

15 June 2020

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By email to: [adjudication@acc.gov.au](mailto:adjudication@acc.gov.au)

Subject: AA1000515 – NLNA – submission

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The following submission by The Newsagents Association of NSW and ACT Ltd (NANA) is in response to a request for submissions dated 27 May 2020 and referenced AA1000515 – NLNA – submission.

NANA's contact in relation to its submission is Ian Booth.

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## 1. Introduction

- 1.1 The Newsagents Association of NSW and ACT Ltd (NANA) is the primary representative and membership organisation for newsagents in NSW and the ACT. Most newsagents are lotteries franchisees.
- 1.2 We write to raise serious concerns regarding the application from National Lotteries and Newsagents Association Ltd (NLNA) for an Authorisation and Interim Authorisation to collectively negotiate and bargain “on behalf of its current and future members ..... with Tabcorp Holdings Ltd (Tabcorp) ...”.
- 1.3 We object to the approval of both the application for the Authorisation and the application for an Interim Authorisation.
- 1.4 NANA considers that the applications for an Authorisation and Interim Authorisation must fail, as, in NANA's considered view, NLNA's applications are based on totally false statements regarding representing members and future members.
- 1.5 Simply put, NLNA, other than VANA Ltd (VANA), does not have members, nor does it seek to recruit members.

- 1.6 The absence of members who have a franchisee relationship with Tabcorp means there is no class of businesses that will be represented by NLNA should an Authorisation and/or Interim Authorisation be granted.

## 2. Consideration

### **2.1 Claims to Membership**

- 2.1.1 Of principal concern to NANA are the various claims made by NLNA that NLNA is a representative membership based organisation.
- 2.1.2 In our view, the lack of members capable of representation is fatal to the application made by NLNA. Based on the constitution of NLNA (see Annexure A) and our observation of their subscription rather than membership model, we consider that the application for an Authorisation and Interim Authorisation must fail as NLNA's application is based on totally false premises regarding representing members and future members.
- 2.1.3 Simply put, NLNA, other than VANA, does not have members, nor does it seek to recruit members.
- 2.1.5 Without members, or the intention to recruit members, NLNA cannot realistically claim that it does or intends to represent members and consequently, there is no group of members they are capable of representing should the applications be granted.
- 2.1.6 As VANA does not directly or indirectly operate any lotteries business, NLNA is seeking an Authorisation and Interim Authorisation either to represent one member, which does not operate any lotteries business as a franchisee or otherwise of Tabcorp, or to represent members which it neither has nor intends to recruit.
- 2.1.7 The description of VANA as a shareholder is inappropriate. NLNA's constitution does not provide for shareholders (see Annexure A).
- 2.1.8 NLNA is operating a business model which seeks subscriptions from newsagents and others for access to a range of commercial services.
- 2.1.9 Applicants for subscriptions are not offered membership of NLNA. This is clearly demonstrated by the terms which subscription applicants are offered (see Annexure C).
- 2.1.10 NLNA may have originally offered a form of membership, however any such offer changed in March 2020 when NLNA removed any direct reference to its constitution in its online subscription and application offering processes (see Annexure D).
- 2.1.11 As NLNA does not offer memberships, it does not seek to recruit members and therefore, based on its current operating model, will not have "future members". Consequently, there is no group of members they are capable of representing should the applications be granted.

*National Lotteries and Newsagents Association Subscription – Terms and Conditions Last updated 3 March 2020* makes it clear that NLNA does not offer membership (see Annexure B):

“Your subscription of the NLNA does not constitute you being a ‘member’ of the NLNA as that term is defined in the Constitution and you will have no voting or other rights under the Constitution.”

## **2.2 Claims to Representation**

- 2.2.1 NLNA’s constitution makes no specific reference to representing members or subscribers (see Annexure A at Clause 4.1 a) to g) inclusive) other than in respect to “..... government legislation and the public decision-making process ...” (at Clause 4.1 f)).
- 2.2.2 The purpose and objects of NLNA stated in their application do not align with the Objects stated at Clause 4.1 a) to g) inclusive of NLNA’s constitution. In its application NLNA has embellished the content of its constitution by supplementing and extending Objects to suggests its purpose and objective exceed the scope of its constitution.
- 2.2.3 We view NLNA’s attempt to embellish its true Objects as an attempt to portray NLNA as something other than what its constitution provides for and a deliberate attempt to portray NLNA as a type of organisation which it is not.

## **2.3 Relationship Between NLNA and VANA**

- 2.3.1 NLNA and VANA each have their own constitutions which frame their true independence from each other. Both organisations, as public companies limited by guarantee, are subject to membership control (see Annexures A and C). NLNA cannot force outcomes in relation to VANA.
- 2.3.2 There are a considerable number of statements made in the application concerning the membership of VANA and the future of VANA which NANA believes to be false.
- 2.3.3 VANA is subject to regulatory control and supervision by ASIC, the Registered Organisations Commission and the Fair Work Commission.
- 2.3.4 VANA is ultimately subject to control by its members, exercised through a general meeting. The method for distributing the assets of VANA upon winding up are set out in Clause 6 of VANA’s constitution (see Annexure B).
- 2.3.5 NLNA is subject to supervision and regulatory control by ASIC. We note NLNA describes itself as a “charity” (see Annexure A – Clause 4.1). If it seeks to register as a charity, NLNA will be subject to regulatory control and supervision by the Australian Charities and Not-for-Profit Commission (ACNC). The current NLNA constitution is unlikely to satisfy ACNC requirements for registration as a charity.

2.3.6 NLNA is ultimately subject to control by its member VANA, exercised though a general meeting as set out in Clauses 23 to 42 inclusive of the NLNA constitution (see Annexure A).

2.3.7 The application contains the following statements:

“It is proposed by the NLNA and VANA that eventually the NLNA will supersede VANA and the assets of, services provided by, and members of, VANA will be rolled into the NLNA in the next 12 – 24 months.”

“It was originally expected that this transfer may occur sooner, however the current Covid-19 pandemic has temporarily postponed these plans.”

2.3.8 Clause 2. Definitions of the NLNA constitution contains a reference to Parent:

“Parent means the registered company currently known as VANA Limited  
.....”

There is no reference other than at Clause 2. to the “Parent” in NLNA’s constitution (see Annexure A).

