# Screenwest (Australia) Limited

**(ACN 620 492 300)**

# Constitution

**Company limited by guarantee**

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# Part A – Preliminary matters

## 1 Defined terms and interpretation

(a) The Dictionary in Schedule 1:

(i) defines some of the terms used in this constitution;

(ii) sets out the rules of interpretation which apply to this constitution; and

(iii) clarifies the effect of the Corporations Act 2001 (Cth) on this constitution.

(b) The interpretation clause in Schedule 1 (**Dictionary**) sets out rules of interpretation for this constitution.

## 2 Nature of company and liability

(a) The company is a public company limited by guarantee.

(b) The liability of each member is limited. Each member guarantees to contribute up to a maximum of ten dollars to the assets of the company if it is wound up while the member is a member, or within one year afterwards, and at the time of winding up the debts and liabilities of the company exceed its assets. The liability of each member is limited to making such contribution and no more.

# Part B – Purpose

## 3 Purpose and activities

### 3.1 Purpose and activities

(a) The company is established to be a charity whose purpose is to advance culture for the public benefit **(Purpose).**

(b) The activities of the Company must be conducted in furtherance of its Purpose and may include:

(i) promoting and supporting, development of the Western Australian Film and screen industry including creation, production and promotion of Film and other screen content;

(ii) administering financial and other assistance whether provided by the Government of Western Australia or other public or private sources for the Purpose;

(iii) advising the Government of Western Australia on all matters relating to the Film and screen industry;

(iv) encouraging appreciation of a diverse, inclusive and viable Film and screen industry in Western Australia;

(v) promoting awareness of local projects, practitioners, Film, screen and issues relevant to them;

(vi) supporting development of local Film and screen industry infrastructure, resources and facilities to attract local, interstate and international Film investment and production to Western Australia;

(vii) promoting awareness of the Western Australian Film and screen industry nationally, internationally and assisting local practitioners in developing a global focus;

(viii) keep informed of new technological developments and supporting practitioners in the development of their technical, professional and creative skills including the application or adoption of new technologies;

(ix) co-operating with State, Federal and Local governments and their agencies and other organisations on activities aligned with the Purpose;

(x) taking such steps, as may from time to time be deemed expedient, to secure contributions to the company's funds including donations and subscriptions;

(xi) developing strategies for long term growth and outcomes for the Western Australian Film and screen industry; and

(xii) undertaking any other lawful activities conducive or incidental to the Purpose.

(c) The company's Purpose is to be pursued to the extent, in the manner, and at the times determined by the directors in their discretion. Nothing in this Constitution requires the company to pursue all or any particular activity at any given time, and the directors may decide the order, extent and manner in which the company's resources are applied towards its activities.

## Part C – Members and membership

# 4 Membership

### 4.1 Members of the company

(a) The members of the company are the people who hold offices as directors from time to time. No other persons may be admitted as members.

(b) A person automatically becomes a member when they are appointed as a director and automatically ceases to be a member when they cease to hold office as a director.

### 4.2 Membership eligibility

To be a member of the company a person must:

(a) be a director of the company;

(b) be aged 18 years or over;

(c) not have been convicted of a criminal offence with a maximum penalty of 12 months imprisonment or more within Australia or any other country; and

(d) not have been previously expelled from membership of the company in accordance with rule 5.4.

### 4.3 Dual capacity

The validity of any act, resolution, or decision of the members is not affected by the fact that all members are also directors of the Company or that a member has a material personal interest in the matter, provided that the requirements of the Corporations Act 2001 (Cth) and the Australian Charities and Not-for-Profits Commission Act 2012 (Cth) regarding disclosure of interests and voting restrictions are complied with.

### 4.4 Members rights

Each member has the right to:

(a) receive notices of and to attend and be heard at any general meeting of the company; and

(b) vote on any member resolution (including at a general meeting of the company, by written resolutions and by ballot).

