

CORPORATIONS ACT 2001
A COMPANY LIMITED BY GUARANTEE

CONSTITUTION
OF
SUPPORT ACT LIMITED

Effective Date: 30 November 2016

CORPORATIONS ACT 2001

A Company Limited by Guarantee

CONSTITUTION

OF

SUPPORT ACT LIMITED

PART I - PRELIMINARY

1. **NAME**

The name of the Company is Support Act Limited.

2. **OBJECTS**

(a) The objects for which the Company is formed are:

- (i) to provide relief to Recipients who are in need or suffering hardship or distress; and
- (ii) to do **all** things as are necessary, incidental and conducive to the attainment of the above object.

3. **DEFINED TERMS**

In this Constitution, unless the context requires otherwise:

‘**ACNC**’ means the Australian Charities and Not for Profits Commission.

‘**ACNC Act**’ means the *Australian Charities and Not for Profits Commission Act 2012* (Cth).

‘**Act**’ means the *Corporations Act 2001* (Cth) and includes any amendment or re-enactment of it or any legislation passed in substitution for it.

‘**Board**’ means the board of directors of the Company as constituted from time to time.

‘**Child**’ includes an ex nuptial child and a legally adopted child.

‘Company’ means Support Act Limited.

‘Director’ includes any person occupying the position of director of the Company and, where appropriate, includes an Alternate Director.

‘Founding Members’ means:

- (a) Australasian Performing Right Association Limited;
- (b) Australasian Mechanical Copyright Owners Society Limited;
- (c) Australian Recording Industry Association Limited; and
- (d) Phonographic Performance Company of Australia Limited,

and includes their respective successors and assigns and **‘Founding Member’** means any one of them,

‘Members’ means the persons who for the time being are Members of the Company and comprise the Founding Members, Music Industry Members and Ordinary Members.

‘Music Industry Members’ means the persons admitted to membership of the Company under clause 14 as **‘Music Industry Members’**.

Ordinary Member means the persons admitted to membership of the Company under clause 14.

‘Partner’ means in relation to any person:

- (a) the spouse of that person;
- (b) another person of the opposite sex living with that person as that person’s husband or wife, as the case may be, on a bona fide domestic basis although not married to that person; or
- (c) another person of the same sex living with that person on a bona fide domestic basis in a same sex relationship.

‘person’ means a natural person, a company or any other legal entity, whether acting as a trustee or not.

‘Recipient’ means:

- (a) a person who has worked in and contributed to the Australian music industry; or
- (b) a Relative of such a person;

selected by the Board and 'Recipients' has a corresponding meaning.

'Register' means the register of Members of the Company.

'Relative' in relation to any natural person means the following persons:

- (a) the Partner of that person;
- (b) the child of that person; and
- (c) a person who at any time was dependant on that person for his or her maintenance, education or advancement in life.

'seal' means the common seal of the Company and includes any official seal of the Company.

'Chief Executive' means any person appointed to perform the duties of a chief executive of the Company.

'Secretary' means any person appointed by the Board to perform any of the duties of a secretary of the Company.

'general meeting' means a general meeting of the Company other than an annual general meeting.

4. **INTERPRETATION**

In this Constitution, except where the context otherwise requires:

- (a) words importing the singular include the plural and vice versa.
- (b) headings are included for the sake of convenience only and do not affect the meaning of the Constitution to which they relate.
- (c) a reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it and all regulations and statutory instruments issued under it.

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- (d) except so far as the contrary intention appears in this Constitution, an expression has, in a provision of this Constitution that deals with a matter

dealt with by a particular provision of the Act or ACNC Act, the same meaning as in that provision of the Act or ACNC Act.

5. **REPLACABLE RULES**

- (1) To the extent permitted by law, the replaceable rules in the Act do not apply to the Company.

6. **LEGAL CAPACITY AND POWERS**

- (a) In pursuing the attainment of the above objects the Company has, both within and outside Australia, the legal capacity of a natural person, and without limiting the generality of the foregoing, has both within and outside Australia power:
- (i) to issue debentures of the Company;
 - (ii) to grant a floating charge on property of the Company;
 - (iii) to procure the Company to be registered or recognised as a body corporate in any place outside Australia;
 - (iv) to do any other act that it is authorised to do by any other law (including a law of a foreign country).
- (b) The Company may only invest its funds in investments authorised by the *Trustee Act 1925* (NSW) for the investment of trust funds.

7. **INCOME AND PROPERTY**

- (1) The income and property of the Company must be applied solely towards the promotion of the objects of the Company.
- (2) No income or property will be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise to the Members of the Company, but nothing in this clause will prevent:
- (a) the payment, in good faith, of reasonable travelling, accommodation and other expenses properly incurred by any Director in attending and returning from meetings of the Directors or any committee of the Directors or general meetings of the Company or otherwise in connection with the business of the Company;
 - (b) or reasonable and proper remuneration to any employee of the Company; or
 - (c) to any Member of the Company in return for any services actually rendered to the Company or for goods supplied in the ordinary course of business; or
 - (d) the payment of interest at a reasonable rate on money lent or a reasonable rent for premises let by any Member to the Company.

