

**SPECIAL RESOLUTIONS PROPOSED FOR
AUSTRALIAN BUSINESS SOFTWARE INDUSTRY ASSOCIATION, LIMITED
ANNUAL GENERAL MEETING ON 30 OCTOBER 2018**

SPECIAL RESOLUTION 1 - Clarifying Changes

EXPLANATORY NOTES: The following proposed changes are designed to clarify the intent and current contradictions of the Constitution. All resolutions will be voted on together, unless the special resolution is not passed, in which case each special resolution will be voted on individually.

- (a) The difference between Developer and Business Members is now clarified via an explicit definition of Technology Goods and Services.
- (b) Legal counsel recommended inserting a definition of “including”
- (c) Clarifying the differences between various membership levels.
- (d) Remove the possibility for a Director representing an expelled member from continuing to sit as a Director.

SPECIAL RESOLUTION:

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

- (a) adding to clause 4.1 a definition of Technology Goods and Services that states:

Technology Goods and Services means any or all of hardware, software, services, information content and tools that facilitate storing, processing and transmitting information and the sharing of information through electronic means and includes:

- a) Computer hardware, electronic goods and other equipment or devices that store, process or transfer electronic information;
- b) Office machines, communications equipment and devices including satellites;
- c) Computer software and software development services;
- d) Technology consultancy services provided by personnel whose core skill is information Technology;
- e) Services for the support, maintenance, installation, commissioning, integration and management of any of the items (a) – (c) above;
- f) Telecommunications and other forms of electronic communication services;
- g) Services which facilitate access to information in an electronic form including through the internet or through an intranet;
- h) Providing training and education in relation to any of the items (a) – (g) above.

and;

(b) adding a new clause (ix) in Clause 4.2 that states:

The term “including” or any derivative thereof is not intended to be a term of limitation;

and;

(c) deleting clauses 7.2, 7.3 and 7.4 and adding new clauses 7.2, 7.3 and 7.4 that state:

7.2 Developer Members

A Developer Member is any entity which has been approved as a Member under clause 9 and:

- a) has as its primary business purpose the commercial exploitation of any form of **Technology Goods and Services**; or
- b) plans to generate revenue from the commercial exploitation of **Technology Goods and Services**; and
- c) is a **Software Developer**

7.3 Business Members

A Business Member is an entity which has been approved as a Member under clause 9 and:

- a) does not have as its primary business purpose the commercial exploitation of any **Technology Goods and Services**; and
- b) has an interest in Technology Goods and Services as a user of **Technology Goods and Services**; and
- c) is not a **Software Developer**

7.4 Individual Members

An Individual Member is an individual who is approved as a Member under clause 9 and has an interest in the **Objects**.

and;

(d) deleting clause 38 and adding a new clause 38 that states:

38 Vacation of Office

- a) Any Director may retire from office on giving written notice to the Company at the Office of his or her intention to retire, and the resignation shall take effect at the time expressed in the notice (provided the time is not earlier than the date of delivery of the written notice to the Company).

- b) In the event that a Director, having been a Voting Member or a Representative of a Voting Member, ceases to be a Voting Member or a Representative of a Voting Member, that person shall continue to be a Director until the following annual general meeting unless the Member Director or the Member the Director represents (as applicable):
 - i) is expelled from the Company pursuant to clause 14; or
 - ii) subject to **clause 12(c)**, fails to pay the Subscription; or
 - iii) nominates a substitute Director.

- c) The office of a Director shall become vacant if any subclauses 38(b)(i) or (ii) apply, or if the Director:
 - i) Dies;
 - ii) Becomes bankrupt or makes any arrangement or composition with creditors generally;
 - iii) becomes prohibited from being a director of a company by reason of any order made under the Act;
 - iv) becomes of unsound mind or a person whose personal estate is liable to be dealt with in any way under the law relating to mental health;
 - v) ceases to be a Voting Member or a Representative of a Voting Member (the position becoming vacant in accordance with **clause 38(b)**);
 - vi) is removed from office by the Company in general meeting;
 - vii) resigns by notice in writing to the Company; or
 - viii) is absent without permission of the Board from two (2) consecutive meetings of the Board.

