



Australian Professional Teachers Association Limited

Constitution of Company Limited by Guarantee

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1. Interpretation

1.1 Definitions

In this Constitution, unless the context requires otherwise:

Act means the *Corporations Act 2001 (Cth)* as amended, supplemented or replaced from time to time;

Annual Fee means the fee payable to the Association for membership, as determined by the Board on each year;

Board means all of the Directors assembled and acting as the Australian Professional Teachers Association.

Committee means any sub-group of the APTA Board, along with co-opted members of member Associations, appointed by the Board to undertake responsibilities as determined by the Board from time to time

Company means the Australian Professional Teachers Association Ltd ABN 49142560790.

Directors means all or some of the directors of the Company appointed by the Board in accordance with this Constitution

Financial Member means a member association, which has made payment of its annual subscription within 12 months of the due date for the payment thereof.

Financial Year means the financial year of APTA, commencing on 1 July in one year and ending on 30 June of the following year

Member means a registered member association of the Company;

Member Association means a state or territory education based body, constituted by a board or council, whose members are educator professional associations in their state.

Officer means a member of the Board of Directors and any employees or volunteers acting for or on behalf of the Company.

Register means the register of Members of the Company as required to be kept under section 168 of the Act;

Ordinary Resolution means a resolution passed by more than 50% of members/directors being entitled vote

Secretary means any person appointed to perform the duties of a secretary of the Company or if no such person holds that office then the Public Officer of the Company.

Special resolution means a resolution passed by at least 75% of members/directors being entitled vote.

1.2 In this Constitution, unless the contrary intention appears:

- (a) a reference to:
 - (i) any statute, ordinance, code or other law includes regulations and other statutory instruments under any of them and consolidations, amendments, re-enactments or a replacement of any of them by any government body;
 - (ii) any officer of the Company includes any person acting for the time being as an officer;
 - (iii) writing includes any mode of representing or reproducing words in a tangible or visible form, and includes electronic and/or internet transmission;
- (b) words importing:
 - (i) the singular include the plural and vice versa;
 - (ii) a gender include all other genders;
 - (iii) natural persons include partnerships, associations and corporations;
- (c) headings are for guidance do not affect the substance of this Constitution;
- (d) where a word or phrase is defined the meanings are such throughout the constitution;
- (e) references to notices in this Constitution include not only formal notices of meetings but also all documents and other communications from the Company to its Members but do not include cheques; and
- (f) The provisions of the *Interpretation Act 1987* apply to and in respect of this constitution in the same manner as those provisions would so apply if this constitution were an instrument under the Act.

2. The company

2.1 Name of the company

The name of the company is the Australian Professional Teachers Association Ltd ABN 49142560790.

2.2 Legal capacity and powers of the Company

Subject to the Act, the Company has the legal capacity, and the rights, powers and privileges of a natural person.

2.3 Limited liability

The liability of the Company's shareholders is limited.

Each member of the Company undertakes to contribute an amount not exceeding \$20 to the property of the Company in the event of its being wound up while the member is a

member or within 1 year after the member ceases to be a member, if required for payment of:

- a) of the debts and liabilities of the Company (contracted before the member ceases to be a member);
- b) of the costs, charges and expenses of winding up; and
- c) for the adjustment of the rights of the contributories among themselves.

3. Objects

(a) The objects for which the Association is established are:

To provide national leadership that supports and advances the teaching profession by:

- (i) Combining efforts and expertise to produce greater effectiveness
- (ii) Speaking out and acting to ensure interests are taken into account
- (iii) Visionary thinking to achieve positive change.

4. Powers of the Company

4.1 No shares

(a) The Company has all the powers of an individual and a body corporate but does not have the power to issue shares.

4.2 Ancillary to objects

(a) The powers of the Company and the powers of the Board are ancillary to and exercisable only to pursue the objects of the Company set out in rule 3.

4.3 Application of Income and Property

(a) The income and property of the Company, from wherever it is derived, must be applied solely towards the promotion of the objects set out in rule 3.

4.4 No Distribution to Members

(a) No portion of the income or property of the Company may be paid directly or indirectly, by way of dividend, bonus or otherwise to the members of the Company, and no benefit or advantage from the Company may be derived by members that is not offered equally to every member.