8. **LIMITED LIABILITY**

The liability of the Members is limited.

9. **LIABILITY OF MEMBERS ON A WINDING UP**

Every Member of the Company undertakes to contribute to the assets of the Company, in the event of it being wound up while he, she or it is a Member, or within one year after he, she or it ceases to be a Member, for payment of the debts and liabilities of the Company contracted before he, she or it ceases to be a Member, and of the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required, but not exceeding \$10 per Member.

10. **SURPLUS ASSETS ON A WINDING UP OR DISSOLUTION**

- (a) If:
 - (i) the Company ceases to be endorsed as a deductible gift recipient under subdivision 30-BA of the ITAA; or
 - (ii) the Company is wound up and, at that time, the Company is endorsed as a deductible gift recipient under subdivision 30-BA of the ITAA; any surplus assets of the Gift Fund must be transferred to a fund, authority or institution:
 - (iii) which is required to pursue charitable purposes only;
 - (iv) required to apply its profits (if any) or other income in promoting its objects;
 - (v) prohibited to making any distribution to its members;
 - (vi) gifts to which can be deducted under Division 30 of the ITAA; and
 - (vii) which has been approved by the Board.
- (b) The Company, if endorsed as a deductible gift recipient in its own right, will ensure that it is carried on for the purposes in respect of which the Company is so endorsed or approved and must maintain for that purpose a fund (**Gift Fund**):
 - (i) to which all gifts of money or property for those purposes are made;
 - (ii) to which contributions are made in relation to an eligible fundraising event held for the principal purposes of the Company;
 - (iii) to which all money received by the Company because of the gifts is credited; and
 - (iv) which does not receive any other money or property.
- (c) The Company must use the Gift Fund only for its objects set out in clause 2.
- (d) Subject to clause 10(a), if upon the winding up or dissolution of the Company there remains, after satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the Members of the Company, but shall be given or transferred to some other charitable institution or institutions or trust or trusts having objects similar to the objects of the Company, and (in a case other than a charitable trust) whose

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 or by virtue of clause 7, such institution or institutions or trust or trusts to be determined by the Members of the Company at or before the time of winding up or dissolution, and if and so far as effect cannot be given to the above provision, then to some other charitable object.

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PART II- MEMBERSHIP

11. MEMBERSHIP

The Members of the Company are:

- (a) the Founding Members; and
- (b) any other persons the Directors admit to membership in accordance with this Constitution.

12. CATEGORIES OF MEMBERSHIP

(1) The categories of membership are:

- (a) the Founding Members;
- (b) the Music Industry Members; and
- (c) the Ordinary Members.

(2) Additional categories of members, if recommended by the Board, may be created from time to time by the Members in general meeting.

13. Founding Members

The Founding Members are subscribers to the Constitution and are deemed to become Members of the Company upon the incorporation of the Company.

14. Music Industry Members

Any individual who:

- (a) is not less than 18 years of age at the date of application;
- (b) has at any time worked in, or in connection with, or contributed to, the Australian music industry,

may apply for music industry membership of the Company.

15. Ordinary Members

(1) Any individual or body corporate who wishes to support the objects of the Company in clause 2 may apply for ordinary membership of the Company.

(2) Despite anything in this Constitution to the contrary, an ordinary member:

- (a) has the right to receive notices and to attend and be heard at any general meeting; but

- (b) has no right to vote at any general meeting.
- (3) Any individual who is less than 18 years of age at the date of application may, with the written consent of a parent or legal guardian, apply for ordinary membership of the Company through their consenting parent or legal guardian.

16. **Form of Application to become a Member**

- (1) All applications for membership must be:
 - (a) made in writing in a form approved by the Board;
 - (b) signed by the applicant or the applicant's consenting parent or legal guardian where the application is for membership under clause 15; and
 - (c) accompanied by any other documents or evidence as to qualification for the type of membership applied for which the Board require.
- (2) If the applicant is a body corporate it must nominate one person (**nominated representative**) to represent it in the Company. The application form must:
 - (a) state the name and address of the nominated representative; and
 - (b) be signed by the nominated representative.
- (3) An application form must be submitted to the Chief Executive.
- (4) The Board will consider each application for membership at the next Board meeting after the application is received. In considering an application for membership, the Board may:
 - (a) accept or reject the application; or
 - (b) ask the applicant to give more evidence of eligibility for membership.
- (5) If the Board ask for more evidence under clause 16(4), their determination of the application for membership is deferred until the evidence is given.
- (6) The Board do not have to give any reason for rejecting an application for membership.
- (7) As soon as practicable following acceptance of an application for membership, the Chief Executive will send the applicant written notice of the acceptance and request payment of the applicant's first Membership Fee (if any).
- (8) An applicant for membership becomes a member:
 - (a) if the applicant has received a request for payment of a Membership Fee, when the Membership Fee is paid; or
 - (b) if applicant is not required to pay a Membership Fee, when the applicant's name is entered onto the Register.
- (9) If the first Membership Fee of an applicant for membership is not paid within 28 days after the date the applicant is notified of acceptance of their application for membership, the Board may cancel their acceptance of the applicant for membership of the Company.