### 4.5 Membership not transferable

Membership of the company and the associated rights cannot be transferred or sold in any manner whatsoever.

### 4.6 Register of members

(a) A register of members must be kept in accordance with the law.

(b) Without limiting the requirement under rule 4.7(a), the following must be entered in the register in respect of each member:

(i) the name and address of the member;

(ii) the date of admission to and cessation of membership; and

(iii) any other information required by the directors or the law from time to time.

### 4.7 Membership fees

(a) The company may require the payment of an annual membership fee or other fees or levies by members in the amount and at the times as directors resolve.

(b) The directors may at their complete discretion:

(i) make fees payable for one or more members for differing amounts and at different times; and

(ii) waive all or some of the fees payable by one or more members at any time.

## 5 Ceasing to be a member

### 5.1 General overview

(a) There are a number of circumstances that will result in a member's membership ceasing. For instance, if a member:

(i) ceases to be a director of the company;

(ii) resigns from membership, see rule 5.2;

(iii) automatically ceases to be a member, see rule 5.3;

(iv) is expelled from membership, see rule 5.4; or

(v) no longer complies with the membership eligibility criteria set out at rule 4.2.

(b) The directors may adopt such other policies and procedures relating to the disciplining, suspension and expulsion of members as they so determine from time to time so long as they are consistent with the requirements set out in this rule 5.

### 5.2 Resignation from membership

(a) A member may resign from membership of the company at any time by providing written notice to the company addressed to the chair or the secretary. Unless the notice provides otherwise, the resignation takes effect from the date the notice is received.

(b) A member that ceases to be a member under this rule 5.2 is eligible to reapply for membership of the company and on so doing will be required to follow the membership application process applicable at the time of the reapplication.

### 5.3 Automatic cessation of membership

A member's membership will automatically cease if the member:

(a) dies;

(b) ceases to be a director of the company; or

(c) fails to pay any required membership fee within two months after the date on which that membership fee becomes due or such later time as the directors may determine.

### 5.4 Disciplining, suspension and expulsion of members

(a) This rule 5.4 describes what needs to happen when considering whether to warn, discipline, suspend or expel a member. In summary the process involves:

(i) putting the member in question on notice; and

(ii) passing a directors' resolution to warn, suspend, expel or otherwise discipline that member.

(b) So long as the steps set out in this rule 5.4 are followed, the directors may resolve to warn, suspend, expel or otherwise discipline a member if that member:

(i) has refused or neglected to comply with the provisions of this constitution; or

(ii) has acted in a way that, in the opinion of the directors, is unbecoming of the member or prejudicial to the interests or reputation of the company (**Member Disciplinary Resolution**).

(c) The directors must give the member in question at least 10 days' notice of the date that the directors will consider the Member Disciplinary Resolution. This notice must be in writing and let the member know:

(i) that the directors are to consider warning, suspending, expelling or otherwise disciplining the member;

(ii) the reasons why the directors are considering taking the determined action; and

(iii) of the right for the member to give the directors, either orally or in writing, any explanation or defence relevant to the proposed disciplinary action.

(d) A director who is subject to a Member Disciplinary Resolution is not entitled to vote on that resolution.

(e) Directors have 10 days from the date a Member Disciplinary Resolution is passed to notify the relevant member about the directors' decision. The Member Disciplinary Resolution must be in writing and is final.

(f) A member that has been expelled from membership of the company is not permitted to reapply for membership.

# 6 General meetings

## 6.1 Introduction

(a) For so long as the company is registered as a charity with the Australian Charities and Not-for-profits Commission or its successor, and for so long as the law permits or requires, the directors:

(i) may determine whether or not to hold meetings of members including annual general meetings; and

(ii) must ensure that the Australian Charities and Not-for-Profits Commission Governance Standards are complied with.

(b) If the company does hold a general meeting of members it must be called and conducted in accordance with part 2G.2 of the Corporations Act 2001 (Cth).