2.3.9 There is no reference in the VANA constitution to a Parent or being a Parent (see Annexure B).

2.3.10 The applicant has not provided any supporting documents in support of the contentions contained at 2.3.7 above. See 2.4 below for further consideration.

## **2.4 Supporting Documents**

2.4.1 The inability of NLNA to provide any supporting documents at 3.2 of their application demonstrates the absence of any clear decisions or consideration by the directors and members of both NLNA and VANA to the course of action upon which NLNA has embarked and which it proposes, both in relation to the application and the proposed subsumation of VANA by NLNA.

2.4.2 The following is an abstract from NLNA’s constitution at Clause 79.

### **79. Minutes**

The Directors will cause minutes of:-

79.1 all proceedings and resolutions of meetings of the Company's Members;

79.2 all proceedings and resolutions of meetings of the Directors, including meetings of a committee of Directors;

79.3 resolutions passed by Members without a meeting;


79.4 resolutions passed by Directors without a meeting,

to be duly entered into the books kept for that purpose in accordance with the Act.

- 2.4.3 There is a clear requirement for the Directors of NLNA to create and cause minutes of proceedings and resolutions and for same to be entered into the books. Consequently, there should be no absence within the application of supporting documents provided by NLNA of the type sought and normally provided at section 3.2.
- 2.4.4 VANA similarly is required to maintain minutes of any decision by directors and by members in a general meeting under the requirements of the Corporations Act. Consequently, there should be no absence within the application of supporting documents provided by VANA of the type sought and normally provided at section 3.2.

### 3. Conclusion

NANA is firmly of the view that the Commission must reject both the application for an Authorisation and the application for an Interim Authorisation.



Ian Booth  
Chief Executive Officer

### Annexures

Annexure A	Constitution of National Lotteries and Newsagents Association Ltd	Source – Australian Securities and Investments Commission – 29 April 2020 10:29AM
Annexure B	National Lotteries and Newsagents Association Subscription – Terms and Conditions Last updated 3 March 2020	Source - <a href="https://www.nlina.com.au/terms-and-conditions/">https://www.nlina.com.au/terms-and-conditions/</a> 15 June 2020, 10:37AM
Annexure C	Constitution of VANA Ltd	Source – Fair Work Commission - <a href="https://www.fwc.gov.au/registered-organisations/find-registered-organisations/vana-limited-vana">https://www.fwc.gov.au/registered-organisations/find-registered-organisations/vana-limited-vana</a> 15 June 2020 12:01PM
Annexure D	Original terms of NLNA subscription/membership application	Source – <a href="https://www.nlina.com.au">https://www.nlina.com.au</a> Removed from web site in early March 2020



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**Castle**

Corporate

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**CONSTITUTION OF**  
**National Lotteries and Newsagents Association Ltd**

Registered under the *Corporations Act 2001*  
A company limited by guarantee

*Prepared for*  
**Saward Dawson**  
Level 1, 20 Albert Street  
BLACKBURN VIC 3130

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National Lotteries and Newsagents Association Ltd  
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**CORPORATIONS ACT  
A COMPANY LIMITED BY GUARANTEE  
CONSTITUTION OF  
NATIONAL LOTTERIES AND NEWSAGENTS ASSOCIATION LTD**

**PRELIMINARY**

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**1. Exclusion of Replaceable Rules**

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

**2. Definitions**

In this Constitution:—

**Act** means the *Corporations Act 2001* (Commonwealth).

**ACNC Act** means the *Australian Charities and Not-for-profits Commission Act 2012* (Commonwealth).

**Affiliate** in relation to a Director, means a company, trust or partnership of which that Director is, respectively, a director or shareholder, a beneficiary or a partner.

**Applicant** means a Person who wishes to apply for membership of the Company.

**Application for Membership** means the form, the contents of which may be determined by the Board from time to time, which is to be used by an Applicant.

**Board** means the body which is comprised of the Directors for the time being of the Company.

**Charged Member** means a Member against whom an allegation has been made which may lead to the Discipline of that Member.

**Company** means the entity whose name upon the adoption of this Constitution was National Lotteries and Newsagents Association Ltd and shall be taken to mean the same entity by whatever name from time to time it may be called.

**Constitution** means this document and any other similar document adopted by the Members from time to time.

**Director** means a natural person holding the office of director of the Company for the time being.

**Discipline** means, in relation to a Charged Member, any type or form of penalty or sanction, financial or otherwise, imposed by the Board or the Company, including the suspension or expulsion of that Charged Member.

**Disciplined Member** means a Member who has been suspended, fined or expelled under Articles 19 or 20 hereof.

**Financial Member** means a Member who has paid by the relevant due date the Membership Fees and all other sums owed by that Member to the Company.

**General Meeting** means a meeting of the Members and includes any means by which Members make decisions including but not limited to virtual meetings and circulating resolutions.

**Guarantee** means the sum not exceeding ten dollars (\$10.00) for which a Member may become liable upon the winding up or dissolution of the Company.

**Independent Director** means a Director who, or whose Affiliate, is not a fully paid member of the Parent.

**Industry** means the Australian newsagency industry, including the owners and employees of retail newsagents, suppliers to newsagents and other relevant stakeholders as determined by the Board from time to time.

**Member** means a Person whose name is entered in the Register as a member of the Company.

**Membership Fees** means the fees payable by an Applicant or a Member as determined by the Board from time to time.

**Notice of Allegation** means a notice in writing issued by the Secretary to a Charged Member on the instruction of the Board.

**Officer of the Company** has the same meaning as ascribed to the term 'officer' in Section 9 of the Act.

**Parent** means the registered company currently known as VANA Limited, ACN 004 238 644.

**Person** includes:—

- (a) a natural person; and
- (b) a registered company, corporation or incorporated association.

**Register** means the register of Members.

**Seal** means the common seal of the Company (if any).

**Secretary** means the secretary for the time being of the Company, and if there are joint secretaries, any one or more of such joint secretaries.

**Service Address** means the address nominated by a Member for the purpose of receiving notices from the Company.

**Subscriber** means a person who consents to act as a Member prior to the registration of the Company.

**Unfinancial Member** means a Member who is in default of a financial obligation (including the payment by the due date of Membership Fees) to the Company.

