

**Constitution**  
of  
**Tasmanian Symphony Orchestra Holdings Ltd**  
**ACN 122 619 630**

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# Tasmanian Symphony Orchestra Holdings Ltd

ACN 122 619 630

## 1. Object

- 1.1 The basic object for which the Company is established is to promote, encourage, produce, and perform, and join in promoting, encouraging, producing and performing, fine music and other forms of entertainment.
- 1.2 In addition to the basic object of the Company, the objects of the Company include doing any lawful thing incidental or conducive to the attainment of the basic object.

## 2. Income and property

The income and property of the Company must be applied solely towards the promotion of the object of the Company stated in this Constitution and not paid or transferred directly or indirectly by way of dividend, bonus or by any other means by way of profit to the Members.

## 3. Limited liability

- 3.1 The liability of the Members is limited.
- 3.2 Each Member undertakes to contribute to the assets of the Company if the Company is wound up during the time the person is a Member, or within one year afterwards, for:
- (a) payment of the debts and liabilities of the Company contracted before the person ceased to be a Member;
  - (b) the costs, charges and expenses of the winding up; and
  - (c) the adjustment of the rights of the contributories among themselves,
- which amount if required will not exceed one dollar.

## 4. Dissolution

If, on the winding up of the Company, whether voluntary or otherwise, a surplus remains, after the satisfaction of all debts and liabilities, the surplus must not be paid to the Members but paid or transferred to another body or other bodies that have

similar objects to the Company and that prohibit(s) the distribution of income, profits or assets to their members.

## 5. Definitions and interpretation

### 5.1 Definitions

In this Constitution:

**Act** means the *Corporations Act 2001*;

**AGM** means the annual general meeting of Members;

**Board** means the Directors for the time being of the Company;

**Business Day** means a day upon which the major trading banks in the place where the Office is situated are open for business;

**Chairperson** means the person elected as chair of the Board from time to time under article 10.7(a);

**Committee** means a committee to which powers have been delegated by the Board under article 10.9;

**Company** means Tasmanian Symphony Orchestra Holdings Ltd;

**Constitution** means this constitution as altered or added to from time to time and a reference to article by number is a reference to the article of that number in this constitution as altered or added to from time to time;

**Director** means a person appointed or elected from time to time to the office of director of the Company in accordance with this Constitution;

**FOTSO** means the Friends of the Tasmanian Symphony Orchestra Inc;

**Gift Fund** has the meaning given by section 30.125(4) of the *Income Tax Assessment Act 1997*;

**Managing Director** means the CEO if he has been appointed as Managing Director under article 10.8;

**Member** means a person admitted to membership of the Company in accordance with article 6;

**Office** means the registered office from time to time of the Company;

**Seal** means the common seal from time to time of the Company; and

**Secretary** means a person appointed as secretary of the Company and includes any person appointed to perform the duties of secretary.

## 5.2 Interpretation

In this Constitution unless the contrary intention appears:

- (a) words and phrases which are given a special meaning by the Act have the same meaning in this Constitution;
- (b) words in the singular include the plural and vice versa;
- (c) words importing a gender include each other gender;
- (d) a reference to any law or any statute, regulations, by law or proclamation is to be read as though the words “as modified or substituted from time to time” were added to the reference;
- (e) headings do not affect the meaning or construction of this Constitution;
- (f) where a word or a phrase is given a particular meaning, other cognate parts of speech and grammatical forms of that word or phrase shall have a corresponding meaning; and
- (g) words importing persons include corporations, companies, associations and institutions.

## 5.3 Replaceable Rules

The replaceable rules in the Act do not apply to the Company.

## 6. Members

### 6.1 General

The Members of the Company comprise:

- (a) the Members on incorporation, being those persons listed at and who have signed Appendix A; and
- (b) any person admitted to Membership under article 6.2.