17. **Cessation of Membership**

- (1) A Member's membership will cease, on the date:

- (a) the resignation from that Member is effective under clause 19;
- (b) the member:
 - (i) dies;
 - (ii) becomes mentally incapacitated or whose person or estate is liable to be deal with in any way under the laws relating to mental health; or
 - (iii) is convicted of an indictable offence, or
- (c) where the member is not an individual, if:
 - (i) a liquidator is appointed in connection with the winding- up of the member; or
 - (ii) an order is made by a Court for the winding-up or deregistration of the member; or

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- (d) the Member is expelled as a Member in accordance with Clause 22.

18. Membership entitlements not transferable

A right, privilege or obligation which a person has by reason of being a Member of the Company:

- (a) is not capable of being transferred or transmitted to another person, except in the case of a Founding Member; and
- (b) subject to the Act and this Constitution, terminates on cessation of the person's membership.

19. Resignation of Membership

- (1) A Member of the Company is not entitled to resign that Membership except in accordance with this Constitution.
- (2) A Member of the Company who has paid all amounts payable by the Member to the Company in respect of the Member's membership may resign from membership of the Company upon giving to the Secretary written notice of the Member's resignation and upon receipt of that notice by the Company, the Member ceases to be a Member.
- (3) If a Member of the Company ceases to be a Member under Sub-Clause (2), and in every other case where a Member ceases to hold membership, the Secretary must make an appropriate entry in the Register of Members recording the date on which the Member ceased to be a Member.

20. Register of Members

- (1) The Secretary must establish and maintain a Register of Members of the Company specifying the name, address and occupation (if applicable) of each Member of the Company together with the date on which they became a Member.

- (2) The Register of Members must be kept at the registered office of the Company and must be open for inspection, free of charge, by any Member of the Company at any reasonable hour.

21. **Membership Fees**

- (1) The Board may determine the membership fee payable for one or more members, or categories of members, for different amounts and at different times (**Membership Fee**).
- (2) The Board will review all Membership Fees before the end of the Company's financial year and prescribe the Membership Fees for the following year.
- (3) A Member must pay the Membership Fee each year on or before the date prescribed by the Directors.
- (4) If a Member does not pay the Membership Fee within 28 days after it becomes due the Board:
 - (a) will give the Member notice of that fact; and
 - (b) if the Membership Fee remains unpaid 21 days from the date of that notice, may declare that Member's membership forfeited.
- (5) In the event the Member ceases to be a Member pursuant to clause 21(4) or clause 16(9):
 - (a) the Company will not refund to the member any Membership Fee; and
 - (b) the member will remain liable for and will pay to the Company all Membership Fees which were due at the date of ceasing to be a Member.

22. **Expulsion of a Member**

- (1) The Board has the power to expel a Member as a Member of the Company where the Member has:
 - (a) persistently refused or neglected to comply with any provision of this Constitution;
 - (b) persistently and wilfully acted in a manner prejudicial to the interests of the Company; or
 - (c) failed to pay fees as determined under Clause 21.
- (2) The Board must, before exercising the power under Sub-Clause (1), serve notice on the Member concerned of their intention to do so.
- (3) The Member concerned has at least 14 days from service of the notice under Sub-Clause (2) within which to make written submissions to the Board in connection with the proposed expulsion.

- (4) The Directors must take into consideration any submissions made under Sub-Clause (3), before deciding whether to expel the Member.

PART III - THE BOARD OF DIRECTORS

23. Number of Directors

The number of Directors shall not be less than 3 nor more than 12, unless the Company in general meeting by resolution changes the number of Directors.

24. The Board

- (1) Subject to Clause 23, the Board is to consist of:
 - (a) each Founding Member may appoint one person as a Director (the **Founding Member Directors**);
 - (b) up to 4 persons elected by the Music Industry Members in accordance with Clause 24(3) (the **Music Industry Directors**); and

up to 4 persons appointed by a majority of the Directors in accordance with Clause 24(4) (**Appointed Directors**).
- (2) **Founding Member Director**
 - (a) The Founding Member Directors holds office until the earlier of:
 - (i) the date the Director is removed as a Director by the Founding Member who appointed the Director, by notice in writing to the Director and to the Company; or
 - (ii) the date the office of the Director becomes vacant in accordance with clause 27.
 - (b) In the event of a vacancy under clause 24(2)(a)(i) the Founding Member who appointed the Director will notify the Company of the appointment of a new Founding Member Director.
 - (c) In the event of a vacancy under clause 24(2)(a)(iii) the Company will notify the Founding Member who appointed the Director of the vacancy and will submit a request for the appointment of a new Founding Member Director.
- (3) **Music Industry Directors**
 - (a) A nomination of a candidate for election as a Music Industry Director must:
 - (i) be made in the form the same as Appendix 3 to this Constitution;
 - (ii) be signed by the candidate; and
 - (iii) be signed by one Music Industry Member.