**VANA Director** means a Director who, or whose Affiliate, is a fully paid member of the Parent and has been such for at least the past three (3) years.

**Voting Member** means a Member who:—

- (a) has been granted membership of a class of membership which confers an entitlement to vote at a General Meeting; and
- (b) is not an Unfinancial Member.

### 3. Interpretation

3.1 The *Acts Interpretation Act, 1901* (Commonwealth) shall apply in the interpretation of this Constitution as if it were an act of the Commonwealth.

3.2 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, the same meaning as in that provision of the Act.

- 3.3 Any reference to any statute or any section, regulation or schedule of any statute or any other legislation is a reference to that statute as amended, consolidated, supplemented or replaced.

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## PURPOSE OF COMPANY

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### 4. Objects

- 4.1 The Company is established to be a charity whose purpose is to advance the Industry in Australia by:-
- (a) promoting the Industry;
  - (b) pooling information, establishing networks and sharing specialised skills and resources with relevant stakeholders;
  - (c) providing a forum for all people engaged in the Industry to discuss best practice and enhancing the future of the Industry;
  - (d) establishing national supplier networks;
  - (e) improving the income of retail newsagencies across Australia;
  - (f) working with government at all levels to ensure that the interests of the industry are represented in government legislation and in the public decision-making process; and
  - (c) any other services and activities that further the Company's purpose.
- 4.2 In order to attain these objects, the Company shall do all things incidental or conducive to the attainment of the objects or any of them.
- 4.3 The assets and income of the Company shall be applied solely in furtherance of its abovementioned objects and no portion shall be distributed directly or indirectly to the Members except as bona fide compensation for services rendered, expenses incurred on behalf of the Company or a benefit that is consistent with the Company genuinely carrying out its objects.
- 4.4 Nothing in this Constitution shall prevent the payment in good faith:-
- (a) of the payments contained in Articles 55 and 56 hereof;
  - (b) of insurance premiums to the extent permitted by the Act; and
  - (c) of indemnification to the extent permitted by the Act and this Constitution.

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## MEMBERSHIP

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### 5. First Members

The Subscribers shall be the first Members of the Company and:-

- 5.1 they must consent in writing to become a Member of the Company;
- 5.2 they shall not be required to apply for membership;
- 5.3 they shall be admitted as Voting Members.

### 6. Eligibility

- 6.1 Any Person committed to the Objects of the Company may become a Member of the Company provided all eligibility requirements and other membership qualifications as set out in the by-laws or elsewhere have been met.

6.2 The provisions of Article 6.1 shall not apply to the Subscriber or Subscribers to the Company.

## **7. Application**

A Person may apply for membership of the Company by submitting to the Secretary:-

- 7.1 an Application for Membership;
- 7.2 an agreement in writing to provide a sum not exceeding the Guarantee to defray such liabilities and expenses of the Company upon its winding up or dissolution;
- 7.3 an agreement in writing to be bound by the Constitution of the Company; and
- 7.4 payment of the entrance fee and the annual subscription for the first year, where relevant.

## **8. Admission**

- 8.1 All Applications for Membership shall be submitted by the Secretary to the Board which shall determine each Application for Membership. The Board shall be entitled to use any criteria for determining whether to accept or reject an Application for Membership.
- 8.2 If the Board determines to accept an Applicant's Application for Membership, the Secretary shall, as soon as possible:-
  - (a) enter the name of the Applicant in the Register;
  - (b) notify the Applicant of the Board's determination.
- 8.3 An Applicant becomes a Member and is entitled to exercise the rights of membership when the name of the Applicant is entered in the Register.
- 8.4 The Board may decline any Application for Membership and is not bound to give reasons why the Application for Membership was not accepted.
- 8.5 The Secretary shall, as soon as possible after the Board has declined an Applicant's Application for Membership:-
  - (a) notify the Applicant of the Board's determination;
  - (b) return to the Applicant the entrance fee and annual subscription paid by the Applicant, if any.

## **9. Classes of Membership**

- 9.1 By special resolution, the Company may create different classes of membership and may confer on each such newly created class of membership such rights, privileges or benefits as the Company sees fit.
- 9.2 Where different classes of membership have been created, the Directors may, on accepting an Applicant's Application for Membership, admit an Applicant to a class of membership which appears appropriate to the Directors.

## **10. Membership Fees**

The Board shall determine:-

- 10.1 the quantum; and
- 10.2 the due date for payment,

of the entrance fees, the annual subscription and any other amount which an Applicant or a Member is required to pay to be admitted or remain as a Financial Member.

## **11. Register of Members**

- 11.1 The Secretary will maintain a Register at the registered office of the Company.
- 11.2 When an Applicant has been accepted for membership the Secretary will cause the Applicant's name to be entered in the Register, thereupon conferring membership.
- 11.3 Members must nominate a natural person as their representative. The Secretary shall keep a record of Member representatives. Members are also required to provide a notice of change of representative at least twenty-one (21) days prior to any General Meeting.

## **12. Service Address**

- 12.1 The Service Address of a Member in the Register will be the address nominated by the Member for the purpose of receiving notices from the Company and may be:-
- (a) a residential address;
  - (b) a postal address;
  - (c) a business address;
  - (d) an email address.
- 12.2 The Company shall use its best endeavours to use the Service Address nominated by each Member for the purpose of delivering notices.
- 12.3 Each Member must notify the Secretary within fourteen (14) days of any change of name or Service Address of the Member and each such change shall be recorded in the Register.

## **13. Rights of Members**

The rights of a Member are not transferable.

## **14. Liability of Members**

The liability of a Member is limited to the extent of the Guarantee. This liability shall continue for the duration of the membership of a Member and for a period of twelve (12) months following the cessation of membership of a Member.

## **15. Cessation of Membership**

Membership of the Company will terminate upon:-

- 15.1 the Secretary receiving from a Member a letter of resignation;
- 15.2 a Member being expelled or suspended in accordance with this Constitution;
- 15.3 the death, legal incapacity or insolvency of a Member.

## **16. Consequences of Loss of Membership**

A Member whose membership of the Company is terminated will be liable for:-

- 16.1 all moneys due by that Member to the Company; and

16.2 the sum for which the Member is liable under Article 90 of this Constitution if applicable.