### 6.2 Applications

- (a) Any person with an appreciation of music resident in Australia is eligible to apply to become a Member.
- (b) Subject to article 6.2(c), each applicant to become a Member must sign and deliver to the Company an application in the form (if any) prescribed by the Board from time to time, together with the annual Membership fee (if any).

- (c) The Board may determine that electronic applications, in the form prescribed from time to time by the Board, can be received from applicants for Membership. Such applications do not need to be signed by the applicant.
- (d) The Board determines whether an applicant may become a Member, but is not required to give any reason for the rejection of any application to become a Member.
- (e) If an application to become a Member is accepted, the Company must:
  - (i) give written notice of the acceptance to the applicant;
  - (ii) if payment has not been received, request payment of any amount owing for the annual Membership; and
  - (iii) on payment of any amount owing, enter the applicant's name in the register of Members.
- (f) If an application to become a Member is rejected, the Company must give written notice of the rejection to the applicant and refund in full any fees paid.

### 6.3 Annual Fee

- (a) Until fixed otherwise pursuant to article 6.3(b), the annual fee payable by Members shall be \$20 (inclusive of GST).
- (b) The annual fee prescribed in article 6.3(a) may be altered from time to time by a resolution of Members.

### 6.4 Ceasing to be a Member

A person will cease to be a Member if that person:

- (a) not being a Director, fails to pay the annual fee (if any) set in accordance with article 6.3 within 1 month after the commencement of the Company's financial year to which the fee relates;
- (b) resigns in accordance with article 6.5; or
- (c) is expelled under article 6.6.

### 6.5 Resignation

- (a) A Member may resign as a Member by giving the Company notice in writing.
- (b) Unless the notice provides otherwise, a resignation by a Member takes effect immediately on the giving of that notice to the Company.

## 6.6 Expulsion or suspension

- (a) In this article 6.6, “Expulsion Event” means, in respect of a Member, that:
- (i) the Member has wilfully refused or neglected to comply with the provisions of this Constitution; or
  - (ii) the conduct of the Member is, in the reasonable opinion of the Board, unbecoming of a Member or prejudicial to the objects, interest or reputation of the Company.
- (b) Subject to article 6.6(d), the Board may resolve to expel a Member, or to suspend a Member for such period and from enjoying such rights or privileges of membership as the Board may determine if:
- (i) an Expulsion Event occurs in respect of the Member; and
  - (ii) the Company gives that Member at least 10 days notice in writing stating the Expulsion Event and that the Member is liable to be expelled and informing the Member of the Member’s rights under article 6.6(c)(i).
- (c) Before passing any resolution under article 6.6(b), the Board:
- (i) must allow the Member to give to the Board, either orally or in writing, any explanation or defence of the Expulsion Event; and
  - (ii) may adopt other procedures to aid the resolution of complaints against the Member, including the appointment of complaints committees, conciliators and mediators.
- (d) Where a resolution is passed under article 6.6(b), the Company must give the Member notice (“Discipline Notice”) in writing of the expulsion or suspension, within 10 Business Days of the resolution.
- (e) A Member may, by notice in writing to the Company within 10 Business Days of receipt of a Discipline Notice, request that a resolution for expulsion (but not suspension) of that Member under article 6.6(b) be reviewed by the Company at the next general meeting.
- (f) If a request under article 6.6(e) is made, the Board must propose at the next general meeting of the Company that a resolution be moved to confirm the expulsion of the Member concerned.
- (g) A resolution under article 6.6(b) takes effect:

- (i) if the Member does not give a notice under article 6.6(e), on the date of the resolution; or
- (ii) if the Member gives a notice under article 6.6(e), on the date of the general meeting of the Company at which the resolution is put to Members in accordance with article 6.6(f) provided the resolution is passed by a simple majority of Members present and entitled to vote.
- (h) The Board may reinstate an expelled Member on any terms and at any time as the Board resolves.