- (b) A nomination of a candidate for election must be given to the Chief Executive not less than 28 days before the Annual General Meeting at which the candidate seeks election.
- (c) At the Annual General Meeting held in each even year the Music Industry Members will vote on each candidate.
- (d) If the number of candidates for election as Music Industry Directors is equal to or less than the number of vacancies, the candidates receiving a majority vote of the Music Industry Members cast in favour must be declared by the Chairperson of the meeting to be elected as Music Industry Directors.
- (e) If the number of candidates is greater than the number of vacancies, a ballot must be held for the election of the candidates. Subject to the candidates receiving a majority vote of the Music Industry Members cast in favour, the candidates receiving the greatest number of votes cast in their favour must be declared by the Chairperson of the meeting to be elected as Music Industry Directors.
- (f) If an equality of votes would otherwise prevent the successful candidate for a vacancy from being determined, the names of the candidates who received the same number of votes must be put to a further ballot immediately.
- (g) A Music Industry Director holds office until the earlier of:
 - (i) the conclusion of the Annual General Meeting held in each even year; and
 - (ii) is removed as a Music Industry Director by a special resolution of the Music Industry Members; or
 - (iii) the date the office of the Music Industry Director becomes vacant in accordance with clause 27.
- (h) In the event of a vacancy under clause 24(3)(g)(ii) or (iii) the Board may, by a majority vote, appoint a replacement Director to fill the causal vacancy.
- (i) A retiring Music Industry Director will be eligible for re-appointment for successive terms but a Music Industry Director who has held office for a continuous period of 6 years or more may only be re-appointed by a special resolution of the Music Industry Members.

(4) **Appointed Directors**

- (a) The Board may appoint, from time to time, a person with skills to add value to the Board as an Appointed Director.
- (b) An Appointed Director holds office until the earlier of:
 - (i) the second anniversary of the date of the Board meeting at which the Appointed Director was appointed by the Board (or such earlier date determined by the Board); and
 - (ii) is removed as an Appointed Director by $\frac{3}{4}$ of the Board; or

- (iii) the date the office of the Appointed Director becomes vacant in accordance with clause 27.
- (c) In the event of a vacancy under clause 24(4)(g)(ii) or (iii) the Board may, by a majority vote, appoint a replacement Director to fill the causal vacancy.
- (d) A retiring Appointed Director will be eligible for re-appointment for successive terms but an Appointed Director who has held office for a continuous period of 6 years or more may only be re-appointed by 3/4 of the Board in favour of the re-appointment.

25. **Remuneration**

The Directors may be paid the expenses outlined in clause 7.

26. **Secretary**

- (1) The Secretary will be the person who occupies the office of Chief Executive of the Company.
- (2) The Secretary holds office on such terms and conditions as to remuneration and otherwise as the Board determine.

27. **Vacation of Office**

In addition to the circumstances in which the office of a Director becomes vacant by virtue of the Act or ACNC Act, the office of a Director becomes vacant if the Director:

- (1) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (2) resigns his or her office by notice in writing to the Company;
- (3) *is* absent without the consent of the Directors from meetings of the Directors held during a period of 6 months; or
- (4) ceases to be a Member of the Company.

28. **Meetings and quorum**

- (1) The Board may meet at such place and time as they think fit.
- (2) A Director at any time, and the Secretary must on the requisition of a Director, convene a Board meeting.
- (3) One-third of the Directors constitutes a quorum for a Board.

- (4) No business is to be transacted by the Board unless a quorum is present and if, within an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to the same place and at the same hour of the same day in the following week.
- (5) If at the adjourned meeting a quorum is not present within an hour of the time appointed for the meeting, the meeting is to be dissolved.
- (6) The Board may meet either in person or by telephone or by other means of electronic communication by which all persons participating in the meeting are able to hear the entire meeting and to be heard by all other persons attending the meeting. A meeting conducted by telephone or by other means of electronic communication will be taken to be held at the place agreed on by the Directors attending the meeting, provided that at least one of the Directors present at the meeting was at that place for the duration of the meeting.

29. **Chairperson**

- (1) The Board will elect one of their number as Chairperson of their meetings and may determine the period for which he or she is to hold office.
- (2) Where a Board meeting is held and:
 - (i) a Chairperson has not been elected as provided by Sub-Clause (1); or
 - (ii) the Chairperson is not present within 10 minutes after the time appointed for the holding of the meeting or is unwilling to act;the Directors present will elect one of their number to be Chairperson of the meeting.

30. **Alternate Director**

- (1) A Founding Member Director or a Music Industry Director may appoint a person (whether a Member of the Company or not) to be an Alternate Director in his or her place during such period as he or she thinks fit.
- (2) An Alternate Director is entitled to notice of meetings of the Directors and, if the appointor is not present at such a meeting, is entitled to attend and vote in his or her place.
- (3) An Alternate Director may exercise any powers that the appointor may exercise and the exercise of any such power by the Alternate Director shall be deemed to be the exercise of the power by the appointor.

- (4) The appointment of an Alternate Director may be terminated at any time by the appointor notwithstanding that the period of the appointment of the Alternate Director has not expired, and terminates in any event if the appointor vacates office as a Director.
- (5) An appointment, or the termination of an appointment, of an Alternate Director shall be effected by a notice in writing signed by the Director who makes or made the appointment which is served on the Company.