(b) Rule 4.4 (a) does not prevent:

- (i) the payment in good faith of remuneration to any officer, servant or member of the Company in return for services actually rendered to the Company or for goods supplied in the ordinary and usual way of business;
- (ii) the payment of interest at a rate not to exceed 12% per annum on money borrowed from any member of the Company;

- (iii) the payment of reasonable and proper rent by the Company to a member of the Company for premises leased by the member to the Company; or
- (iv) the reimbursement of expenses incurred by a member on behalf of the Company.

5. Membership

5.1 Membership qualifications

- (a) Member Associations must keep current the Annual Fee payable to the Company.
- (b) Membership of the Company shall not be allowed for any current or potential Member Association which has
 - (i) objects that are concerned mainly with Industrial matters;
 - (ii) objects that are concerned mainly with commercial matters;
 - (iii) aims that are not consistent with the objectives of the Company.
- (c) The maximum number of Member Associations with which the Company is incorporated is eight (one from each state/territory)
- (d) Any Member Association must consist of legal entities that are state or territory education based bodies, constituted by a board or council, whose members are educator professional associations in their state.

5.2 Liabilities of members

The liabilities of members are limited.

Membership entitlements are not transferable

- (a) A right, privilege or obligation which a Member Association has by reason of being as such is not capable of being transferred or transmitted to another organisation, and terminates on cessation of the Member Association's membership.

5.3 Register of members

- (a) The Secretary shall establish and maintain a register of Member Associations specifying the following information for each Member association and Director:
 - (i) name
 - (ii) address
 - (iii) the date on which the entry of the member's name in the register is made.
- (b) The Register shall be kept in the company's registered office.
- (c) The Register shall comply with the Act at all times.

5.4 Fees and subscriptions

- (a) A Member Association shall pay to the Association the Annual Fee as determined from time to time by the Board of Directors, and in accordance with the changing Consumer Price Index or such similar index published from time to time.
- (b) The Annual Fee is due on the 1st business day in January of each year
- (c) Rule 5.10 (c) deals with a member who has not paid their annual subscription.

5.5 Complaints

- (a) A complaint may be made to the Board by any person about a Member of the Company who:
 - (i) has refused or neglected to comply with a provision or provisions of this constitution, or
 - (ii) has willfully acted in a manner prejudicial to the interests of the Company,
- (b) The Board may refuse to deal with a complaint if it considers the complaint to be trivial or vexatious in nature.
- (c) If the Board decides to deal with the complaint, the Board:
 - (i) must cause notice of the complaint to be served on the Member concerned, and
 - (ii) must give the Member at least 14 days from the time the notice is served within which to make submissions to the Board in connection with the complaint, and
 - iii) must take into consideration any submissions made by the Member in connection with the complaint.
- (d) The Board may, by special resolution suspend the Member from membership of the Australian Professional Teachers Association if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the facts alleged in the complaint have been proved and the expulsion or suspension is warranted in the circumstances.
- (e) If the Board of Directors expels or suspends a Member, the Secretary must, within 7 days after the action is taken, cause written notice to be given to the Member of the action taken, of the reasons given by the Board for having taken that action and of the Member's right of appeal.
- (f) The expulsion or suspension does not take effect:
 - (i) until the expiration of the period within which the Member is entitled to appeal against the resolution concerned, or
 - (ii) a Member may appeal to the Australian Professional Teachers Association in General Meeting against a resolution of the Board of Directors, within 7 days after notice of the resolution is served on the Member, by lodging with the Secretary a notice to that effect.

- (g) The notice may, but need not, be accompanied by a statement of the grounds on which the Member intends to rely for the purposes of the appeal.
- (h) On receipt of a notice from a Member under sub-clause (g) the Secretary must notify the Board which is to convene a Special General Meeting of the association to be held within 28 days after the date on which the Secretary received the notice.
- (i) At a Special General Meeting of the association convened under sub-clause 7.2 (b):
 - (i) no business other than the question of the appeal is to be transacted, and
 - (ii) the Board and the Member must be given the opportunity to state their respective cases orally or in writing, or both, and
 - (iii) the Members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
 - (iv) the appeal is to be determined by a simple majority of votes cast by Members of the Company.

