officer or, if the directors so determine, an auditor of the Company or of a related body corporate including, but not limited to, a liability for negligence or for legal costs on a full indemnity basis.

12.3 Extent of Indemnity

The indemnity in rule 12.2:

- (a) is a continuing obligation and is enforceable by a person to whom rule 12.2 applies even though that person may have ceased to be an officer or auditor of the Company or of a related body corporate;
- (b) applies to losses and liabilities incurred both before and after the date of adoption of that rule; and
- (c) operates only to the extent that the loss or liability is not covered by insurance.

12.4 Insurance

The Company may, to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

for any person to whom this rule 12.4 applies against any liability incurred by the person as an officer or auditor of the Company or of a related body corporate including, but not limited to, a liability for negligence or for legal costs.

12.5 Savings

Nothing in rule 12.2 or 12.4:

- (a) affects any other right or remedy that a person to whom those rules apply may have in respect of any loss or liability referred to in those rules; or
- (b) limits the capacity of the Company to indemnify or provide insurance for any person to whom those rules do not apply.

13. NOTICES

13.1 Notices by the Company to members

- (a) A notice may be given by the Company to a member:

- (i) by serving it personally at, or by sending it by post in a prepaid envelope to, the member's address as shown in the register of members or any other address, or by fax to the fax number or electronically to the electronic address, as the member has supplied to the Company for the giving of notices; or
 - (ii) if the member does not have a registered address and has not supplied another address to the Company for the giving of notices, by exhibiting it at the registered office of the Company.
- (b) A notice may be given by the Company to the joint holders of a share by giving the notice in the manner authorised by paragraph (a) to the joint holder first named in the register of members in respect of the share.
- (c) A notice may be given by the Company to a person entitled to a share as a result of a Transmission Event by serving it or sending it in the manner authorised by paragraph (a)(i) addressed to the name or title of the person, at or to the address, fax number or electronic address supplied to the Company for the giving of notices to that person, or if no address, fax number or electronic address has been supplied, at or to the address, fax number or electronic address to which the notice might have been sent if the relevant Transmission Event had not occurred.
- (d) The fact that a person has supplied a fax number or electronic address for the giving of notices does not require the Company to give any notice to that person by fax or electronic means.
- (e) A notice given to a member in accordance with paragraphs (a) or (b) is, despite the occurrence of a Transmission Event and whether or not the Company has notice of that occurrence:
 - (i) duly given in respect of any shares registered in that person's name, whether solely or jointly with another person; and
 - (ii) sufficient service on any person entitled to the shares as a result of the Transmission Event.
- (f) A notice given to a person who is entitled to a share as a result of a Transmission Event is sufficient service on the member in whose name the share is registered.
- (g) Any person who, because of a transfer of shares, becomes entitled to shares registered in the name of a member is bound by every notice which, before that person's name and

address is entered in the register of members in respect of those shares, is given to the member in accordance with this rule 13.1.

- (h) A certificate signed by a director or secretary of the Company to the effect that a notice has been given in accordance with this constitution is conclusive evidence of that fact.

13.2 Notices by the Company to directors

Subject to this constitution, a notice may be given by the Company to any director or alternate director either by serving it personally at, or by sending it by post in a prepaid envelope to, the director's or alternate director's usual residential or business address, or such other address, or by fax or electronic mail to such fax number or electronic address, as the director or alternate director has supplied to the Company for the giving of notices.

13.3 Notices by members or directors to the Company

Subject to this constitution, a notice may be given by a member, director or alternate director to the Company by serving it on the Company at, or by sending it by post in a prepaid envelope to, the registered office of the Company or by fax to the principal fax number at the registered office of the Company, or by electronic mail to the principal electronic address of the Company which appears on the Company's website at www.pcca.com.au from time to time.

13.4 Notices to members outside Australia

A notice to be sent to a member outside Australia and its external territories must be sent by electronic mail, airmail or by fax, or in another way that ensures it will be received quickly.

13.5 Time of service

- (a) Where a notice is sent by post, service of the notice is to be taken to be effected if a prepaid envelope containing the notice is properly addressed and placed in the post and to have been effected:
 - (i) in the case of a notice of a general meeting, on the day after the date of its posting; or
 - (ii) in any other case, at the time at which the letter would be delivered in the ordinary course of post.

- (b) Where a notice is sent by fax or electronic mail, the notice is to be taken to be given on the business day after it is sent.
- (c) Where the Company gives a notice under rule 13.1(a)(ii) by exhibiting it at the registered office of the Company, service of the notice is to be taken to be effected when the notice was first so exhibited.

13.6 Other communications and documents

Rules 13.1 to 13.5 (inclusive) apply, so far as they can and with necessary changes, to the service of any communication or document.

13.7 Notices in writing

A reference in this constitution to a notice in writing includes a notice given by fax or another form of written communication.