## **7. Proceedings of Members**

### **7.1 Who can call meetings of Members**

- (a) Subject to the Act, the Directors may call a meeting of Members at a time and place as the Directors resolve.
- (b) The Directors must call and arrange to hold a general meeting on the request of Members made in accordance with the Act.
- (c) The Members may call and arrange to hold a general meeting as provided by the Act.

### **7.2 Annual General Meeting**

- (a) The Company must hold an AGM if required by, and in accordance with, the Act.
- (b) The business of an AGM may include any of the following, even if not referred to in the notice of the meeting:
  - (i) consideration of the annual financial report, the Directors' report and the auditor's report for the Company;
  - (ii) appointment of Directors; and
  - (iii) appointment of the auditor of the Company.

### **7.3 How to call meetings of Members**

- (a) The Company must give not less than 21 days notice of a meeting of Members unless a shorter period of notice is permitted under the Act.
- (b) Notice of a meeting of Members must be given to each Member, each Director



and any auditor of the Company.

- (c) Subject to article 7.11(h), a notice of a meeting of Members must:
- (i) set out the place, date and time for the meeting;
  - (ii) state the general nature of the business of the meeting; and
  - (iii) set out or include any other information or documents specified by the Act.
- (d) Subject to the Act, anything done (including the passing of a resolution) at a meeting of Members is not invalid if either or both a person does not receive notice of the meeting or the Company accidentally does not give notice of the meeting to a person.

#### 7.4 Right to attend meetings

- (a) Each body corporate Member may appoint one representative as its voting delegate to attend meetings. The representative may or may not be a Director.
- (b) Any auditor of the Company is entitled to attend any meetings of Members.
- (c) Subject to this Constitution, each Director is entitled to attend and speak at all meetings of Members.

#### 7.5 Meeting at more than one place

- (a) A meeting of Members may be held in two or more places linked together by any technology that:
  - (i) gives the Members as a whole in those places a reasonable opportunity to participate in proceedings;
  - (ii) enables the chairperson of the meeting to be aware of proceedings in each place; and
  - (iii) enables the voting delegates of Members in each place to vote on a show of hands and on a poll.
- (b) If a meeting of Members is held in two or more places under article 7.5(a):
  - (i) a Member present at one of the places is taken to be present at the meeting; and
  - (ii) the chairperson of that meeting may determine at which place the meeting is taken to have been held.

## 7.6 Quorum

- (a) Subject to article 7.6(d), a quorum for a meeting of Members is, until 31 December 2007, 5 Members entitled to vote at the meeting, and from 1 January 2008 is 20 Members entitled to vote at the meeting.
- (b) A quorum for a meeting of Members must be present (whether personally, by proxy, attorney, or representative) at the commencement of the meeting. If a quorum is so present, it is taken to be present throughout the meeting unless the chairperson of the meeting otherwise determines.
- (c) If a quorum is not present within 30 minutes after the time appointed for a meeting of Members:
  - (i) if the meeting was called under article 7.1(b) or article 7.1(c), the meeting is dissolved; and
  - (ii) any other meeting is adjourned to the date, time and place as the Directors may, by notice to the Members, appoint, or failing an appointment, to the same day in the next week at the same time and place as the meeting adjourned.
- (d) If a quorum is not present within 30 minutes after the time appointed for an adjourned meeting of Members, the Members present shall be a quorum.

## 7.7 Chairperson of meetings

- (a) The Chairperson must (if present within 15 minutes after the time appointed for the holding of the meeting and willing to act) preside at each meeting of Members.
- (b) If at a meeting of Members:
  - (i) there is no Chairperson;
  - (ii) the Chairperson is not present within 15 minutes after the time appointed for the holding of a meeting of Members; or
  - (iii) the Chairperson is present within that time but is not willing to preside at that meeting,
 the Directors present may, by majority vote, elect a person present to preside at all or part of the meeting of Members.
- (c) Subject to article 7.7(a), if at a meeting of Members:
  - (i) a chairperson of that meeting has not been elected by the Directors

under article 7.7(b); or

- (ii) the chairperson elected by the Directors is not willing to preside for all or part of the meeting of Members,
- the Members present must elect another person, present and willing to act, to preside for all or part of that meeting.