5.8 Disciplining of members

- (a) Where the Board is of the opinion that a Member Association or their representative on the Board of Directors:
 - (i) has persistently refused or neglected to comply with a provision or provisions of these Rules, or
 - (ii) has persistently and wilfully acted in a manner prejudicial to the interests of the Company.

the Board may, by special resolution:

 - (iii) expel the Member Association; or
 - (iv) request the Member Association to nominate an alternative person to the Board of Directors; or
 - (v) suspend the Director or Member Association from membership of the Company for a specified period.
- (b) If the Board expels or suspends a Director and/or Member Association, the Secretary must, within 7 days after the action is taken, cause written notice to be given to the Member Association of the action taken, of the reasons given by the Board for having taken that action and of the Director's and Member Association's right of appeal under rule 5.9.
- (c) The expulsion or suspension does not take effect:
 - (i) until the expiration of the period within which the Member Association is entitled to appeal against the resolution concerned, or

- (ii) if within that period the Member Association exercises the right of appeal, unless and until the Company confirms the special resolution under rule 5.8(b),

whichever is the later.

5.9 Right of appeal of disciplined member

- (a) A Member Association may appeal to the Company in general meeting against a resolution of the Board under rule 5.8, within 7 days after notice of the resolution is served on the member, by lodging with the Secretary a notice to that effect.
- (b) The notice may, but need not, be accompanied by a statement of the grounds on which the member intends to rely for the purposes of the appeal.
- (c) On receipt of a notice from a member under clause (1), the Secretary must notify the Board which is to convene a meeting of the Company to be held within 28 days after the date on which the Secretary received the notice.
- (d) At a meeting of the Company convened under clause (c):
 - (i) no business other than the question of the appeal is to be transacted, and
 - (ii) the Board and the member must be given the opportunity to state their respective cases orally or in writing, or both, and
 - (iii) the members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.

If at the meeting the Association passes a special resolution in favour of the confirmation of the resolution, the resolution is confirmed.

5.10 Cessation of membership

- (a) A Member Association is not entitled to resign its membership except in accordance with this rule.
- (b) A Member Association who has paid all amounts payable in respect of its membership requirements may resign from membership of the Company by giving to the Secretary written notice of at least 12 months (or such other period as the Board may determine by special resolution) of the Member Association's intention to resign. On the expiration of the period of notice, the Member Association ceases to be a member.
- (c) A member whose subscription is not paid for a period of six calendar months after it was due ceases to be a Member unless the Board of the Australian Professional Teachers Association otherwise determines by special resolution.
- (d) If a Member Association ceases to be a member, the Secretary must make an appropriate entry in the Register of members recording the date on which the Member Association ceased to be a member.
- (e) A Member Association ceases to be a Member of the Company if the Member Association is expelled from the Company by the Board of Members through a special resolution.

6. The Board

6.1 Powers of the Board

Subject to the Act, and to any resolution passed by the Members at a general meeting, the Board

- (a) is to control and manage the affairs of the Australian Professional Teachers Association, and
- (b) may exercise all such functions as may be exercised by the Australian Professional Teachers Association, other than those functions that are required by this constitution to be exercised by a General Meeting of Members of the association, and
- (c) has power to perform all such acts and do all such things as appear to the Board to be necessary or desirable for the proper management of the affairs of the Australian Professional Teachers Association.

If the Board cannot unanimously agree on the exercise of a power granted to it under clause 6.1, the exercise of the power and, if relevant, the manner in which it is to be exercised, may be finally determined by ordinary resolution of the Board.

6.2 Directors of the Board

- (a) The Board of Directors consists of the President, one Director from each Member Association; the Company may from time to time appoint up to 2 co-opted directors to provide specific expertise and/or experience, thus providing a maximum of 11 Directors on the Board.
- (b) Each Director shall be appointed from the financial membership of each Member Association at the Annual General Meeting of the Company.
- (c) The President is to be elected by the Member Associations. Upon the election of the President under rule, the Member Association from which the President is elected shall nominate an additional Director to the Board.
- (d) **The office-bearers** of the Association are to be elected by the member associations at the Annual General Meeting for 3 year terms, (determined by the occurrence of Annual General Meetings) to the following positions:
 - (i) Vice-president
 - (ii) Secretary
 - (iii) Treasurer
- (e) Whenever possible, no more than 2 positions should be elected in any one year, so as to preserve continuity of experience of office-bearers. In order to prevent more than 2 positions being elected at any one time, the Board may vote by simple majority to increase the length of term of any office-bearer(s) that are willing to continue in their position for 1 further year.