31. **Delegation by Board of Directors to Committee**

- (1) The Board may, by instrument in writing, delegate to one or more Committees (consisting of such of their number as they think fit) the exercise of such of the functions of the Board as are specified in the instrument, other than this power of delegation.
- (2) A function the exercise of which has been delegated to a Committee under this Clause may, while the delegation remains unrevoked, be exercised from time to time by the Committee in accordance with the terms of the delegation.
- (3) A delegation under this section may be made subject to such conditions or limitations as to the exercise of any function, or as to time or circumstances, as may be specified in the instrument of delegation.
- (4) Despite any delegation under this Clause, the Board may continue to exercise any function delegated.
- (5) Any act or thing done or suffered by a Committee acting in the exercise of a delegation under this Clause has the same force and effect as it would have if it had been done or suffered by the Board.
- (6) The Board may, by instrument in writing, revoke wholly or in part any delegation under this Clause.
- (7) A Committee may meet and adjourn as it thinks proper.

32. **Voting and decisions**

- (1) Questions arising at a meeting of the Board or of any Committee appointed by the Board are to be determined by a majority of the votes of members of the Board or Committee present at the meeting.
- (2) Each Director present at a meeting of the Board or of any Committee appointed by the Board is entitled to one vote but, in the event of any equality of votes on any question, the person presiding may exercise a second or casting vote.

- (3) Subject to Clause 28(3), the Board may act despite any vacancy on the Board.
- (4) Any act or thing done or suffered, or purporting to have been done or suffered, by the Board or by a 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 Committee.

33. Signed Resolutions

- (1) If all the Directors have signed a document containing a statement that they are in favour of a resolution of the Board in terms set out in the document, a resolution in those terms will be deemed to have been passed at a Board meeting held on the day on which the document was signed and at the time at which the document was last signed by a Director or, if the Directors signed the document on different days, on the day on which, and at the time at which, the document was last signed by a Director.
- (2) For the purposes of this Clause, 2 or more separate documents containing statements in identical terms each of which is signed by one or more Directors will together be deemed to constitute one document containing a statement in those terms signed by those Directors on the respective days on which they signed the separate documents.
- (3) A reference in this Clause to all the Directors does not include a reference to a Director who, at a Board meeting, would not be entitled to vote on the resolution.

34. Powers and Duties of Directors

- (1) Subject to the Act and to any other provision of this Constitution, the business of the Company is managed by the Board, who may exercise all powers of the Company that the Act or this Constitution do not require to be exercised by the Company in general meeting.
- (2) Despite Sub-Clause (1), the Board may exercise all the power of the Company to provide relief to Recipients, approved in accordance with Clause 36, by:
 - (a) paying the funds to the Recipient;
 - (b) paying the funds to such person, on behalf of the Recipient, as the Recipient may authorise or direct;
 - (c) setting aside the funds in a separate account of the Company in the name of the Recipient whereupon such moneys will constitute a loan at call and will not bear interest unless otherwise agreed;
 - (d) paying the funds to an account in the name of:

- (i) the Recipient; or
 - (ii) a person operating such account on behalf of or in trust for the Recipient;
 - (e) paying the funds to a parent or guardian of the Recipient, or to such other person upon whom the Recipient is dependent, for the benefit of the Recipient;
 - (f) paying the funds to any person:
 - (i) to be applied directly for or towards the benefit of the Recipient; or
 - (ii) who by law is entitled to receive moneys on behalf of or to administer the property of the Recipient;
 - (g) paying or applying the funds for the:
 - (i) maintenance, education or advancement of the Recipient; or
 - (ii) provision of support services for the Recipient; or
 - (h) paying the funds to a person to act as trustee for the Recipient upon such terms as the Directors think fit.
- (3) The Board may effect a distribution of funds to a Recipient by one or more of the methods provided in Sub-Clause (2).
- (4) Where the Board pay, apply or set aside funds for the provision of relief to Recipients under this Clause:
- (a) such payment, application or setting aside constitutes a full discharge to the Company and the Board in relation to such distribution of funds; and
 - (b) the Company and the Board are not bound to see to the application of such funds.
- (5) Without limiting the generality of Sub-Clause (1) the Board may exercise all the powers of the Company to borrow money, to charge any property or business of the Company and to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.

35. Manner of payment to a Recipient

Decisions regarding the payment, application or setting aside of funds to, or for the benefit of, a Recipient must be in accordance with Clause 36.

36. **Application for Relief**

- (1) The following persons may apply to the Company for the provision of relief:
 - (a) a person who has worked in and contributed to the Australian music industry;
or
 - (b) a Relative of such a person.
- (2) The application must be:
 - (a) made in writing in the form determined by the Board from time to time; and
 - (b) lodged with the Chief Executive.
- (3) If the Board determine, in its absolute discretion, to approve an application the Board has the power to select the amount and manner in which funds are to be distributed under Clause 34.
- (4) **Director's duties and interests**
 - (a) Each Director must comply with his or her duties described in governance standard 5 of the regulations made under the ACNC Act and under the general law.
 - (b) A Director may:
 - (i) hold any office or place of profit or employment other than that of the Company's auditor or any, partner, director or employee of the auditor;
 - (ii) be a member of any corporation (including the Company) or partnership other than the Company's auditor; or
 - (iii) be a creditor of any corporation (including the Company) or partnership; or
 - (iv) enter into any agreement with the Company.
 - (c) Each Director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a Board meeting (or that is proposed in a circular resolution) to the other Directors.
 - (d) Each Director who has a material personal interest in a matter that is being considered at a Board meeting (or that proposed in a circular resolution) must not, except as provided under clause 36(4)(e):
 - (i) be present at the meeting while the matter is being discussed; or
 - (ii) vote on the matter.
 - (e) A Director may be counted in a quorum at a Board meeting that considers, and votes on, any matter in which that Director has an interest.