#### **17. Prohibition on Claims on Company**

A Member whose membership is terminated will not make any claim, monetary or otherwise, on the Company, its funds or property except as a creditor thereof.

#### **18. Prohibition on Representation as a Member**

Any Person who for any reason ceases to be a Member shall no longer represent themselves in any manner as being a Member.

#### **19. Allegation of Charge**

19.1 Any allegation against a Member or any of its representatives that might lead to the discipline of a Member shall be lodged with the Secretary in writing, signed by any Member and detailing the circumstance which gave rise to such allegation.

19.2 If the Secretary considers the allegation to be such as may warrant the discipline of that Member, the Secretary shall issue a Notice of Allegation to the Member informing the Member:-

- (a) of the allegation; and
- (b) the date at which the Board will consider the allegation, such date to be not less than twenty eight (28) days after the date of the Notice of Allegation; and
- (c) inviting the Member to submit a written explanation to defend the allegation; and
- (d) inviting the Member to provide a representative to the Board to answer any questions which the Board may ask of them and to present their defence of the allegation.

19.3 If the Member chooses to defend the allegation, the Member must submit a written explanation which must be received by the Secretary not less than two (2) days prior to the Board meeting at which the allegation is to be heard. Such explanation shall be tabled at the Board meeting at which the allegation is to be heard and reasonable opportunity must be given for the Member to appear before the Board to answer the allegation.

19.4 The Board may:-

- (a) by two-thirds majority vote, expel; or
- (b) by a majority vote suspend or otherwise discipline

any Member for conduct inconsistent with any by-law, regulation or any provision contained in this Constitution or which in the opinion of the Board is unbecoming of a Member or prejudicial to the interests of the Company.

19.5 Any Member so disciplined, fined, suspended or expelled shall be notified in writing by the Secretary within twenty-one (21) days of such penalty being imposed.

19.6 Any Member who may be disciplined, fined, suspended or expelled shall have the right to appeal against such penalty.

#### **20. Appeal Against Discipline**

20.1 A Disciplined Member shall have the right to appeal against the decision of the Board at a General Meeting by giving notice of their or its intention to appeal. Such notice must be received by the Secretary within one (1) month of the deemed date of receipt of the notice

referred to in Article 19.5. Such notice of appeal shall operate as a stay of implementation of any decision.

- 20.2 The Board shall be required to convene a General Meeting within three (3) months of the date of receipt of the notice referred to in Article 20.1 and shall give no less than one (1) month's notice of the date of that General Meeting to the Disciplined Member.
- 20.3 The Disciplined Member shall be given the opportunity of being heard at the General Meeting with or without a solicitor or counsel.
- 20.4 The Disciplined Member may be represented by another Member.
- 20.5 A solicitor, with or without counsel, may be engaged by the Company to assist the Company at such General Meeting.
- 20.6 The Company shall be under no obligation to disclose to the Disciplined Member or any other Member the source of any information giving rise to the discipline.
- 20.7 The Voting Members shall, by a two-thirds majority, decide upon the appeal.

#### **21. Unsuccessful Appeal**

A Disciplined Member whose appeal is unsuccessful shall pay to the Company all or any costs or expenses reasonably incurred by the Company in connection with the hearing of the appeal as the Board may determine.

#### **22. Consequences of Expulsion or Suspension**

- 22.1 Any Member expelled from the Company may at any time apply to the Board to be re-admitted as a Member.
- 22.2 No person may be a Director following expulsion or during suspension unless such a person is subsequently re-admitted as a Member.

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### **MEETINGS OF MEMBERS**

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#### **23. Convening General Meetings**

- 23.1 A Director may whenever he thinks fit convene a General Meeting.
- 23.2 The Directors must convene a General Meeting on the request of Members in accordance with section 249D of the Act. The Members may convene a General Meeting in accordance with sections 249E and 249F of the Act.

#### **24. Contents of Notice of General Meetings**

A notice of a General Meeting shall specify:-

- 24.1 the place, the day and the time of the General Meeting (and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
- 24.2 the general nature of the business to be transacted at the meeting; and
- 24.3 such other information as is required by section 249L of the Act.



**25. Meeting at Several Venues**

The Company may hold a General Meeting at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate.

**26. Period of Notice of General Meeting**

Subject to the provisions of the Act relating to agreements for shorter notice, at least twenty-one (21) days' notice must be given of a General Meeting.

**27. Persons entitled to Notice of General Meeting**

27.1 Notice of every General Meeting shall be given in the manner authorised by Article 78 to:-

- (a) every Member and to every Director; and
- (b) the auditor for the time being of the Company.

27.2 No other Person is entitled to receive notices of General Meetings.

**28. Annual General Meeting**

28.1 Subject to the Act, a General Meeting shall be held at least once in every calendar year and within the period of five (5) months after the end of the financial year at such time and place as may be determined by the Directors. The abovementioned General Meeting shall be called the "Annual General Meeting" and all other meetings of the Company shall be called "General Meetings".

28.2 The business of the Annual General Meeting may include any of the following, even if not referred to on the notice of meeting:-

- (a) the consideration of the Annual Financial Report, Directors' Report and Auditor's Report if required to be prepared;
- (b) the election of Directors;
- (c) the appointment of the auditor (if any);
- (d) the fixing of the auditor's remuneration if the Company has appointed an auditor.

**29. Chairperson of General Meetings**

29.1 The Directors may elect an individual to chair a General Meeting.

29.2 Where a General Meeting is held and:-

- (a) a chairperson has not been elected as provided by Article 29.1; or
- (b) the person so elected is not present within fifteen (15) minutes after the time appointed for the holding of the meeting or is unwilling to act for all or part of the meeting,

the Members present shall elect one of their number to be chairperson of the meeting (or part of it).

**30. Quorum for General Meetings**

30.1 No business shall be transacted at any General Meeting unless a quorum of Members is present at the time when the meeting proceeds to business.

30.2 A quorum is constituted by:-

- (a) two persons entitled to attend and vote at a General Meeting; or
  - (b) at least one-half of the persons entitled to attend and vote at a General Meeting,
- whichever is the greater.

30.3 For the purpose of determining whether a quorum is present, a person attending as a proxy, or as representing a body corporate that is a Member, shall be deemed to be a Member.