14. GENERAL

14.1 Currency

An amount payable to the holder of a share, whether by way of return of capital, participation in the property of the Company on a winding up or otherwise, may be paid, with the agreement of the holder or pursuant to the terms of issue of the share, in the currency of a country other than Australia and the directors may fix a date up to 30 days before the payment date as the date on which any applicable exchange rate will be determined for that purpose.

14.2 Submission to jurisdiction

Each member submits to the non-exclusive jurisdiction of the Supreme Court of the State or Territory in which the registered office of the Company is located, the Federal Court of Australia and the Courts which may hear appeals from those Courts.

14.3 Prohibition and enforceability

- (a) Any provision of, or the application of any provision of, this constitution which is prohibited in any place is, in that place, ineffective only to the extent of that prohibition.
- (b) Any provision of, or the application of any provision of, this constitution which is void, illegal or unenforceable in any place does not affect the validity, legality or enforceability

of that provision in any other place or of the remaining provisions in that or any other place.

ATTACHMENT A

DICTIONARY

1. DEFINITIONS AND INTERPRETATION

Definitions

In this constitution:

Accounting Period means such a period determined by the Board for accounting, distribution and reporting purposes, no such period to extend beyond 30 June in any year.

Act means the Copyright Act 1968.

Agent means a person authorised in writing by a Relevant Copyright Owner to exercise, either exclusively or otherwise, the Public Performance Right and/or the Communication Right or a person who has been authorised by such a person or by the Relevant Copyright Owner to collect or receive any moneys payable in respect of the exploitation of those rights.

Artist means an artist registered under the Direct Distribution Scheme.

Artist Director means a director appointed in accordance with rule 6.2(c)

Beneficiary means a Licensor, or if distributions from the Distributable Sum may be made directly to an Artist instead of a Licensor in accordance with the Distribution Policy and Direct Distribution Scheme, an Artist.

Board means the board of directors of the Company from time to time.

Communication Right means the right specified in Section 85(1)(c) of the Act in relation to Protected Sound Recordings or Section 86(c) of the Act in relation to Music Videos.

Company means Phonographic Performance Company of Australia Limited.

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

Direct Distribution Scheme means the scheme, as approved and varied from time to time by the Board, for the making of direct payments to Australian recording artists whose performances are featured on Protected Sound Recordings or Music Videos.

Distributable Sum means the balance of moneys collected pursuant to paragraph 9.2(a) after the application of such moneys in accordance with paragraph 9.2(b).

Distribution means an amount from the Distributable Sum, allocated in accordance with the Distribution Policy, to a Beneficiary.

Distribution Policy means the policy under which the Distributable Sum is to be allocated and distributed to Beneficiaries, as approved and varied by the Board from time to time.

Financial Artist means an Artist entitled to receive at least \$5 in Distributions, or other amount as determined from time to time by a majority of the Board including at least one Artist Director, during the most recently completed Financial Year.

Financial Licensor means a Licensor who has been allocated at least \$100 of Distributions during the most recently completed Financial Year, or other amount as determined by the Board from time to time, and which is not being wound up. In calculating the Distributions to which the Licensor has been allocated, all amounts available to be paid to other persons under the terms of the Direct Distribution Scheme will be excluded irrespective of whether or not such amounts were paid under the Direct Distribution Scheme.

Financial Year means the period of 12 months ending on 30 June in each year.

Foreign Licensor means an owner or exclusive licensee of copyright in a Protected Sound Recording or Music Video who is not an Australian citizen, an Australian protected person or a person resident in Australia, or a body corporate incorporated in under a law of the Commonwealth or of a State.

Gross Receipts means all monies received by the Company pursuant to the granting of licences of the Communication Right and the Public Performance Right in both Protected Sound Recordings and Music Videos.

Input Agreement means a written agreement between a Relevant Copyright Owner or Agent and the Company under which the Relevant Copyright Owner or Agent licenses to the Company rights in relation to Protected Sound Recordings or Music Videos, in the form approved by the Board from time to time.

Licence means a non-exclusive licence to exercise or grant a licence to exercise any part of the Communication Right or the Public Performance Right in Protected Sound Recordings and/or Music Videos.

Licensor means a Relevant Copyright Owner or an Agent who grants a Licence to the Company such part of the Communication Right and/or the Public Performance Right in Protected Sound Recordings and/or Music Videos as specified in the Input Agreement from time to time.

Licensor Director means a director appointed in accordance with rule 6.2(b).

Manager Director means a director appointed in accordance with rule 6.2(d).

Music Video means a published cinematograph film that embodies:

a sound recording; or

a sound track which, if made as a sound recording, would be a sound recording.

Preference Shareholder means a holder of a preference share in the Company.

Protected Sound Recording means a published sound recording in respect of which a Communication Right and/or a Public Performance Right is granted under the Act.

Public Performance Right means the right specified in Section 85(b) of the Act in relation to Protected Sound Recordings or Section 86(b) in relation to Music Videos.

Related Body Corporate means a related body corporate as defined in Section 50 of the Corporations Law.