- (f) The Company may proceed with any transaction that relates to the interest and the Director may participate in the execution of any relevant document by or on behalf of the Company.
- (g) The Director may retain benefits under the transaction even though the Director has the interest.
- (h) The Company cannot avoid the transaction merely because of the existence of the interest.
- (i) The Company cannot avoid an agreement with a third party merely because a Director:
 - (i) fails to make a disclosure of an interest; or
 - (ii) is present at, or counted in the quorum for, a Board meeting that considers or votes on that agreement.
- (j) Every Director and Secretary must keep the transactions and affairs of the Company and the state of its financial reports confidential unless required to disclose them:
 - (i) in the course of duties as an officer of the Company;
 - (ii) by the Board or the Company in general meeting; or
 - (iii) by law.
- (k) The Company may require a Director, Secretary, auditor, trustee, committee member or other person engaged by it to sign a confidentiality undertaking consistent with this rule. A Director or Secretary must do so if required by the Company.

37. **Attorney**

- (1) The Board may, by power of attorney, appoint any person or persons to be the attorney or attorneys of the Company for such purposes, with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Board), for such period and subject to such conditions as they think fit.
- (2) Any such power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorney as the Board think fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in him or her.

38. **Financial Instruments**

All cheques, promissory notes, bankers drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Company, must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any 2 Directors or in such other manner as the Directors determine.

PART IV - GENERAL MEETINGS

39. **Annual general meetings**

- (1) An Annual General Meeting must be held at least one in each calendar year.
- (2) Even if these items are not set out in the notice of meeting, the business of an annual general meeting may include:
 - (a) a review of the Company's activities;
 - (b) a review of the Company's finances;
 - (c) any auditor's report; and
 - (d) the appointment and payment of auditors, if any.
- (3) Before or at the annual general meeting, the Board must give information to the Members, entitled to attend and vote at the meeting, on the Company's activities and finances during the period since the last annual general meeting.
- (4) The chairperson of the annual general meeting must give Members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the Company.

40. **General Meetings**

(1) **General meetings called by the Board**

- (a) Any Director may, whenever he or she thinks fit, convene a general meeting.
- (b) If members with at least 5% of the votes that may be cast at a general meeting, make a written request to the Company for a general meeting to be held, the Board must:
 - (i) within 21 days of the members' request, give all Members notice of a general meeting; and
 - (ii) hold the general meeting within 2 months of the Members' request.
- (c) The percentage of votes that Members have is to be worked out as at midnight before the Members request the meeting.
- (d) The Members who make the request for a general meeting must:
 - (i) state in the request any resolution to be proposed at the meeting;
 - (ii) sign the request; and
 - (iii) give the request to the Company.
- (e) Separate copies of a document setting out the request may be signed by members if the wording of the request is the same in each copy.

(2) **General meetings called by members**

- (a) If the Board do not call the meeting within 21 days of being requested under clause 40(b), 5% or more of the Members who made the request may call and arrange to hold a general meeting.
- (b) To call and hold a meeting under clause 40(a) the Members must:
 - (i) as far as possible, follow the procedures for general meetings set out in this Constitution;

- (ii) call the meeting using the list of Members on the Company's member register, which the Company must provide to the Members making the request at no cost; and
 - (iii) hold the general meeting within three months after the request was given to the Company.
- (c) The Company must pay the Members who request the general meeting any reasonable expenses they incur because the Directors did not call and hold the meeting.

41. **Notice**

- (1) Subject to clause 41(2), at least 21 days' written notice of a meeting of Members must be given individually to:
- (a) each Member (whether or not the member is entitled to vote at the meeting);
 - (b) each Director; and
 - (c) the auditor.
- (2) **Short notice**
- (a) Subject to clause 41(2)(b), 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 5% of the votes that may be cast at the meeting agree beforehand.
 - (b) Notice of a meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:
 - (i) remove a director;
 - (ii) appoint a director in order to replace a director who was removed; or
 - (iii) remove an auditor.
 - (c) Notice of a general meeting must include:
 - (i) the place, date and time for the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
 - (ii) the general nature of the meeting's business;
 - (iii) if applicable, that a special resolution is to be proposed and the words of the proposed resolution;
 - (iv) a statement that members have the right to appoint proxies and that, if a Member appoints a proxy:
 - (A) the proxy does not need to be a Member of the Company;
 - (B) the proxy form must be delivered to the Company at its registered address or the address (including an electronic address) specified in the notice of the meeting; and
 - (C) the proxy form must be delivered to the Company at least 48 hours before the meeting.