SPECIAL RESOLUTION 2 - Changes to Member Application Process

EXPLANATORY NOTES: The current application process requires the ABSIA Board to explicitly approve every new member. Instead, the board has reviewed the constitutions of peer organisations and determined that new applications should be accepted by default **unless** the board decides to query the new member. The new member appeals process has also been simplified removing the 3rd level of appeal that is current Clause 9.2

SPECIAL RESOLUTION:

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

(a) deleting Clause 9 and adding a new Clause 9 that states:

9	<p>Applications for Membership</p> <ul style="list-style-type: none">(a) Subject to clause 9(b) and the By-Laws (if applicable), applicants for Membership must complete an application form.(b) An application for Membership of the Company must be:<ul style="list-style-type: none">(i) in the form prescribed by the Board from time to time; and(ii) lodged with the Secretary along with any Entrance Fee which is payable.(c) A membership application is deemed to be approved upon the receipt and acceptance by the Company of the Entrance Fee, unless the Company makes a written request for further information under clause 9(d) within 21 days of receipt of the application form and Entrance Fee.(d) Upon receipt of a membership application the Company may request further information from the applicant, which must be provided within 14 days of request. The Company will advise the applicant whether they are accepted for membership and in which class of membership.(e) If the applicant is rejected for membership under clause 9(d), or if the applicant disputes the class of membership notified under clause 9(d), the applicant may, within 7 days of such notification, request in writing that the Board determines the class of membership. Once the Board has determined the appropriate class of membership the applicant will be notified in writing of the Board's decision, and unless the applicant withdraws its application in writing within 7 days of being notified of the determination, the applicant will be granted membership in the class of membership determined by the Board.
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- (f) If the applicant is accepted for membership, the Secretary must enter the applicant's name and class of Membership in the Register
- (g) If the Board determines under clause 9(e) to reject an application for Membership, the Secretary must include in the notification forwarded to the applicant a statement:
 - (i) setting out the determination of the Board; and
 - (ii) that the applicant may address the Board at a Board meeting to be held not earlier than fourteen (14) days and not later than sixty (60) days after the date of the notice:
 - (A) stating the date, place and time of that meeting; and
 - (B) informing the applicant that the applicant may do either or both of the following:
 - (1) attend and speak at that meeting;
 - (2) submit to the Board at or prior to the date of the meeting, written representations relating to the determination.
- (h) At a meeting of the Board held as referred to in clause 9(g), the Board must:
 - (i) give the applicant an opportunity to make oral representations and allow the applicant to use any technology (reasonably available to the Board) that gives the applicant a reasonable opportunity to do so;
 - (ii) give due consideration to any written representations submitted to the Board by the applicant at or prior to the Board meeting; and
 - (iii) by 75% majority, determine whether to confirm the determination.
- (i) The applicant must be notified in writing of the decision of the Board within seven (7) days.

and;

(b) deleting the "Applications Committee" definition from Clause 4.1

SPECIAL RESOLUTION 3 - Introducing a new member class of “Lifetime Member”

EXPLANATORY NOTES: The addition of a Lifetime Member category is to reward those who have made a significant contribution to ABSIA but are ready to take a step back from the association. Lifetime Members will have all the rights and privileges of an Individual Member (ie no voting rights nor the ability to stand as an Elected Director) and have no obligation to pay any membership fees from the date of their appointment.

SPECIAL RESOLUTION:

That this AGM resolves to modify the Company Constitution by adding a new clause 7.5 that states:

7.5 Lifetime Members

- a) A Lifetime Member is an individual whom the Board of Directors appoints as a Lifetime Member and who, in the opinion of the Board:
- b) has been eminent in the field of Technology Goods and Services; or
- c) has provided distinguished service to the **Company** or its **Objects**; or
- d) has extensive experience, seniority and good standing within the Technology Goods and Services community; and
- e) have consistently demonstrated the highest levels of integrity, knowledge and generosity of imparting that knowledge.

A Lifetime Member has all the rights and privileges of an Individual Member but has no obligation to pay any Entrance Fee, Subscription or any other monetary amounts specified in this Constitution as from the date of appointment of the Lifetime Member.

SPECIAL RESOLUTION 4 - Modification of Director's and Office Bearer's terms to be based on the calendar year

EXPLANATORY NOTES: Currently, Directors and Office Bearers hold their positions from AGM to AGM. In order to give some time for handover, it is proposed to change the terms to be based on the calendar year.

SPECIAL RESOLUTION:

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

(a) deleting clause 36.6(a)(i) and replacing with a new clause 36.6(a)(i) that states:

a Director shall hold office from 1 January of the year following their election or appointment for a term of two (2) years, but shall be eligible for reappointment or re-election for two (2) further terms of two (2) years each in accordance with this Constitution; and

and;

(b) deleting clause 36.7(b) and replacing with a new clause 36.7(b) that states:

The office bearers 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

and;

© deleting clause 39(a) and replacing with a new clause 39(a) that states:

If the President vacates his or her office, the Vice President shall replace the President for the remainder of the term of the vacating President.

and;

(d) deleting clause 39(b) and replacing with a new clause 39(b) that states:

If there is a casual vacancy of an office bearer other than the President, it may be filled by any Director appointed by the Board for the remainder of the term or the vacating office bearer.

and;

(e) deleting clause 39(c) and replacing with a new clause 39(c) that states:

If an Elected Director vacates his or her office before the end of his or her term, the Board may appoint a Financial Voting Member (or a Representative of a Financial Voting Member) to replace that vacating Elected Director for the remainder of the term of that vacating Elected Director.