- (f) Each office-bearer of the Board is, subject to these Rules, to hold office until the commencement of the third Annual General Meeting after their election to office.
- (g) All office-bearers are eligible for re-election following the end of their term. The President can hold the position President for no longer than two terms.
- (h) In the event of a casual vacancy occurring in the Board:
 - (i) the Member Association from which the Director came may appoint a substitute Director; and
 - (ii) where the Director was also an office-bearer, the Board may by simple majority appoint a Director to fill the office-bearer's vacancy for the remaining period until the commencement of the next annual general meeting. The position is deemed vacant and a Director may then be appointed for 3 years.

6.3 Election of Office-bearers

- (a) Nominations of candidates for election as Office-bearers of the Company:
 - (i) must be made in writing, specify the position for which the person is being nominated, signed by 2 members of the Company and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination), and
 - (ii) must be delivered to the Secretary of the Company at least 14 days before the date fixed for the holding of the annual general meeting at which the election is to take place.
- (b) If insufficient nominations are received to fill all vacancies on the Board, the candidates nominated are taken to be elected. Further nominations are to be received at the annual general meeting for the vacant positions.
- (c) If insufficient further nominations are received, any vacant positions remaining on the Board are taken to be casual vacancies.
- (d) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.
- (e) If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held.
- (f) The ballot for the election of Office-bearers of the Board is to be conducted at the annual general meeting in such usual and proper manner as the Board may direct.
- (g) The Directors may at any time appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors, provided that the total number of Directors does not at any time exceed the maximum number of Directors permitted under this Constitution.

6.4 President

The President is the senior officer, figurehead and senior representative of the Company. The President presides as Chairperson at all meetings and maintains meeting order and effectiveness.

6.5 Vice-President

The Vice-president shall provide support for the President in the fulfilment of the President's duties, and shall replace the President as senior officer and Chairperson if the President is unable to fulfil that task from time to time.

6.6 Secretary

- (a) The Secretary of the Company must, as soon as practicable after being appointed as Secretary, lodge notice with the Company of his or her address.
- (b) It is the duty of the Secretary to keep minutes of:
 - (i) all appointments of office-bearers and members of the Board,
 - (ii) the names of members of the Board present at a meeting,
 - (iii) all proceedings at Board meetings, and
 - (iv) fulfil all other duties detailed in the Procedures Manual.

6.7 Treasurer

It is the duty of the Treasurer of the Association to ensure:

- (i) that all money due to the Association is collected and received and that all payments authorised by the Association are made; and
- (ii) that correct books and accounts are kept showing the financial affairs of the Association, including full details of all receipts and expenditure connected with the activities of the Association.

6.8 Appointment of Officers

The Board may appoint, whether by contract or direct employment, an Executive Officer (without voting rights) and such other staff that may from time to time be deemed necessary to carry out the business of the Company.

6.9 Other offices of Directors

Subject to the Act, a Director may hold any other office or offices under the Company (except that of auditor) in conjunction with the office of Director and on such terms as to remuneration and otherwise as the Directors may arrange.

6.10 Vacating office

In addition to the circumstances prescribed by the Corporations Act and this Constitution, the office of a Director becomes vacant if the Director:

- (i) dies, or
- (ii) ceases to be a financial member of their appointing Member Association, or
- (iii) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth, or
- (iv) is convicted of an offence in connection with the promotion, formation or management of a body corporate; or
- (v) becomes prohibited from being a Director by because of an order pursuant to this Act
- (vi) is convicted of a criminal offence; or
- (vii) resigns office by notice in writing given to the Secretary, or
- (viii) becomes a mentally incapacitated person, or
- (ix) is absent without leave from the Board for 3 consecutive meetings of the Board
- (x) Director's member association ceases to be a member of the Company.

A co-opted Director may be removed at any time by a resolution of the Board.

