

# Special Resolutions Proposed for Australian Business Software Industry Association Limited Annual General Meeting on 21 October 2021

Each special resolution will be voted on separately. All proposed modifications under each special resolution will be voted on together, unless the special resolution is not passed in which case each modification will be voted on individually.

## Special Resolution 1 - Fixing Typos & Renumbering

**EXPLANATORY NOTES:** Through version changes to the Constitution over the years, there have been missed typos and incorrect numbering of clauses.

**SPECIAL RESOLUTION:**

That this AGM resolves to modify the Company Constitution as follows:

- (a) Renumbering the clause referenced in the **Co-Opted Director** definition from **clause 36.4** to **clause 36.5**.
- (b) Renumbering the clause referenced in the **Elected Director** definition from **clause 36.3** to **clause 36.4**.
- (c) Correcting duplicate wording and typos throughout the constitution.

## Special Resolution 2 - Number of Directors

**EXPLANATORY NOTES:** The following change aims to remove ambiguity about the status of Director vacancies when the Board increases the number of Directors. This is particularly confusing when the increase is done in conjunction with an AGM, as occurred last year.

If there is an increase to the number of Directors holding office, these positions will be treated as casual vacancies.

**SPECIAL RESOLUTION:**

That this AGM resolves to modify the Company Constitution by deleting **clause 36.1 (b)** and replacing it with a new clause that states:

**36.1 Number of Directors**

- (b) Once per calendar year, the Board may by Special Resolution vary the number of

Directors holding office within the limits referred to in **clause 36.1(a)**. Any increase in the number of Directors will be treated as a casual vacancy and the Board may appoint any such vacancy in the same manner as described in **clause 39**.

## Special Resolution 3 - Office Bearers

**EXPLANATORY NOTES:** New Directors are currently unable to nominate for or vote on the Office Bearer positions for the following year's Board. The modification of clause 36.7(a) allows new Directors to nominate for and vote on Office Bearer positions. The new clause 36.6(d) also gives new Directors the right to attend Board meetings during the change over period.

To reflect the difference between Elected Directors and Directors Elect (those who have been appointed or elected but do not yet hold office), a new definition has been added to clause 4.

Additional information has been added to clause 36.7(c) to exclude the Secretary from the Office Bearer requirements contained in this clause. Currently the requirements are specified in clause 54 and this change is being made to remove any confusion.

A new clause, 36.7(d), has been added to ensure that the President has served at least two years on the Board before taking up this position. If there are no nominees that meet this criteria, then the requirement will not apply.

### **SPECIAL RESOLUTION:**

That this AGM resolves to modify the Company Constitution as follows:

- (a) Adding a new clause **36.6(d)** that states:

#### **36.6 Term**

- (d) Directors who have been appointed or elected but do not yet hold office (**Directors Elect**) shall receive notice of any meetings of the Board as specified in clause 46 and have the right to attend such meetings. Directors Elect are not counted as Directors for the purposes of quorum and have no voting rights, except to appoint Office Bearers as described in **clause 36.7(a)**.

- (b) Adding a new definition to **clause 4** for "Directors Elect" that states:

#### **4.1 Definitions**

**Directors Elect** means Directors who have been appointed or elected but do not yet hold office as referred to in **clause 36.6(d)**.

(c) Deleting **clause 36.7(a)** and replacing it with a new clause that states:

**36.7 Office Bearers**

(a) The Board comprising only non-retiring Directors and any Directors Elect as described in clause 36.6(d), shall, at the first meeting of the Board held after an annual general meeting of the Company appoint from among the non-retiring Directors and Directors Elect:

- (i) President;
- (ii) Vice-President; and

(iii) such additional office bearer positions as the Board deems necessary from time to time.

To avoid any confusion, for the purposes of this clause, only non-retiring Directors and Directors Elect can nominate and vote for Office Bearer positions.

(d) Deleting **clause 36.7(c)** and replacing it with a new clause that states:

**36.7 Office Bearers**

(c) The Office Bearers (excluding the Secretary who is appointed as per **clause 54**) shall hold office from 1 January for the year following their appointment for a term of one (1) year but shall be eligible for reappointment for five (5) further terms of one (1) year each. Office Bearers shall not hold office:

- (i) for more than six (6) consecutive years; or
- (ii) beyond their retirement or removal from the Board as a Director.

(e) Adding a new **clause 36.7(d)** that states:

**36.7 Office Bearers**

(d) To be eligible for nomination as President, a director must have been a Director for at least two (2) years (including the current year and not necessarily served consecutively) unless there is no candidate that satisfies this criteria.

## Special Resolution 4 - Casual Vacancies

**EXPLANATORY NOTES:** The Casual Vacancy clauses 39(c) and (d) are inconsistent with clause 36(b) which was updated at the 2020 Annual General Meeting. Correcting these clauses to also require casual vacancies to be replaced at the next annual general meeting.

**SPECIAL RESOLUTION:**

That this AGM resolves to modify the Company Constitution as follows:

(a) Deleting **clause 39(c)** and replacing it with a new clause that states:

**39 Casual Vacancy**

(c) If an Elected Director vacates his or her office before the end of his or her term, the Board may appoint a new Elected Director that has a regular professional relationship with any Financial Voting Member, subject to clause 36.6(b).

(b) Deleting **clause 39(d)** and replacing it with a new clause that states:

**39 Casual Vacancy**

(d) If a Co-opted Director vacates his or her office before the end of his or her term, the Board may appoint a new Co-opted Director, subject to clause 36.6(b).