## 7.8 General conduct of meetings

- (a) Subject to the Act, the chairperson of a meeting of Members is responsible for the general conduct of that meeting and for the procedures to be adopted at that meeting.
- (b) The chairperson of a meeting of Members may delegate any power conferred by this article to any person.
- (c) The powers conferred on the chairperson of a meeting of Members under this article 7.8 do not limit the powers conferred by law.

## 7.9 Resolutions of Members

- (a) Subject to the Act, a resolution is passed if more votes are cast in favour of the resolution by Members entitled to vote on the resolution than against the resolution.
- (b) Unless a poll is requested in accordance with article 7.10, a resolution put to vote at a meeting of Members must be decided on a show of hands.
- (c) A declaration by the chairperson of a meeting of Members that a resolution has on a show of hands been passed, passed by a particular majority, or not passed, and an entry to that effect in the minutes of the meeting, are sufficient evidence of that fact, unless proved incorrect.

## 7.10 Polls

- (a) A poll may be demanded on any resolution at a meeting of Members except:
  - (i) the election of a chairperson of the meeting; or
  - (ii) the adjournment of the meeting.
- (b) A poll on a resolution at a meeting of Members may be demanded by:
  - (i) at least two Members present and entitled to vote on the resolution; or
  - (ii) the chairperson of the meeting.

- (c) A poll on a resolution at a meeting of Members may be demanded:
  - (i) before a vote on the resolution is taken; or
  - (ii) before, or immediately after, the result of the vote on the resolution on a show of hands is declared.
- (d) A demand for a poll may be withdrawn.
- (e) A poll demanded on a resolution at a meeting of Members must be taken in the manner and at the time and place the chairperson of the meeting directs.
- (f) The result of a poll demanded on a resolution of a meeting of Members is a resolution of the meeting.
- (g) A demand for a poll on a resolution of a meeting of Members does not prevent the continuance of the meeting or the meeting dealing with any other business.

#### 7.11 **Adjourned, cancelled and postponed meetings**

- (a) Subject to the Act, the chairperson of a meeting:
  - (i) may; and
  - (ii) must, if the Members present with a majority of votes that may be cast at the meeting agree or direct the chairperson to do so, adjourn a meeting of Members to any day, time and place.
- (b) No person other than the chairperson of a meeting may adjourn the meeting.
- (c) The Company is only required to give notice of an adjourned meeting if the period of adjournment exceeds one month or such other time specified in the Act for that purpose.
- (d) Only business left unfinished is to be transacted at a meeting of Members resumed after an adjournment.
- (e) Subject to the Act and this article 7.11, the Directors may at any time postpone or cancel a meeting of Members by giving notice, of not less than 5 Business Days before the time at which the meeting was to be held, to each person to whom the notice of the meeting was required to be given.
- (f) A general meeting called under article 7.1(b) must not be cancelled or postponed by the Directors without the consent of the Members who requested the meeting.

- (g) A general meeting called under article 7.1(c) must not be cancelled or postponed by the Directors without the consent of the Members who called the meeting.
- (h) A notice adjourning or postponing a meeting of Members must set out the place, date and time for the revised meeting (and if the revised meeting is to be held in two or more places, the technology that will be used to facilitate this).

#### **7.12 Number of votes**

- (a) Subject to this Constitution, on a show of hands or on a poll at a meeting of Members the voting delegate of every Member present has one vote.
- (b) In the case of an equality of votes at a meeting of Members, the chairperson of the meeting has a casting vote on the resolution both on a show of hands or on a poll, in addition to any vote he or she may have as the voting delegate of a Member.
- (c) The voting delegate of a Member present at a meeting of Members is not entitled to vote on any resolution if any amount due and payable in respect of that Member's membership has not been paid.
- (d) The voting delegate of a Member present at a meeting of Members is not entitled to vote on a resolution if the vote is prohibited by the Act or an order of a court of competent jurisdiction.
- (e) The Company must disregard any vote on a resolution purported to be cast by the voting delegate of a Member present at a meeting of Members where that Member is not entitled to vote on the resolution.