### 6.2 Notice and holding of general meetings

(a) Subject to rule 6.2(b) if a general meeting of members, including an annual general meeting, is to be convened, at least 21 days' notice of that meeting must be given to each person who is at the date of the notice:

(i) a director of the company; or

(ii) an auditor of the company.

(b) A notice of a meeting may be provided less than 21 days before the meeting if:

(i) for an annual general meeting, all the members entitled to attend and vote at the annual general meeting agree beforehand; or

(ii) for any other general meeting, members with at least 95% of the votes that may be cast at the meeting agree beforehand.

(c) A notice of a general meeting must specify:

(i) the date, time and place of the meeting;

(ii) if the meeting is to be held in two or more places, the technology that will be used to facilitate this;

(iii) the general nature of the business to be transacted at the meeting; and

(iv) any other matters required by law.

(d) A person who is entitled to receive a notice of a meeting or who is requested by the chair to attend a general meeting is entitled to be present, whether or not the person is a member of the company.

(e) A meeting of members may be held in two or more places linked together by any technology so long as it:

(i) gives the members as a whole in those places a reasonable opportunity to participate in proceedings;

(ii) enables the chair to be aware of proceedings in each place; and

(f) enables the members in each place to vote on a show of hands and on a poll.

### 6.3 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 is present when the meeting proceeds to business and remains present throughout the meeting.

(b) The quorum for a general meeting of members is 50% of members present in person or by proxy and entitled under these rules to vote at a general meeting. If 50% of members is not a whole number then the number is to be rounded up.

(c) If a quorum is not present within 30 minutes after the time appointed for a general meeting:

(i) the meeting stands adjourned to the same day in the next week at the same time and place;

(ii) at the adjourned meeting the quorum is three members present in person or by proxy and entitled under these rules to vote at a general meeting; and

(iii) 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.

### 6.4 Chair of general meetings

(a) The chair of directors must preside as chair at each general meeting.

(b) If the chair of directors is absent or is unwilling to act, then the members present at that meeting may elect a person present to chair the meeting.

### 6.5 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 the opinion of the chair necessary or desirable for:

(i) proper and orderly debate or discussion; and

(ii) the proper and orderly casting or recording of votes.

(b) The chair of a general meeting at which a quorum is present:

(i) may, with the consent of the majority of members present at the meeting, adjourn the meeting from time to time and place to place;

(ii) must adjourn a meeting of members if the majority of members present and entitled to vote direct the chair to do so, in which case the chair may adjourn to any day, time and place; and

(iii) must adjourn a meeting of members if required by this constitution.

(c) No business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.

(d) Notice of an adjournment and the business to be transacted at an adjourned meeting must be given to all persons who were entitled to receive notice of the meeting the subject of the adjournment.

### 6.6 Decisions at general meetings

(a) Except in the case of any resolution which as a matter of law requires a special resolution, questions arising at a general meeting are to be decided by a majority of votes cast by the members present at the meeting (including being present by technological means) and that decision is for all purposes a decision of the members.

(b) In the case of an equality of votes upon any proposed resolution at a meeting of members, the chair has a second or casting vote in addition to any vote the chair may have in his or her capacity as a member.

(c) A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is demanded.

(d) A member may only cast one vote on a show of hands regardless of whether that member also holds one or more proxies.

(e) A poll may be demanded before a vote being decided by a 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 five members present and entitled to vote on the relevant resolution; or

(iii) by a member or members present at the meeting and representing at least 5% of the votes that may be cast on the resolution on a poll.

(f) Unless a poll is 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.

(g) If a poll is demanded at a general meeting, it will be taken when and in the manner that the chair directs, and the result of the poll will be the resolution of the meeting at which the poll was demanded.

(h) A poll cannot be demanded at a general meeting on the election of a chair of the meeting.

(i) The demand for a poll may be withdrawn.

### 6.7 Voting rights

Each member has the right to exercise one vote on a show of hands and on a poll.