30.4 If the Company has only one Member, that Member may pass a resolution by the Member recording it and signing the record.

### **31. Adjournment of General Meetings if No Quorum Present**

If a quorum is not present within half an hour from the time appointed for the meeting:-

31.1 where the meeting was convened upon the request of Members - the meeting shall be dissolved; or

31.2 in any other case:-

- (a) the meeting stands adjourned to such day, and at such time and place, as the Directors determine or, if no determination is made by the Directors, to the same day in the next week at the same time and place; and
- (b) if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, then the meeting shall be dissolved.

### **32. Adjournment of General Meetings if Quorum Present**

32.1 The chairperson shall adjourn a General Meeting from time to time and from place to place if the Members present with a majority of votes that may be cast at that meeting agree or direct the chairperson to do so. No business shall be transacted at any adjourned General Meeting other than the business left unfinished at the General Meeting from which the adjournment took place.

32.2 When a General Meeting is adjourned for thirty (30) days or more, notice of the adjourned General Meeting shall be given as in the case of an original General Meeting.

32.3 Except as provided by Article 32.2, it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned General Meeting.

### **33. Voting at General Meetings**

33.1 At any General Meeting a resolution put to the vote of the Members shall be decided on a show of hands unless a secret ballot is (before a vote is taken or before or immediately after the declaration of the result of the show of hands) demanded:-

- (a) by the chairperson;
- (b) by at least three (3) Members (present in person or by proxy or representative) entitled to vote on the resolution;
- (c) by a Member or Members (present in person or by proxy or representative) with at least 5% of the votes that may be cast on the resolution on a poll.

33.2 If a secret ballot is duly demanded:-

- (a) by the chairperson; or

- (b) by not less than one-third of the persons present at the meeting in question, such number being determined by including persons who are personally present, and persons who are represented by proxy or by corporate representative,

it shall be taken in such manner and, subject to Article 33.3, either at once or after an interval or adjournment or otherwise as the Chairperson directs, and the result of the secret ballot shall be the resolution of the meeting at which the secret ballot was demanded.

- 33.3 A secret ballot demanded on the election of a chairperson or on a question of adjournment shall be taken immediately.

#### **34. Passing a Resolution by Sole Member**

If the Company has one (1) Member, that Member may pass a resolution by the Member recording it and signing the record. The record of decisions made by the sole Member is valid and effective as if it were a resolution duly passed at a General Meeting. The proxy, attorney or corporate representative of the Corporate Member shall sign the record of decisions.

#### **35. Voting Deadlock**

In the case of a deadlock in the voting on a particular motion, the chairperson of the meeting shall have a casting vote in addition to any vote the chairperson may have in their capacity as a Member.

#### **36. Voting Entitlement**

Subject to any rights or restrictions for the time being attached to any Member:-

- 36.1 at General Meetings or meetings of classes of Members, each Voting Member may vote in person or by proxy or attorney or representative; and
- 36.2 on a show of hands every person present who is a Member or a representative of a Member has one vote, and on a secret ballot every person present in person or by proxy or attorney or representative has one vote.

#### **37. Voting Restrictions**

A Member is not entitled to vote at a General Meeting unless all sums presently payable by that Member in respect of the Company have been paid.

#### **38. Objections to Votes**

- 38.1 An objection may be raised to the qualification of a voter only at the meeting or adjourned meeting at which the vote objected to is given or tendered.
- 38.2 Any such objection shall be referred to the chairperson of the General Meeting, whose decision is final.
- 38.3 A vote not disallowed pursuant to such an objection is valid for all purposes.

### **MEMBERS' REPRESENTATIVES**

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#### **39. Proxies**

A Member who is entitled to attend and cast a vote at a General Meeting may appoint a natural person (whether or not a Member) as the Member's proxy to attend and vote for the Member at the General Meeting.

**40. Appointment of Proxy**

- 40.1 An instrument appointing a proxy shall be in writing under the hand of the appointor or of their attorney duly authorised in writing or, if the appointor is a corporation, either under seal or executed in accordance with the Act or under the hand of an officer or attorney duly authorised.
- 40.2 An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy is not entitled to vote in the resolution except as specified in the instrument.
- 40.3 An instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a secret ballot.

**41. Form of Proxy**

An instrument appointing a proxy shall be in a form that is similar as the circumstances allow to the form shown in Schedule 1 hereof.

**42. Validity of Proxy Appointment**

An instrument appointing a proxy shall not be treated as valid unless the instrument, and the power of attorney or other authority (if any) under which the instrument is signed or a notarially certified copy of that power or authority, is or are deposited, not less than forty eight (48) hours before the time for holding the General Meeting or adjourned General Meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than twenty four (24) hours before the time appointed for the taking of the poll, at the registered office of the Company or at such other place in Australia as is specified for that purpose in the notice convening the General Meeting.

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**DIRECTORS**

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**43. Minimum Number of Directors**

- 43.1 The total number of the Directors shall be not less than three (3).
- 43.2 At no time shall there be more Independent Directors than VANA Directors.
- 43.3 If, inadvertently, the number of Independent Directors equals or exceeds the number of VANA Directors, the appointment of those Independent Directors which resulted in the excess number of Independent Directors shall be invalid and shall lack legal effect.

**44. Altering the Number of Directors**

The Voting Members may from time to time by resolution passed at a General Meeting fix the number of Directors or increase or reduce the number of Directors (but so that the number shall be not less than three).

**45. First Directors**

The first Directors shall be appointed in writing by the Subscriber or Subscribers.

**46. Qualification of Directors**

It shall not be necessary for a Director to be a Member by way of qualification and a Director who is not a Member of the Company shall be entitled to receive notices of and attend and speak at General Meetings.

**47. Tenure of Directors**

Until he resigns, dies or is removed from or vacates office as provided in this Constitution every Director shall continue to hold office.

**48. Appointment of Director by Board**

48.1 Subject to the provisions of Article 43, the Directors shall have power to:-

- (a) appoint a new Director to fill any casual vacancy; and
- (b) appoint additional Directors.

48.2 Any Director appointed to fill a casual vacancy shall hold office only until the next following Annual General Meeting of the Company and shall then be eligible for election.