7. Meetings

7.1 Board meetings

- (a) The Australian Professional Teachers Association will meet at least 5 times a year to carry out its responsibilities and duties.
- (b) Meetings will be convened as face-to-face meetings or electronic meetings (telephone or video conference).
- (c) A quorum of the Board shall be more than half the number of voting directors of the Board.
- (d) Unless specified otherwise in this Constitution, matters arising at any Board meeting will be decided by a majority of votes by Directors entitled to vote. A determination of a majority of Directors present (face to face or electronically) or for whom a proxy is held shall be deemed to be a resolution of the Board.
- (e) Subject to this Constitution, no person is entitled to vote or to exercise any right or privilege as a Member until the person is registered in the Register.
- (f) Each Director who is entitled to vote and registered on the Company Register shall have one vote on any matter.
- (g) The Board meetings will be chaired by the President, or in the absence of the President, the Vice President will chair the meeting. Where both the President

and Vice President are absent another Director elected by the meeting shall chair the meeting.

- (h) In the event of equality of votes, the chairperson shall have a second or casting vote.
- (i) If unable to participate in a meeting, a Director may in writing appoint a proxy from the members of the Board.
- (j) The Board may appoint Committees to undertake specific roles on behalf of the Board. Committees may co-opt people outside the Board to support them in their roles and tasks.

7.2 Types of General Meetings

(a) Annual General Meeting

The Australian Professional Teachers Association must hold an annual general meeting of the Company once a year in accordance with the Act.

The business of the Annual General Meeting is that required by the Act and the Board. The business must include:

- (i) confirming the minutes of the previous Annual General Meeting
- (ii) the appointment of the auditors;
- (iii) the consideration of the financial statements, the reports of the Directors and auditor;
- (iv) the election of Directors and Office Bearers; and
- (v) any other business which, under this Constitution or the Act, is required to be transacted at an annual general meeting.

(b) Special General Meeting

A Special General Meeting may be convened at any time by the direction of the Board or by such requisitions as provided by the Act.

7.3 Convening general meetings

- (i) The Board may, whenever it thinks fit, convene a special general meeting of the Company.
- (ii) The Board must, on the requisition in writing of at least 6 Directors, convene a special general meeting of the Company.
- (iii) A requisition of Directors for a special general meeting:
 - (a) must state the purpose or purposes of the meeting, and
 - (b) must be signed by the Directors making the requisition, and
 - (c) must be lodged with the Secretary, and

- (d) may consist of several documents in a similar form, each signed by one or more of the Directors making the requisition.
- (iv) If the Board fails to convene a special general meeting to be held within 1 month after that date on which a requisition of Directors for the meeting is lodged with the Secretary, any one or more of the Directors who made the requisition may convene a special general meeting to be held not later than 3 months after that date.
- (v) A special general meeting convened by a Director or Directors as referred to in clause 7.3 (b) must be convened as nearly as is practicable in the same manner as meetings are convened by the Board.

7.4 Notice period

- (a) Subject to the Act, the Company must give 21 days notice of general meetings (including annual general meetings).
- (b) The Company may call, on shorter notice than that specified in clause 7.4(a):
 - (i) an annual general meeting, if all the Members entitled to attend and vote at the annual general meeting agree prior to the annual general meeting; and
 - (ii) any other general meeting, if Members holding at least 95% of the votes that may be cast at the general meeting agree prior to the general meeting.
- (c) Except where the proposed business requires a special resolution of the Company, the Secretary must provide at least 14 days notice to each Director *in writing* specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.

7.5 Notice of general meetings

- (a) Notice of a general meeting must be given as provided in this Constitution to:
 - (i) every Member;
 - (ii) every Director;
 - (iii) the auditor; and

A notice of a general meeting must:

- (b) specify the place/electronic, date and time for the meeting;
- (c) state the general nature of the business to be transacted at the meeting;
- (d) if a special resolution is to be proposed at the meeting, set out an intention to propose the special resolution and state the resolution;
- (e) contain a statement of each Member's right to appoint a proxy; and
- (f) contain a statement that, if the Member appoints more than one proxy, each proxy may be appointed to represent a specified proportion of the Member's votes.