### 6.8 Representation at general meetings

(a) Subject to this constitution, each member entitled to vote at a meeting of members may vote:

(i) in person; or

(ii) by proxy in a form as the directors may prescribe or accept; or

(iii) by attorney in a form as the directors may prescribe or accept.

(b) A proxy or attorney may be a member of the company but does not need to be.

(c) The chair of a meeting may require any person purporting to act as a proxy or attorney to establish to the satisfaction of the chair that the person has been validly appointed as a Representative, proxy or attorney 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.

(d) If the company receives a proxy form without the name of the proxy filled in, then the proxy is:

(i) the person specified by the company in the proxy form; or

(ii) if no person is specified in the proxy form, the chair of the meeting for which that proxy applies.

(e) A proxy or attorney may not vote at a general meeting or adjourned meeting unless the instrument appointing the proxy or attorney is received:

(i) at the registered office of the company, at the facsimile number at its registered office or at another place, facsimile number or electronic address specified for that purpose in the notice convening the meeting; and

(ii) at least 48 hours before the time scheduled for the commencement of the meeting as specified in the notice of meeting, or such other period of time before the meeting determined by the directors from time to time.

(f) The authority of a proxy or attorney to speak and vote for a member at a general meeting is suspended while that member is present at the meeting unless the members present at the meeting resolve otherwise.

(g) The chair may hold as many proxies as are given to the chair. All other proxy holders may hold a maximum of three proxies.

### 6.9 Decisions without meetings

Members may pass resolutions and otherwise make decisions outside of a members' meeting in any manner (including through the use of technology) so long as such manner complies with:

(a) the law; and

(b) any policies and procedures relating to the passing of member resolutions as determined by the directors from time to time.

# Part D – Not-for-profit

# 7 No profits for members

(a) Subject to rule 7(b), the assets and income of the company must be applied solely in furtherance of the Purpose and no portion of the income or assets of the company may be paid or transferred, directly or indirectly, to any member.

(b) The company may, with the approval of the directors, make payment in good faith to a member of the company:

(i) by way of reasonable and proper remuneration for any goods supplied or services rendered to the company (including remuneration as an employee or consultant);

(ii) by way of interest on money lent to the company by that member at a reasonable and proper rate per annum not exceeding the rate for the time being charged by the company's bankers on overdrawn accounts;

(iii) by way of reasonable and proper rent for premises let by that member to the company; and

(iv) for authorised out-of-pocket expenses reasonably and properly incurred by that member in connection with the affairs of the company.

(c) Nothing in this rule 7 prevents a member from benefiting from participating in the company's activities or receiving services from the company provided that such activities and services are not exclusive to membership.

# Part E – Directors and secretary

## 8 Directors

### 8.1 Number of directors

(a) The minimum number of directors is 3. The maximum number of directors is ten.

(b) If at any time there are less than the minimum number of directors, the remaining director or directors may act but only:

(i) in an emergency;

(ii) for the purpose of convening a general meeting of the company; or

(iii) for the purpose of increasing the number of directors to the minimum number required.

### 8.2 Becoming a director

(a) Subject to rule 8.2(c), a person may only become a director if he or she is:

(i) nominated by the Nominations Committee;

(ii) appointed by the directors; and

(iii) a member of the company.

(b) Subject to the requirements relating to term of office under rule 8.3, each appointment made under rule 8.2(a) is to be for a period of up to three years with the precise period to be determined by the directors at the time of the appointment.

(c) The directors may appoint one or more persons as director without first receiving a nomination from the Nominations Committee in the following circumstances:

(i) to increase the number of directors to the minimum number required in accordance with rule 8.1(b)(iii);

(ii) if a director position has been vacant for at least six months and the Nominations Committee has not nominated anyone to fill the vacant position, unless the vacancy forms part of the Board composition approved by the members under section 201N of the Corporations Act 2001 (Cth) or such other resolution of members permitting the Board to operate with fewer than the maximum number of directors. In such a case, the vacancy may remain unfilled until otherwise determined by the members or the Board; or

(iii) if the law requires.