**49. Appointment of Director by Members**

Subject to the provisions of Article 43, the Members may at any time and from time to time by ordinary resolution:-

49.1 appoint a new Director to fill any casual vacancy;

49.2 appoint additional Directors.

**50. Chief Executive Officer**

50.1 The Directors may from time to time appoint a natural person being one or more of their number, or not so qualified, to the office of Chief Executive Officer for such period and on such terms as they think fit, and, subject to the terms of any agreement entered into in a particular case, may revoke any such appointment.

50.2 Any such appointment of a Chief Executive Officer automatically terminates if the appointee ceases from any cause to be a Director.

**51. Powers of Chief Executive Officer**

51.1 The Directors may, upon such terms and conditions and with such restrictions and as they think fit, confer upon a Chief Executive Officer any of the powers exercisable by them.

51.2 Any powers so conferred may be concurrent with, or be to the exclusion of, the powers of the Directors.

51.3 The Directors may at any time withdraw or vary any of the powers so conferred on a Chief Executive Officer.

**52. Casual Vacancy of Directors**

In the event of a vacancy or vacancies in the office of a Director or offices of Directors, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of Directors, they may act only for the purpose of increasing the number of Directors to a number sufficient to constitute such a quorum or of convening a General Meeting for that purpose.

**53. Defects in Appointment of Directors**

All acts done by any meeting of the Directors or of a committee of Directors or by any person acting as a Director are, notwithstanding that it is afterwards discovered that there was some defect in the appointment of a person to be a Director or a member of the committee, or to act as, a Director, or

that a person so appointed was disqualified, as valid as if the person had been duly appointed and was qualified to be a Director or to be a member of the committee.

#### **54. Removal of a Director**

The Members may at any time and from time to time, in accordance with the provisions of section 203D of the Act remove any Director provided that:-

- 54.1 the total number of Directors shall not at any time fall below the minimum fixed by this Constitution; and
- 54.2 the provisions set out in Article 43 are not thereby infringed.

#### **55. Loss of Office**

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

- 55.1 the Director dies or 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;
- 55.2 the Director resigns from office by notice in writing to the Company;
- 55.3 the Director is absent without the consent of the Directors from all meetings of the Directors held during a period of six (6) months;
- 55.4 without the consent of the Members, the Director holds any other office of profit under the Company; and
- 55.5 the Director is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of that interest as required by Article 62.

#### **56. Remuneration of Directors**

56.1 A Director:-

- (a) may receive remuneration for services provided that such remuneration has been approved by all the Directors and the rate of remuneration is fair and reasonable and is on reasonable commercial terms;
- (b) who provides professional or technical services to the Company shall be entitled to receive payment for those services where the provision of the service has the prior approval of the Board and the amount payable is approved by a resolution of the Board and is on reasonable commercial terms;
- (c) who is an employee of the Company may be paid a salary or wage where the terms of employment have been approved by a resolution of the Board.

56.2 The remuneration under Article 56.1(a) shall accrue on a daily basis.

#### **57. Reimbursement of Expenses**

A Director shall be entitled to receive reimbursement of out-of-pocket expenses incurred in carrying out the duties of a director where the payment does not exceed the amount previously approved by the Board.

## **58. Powers of Directors**

- 58.1 Subject to the Act and to any other provision of this Constitution, the business of the Company shall be managed by the Directors, who may pay all expenses incurred in promoting and forming the Company, and may exercise all such powers of the Company as are not, by the Act or by this Constitution, required to be exercised by the Members.
- 58.2 Without limiting the generality of Article 58.1, the Directors 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.
- 58.3 All cheques, promissory notes, bankers drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Company, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be in such manner as the Directors determine.

## **59. Appointment of Company Attorney**

- 59.1 The Directors may, by power of attorney, appoint any person or persons (either by name or by reference to position or office held) 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 Directors), for such period and subject to such conditions as they think fit.
- 59.2 Any such power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorney as the Directors think fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in them.

## **60. Delegation of Powers**

- 60.1 The Directors may delegate any of their powers to a committee or committees consisting of such of their number as they think fit.
- 60.2 A committee to which any powers have been so delegated shall exercise the powers delegated in accordance with any directions of the Directors and a power so exercised shall be deemed to have been exercised by the Directors.
- 60.3 The members of such a committee may elect one of their number as chairperson of their meetings.
- 60.4 Where such a meeting is held and:-
- (a) a chairperson has not been elected as provided by Article 60.3; or
  - (b) the person so elected is not present within ten (10) minutes after the time appointed for the holding of the meeting or is unwilling to act for all or part of the meeting,
- the members present shall elect one of their number to be chairperson of the meeting or part of it.
- 60.5 A committee may meet and adjourn as it thinks proper.
- 60.6 Questions arising at a meeting of a committee shall be determined by a majority of votes of the members present and voting.

60.7 In the case of an equality of votes, the chairperson shall not have a casting vote in addition to any vote the chairperson may have in the capacity as a committee member.

## **61. Duties of Directors**

61.1 While the Company is and remains as a registered charity under the ACNC Act, the Directors must comply with their duties as Directors under the Act, common law, and with the duties described in governance standard 5 of the regulations made under the ACNC Act which are:-

- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a director of the Company;
- (b) to act in good faith in the best interests of the Company and to further the charitable purpose(s) of the Company set out in Article 4;
- (c) not to misuse their position as a Director;
- (d) not to misuse information they gain in their role as a Director;
- (e) to disclose any perceived or actual material conflicts of interest in the manner set out in Article 62;
- (f) to ensure that the financial affairs of the Company are managed responsibly, and
- (g) not to allow the Company to operate while it is insolvent.

61.2 While the Company is not a registered charity under the ACNC Act, the Directors must comply with the statutory duties of directors as provided in the Act and the common law duties imposed on directors.

## **62. Material Personal Interests**

62.1 A 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 meeting of Directors (or that is proposed in a circular resolution):-

- (a) to the other Directors, or
- (b) if all of the Directors have the same conflict of interest, to the Members at the next General Meeting, or at an earlier time if reasonable to do so.

62.2 The disclosure of a conflict of interest by a Director must be recorded in the minutes of the meeting.

62.3 Each Director who has a material personal interest in a matter that is being considered at a meeting of Directors (or that is proposed in a circular resolution) must not, except as provided under Article 62.4:-

- (a) be present at the meeting while the matter is being discussed, or
- (b) vote on the matter.