- (g) No business other than that specified in the notice convening a meeting is to be transacted at the meeting except, in the case of an annual general meeting, business which may be transacted under rule 7.6.
- (h) A Director desiring to bring any business before a meeting may give notice in writing of that business to the Secretary who must include that business in the next notice calling a meeting given after receipt of the notice from the member.

7.6 Content of notice of annual general meeting

It is not necessary for the notice of an annual general meeting to state that the business to be transacted at the meeting includes:

- i. confirming the minutes of the previous Annual General Meeting
- ii. the appointment of the auditors;
- iii. the consideration of the financial statements, the reports of the Directors and auditor;
- iv. the election of Directors and Office Bearers; and
- v. any other business which, under this Constitution or the Act, is required to be transacted at an annual general meeting.

7.7 Notice of adjourned meeting

When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for 30 days or more.

7.8 Failure to give notice

Any resolution passed at a meeting is not invalidated by:

- (a) the accidental omission to give notice of a meeting to any Member or non-receipt of that notice by a Member; or
- (b) the accidental omission to send out the instrument of proxy to a person entitled to receive notice or non-receipt of that instrument.

8. Proceedings at general meetings

8.1 Use of technology

The Company may hold a meeting at 2 or more venues using any technology that gives Members a reasonable opportunity to participate.

8.2 Chairperson of general meeting

The General Meetings will be chaired by the President, or in the absence of the President, the Vice President will chair the meeting. Where both the President and Vice President are absent another Director elected by the meeting shall chair the meeting

8.3 Quorum

- (a) A quorum of the members shall be more than half the number of the members present and entitled to vote on the resolution the subject of the meeting.
- (b) Members may present in person or electronically (telephone or video conference) or by proxy.
- (c) No business will be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business. The quorum must be present at all times during the meeting.
- (d) For the purpose of determining whether a quorum is present:
 - (i) each person attending as a proxy is deemed to be a Member;
 - (ii) if a Member has appointed more than one proxy, only one may be counted; and

8.4 Effect of no quorum

If a quorum of the Company's Members is not present within half an hour after the time appointed for the meeting in the notice:

- (a) if the meeting was convened on the requisition of Members, the meeting must be dissolved; or
- (b) in any other case:
 - (i) the meeting will be adjourned to the date, time and place that the Directors specify (or if the Directors do not specify such details, the meeting is adjourned to the same day in the next week at the same time and place) except that if the meeting is adjourned for 30 days or more, notice of the resumed meeting must be given; and
 - (ii) if at a meeting resumed under clause 8.4(b)(i) a quorum is not present within half an hour after the time appointed for the meeting, the meeting must be dissolved.

8.5 Adjournment

The chairperson must adjourn a general meeting if the Members present with a majority of votes at the general meeting agree or direct that the chairperson must do so.

8.6 Adjourned meetings

- (a) Only unfinished business is to be transacted at a meeting resumed after an adjournment.

- (b) A resolution passed at a meeting resumed after an adjournment is passed on the day it was in fact passed.

8.7 Circulating resolutions

- (a) The Directors may pass a resolution without a Directors' meeting being held if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Identical copies of the document may be distributed for signing by different Directors and taken together will constitute one and the same document.
- (c) The resolution is passed when the last Director signs the document.

8.8 Director's personal interests

Directors must declare material personal interest in any matter that relates to the affairs of the Company. Unless the Board otherwise determines, the Director should not participate in discussions and voting relating to the matter. Such interests should be recorded in the minutes of the meeting.

8.9 Minutes

- (a) The minutes should record:
 - (i) all appointments of Directors and officers;
 - (ii) the names of the Directors present at each meeting of the Directors;
 - (iii) all orders made by the Directors;
 - (iv) all declarations made or notices given by any Director of their interest in any matter whereby any conflict of duty or interest may arise; and
 - (v) all resolutions and proceedings of meetings of Members and Directors,

and retain the minutes in a minute register for a period of at least 10 years or such other period as may be required under the Act.
- (b) The minutes of a meeting must be signed by the chairperson of the meeting or the chairperson of the next meeting.
- (c) In the absence of evidence to the contrary, contents of the minute register that is recorded and signed is evidence of the matters shown in the minute.

8.10 Voting at general meetings

- (a) Each Member, entitled to vote may vote in person or by proxy authorised under the Act, at a meeting of the Members of the Company. Each Member has one vote.
- (b) The Board may act despite any vacancy on the Board.