(d) Each appointment made under rule 8.2(c) is to be for a period of up to 12 months with the precise period to be determined by the directors at the time of the appointment.

### 8.3 Directors time in office

(a) Each director is to remain as a director until the term of her or his office expires or until he or she resigns, retires or is otherwise removed as a director of the company in accordance with the law and this constitution. However, subject to the law and rule 8.3(b), a person is eligible for reappointment or re-election.

(b) Subject to rule 8.3(c), a person must not hold the office of a director for any more than six consecutive years unless the directors resolve by special resolution to appoint a director to serve one additional term of up to three years.

(c) A person having held office as a director for six consecutive years is eligible for re-election or re-appointment once a period of three years has expired since that person last held office as a director of the company.

### 8.4 Qualifications and composition of directors

Each director must:

(a) have knowledge, and expertise relevant to and be committed to the Purpose and activities of the company; and

(b) satisfy any other policies relating to the composition of the board and skills and qualifications of directors developed by the directors from time to time.

### 8.5 Nominations Committee

(a) The directors must establish a nominations committee for the purpose of seeking, assessing and nominating candidates for the position of director of the company (**Nominations Committee**).

(b) The Nominations Committee must be conducted in accordance with the Nominations Committee terms of reference, as may be amended by the directors from time to time.

(c) The Nominations Committee is to be comprised of a minimum of 2 people of which:

(i) at least one is a director (and if this is the only director then it must be the chair appointed under rule 8.14); and

(ii) at least one other person who is not a director or employee of the company but who is determined by the directors to have requisite skills needed for the Committee (**External Committee Members**).

When appointing people to the Nominations Committee, the directors should have regard to the interests of its stakeholders and in particular the screen industry and, so far as possible, ensure a balanced representation of these interests on the Nominations Committee.

(d) The chair of the Nominations Committee must be a director of the Company and have experience, skill, knowledge and integrity sufficient to ensure that the proper processes of assessment and nomination of candidates are implemented and followed.

(e) The chair of the Nominations Committee will be responsible for, among other things:

(i) chairing all meetings of the Nominations Committee; and

(ii) ensuring the proper and effective operation of the Nominations Committee in accordance with principles of good governance.

### 8.6 Vacation of office

(a) In addition to the circumstances prescribed by law, the office of any director becomes vacant if the director dies or, unless the directors otherwise resolve to confirm the director's position, the office becomes vacant if the director:

(i) ceases to be a member of the company;

(ii) is, due to physical or mental impairment, unable to properly perform his or her duties as a director as determined by a suitably qualified health professional, acting reasonably;

(iii) becomes bankrupt;

(iv) is convicted of an indictable offence;

(v) fails to attend three consecutive directors' meetings without leave of absence approved by the directors; or

(vi) becomes ineligible to be a director of the company under the Corporations Act 2001 (Cth) or the Australian Charities and Not-for-Profits Commission Act 2012 (Cth).

(b) Nothing in rule 8.6(a) prevents a director from vacating his or her office if the director resigns by notice in writing to the company.

### 8.7 Payments to directors

(a) Subject to rule 8.7(e), directors are entitled to:

(i) be paid reasonable remuneration out of funds for their services as a director, but if the company in general meeting has fixed a limit on the remuneration payable to directors, the aggregate remuneration of directors must not in any financial year exceed that aggregate. The board may allocate remuneration among directors as it sees fit. Any such payments are to be made in accordance with the law including chapter 2E of the Corporations Act 2001 (Cth) and in compliance with the Australian Charities and Not-for-Profit Commission Governance Standards; and

(ii) be paid all reasonable authorised travelling and other expenses properly incurred by them in connection with the affairs of the company, including attending and returning from general meetings of the company, meetings of the directors and meetings of committees.

(b) Subject to rule 8.7(c), any director may receive reasonable and proper payment for any services rendered to the company, provided that any payment to a director is made in accordance with the law, including chapter 2E of the Corporations Act 2001 (Cth).