42. **Procedure**

- (1) No business may be transacted at a general meeting unless a quorum of Members is present at the time when the meeting proceeds to business.
- (2) 10 Members present in person or by proxy, attorney or representative constitute a quorum at general meetings.
- (3) If within an hour after the appointed time for the commencement of a general meeting a quorum is not present, the meeting:
 - (a) if convened on the requisition of Members, is to be dissolved; and
 - (b) in any other case, is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to Members given before the day to which the meeting is adjourned) at the same place.
- (4) If at the adjourned meeting a quorum is not present within an hour after the time appointed for the commencement of the meeting, the Members present (being at least 5) is to constitute a quorum.

43. **Chairperson**

- (1) If the Directors have elected one of their number as Chairperson, he or she is to preside as Chairperson at each general meeting.
- (2) If the Chairperson has not been elected, is absent or is unwilling to act, the Members present must elect one of their number to preside as chairperson at the meeting.

44. **Adjournment**

- (1) The chairperson of a general meeting at which a quorum is present may, with the consent of the majority of Members present at the meeting, adjourn the meeting from time to time and place to place, but 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.
- (2) If a general meeting is adjourned for 30 days or more, the Secretary must give notice of the adjourned meeting as in the case of an original meeting.
- (3) Except as provided in Sub-Clauses (1) and (2), notice of an adjournment of a general meeting or of the business to be transacted at an adjourned meeting is not required to be given.

45. **Making of decisions**

- (1) A question arising at a general meeting of the Company is to be determined on a show of hands unless (before or on the declaration of the show of hands) a poll is demanded:
 - (a) by the Chairperson;
 - (b) by at least 3 Members present in person or by proxy, attorney or representative.
- (2) Unless a poll is so demanded, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the Company, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- (3) The demand for a poll may be withdrawn.
- (4) If a poll is demanded, the poll must be taken:
 - (a) 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
 - (b) 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.

46. **Voting**

- (1) On a poll at a general meeting of the Company each Member present in person or by proxy, attorney or representative has one vote only.
- (2) In the case of an equality of votes on a question at a general meeting, the chairperson of the meeting is entitled to exercise a second or casting vote.
- (3) A Member or their proxy, attorney or representative is not entitled to vote at any general meeting of the Company unless all money due and payable by the Member to the Company has been paid, other than the amount of the annual subscription payable in respect of the then current year.

- (4) If a Member is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, bankruptcy or insolvency, his or her committee or trustee or such other person as properly has the management of his or her estate may exercise any rights of the Member as if the committee, trustee or other person were the Member.

47. Appointment of proxies

- (1) Each Member is to be entitled to appoint another person as his, her or its proxy by notice given to the Secretary no later than 24 hours before the time of the meeting in respect of which the proxy is appointed.
- (2) The notice appointing the proxy is to be in the form set out in Appendix 2 to these Clauses.

48. Representative

- (1) A Member, being a company or other legal entity, may, by resolution of its Board of Directors or other governing body, authorise a specified person to act as the Member's representative at specified meetings that the Member would, if it were a natural person, be entitled to attend as a Member of the Company.
- (2) A person who is authorised under Sub-Clause (1) is, in accordance with the authority and until it is revoked, entitled to exercise on the Member's behalf the same powers as the Member could, if it were a natural person, exercise as a Member of the Company.
- (3) Where:
 - (a) a person present at a meeting is authorised to act as the representative of the Member at the meeting by virtue of an authority given by the Member under Sub-Clause (1); and
 - (b) the person is not otherwise entitled to be present at the meeting;the Member will be deemed to be personally present at the meeting.
- (4) A certificate under the seal or otherwise executed by or on behalf of the Member is prima facie evidence of the appointment or of the revocation of the appointment, as the case may be, of a representative pursuant to the provisions of Sub-Clause (1).

PART V - MISCELLANEOUS

49. **Indemnity**

- (1) To the extent permitted by law, and unless the Board in their absolute discretion resolve that the circumstances do not justify indemnification, the Company must indemnify each person who is, or has been, an officer or employee of the Company (to the extent that the officer or employee is not otherwise indemnified) against all liability incurred by that person as such an officer or employee:
 - (a) to any person (other than the Company or a related body corporate) unless the liability arises out of conduct involving a lack of good faith; or
 - (b) for costs and expenses incurred by the person in defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted or in connection with an application, in relation to such proceedings in which the Court grants relief to the person under the Law.
- (2) To the extent permitted by law, the Company may pay or agree to pay a premium in respect of a contract insuring a person who is, or has been, an officer or employee of the Company against a liability incurred by the person as such an officer or employee, including, but without limiting the generality of the foregoing a liability for costs and expenses incurred by the person in defending proceedings, whether civil or criminal and whatever their outcome.
- (3) In this Clause:
 - (a) ‘officer’ means a Director, a Secretary or the Chief Executive;
 - (b) ‘related body corporate’ has the same meaning as in Section 9 of the Act.