- (c) A Member Association is not entitled to participate or vote at any meeting of the Company unless all money due and payable by the Member Association they represent has been paid.
- (d) On any question arising at a meeting of the Company (or a sub-committee) each Member Association has one vote only.
- (e) All votes must be given personally (in whichever form the Board determines that may take) or by proxy, but no Member Association may hold more than 3 proxies.
- (f) In the case of a tie of votes on a question at a meeting, the chairperson of the meeting is entitled to exercise a second or casting vote.

8.11 Appointment of proxies

- (a) Each member association (provided they are financial to the Company) is entitled to appoint another as proxy by notice given to the Secretary in writing no later than 24 hours before the time of the meeting in respect of which the proxy is appointed.
- (b) The notice appointing the proxy is to be in the form set out in Appendix of this Constitution.

8.12 Decision-making

- (a) After a vote on a question has taken place, the chairperson must verbally acknowledge the result as passed or rejected, and ensure that a note is made in the minutes of the Company.
- (b) Any act or thing done or suffered, or purporting to have been done or suffered, by the Board or by a sub-committee appointed by the Board, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any member of the Board or sub-committee.
- (c) At a meeting of the Company, a poll may be demanded by the chairperson or by at least 5 members present in person (in whichever form the Board determines that may take) or by proxy at the meeting.
- (d) If a poll is demanded at a meeting, the poll must be taken:
 - (i) immediately in the case of a poll which relates to the election of the chairperson of the meeting or to the question of an adjournment, or
 - (ii) in any other case, in such manner and at such time before the close of the meeting as the chairperson directs,

and the resolution of the poll on the matter is taken to be the resolution of the meeting on that matter.

8.13 Special resolution

- (a) A resolution of the Company is a special resolution if it is passed by a majority which comprises at least three-quarters of such members of the Company as, being entitled under these Rules so to do, vote in person (in whichever form the Board determines that may take) or by proxy at a meeting for which at least 21

days' written notice specifying the intention to propose the resolution as a special resolution was given in accordance with this Constitution.

9. Powers and duties of Directors

9.1 General management power

Subject to the Act, this Constitution and any resolution of the Company, the Directors:

- (a) will set the strategic direction and manage the business of the Company;
- (b) may exercise all such powers of the Company that are not, by the Act or this Constitution, required to be exercised by the Company in general meeting, provided that:
 - (i) no resolution of the Company in a general meeting will invalidate any prior act of the Directors which would have been valid if such a resolution had not been made; and
 - (ii) any sale or disposal by the Directors of the Company's main undertaking or a substantial proportion of its assets will be subject to ratification by the Company in general meeting; and
- (c) may pay all expenses incurred in promoting and forming the Company.

9.2 Financial Management

- (a) The funds of the Australian Professional Teachers Association are to be derived from membership fees, grants, donations, sponsorship, projects and other sources as the Board determines.
- (b) Subject to any resolution passed by the Company, the funds of the Company are to be used in pursuance of the objects of the Company in such manner as the Board determines.
- (c) The Board shall keep proper accounts in accordance with the Act, this constitution with regards to all sums of money received and expended by the Company and the manner in which the receipt and expenditure takes place and the Company's assets and liabilities.
- (d) The audited financial statements for each financial year will be presented and made available to members of the Australian Professional Teachers Association at the Annual General Meeting.
- (e) Any 2 Officers of the Company, being Directors or employees authorised to do so by the Board, must sign all cheques, drafts, bills of exchange, promissory notes and other negotiable instruments.
- (f) All money received by the Company must be deposited as soon as practicable and without deduction to the credit of the Company's bank account.
- (g) The Company must, as soon as practicable after receiving any money, issue an appropriate receipt.
- (h) The Directors may for the purposes of the Company:

- (i) borrow money, with or without giving security for it; and
- (ii) guarantee the performance of any obligation of the Company or of any other person.
- (iii) keep a register, in accordance with the Act, of all mortgages and charges affecting the property of the Company; and
- (iv) comply with the Act in regard to the registration of mortgages and charges.