62.4 A Director may still be present and vote if:-

- (a) their interest arises because they are a representative of a Member;



- (b) their interest relates to an insurance contract that insures, or would insure, the Director against liabilities that the Director incurs as a Director of the Company as set out in Article 74;
- (c) their interest relates to a payment by the Company under Articles 75 and 76, or any contract relating to an indemnity that is allowed under the Act;
- (d) the Australian Securities & Investments Commission makes an order allowing the Director to vote on the matter, or
- (e) where the Company is not registered as an entity under the ACNC Act, the Directors who do not have a material personal interest in the matter pass a resolution that:-
  - (i) identifies the Director, the nature and extent of the Director's interest in the matter and how it relates to the affairs of the Company, and
  - (ii) says that those Directors are satisfied that the interest should not stop the Director from voting or being present.

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## MEETINGS OF DIRECTORS

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### 63. Frequency of Board Meetings

The Board may meet together for the dispatch of business and adjourn and otherwise regulate its meetings as it thinks fit.

### 64. Convening Board Meetings

The Board may at any time, and a Secretary shall on the requisition of a Director, convene a meeting of the Directors.

### 65. Notice of Board Meetings

Reasonable notice in the circumstances must be given of all Board meetings unless all Directors consent to waive the requirement for notice of a Board meeting.

### 66. Quorum for Board Meetings

66.1 A quorum for a meeting of Directors shall be constituted by:-

- (a) two Directors; or
- (b) at least two-thirds of the Directors,

whichever is the greater, provided that each such person is entitled under the Act and this Constitution to vote on a motion that may be moved at that meeting.

66.2 The quorum must be present at all times during a meeting of Directors.

### 67. Chairperson of Board Meetings

67.1 The Directors shall elect one of their number as chairperson and another of their number as deputy chairperson of its meetings and determine the period for which such chairperson or deputy chairperson is to hold office.

67.2 Where a meeting of the Directors is held and:-

- (a) a chairperson or deputy chairperson has not been elected as provided by Article 67.1; or
- (b) the person so elected is not present within ten (10) minutes after the time appointed for the holding of the meeting or is unwilling to act for all or part of the meeting,

the Directors present shall elect one of their number to be chairperson of such meeting or part of it.

**68. Voting at Board Meetings**

68.1 Subject to this Constitution, questions arising at a meeting of Directors shall be decided by a majority of votes of Directors present and voting and any such decision shall for all purposes be deemed a decision of the Directors.

68.2 Each Director is entitled to cast one (1) vote on each matter for determination.

**69. Voting Deadlock**

In the case of a deadlock in the voting on a particular motion, the chairperson of the meeting shall have a casting vote in addition to any vote the chairperson may have in their capacity as a Director.

**70. Virtual Meetings of Directors**

70.1 A meeting of Directors may be called or held using any technology consented to by all the Directors. A consent of a Director for the purposes of this Article may be a standing one. A Director may only withdraw their consent within a reasonable time before the meeting of Directors.

70.2 For the purposes of this Constitution, the contemporaneous linking together by an instantaneous communication device of a number of Directors not less than the quorum, whether or not any one or more of the Directors is out of Australia, shall be deemed to constitute a meeting of the Directors and all the provisions of this Constitution as to meetings of the Directors shall apply to any such meeting held by an instantaneous communication device so long as the following conditions are met:-

- (a) all the Directors for the time being entitled to receive notice of the meeting of Directors shall be entitled to notice of a meeting held by an instantaneous communication device and to be linked by an instantaneous communication device for the purpose of such meeting. Notice of any such meeting shall be given on the instantaneous communication device or in any other manner permitted by this Constitution; and
- (b) each of the Directors taking part in the meeting by an instantaneous communication device must be able to hear each other of the Directors taking part at the commencement of the meeting.

70.3 A Director may not leave a meeting held by an instantaneous communication device by disconnecting their instantaneous communication device unless they have previously expressly notified the Chairperson of the meeting of their intention to leave the meeting and a Director shall be conclusively presumed to have been present and to have formed part of the quorum at all times during such a meeting until such notified time of their leaving the meeting.

70.4 A minute of the proceedings at meetings held by an instantaneous communication device shall be sufficient evidence of such proceeding and of the observance of all necessary formalities if certified as a correct minute by the Chairperson of the meeting.

70.5 For the purpose of this Article "instantaneous communication device" shall include telephone, television or any other audio and/or visual device which permits instantaneous communication.

## **71. Passing Resolutions without Meetings**

- 71.1 If all the Directors entitled to vote on a resolution have signed a document containing a statement that they are in favour of a resolution of the Directors in terms set out in the document, a resolution in those terms shall be deemed to have been passed at a meeting of the Directors 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.
- 71.2 For the purposes of Article 71.1, two or more separate documents containing statements in identical terms each of which is signed by one or more Directors shall 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 document.

## **OTHER OFFICERS**

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### **72. Secretary**

A Secretary holds office on such terms and conditions, as to remuneration and otherwise, as the Directors determine.

## **INSURANCE AND INDEMNITY OF APPLICABLE PERSONS**

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### **73. Applicable Persons**

The provisions of Articles 74, 75, 76 and 77 shall apply to Applicable Persons, which expression shall include:—

- 73.1 every person who is or has been an Officer of the Company;
- 73.2 every person who is or has been an Officer of a Related Body Corporate of the Company;
- 73.3 if the Directors determine, an employee or former employee of the Company or a Related Body Corporate of the Company;
- 73.4 if the Directors determine and to the extent permitted under the Act, an auditor or former auditor of the Company or a Related Body Corporate of the Company.

### **74. Insurance**

- 74.1 To the extent permitted under the Act, the Company may pay, or agree to pay, a premium in respect of a contract insuring any one or more Applicable Persons against any liability incurred by the Applicable Person PROVIDED THAT the liability does not arise out of conduct involving:—
- (a) a wilful breach of duty in relation to the Company or a Related Body Corporate of the Company; or
  - (b) a contravention of section 182 or 183 of the Act.
- 74.2 To the extent permitted under the Act, the Company may pay, or agree to pay, an Applicable Person for costs and expenses incurred by that Applicable Person in defending proceedings, whatever the outcome of the proceedings.