(c) All payments by the company to a director under 8.7(a)(i) and 8.7(b) must be approved at a meeting of directors.

(d) Nothing in this rule 8.7 restricts the remuneration to which a director may be entitled as an officer or employee of the company in a capacity other than director.

(e) Notwithstanding anything else in this constitution, no payment of any kind which is permitted to be paid to a director by this constitution can be made by the company to a director until that payment is approved by the directors or such other person or persons to which the directors may have delegated such authority.

### 8.8 Interested directors

(a) No contract or other arrangement made between a director and the company is voided merely because the director holds office as a director or because of the fiduciary obligations arising out of that office.

(b) Where a director has a material personal interest in a matter to be considered at a meeting, that director must not be present while the matter is being considered at the meeting or vote on the matter, unless the directors who do not have a material personal interest pass a resolution in accordance with the law which permits that director to do so.

(c) Except where the personal interest is material, a director who has a personal interest in an arrangement may, despite that interest:

(i) be counted in determining whether a quorum is present at any meeting of directors considering that arrangement; and

(ii) vote in respect of the arrangement or any matter arising out of it.

### 8.9 Powers and duties of directors

The directors are responsible for managing the business of the company and may exercise all the powers of the company which are not required by the law or this constitution to be exercised by the company in general meeting.

### 8.10 Directors' meetings

The directors may hold meetings (including by technological means) for the conduct of business and regulate them as they think fit.

### 8.11 Convening of meetings of directors

Any two directors of the company may convene a directors' meeting.

### 8.12 Notice of directors' meetings

(a) A notice of a directors' meeting must:

(i) be given to each current director, other than a director on leave of absence approved by the directors, in a way permitted by rule 13;

(ii) be given with sufficient time for the directors to properly review and consider the material provided with the notice and the matters arising from it;

(iii) specify the time and place of and, if relevant, the form of technology for, the meeting; and

(iv) state the nature of the business to be transacted at the meeting.

(b) A resolution passed at a directors meeting is not invalid just because a director did not receive notice of the meeting provided that:

(i) the notice was not received because of accident or error;

(ii) before or after the meeting, the director notifies the company of his or her agreement to the resolution; or

(iii) the director attended the meeting.

### 8.13 Quorum for directors' meetings

(a) No business may be transacted at a directors' meeting unless there is a quorum of directors at the time the business is dealt with.

(b) A quorum consists of 50% of current directors. If 50% of current directors is not a whole number, then the number is to be rounded up.

(c) For the avoidance of doubt, a director is present at a meeting if participating by electronic means such as by telephone.

### 8.14 Chair

(a) The directors must, subject to the rules relating to term of office found at rule 8.3, appoint a director to the office of chair.

(b) A person may only fill the office of chair for so long as that person is a director of the company.

(c) The chair must preside as chair at each directors' meeting unless he or she is unable to attend or unwilling to act.

(d) If the chair is unable to attend a directors' meeting or is unwilling to act, then the directors present at that meeting must elect a person from among their number to preside as chair for that meeting.

### 8.15 Decisions of directors

(a) A directors' meeting 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 the law and this constitution.

(b) Questions arising at a directors' meeting are to be decided by a majority of votes cast by the directors present and a decision of that kind is for all purposes a determination of the directors.

(c) If there are an equal number of votes cast for and against a resolution at a directors' meeting, then the chair may cast a second vote.

### 8.16 Decisions without meetings

Directors may pass resolutions and otherwise make decisions outside of a directors' meeting in any manner (including through the use of technology) so long as such manner complies with:

(a) the law; and

(b) any policies and procedures relating to the passing of director resolutions as determined by the directors from time to time.