#### **7.13 Objections to qualification to vote**

- (a) An objection to the qualification of any Member or the voting delegate of any Member to vote at a meeting of Members may only be made:
  - (i) before that meeting, to the Directors; or
  - (ii) at the meeting (or any resumed meeting if the meeting is adjourned), to the chairperson of the meeting.
- (b) Any objection under article 7.13(a) must be decided by the Directors or the chairperson of the meeting of Members (as the case may be), whose decision, made in good faith, is final and conclusive.

## 8. Directors

### 8.1 Number and appointment of Directors

- (a) (i) The number of elected Directors shall be no fewer than five nor more than eight, as determined by the Board from time to time. These Directors shall be elected by the members;
- (ii) in addition, the CEO may be appointed as Managing Director by the Board.
- (b) No later than two calendar months prior to the date of each AGM, the Board will invite Members to nominate persons as candidates for directorship and may cause an advertisement to be placed in at least one newspaper published in this State inviting nominations for these offices. Nominations must be received by the Company at least one calendar month prior to the date of each AGM.
- (c) A Director will hold office until the conclusion of the third AGM following the Director's election and, subject to article 8.1(f), is eligible for re-election.
- (d) At each AGM, elected Directors completing their three-year term retire from office, but are eligible for re-election subject to article 8.1(f).
- (e) Only Members are eligible to be Directors, save that a body corporate Member may nominate an individual (but only one at any time), who need not be a Member, to stand for election, or be appointed by the Board, as a Director.
- (f) Unless article 8.1(g) applies, a Director, other than the Managing Director, may serve a maximum of three consecutive three-year terms, a maximum of nine years, but a period during which a Director fills a casual vacancy pursuant to Article 8.3 shall not be counted for the purposes of this Article. The Director will remain ineligible for re-election for three years after the completion of nine consecutive years in office.
- (g) If a Director, other than the Managing Director, has been elected as Chairperson of the Board for a term which, were the Director to serve that term, would bring the Director's total service as a Director to a period of more than nine years, then:
- (i) article 8.1(f) does not apply to that Director;
- (ii) the Director may serve a maximum of four consecutive three year terms

- as a Director, a total of twelve years;
- (iii) a period during which that Director fills a casual vacancy pursuant to article 8.3 shall not be counted for the purposes of this article; and
- (iv) the Director will remain ineligible for re-election for three years after the completion of twelve years in office.
- (h) A Director to whom article 8.1(g) applies may not serve as Chairperson for more than five years. If the Director serves terms as Chairperson which are not continuous, the Director's total period of service as Chairperson will be counted for the purposes of this article.
- (i) If a Director to whom article 8.1(g) applies retires as Chairperson, that Director's term as a Director ceases at the next AGM of the company. The Director will remain ineligible for re-election for three years from the date of that AGM.

## 8.2 Vacancy of the office of Director

The office of a Director is vacated upon the Director:

- (a) becoming insolvent, under administration or making any arrangement or composition with his or her creditors generally;
- (b) becoming a person of unsound mind or a person who is a patient administered under laws relating to mental health;
- (c) becoming a represented person under the *Guardianship and Administration Act 1995*;
- (d) resigning office by notice in writing to the Company;
- (e) being removed from office pursuant to the Act;
- (f) being prohibited from being a Director by reason of the operation of the Act;
- (g) without the consent of the Board being absent from meetings of the Board held during a period of 6 consecutive months;
- (h) being removed from office by order of the Supreme Court on the grounds of proved misconduct;
- (i) failing to abide by any code of conduct created by the Board from time to time;
- (j) except in the case of a nominee of a body corporate Member, not being, or ceasing to be, a Member; or

- (k) reaching the end of their period of appointment under articles 8.1(c), (d) or (e) unless re-appointed in accordance with this Constitution.