Relevant Copyright Owner means a person who owns, within the meaning of the Act, the Communication Right and/or the Public Performance Right or who is an exclusive licensee in Australia of such rights within the meaning of Section 10 of the Act.

Representative, in relation to a body corporate, means a representative of the body corporate appointed under section 250D of the *Corporations Act* or a corresponding previous law;

Seal means any common seal, duplicate seal, share seal or certificate seal of the Company;

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

Share means an ordinary share in the capital of the Company.

Shareholder means a holder of an ordinary share in the Company as recorded in the Company register from time to time.

Shareholder Director means a director appointed by a Shareholder in accordance with rule 6.2(a).

Special Resolution means a special resolution as defined in the Corporations Act.

Transmission Event means:

- (a) in respect of a member of the Company who is an individual:
 - (i) the death of the member;
 - (ii) the bankruptcy of the member; or
 - (iii) the member becoming of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health; and
- (b) in respect of a member of the Company who is a body corporate, the dissolution of the member or the succession by another body corporate to the assets and liabilities of the member.

Trust Account means the trust account to be established pursuant to rule 9.2(c).

Interpretation

A reference in a rule to a partly paid share is a reference to a share on which there is an amount unpaid.

A reference in a rule relating to partly paid shares to a call or an amount called in respect of a share includes a reference to a sum that, by the terms of issue of a share, becomes payable on issue or at a fixed date.

A member is to be taken to be present at a general meeting if the member is present in person or by proxy, attorney or Representative.

A director is to be taken to be present at a meeting of directors if the director is present in person or by alternate director.

A reference in a rule in general terms to a person holding or occupying a particular office or position includes a reference to any person who occupies or performs the duties of that office or position for the time being.

In this constitution, headings and underlinings are for convenience only and do not affect the interpretation of this constitution and, unless the contrary intention appears:

words importing the singular include the plural and vice versa;

words importing a gender include every other gender;

words used to denote persons generally or importing a natural person include any Company, corporation, body corporate, body politic, partnership, joint venture, association, board, group or other body (whether or not the body is incorporated);

a reference to a person includes that person's successors and legal personal representatives;

a reference to any statute, regulation, proclamation, ordinance or by-laws includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing them and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute; and

where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

2. APPLICATION OF THE CORPORATIONS ACT

This constitution is to be interpreted subject to the *Corporations Act*.

Unless the contrary intention appears, an expression in a rule that deals with a matter dealt with by a provision of the *Corporations Act* has the same meaning as in that provision.

Subject to paragraph (b), unless the contrary intention appears, an expression in a rule that is defined in section 9 of the *Corporations Act* has the same meaning as in that section.

3. EXERCISE OF POWERS

The Company may exercise in any manner permitted by the *Corporations Act* any power which under the *Corporations Act* a Company limited by shares may exercise.

Where this constitution provides that a person or body may do a particular act or thing and the word "may" is used, the act or thing may be done at the discretion of the person or body.

Where this constitution confers a power to do a particular act or thing, the power is, unless the contrary intention appears, to be taken as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary that act or thing.

Where this constitution confers a power to do a particular act or thing with respect to particular matters, the power is, unless the contrary intention appears, to be taken to include a power to do that act or thing with respect to some only of those matters or with respect to a particular class or particular classes of those matters and to make different provision with respect to different matters or different classes of matters.

Where this constitution confers a power to make appointments to any office or position, the power is, unless the contrary intention appears, to be taken to include a power:

to appoint a person to act in the office or position until a person is appointed to the office or position;

subject to any contract between the Company and the relevant person, to remove or suspend any person appointed, with or without cause; and

to appoint another person temporarily in the place of any person so removed or suspended or in place of any sick or absent holder of such office or position.

Where this constitution confers a power or imposes a duty then, unless the contrary intention appears, the power may be exercised and the duty must be performed from time to time as the occasion requires.

Where this constitution confers a power or imposes a duty on the holder of an office as such then, unless the contrary intention appears, the power may be exercised and the duty must be performed by the holder for the time being of the office.

Where this constitution confers power on a person or body to delegate a function or power:

the delegation may be concurrent with, or to the exclusion of, the performance or exercise of that function or power by the person or body;

the delegation may be either general or limited in any manner provided in the terms of delegation;

the delegation need not be to a specified person but may be to any person from time to time holding, occupying or performing the duties of, a specified office or position;

the delegation may include the power to delegate;

where the performance or exercise of that function or power is dependent upon the opinion, belief or state of mind of that person or body in relation to a matter, that function or power may be performed or exercised by the delegate upon the opinion, belief or state of mind of the delegate in relation to that matter; and

the function or power so delegated, when performed or exercised by the delegate, is to be taken to have been performed or exercised by the person or body.

4. REPLACEABLE RULES NOT TO APPLY

The replaceable rules applicable to a public Company contained in the *Corporations Act* from time to time do not apply to the Company.