### 8.17 Committees

(a) The directors may resolve to:

(i) establish one or more committees consisting of such persons as they determine;

(ii) delegate to each committee such of their powers required for the effective and efficient running and administration of the committee;

(iii) revoke any or all of the powers delegated to each committee and vary the nature and scope of the powers delegated; and

(iv) subject to rule 8.18(b) and (d) change the makeup of a committee at any time or dissolve it all together.

(b) A committee must be conducted, and exercise the powers delegated to it, in accordance with any directions of the directors which, for the avoidance of doubt, may be contained within policies, guidelines or protocols.

(c) The directors may continue to exercise all of their powers despite any delegation made under this rule.

### 8.18 Industry Advisory Group Committee

(a) The directors must establish an industry advisory group to provide the directors with information on existing, new or emerging screen industry issues or activities that may impact, affect or enhance the development of the Film and screen industry in Western Australia (**Industry Advisory Group Committee**) to assist the directors to carry out the Purpose.

(b) The Industry Advisory Group Committee must be comprised of not less than 6 members including:

(i) at least one director of the Company; and

(ii) at least five persons located in Western Australia who are not directors or employees of the company but who are actively engaged with and represent the screen industry in Western Australia and such other persons from other locations as deemed necessary by the directors from time to time.

(c) The Industry Advisory Group Committee must be conducted in accordance with the Industry Advisory Group Committee terms of reference as may be amended by the directors from time to time.

(d) The directors may not resolve to dissolve the Industry Advisory Group Committee.

### 8.19 Delegation to individuals

a) The directors may resolve to delegate any of their powers:

(i) to one or more directors;

(ii) to one or more members; or

(iii) to one or more employees.

(b) The directors may delegate their powers for such time as they determine and may revoke or vary any power so delegated.

(c) A person to whom any powers have been delegated must exercise the powers delegated in accordance with any directions of the directors.

(d) The directors may continue to exercise all of their powers despite any delegation.

(e) A delegation under this rule 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.

### 8.20 Validity of acts

An act done by a director or by a meeting of the directors or a committee attended by a director is not invalidated just because:

(a) of a defect in the appointment of the director;

(b) the person is disqualified from being a director or has vacated office; or

(c) the person is not 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.

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## 9 Secretaries

(a) The directors must appoint a secretary who may be, but does not need to be, a director.

(b) The appointment of a secretary may be for the period, on the conditions and, subject to rule 9(c), at the remuneration as the directors determine.

(c) A director may not be remunerated in his or her capacity as secretary.

(d) Subject to any contract between the company and the relevant secretary, a secretary of the company may be removed or dismissed by the directors at any time, with or without cause. If that person is a director, such removal or dismissal does not remove that person from office as a director.

(e) The duties of the secretary include, but are not limited to:

    (i) ensuring that the necessary registers required by the law are established and properly maintained;

    (ii) ensuring that any required annual returns and annual reports are lodged with the appropriate regulator on time; and

    (iii) ensuring the organisation of, and attend, any meetings of the members and the directors, including the sending out of notices, the preparation of agenda and the compilation of minutes.

(f) An act done by a person acting as a secretary is not invalidated just because:

    (i) of a defect in the person's appointment as a secretary; or

(ii) the person is disqualified from being a secretary,

if that circumstance was not known by the person when the act was done.

# Part F – Winding up

## 10 Winding up

(a) Before winding up the company, the directors must ensure that any funds with deductible gift recipient (**DGR**) endorsement are wound up and all associated DGR-sourced moneys and other assets are distributed in accordance with the law.

(b) If upon the winding up or dissolution of the company there remains after satisfaction of all of its debts and liabilities any property or moneys whatsoever (**Surplus Assets**), such Surplus Assets must not be paid to, or distributed amongst members, but must be given or transferred to one or more charitable organisations in Australia that:

(i) has objects or purposes similar to the Purpose of the company; and

(ii) by its constituent rules, prohibits the distribution of its income and property amongst its Members to an extent at least as great as is imposed upon the company.