### 8.3 Casual vacancies

If a casual vacancy occurs in the office of a Director, the Board may appoint an individual on the basis of their skills and competency, and the need to achieve an appropriate balance of skills, experience and expertise on the Board, to fill the vacancy for the remainder of the departing Director's term.

### 8.4 Remuneration of Directors

A Director may be paid reasonable and proper remuneration for services actually rendered to the Company as Chairperson or Director, and as determined by the Board, provided the aggregate amount does not exceed the amount last determined by the Members. That amount is initially determined as nil.

### 8.5 Travelling and other expenses

Every Director is entitled to be paid from Company funds all reasonable travel, accommodation and other expenses properly incurred by the Director in attending and returning from meetings of the Company or of the Board or of any committees or while engaged on the business of the Company.

## 9. Powers of the Board

The management and control of the business and affairs of the Company are vested in the Board, which (in addition to the powers and authorities conferred upon it by this Constitution) may exercise all powers and do all things as are within the capacity and power of the Company under the Act.

## 10. Proceedings of Directors

### 10.1 Convening of meetings

The Directors may make rules for the calling, conduct and adjournment of their meetings and otherwise regulate their meetings as they see fit subject to the rule that the Board must meet at least once in every quarter. The Chairperson or any two Directors may at any time, and the Secretary must, on the request of the Chairperson or



two Directors, call a meeting of the Board by giving not less than 48 hours notice individually to every other Director.

## 10.2 Quorum

A quorum for a meeting of the Board is:

- (a) a majority of Directors; or
- (b) such greater number as the Directors have fixed.

## 10.3 Powers of meetings

A meeting of the Board at which a quorum is present is competent to exercise any of the authorities, powers and discretions for the time being vested in or exercisable by the Board.

## 10.4 Notice of meeting

Notice is deemed to have been given to a Director if sent by mail, personal delivery, facsimile transmission or other electronic communication to the usual place of residence of the Director or at any other address given to the Secretary by the Director from time to time.

## 10.5 Meetings by telephone or other means of communication

A meeting of the Board may be held by the Directors communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion.

## 10.6 Decisions

At any meeting of the Board, questions arising are to be decided by a majority of those present.

## 10.7 Chairperson

- (a) At a date determined by the Board in each financial year of the Company, the Board shall elect one Director to act as Chairperson of the Board until a date determined by the Board, at which the existing Chairperson is eligible for re-election, subject to the provisions of articles 8.1(f), 8.1(g) and 8.1(h).

- (b) Following the election of the Chairperson, the Board may elect a Director to serve as Deputy Chairperson until a date determined by the Board, at which date the existing Deputy Chairperson is eligible for re-election, subject to article 8.1(f).
- (c) In the absence of the Chairperson from any meeting of the Board, the Deputy Chairperson shall act as the Chairperson; but if both the Chairperson and the Deputy Chairperson are absent, then the Directors present may choose one of their number to be Chairperson of that meeting.

### 10.8 **Managing Director**

The Board may appoint the Chief Executive Officer as a Director or as Managing Director for a term determined by the Board, but no longer than the term of appointment as the Chief Executive Officer.

### 10.9 **Delegation of powers to Committees**

The Board may delegate any of its powers to Committees consisting of Directors or any other person or persons as the Board thinks fit. Any Committee formed or person or persons appointed to the Committee must, in the exercise of the powers delegated, conform to any regulations that may from time to time be imposed by the Board. A delegate of the Board may be authorised to sub-delegate any of the powers for the time being vested in the delegate.

### 10.10 **Proceedings of Committees**

The meetings and proceedings of any Committee are to be governed by the provisions of this Constitution for regulating the meetings and proceedings of the Board so far as they are applicable and are not superseded by any regulations made by the Board under article 10.1.