50. **Common seal**

- (1) If the Company has a Seal:
 - (a) The Board must provide for the safe custody of the Seal;
 - (b) the Seal must be used only by the authority of the Board, or of a committee of the Board authorised to use of the Seal; and
 - (c) every document to which the Seal is affixed must be signed by a Director and be countersigned by another Director, the Secretary or another person appointed by the Board to countersign that document.

51. **Inspection of books**

The Directors must determine whether and to what extent, and at what time and places and under what conditions, the accounting records and other documents of

the Company or any of them will be open to the inspection of Members other than Directors, and 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.

52. Notices

42.1 General

Any notice, statement or other communication under these Clauses must be in writing, except that any notice convening a Board meeting does not need to be in writing.

42.2 How to give a communication

In addition to any other way allowed by the Law, a notice or other communication may be given by being:

- (a) personally delivered;
- (b) left at the person's current address as recorded in the Register of Members;
- (c) sent to the person's address as recorded in the Register of Members by pre-paid ordinary mail or, if the address is outside Australia, by pre-paid airmail;
- (d) sent by fax to the person's current fax number for notices; or
- (e) sent by email to the person's current email address for notices.

42.3 Communications by post

A communication is given if posted:

- (a) within Australia to an Australian address, 3 Business Days after posting;
- (b) outside Australia to an address outside Australia, ten Business Days after posting.

42.4 Communications by fax

A communication is given if sent by fax, when the sender's fax machine produces a report that the fax was sent in full to the addressee. That report is conclusive evidence that the addressee received the fax in full at the time indicated on that report.

42.5 Communications by email

A communication is given if sent by email, when the information system from which the email was sent produces a confirmation of delivery report which indicates that the email has entered the information system of the recipient, unless the sender receives a delivery failure notification, indicating that the email has not been delivered to the information system of the recipient.

42.6 After hours communications

If a communication is given:

- (a) after 5pm in the place of receipt; or
- (b) on a day which is a Saturday, Sunday or bank or public holiday in the place of receipt,

it is taken as having been given at 9am on the next day which is not a Saturday, Sunday or bank or public holiday in that place

53. Financial reports and audits

The Board must cause the Company to keep written financial records that:

- (a) correctly record and explain its transactions (including transactions undertaken as trustee) and financial position and performance; and
- (b) would enable true and fair financial statements to be prepared and audited, and must allow a Director and the auditor to inspect those records at all reasonable times.

54. Financial Year

The Company's financial year is from 1 July to 30 June, unless the Board pass a resolution to change the financial year.

55. Notices to "lost" members

- (1) If:
 - (a) on two or more consecutive occasions a notice served on a Member in accordance with this clause is returned unclaimed or with an indication that the Member is not known at the address to which it was sent; or
 - (b) the Board believes on other reasonable grounds that a member is not at the address shown in the Register,the Company may give effective notice to that Member by exhibiting the notice at the Company's registered office for at least 48 hours.
- (2) This clause ceases to apply if the Member gives the Company notice of a new address.

**APPENDIX 1
(Clause 3(1)(b))**

**APPLICATION FOR ORDINARY MEMBERSHIP OF
SUPPORT ACT LIMITED**

I,
(full name of applicant)

of
(address)

hereby apply to become
(occupation)

a Member of the abovenamed Company. In the event of my admission as a Member, I agree to be bound by the Clauses of the Company for the time being in force.

.....
Date

.....
Signature of applicant

I,
(full name of applicant)

a Member of the abovenamed Company, nominate the applicant, who is personally known to me, for Membership of the Company.

.....
Date

.....
Signature of applicant

**APPENDIX 2
(Clause 37(2))**

FORM OF APPOINTMENT OF PROXY

I,
(full name)

of
(address)

being a Member of Support Act Limited hereby appoint

.....
(full name of proxy)

of
(address)

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

19 , and at any adjournment of that meeting.

* My proxy is authorised to vote in favour of the resolution (insert details).

* My proxy is authorised to vote against the resolution (insert details).

.....
Date

.....
Signature of Member appointing proxy

NOTE: A proxy vote may not be given to a person who is not a Member of the Company

**APPENDIX 3
(Clause 14(1)(a))**

**APPLICATION FOR ELECTION AS A MUSIC INDUSTRY DIRECTOR OF
SUPPORT ACT LIMITED**

I,
(full name of nominator)

of
(address)

am a Music Industry Member of the abovenamed Company and hereby nominate the
nominated Member for election as a Music Industry Director of the Company.

.....
Date

.....
Signature of nominator

I,
(full name of nominated Member)

am a Member of the abovenamed Company and consent to nomination for election as a
Director of the Company.

.....
Date

.....
Signature of nominated Member

**APPENDIX 4
(Clause 14(1)(a))**

**APPLICATION FOR ELECTION AS AN APPOINTED DIRECTOR OF
SUPPORT ACT LIMITED**

I,
(full name of nominator)

of
(address)

am a Founding Member/ Music Industry Member [strike out, as necessary] of the abovenamed Company and hereby nominate the nominated Member for election as an Appointed Director of the Company.

.....
Date

.....
Signature of nominator

I,
(full name of nominated Member)

am a Member of the abovenamed Company and consent to nomination for election as an Appointed Director of the Company.

.....
Date

.....
Signature of nominated Member

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