(c) The decision as to which organisation is, or which organisations are, to be the recipient of the Surplus Assets distributed in accordance with rule 10(b):

(i) is to be determined by the directors at or before the winding up or dissolution of the company; or

(ii) if required, by the Court.

(d) Any part of the Surplus Assets consisting of property supplied by a government department or public authority, including any unexpended portion of a grant, must be returned to, or otherwise dealt with in the way directed by, the department or authority that supplied it.

# Part G – Administrative matters

## 11 Minutes and records

### 11.1 Minutes

The directors must ensure that the following minutes are recorded, approved and kept in accordance with the law:

(a) meetings and resolutions of members;

(b) meetings and resolutions of directors; and

(c) meetings and resolutions of committees.

### 11.2 Inspection of records

(a) Subject to the law and rule 11.2(b), the directors may determine whether and to what extent, and at what time and places and under what conditions, the minute books, accounting records and other documents of the company or any of them will be open to inspection.

(b) A member may, upon reasonable notice to the directors, inspect any books, records or documents of the company, provided the information obtained is only used for a proper purpose in connection with membership of the company. In the case of directors' minutes and resolutions, the directors may, at their complete discretion, refuse to provide all or some of the directors' minutes or provide such records in a redacted form.

(c) The company must establish and administer all registers required to be kept by law and each member must provide the company with such information as is required for the company to comply with this rule. If events occur which would cause the information contained in a register maintained by the company to be inaccurate the member must notify the company in writing of the change within 21 days of the date of such change occurring.

(d) Unless proved incorrect, the register is sufficient evidence of the matters shown in the register.

(e) The company must keep all financial and other records required by law.

## 12 Indemnity and insurance

(a) To the extent permitted by law, the company indemnifies its officers (both current and past) for all losses or liabilities incurred by the person as an officer of the company including, but not limited to, a liability for negligence or for legal costs on a full indemnity basis.

(b) This indemnity:

  (i) may only be for losses or liabilities incurred as an officer of the company (either before or after the adoption of this rule); and

  (ii) operates only to the extent that the loss or liability is not paid by insurance.

(c) To the extent permitted by law, the company may take out and pay for insurance for the benefit of its officers (both current and past) against any liability incurred by the person as an officer of the company including, but not limited to, a liability for negligence or for legal costs.

## 13 Notices

Any notice, document or other communication required or permitted to be given under this constitution or law may be given in any manner (including through the use of technology) so long as such manner complies with:

(a) the law; and

(b) any policies and procedures relating to the giving and receiving of notices, documents and other communications as determined by the directors from time to time.

# 14 General

(a) **Common seal**: The company may, but is not required to, have and use a common seal. If the directors determine that the company have a common seal, then it must be kept and used in accordance with the law.

(b) **Submission to jurisdiction**: Each member submits to the non-exclusive jurisdiction of the Supreme Court of the State of Western Australia, the Federal Court of Australia and the Courts which may hear appeals from those Courts.

# Schedule 1 Dictionary

## 1 Dictionary

In this constitution:

**External Committee Member** is the person or persons appointed by directors under 8.5(c)(ii).

**Film** means an aggregate of images, or of images and sounds, embodied in any material.

**Industry Advisory Group Committee** has the meaning given at rule 8.18.

**Member Disciplinary Resolution** has the meaning at rule 5.4(b).

**Nominations Committee** has the meaning given at rule 8.5(a).

**Purpose** has the meaning given at rule 3.1(a).

**Surplus Assets** has the meaning given in rule 10(b).

## 2 Interpretation

### 2.1 General

(a) 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.

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

(i) words importing the singular include the plural and vice versa;

(ii) words importing a gender include every other gender;

(iii) 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);

(iv) 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;

(v) the words ‘including’, ‘such as’, ‘for example’ and the like are not, and should not be interpreted to be, words of limitation, unless explicitly stated otherwise; and

(vi) 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.

## 2.2 Replaceable rules not to apply

The replaceable rules contained in the Corporations Act 2001 (Cth) form time to time do not apply to the company.