### 10.11 **Validity of acts**

All acts done at any meeting of the Board or by a Committee or by any person acting as a Director are, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any of the Directors or the Committee or the person acting as a Director or that any of them were disqualified, as valid as if every person

had been duly appointed and was qualified and continued to be a Director or a member of the Company (as the case may be).

## 10.12 Resolution in writing

If all the Directors who are eligible to vote on a resolution have signed a document containing the statement that they are in favour of the resolution in the terms set out in the document, then a resolution in those terms is deemed to have been passed at a Board meeting held on the day on which the document was signed by the last eligible Director. A document for this purpose may consist of several documents in the same form each signed by one or more of the Directors. A document may be in the form of electronic mail, a telex or facsimile transmission.

## 11. Minutes

### 11.1 Minutes

The Directors must cause minutes to be made of:

- (a) the names of Directors present at all general, Directors' and Committee meetings;
- (b) all proceedings of general, Directors' and Committee meetings;
- (c) all appointments of officers; and
- (d) all orders made by the Directors and Committees.

### 11.2 Confirmation

Minutes must be signed by the chairperson of the meeting or by the chairperson of the next meeting of the relevant body and if so signed will be as between the Members evidence of the matters stated in such minutes unless the contrary is proved.

## 12. Directors' dealings with the Company

### 12.1 Directors may contract with the Company

A Director is not disqualified by the office of Director from contracting or entering into any arrangement with the Company either as vendor, purchaser or otherwise and no contract or arrangement entered into with the Company by a Director nor any contract or arrangement entered into by or on behalf of the Company in which a Director is in any way interested may be avoided for that reason. A Director is not

liable to account to the Company for any profit realised by any contract or arrangement, by reason of holding the office of Director or of the fiduciary relationship established by the office.

## 12.2 Disclosure of interests

A Director who is in any way, directly or indirectly:

- (a) interested in a contract or proposed contract or arrangement or dealing with the Company; or
  - (b) associated as a member, officer or in any way whatsoever with any person, organisation or entity which may benefit from a decision of the Company,
- must disclose the nature of that interest to the Board and is not eligible to vote on any resolution relating to the benefit to be given.

## 12.3 Seal

A Director who is interested in any contract or arrangement may, notwithstanding the interest, attest the affixing of the Seal to any document evidencing or otherwise connected with the contract or arrangement.

## 13. Directors holding other offices

### 13.1 Director may hold other office

A Director may hold any other office or position under the Company (except that of auditor) in conjunction with the office of Director, on terms and at a remuneration that the Board approves.

### 13.2 Office in other corporations

A Director may be or become a Director of or hold any other office or position under any corporation promoted by the Company, or in which it may be interested, whether as a vendor or member or otherwise, and the Director is not accountable for any benefits received as a Director or member of or holder of any other office or position under that corporation.

### 13.3 **Exercise of voting power in other corporations**

The Board may exercise the voting power conferred by the shares in any corporation held or owned by the Company as the Board thinks fit (including the exercise of the voting power in favour of any resolution appointing the Directors or any of them directors of that corporation or voting or providing for the payment of remuneration to the directors of that corporation) and a Director may vote in favour of the exercise of those voting rights notwithstanding that the Director is, or may be about to be appointed, a director of that other corporation and may be interested in the exercise of those voting rights.

## 14. **Insurance premiums**

The Company may pay a premium in respect of a contract insuring a person who is or has been a Director, Secretary or other officer of the Company against a liability incurred by the person as an officer of the Company, except in the circumstances prohibited by the Act.

## 15. **Secretary**

### 15.1 **Appointment**

A Secretary must be appointed by the Directors for the term, at the remuneration and on the conditions that they think fit, and any Secretary so appointed by the Directors may be removed by the Directors.

### 15.2 **Role**

The Secretary shall be responsible for keeping the records of the deliberations of the Board and shall keep full and accurate records of all decisions taken at any meeting of the Board.