10. Seal

The Board shall provide for its safe custody of the Company Seal. The seal shall not be affixed to any instrument except by the authority of the Board. Every document to which the seal is affixed shall be signed by a person or persons approved by the Board for the purpose.

11. Inspection of records

- (a) The Directors must determine whether and on what terms the accounting records and other documents of the Company or any of them will be open to the inspection of Members other than Directors.
- (b) A Member other than a Director does not have the right to inspect any document of the Company except as provided by the Act or authorised by the Directors or by the Company in general meeting.

12. Notices

12.1 For the purpose of this constitution, a notice may be served on or given to a person:

- (a) by serving it on the Member personally;
- (b) by sending it by pre-paid post to the address of the person, or
- (c) by sending it by email or facsimile transmission to an address specified by the person for giving or serving the notice;

12.2 For the purpose of the constitution, a notice is taken, unless the contrary is proved to have been given or served:

- (a) In the case of a notice served personally, on the date on which it is received by the addressee, and
- (b) In the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post, and
- (c) In the case of a notice sent by email or facsimile transmission, on the date it was sent. If the facsimile machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.

13. Winding up

- (a) If upon the winding up or dissolution of the Company any property remains, after satisfaction of all debts and liabilities, that property must not be paid to or distributed among the members of the Company but must be given or transferred

to some other institution or institutions determined by the members of the Company at or before the time of dissolution.

- (b) If the members do not make the necessary determination under rule (a), the Company may apply to the Supreme Court to determine the institution or institutions.
- (c) No institution is eligible to receive property under this rule 13 unless:
 - (i) it has objects similar to the objects of the Company; and
 - (ii) its constitution prohibits the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Company under 4.3 and 4.4.

14. Indemnity

- (a) Subject to clause 14(b), in addition to any other indemnity provided to an officer of the Company in accordance with the Act, and to the extent permitted by the Act:
 - (i) every officer of the Company will be indemnified out of the assets of the Company against any liability incurred by them in relation to the execution of their office;
 - (ii) no officer of the Company is liable for any loss or damage incurred by the Company in relation to the execution of his or her office;
 - (iii) every officer of the Company will be indemnified out of the assets of the Company against any liability which he or she incurs:
 - (A) in defending any proceedings, whether civil or criminal, in which judgment is given in favour of the officer or in which the officer is acquitted; or
 - (B) in connection with any application, in relation to any such proceedings, in which relief is granted under the Act to the officer by the Court; and
 - (iv) every officer of the Company will be indemnified out of the assets of the Company against any liability to another person (other than the Company or a related body corporate of the Company) where the liability is incurred by the officer in their capacity as an officer of the Company.
- (b) The indemnities in this clause 14 will not apply where the liability arises out of conduct involving a lack of good faith, fraudulence or gross negligence.

15. Insurance

In addition to the payment of any other insurance premium by the Company in accordance with the Act, and to the extent permitted by the Act, the Company may pay the premium in respect of a contract insuring an officer of the Company against a liability:

- (a) incurred by the officer of the Company in his or her capacity as officer, provided that the liability does not arise out of conduct involving a wilful breach of duty in relation to the Company or a contravention of sections 182 or 183 of the Act; or
- (b) for costs and expenses incurred by that officer of the Company in defending proceedings, whatever their outcome.

16. Alteration of objects and rules

Subject always to the Act, the statement of objects and these Rules may be altered, rescinded or added to only by a special resolution of the Company.

17. Audit

An audit of the books may be carried out by a Certified Practicing Accountant from time to time as the Board thinks fit, or as required under the Company's Procedures Manual.

Appendix – PROXY FORM

FORM OF APPOINTMENT OF PROXY

I,.....of
(full name) *(address)*

being a member of
(name of Member Association)

hereby appoint of
(full name of proxy) *(address)*

being a member of a Member Association, as my proxy to vote for me on my behalf at the meeting of the Company (annual general meeting or special general meeting, as the case may be) to be held on the

.....day of.....
(month and year)

and at any adjournment of that meeting.

* My proxy is authorised to vote in favour of/against (delete as appropriate) the resolution (insert details).

* to be inserted if desired.

.....
Signature of member appointing proxy

Date.....

NOTE: A proxy vote may not be given to a person who is not a Director of the Company and/or is from a Member Association that is not a current financial member of the Company.