## 16. **Accounts and audit**

### 16.1 **Accounts**

The Directors must ensure that adequate and correct accounts of the financial transactions of the Company are kept.

## 16.2 Auditor

A properly qualified auditor will be appointed by the Company to audit the accounts. The remuneration of the auditor appointed should be fixed and duties regulated in accordance with the Act.

## 17. The Common Seal

### 17.1 The Seal

The Company may from time to time exercise the powers conferred by the Act in relation to official seals and those powers are vested in the Board.

### 17.2 Safe custody and affixation

The Board is to provide for the safe custody of the Seal, which should only be used with its authority. Every instrument to which the Seal is affixed is to be signed by a Director and countersigned by the Secretary or by a second Director or by another person appointed by the Board for the purpose.

## 18. Indemnity

### 18.1 Indemnity of officers

To the extent permitted by law, the Company indemnifies every Director, Secretary and other officer of the Company out of the assets of the Company against any liability incurred by that person in his or her capacity as an officer of the Company to a person other than the Company or a related body corporate of the Company unless the liability arises out of conduct on the part of the officer which involves a lack of good faith.

### 18.2 General indemnity

The Company indemnifies every Director, auditor, Secretary and other officer for the time being of the Company out of the assets of the Company against any liability incurred by the person in his or her capacity as officer or auditor of the Company:

- (a) in defending any proceedings, whether civil or criminal, in which judgment is given in his or her favour or in which he or she is acquitted; or
- (b) in connection with any application, in relation to such proceedings, in which a court grants relief to the person.

## 19. **By-laws, rules and regulations**

The Board has the power from time to time to make such by-laws, rules and regulations not inconsistent with this Constitution as the Company in the opinion of the Board deems are necessary and desirable for the proper control, administration and management of the Company's operations, finances, affairs, interests, effects and property and the duties obligations and responsibilities of the Members and to amend or rescind from time to time any such by-laws, rules or regulations.

## 20. **Gift Fund**

### 20.1 **Establishment**

A Gift Fund is to be established and maintained to ensure that donations to the Company are separated from other money or property of the Company.

### 20.2 **Administration**

The Gift Fund is to be administered by a committee appointed by the Board for that purpose. The majority of the committee members must, by virtue of their tenure of some public office or their professional standing, have an underlying community responsibility, as distinct from obligations relating solely to the objects of the Company.

### 20.3 **Donations and Interest**

All donations to the Company and interest accruing on those donations must be credited to the Gift Fund. The Gift Fund must not receive property or money other than donations.

### 20.4 **Receipts**

Receipts in the name of the Gift Fund must be issued for all donations.

### 20.5 **Cessation**

Upon the winding up or dissolution of the Gift Fund, any surplus assets of the Gift Fund remaining after payment of liabilities attributable to it must be transferred to a fund, authority or institution whose rules prohibit distribution of income among its members, such fund, authority or institution to be eligible to receive tax deductible donations under Subdivision 30-B, section 30.100 of the *Income Tax Assessment Act 1997*.

**Document History**

<b>Version Number</b>	<b>Date Approved</b>	<b>Approved By</b>	<b>Brief Description</b>
1.0	31/05/2007	TSO Holdings Members	
1.1	18/04/2011	TSO Holdings Members	Changes to Articles 6.2, 6.4, 8.1 and deleting Appendix B to simplify membership applications, to allow online membership applications, to provide for cessation of membership and delete transitional rules concerning Directors which are no longer required
2.0	22/05/2016	TSO Holdings Members	Changes to Articles 5.1, 8.1, 8.3, 10.7, 10.8, to improve Board processes and governance for the appointment and tenure of Directors
3.0	25/10/2016	TSO Holdings Members	Change to article 8.1(f), new articles 8.1(g), (h) and (i), change to article 10.7 to provide for potential additional term of office for a Director elected as Chair of the Board.