## **75. Indemnity**

- 75.1 The Company does not exempt an Applicable Person from a liability to the Company incurred in their capacity as an Applicable Person.
- 75.2 To the extent permitted by the Act, the Company indemnifies any Applicable Person against non legal costs incurred as an Applicable Person except:–
- (a) for a liability owed to the Company or a Related Body Corporate of the Company;
  - (b) for a liability for a pecuniary penalty order under section 1317G or compensation order under section 1317H or section 1317HA of the Act;
  - (c) for a liability owed to a third party arising out of conduct involving a lack of good faith.
- 75.3 To the extent permitted by the Act, the Company indemnifies any Applicable Person against legal costs incurred in defending an action for a liability incurred as an Applicable Person except:–
- (a) in defending or resisting proceedings in which the Applicable Person is found to have a liability for which they could not be indemnified under Article 75.2; or
  - (b) in defending or resisting criminal proceedings in which the Applicable Person is found guilty; or
  - (c) in defending or resisting proceedings brought by the Australian Securities and Investments Commission (and any of its successors) or a liquidator for a court order if the grounds for making the order are found by a court to have been established; or
  - (d) in connection with proceedings for relief to the Applicable Person under the Act in which the Court denies relief.
- 75.4 Where the costs and expenses incurred by an Applicable Person under Articles 75.1, 75.2 or 75.3 are recovered by the Company under an insurance policy taken out or paid for by the Company pursuant to Article 74, the extent of the indemnification of an Applicable Person shall be reduced accordingly.

## **76. Loan to an Applicable Person**

- 76.1 To the extent permitted by the Act, the Directors may give a loan or advance to an Applicable Person to assist with the payment of costs and expenses of the Applicable Person which may be incurred under Article 75, where, in the opinion of the Directors, the costs and expenses are likely to become an amount for which the Company may become liable.
- 76.2 If, upon a determination of the proceedings, the costs and expenses for which the loan or advance was given are not the liability of the Company, the loan or advance given to the Applicable Person shall be recoverable according to the terms of the loan or advance.

## **77. Definition of "Proceedings"**

In Articles 74, 75 and 76, the term "proceedings" means any proceedings and any appeal in relation to any proceedings, whether civil or criminal, being proceedings in which it is alleged that the Applicable Person has done or omitted to do some act, matter or thing in their capacity under which the person has become an Applicable Person (including proceedings alleging that the Applicable Person was guilty of negligence, default, breach of trust or breach of duty in relation to the Company or a Related Body Corporate).

## ADMINISTRATION

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### 78. Notices

78.1 A notice may be given by the Company to any Member either:-

- (a) by serving it on their representative personally;
- (b) by sending it by post to them at their address as shown in the Register or to the Service Address supplied by them to the Company for the giving of notices to them.

78.2 Where a notice is sent by:-

- (a) post, service of the notice shall be deemed to be effective by properly addressing, prepaying and posting a letter containing the notice, and to have been effected, in the case of a notice of a Member, on the day after the date of its posting and, in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- (b) by facsimile transmission, service of the notice shall be deemed to be effected within twenty four (24) hours of the transmission, unless the Company receives notification that the transmission was not successful.
- (c) by electronic transmission, service of the notice shall be deemed to be effected within twenty four (24) hours of the transmission, unless the Company receives notification that the transmission was not successful.

### 79. Minutes

The Directors will cause minutes of:-

- 79.1 all proceedings and resolutions of meetings of the Company's Members;
- 79.2 all proceedings and resolutions of meetings of the Directors, including meetings of a committee of Directors;
- 79.3 resolutions passed by Members without a meeting;
- 79.4 resolutions passed by Directors without a meeting,

to be duly entered into the books kept for that purpose in accordance with the Act.

### 80. Evidentiary Standing of Minutes

A minute recorded and signed in accordance with the Act is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.

### 81. Inspection of Minute Books

Books containing the minutes of the Company's Members and resolutions passed by Members without a meeting will be open for inspection by any Member free of charge.

### 82. Inspection of Accounting Records and Other Documents

Subject to the Act, the Directors shall 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 law or authorised by the Directors or by the Company in meeting of the Company's Members.

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National Lotteries and Newsagents Association Ltd

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**83. Execution of Documents**

83.1 The Company may have a Seal, known as the common seal, on which its name, its Australian Company Number and the words "Common Seal" are engraved.

83.2 If the Company has a seal the Directors shall provide for the safe custody of the Seal.

83.3 The Seal shall be used only by the authority of the Directors, or of a committee of the Directors authorised by the Directors to authorise the use of the Seal.

83.4 The Company may execute a document by affixing the Seal to the document where the fixing of the Seal is witnessed by:-

- (a) two Directors; or
- (b) one Director and one Secretary; or
- (c) one Director and another person appointed by the Directors for that purpose.

The signature of such persons may be affixed to the document by manual, autographic or mechanical means.

83.5 The Company may execute a document without using a seal if the document is signed by:-

- (a) two Directors; or
- (b) one Director and one Secretary; or
- (c) one Director and another person appointed by the Directors for that purpose.

The signature of such persons may be affixed to the document by manual, autographic or mechanical means.

**84. Creation, Amendment and Repeal of By-Laws**

The Board has power to make by-laws concerning membership application and qualification for membership of the Company and any other matter which the Board believes suitable for including in such by-laws.

**85. Amendment of Constitution**

The Company may only alter this Constitution by special resolution passed by the Members.

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**FINANCIAL MATTERS**

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**86. Accounts**

The Directors will cause to be kept proper books of account in which will be kept true and complete accounts of the affairs and transactions of the Company. Proper books will not be deemed to be kept unless the books give a true and fair view of the state of the Company's affairs and explain its transactions.

**87. Audit**

87.1 The provisions in this Article 87 shall apply to the Company unless the Company is:-

- (a) a Small Company; or
- (b) otherwise exempted under the Act from the requirement to be audited.

87.2 A registered company auditor must be appointed. No appointment of an auditor shall be effective unless the auditor has first tendered to the Company a signed consent to so act.

- 87.3 The auditor must not be an officer of the Company.
- 87.4 The first auditor shall be appointed within one (1) month of the registration of the Company by:-
- (a) the Directors; or
  - (b) the Members,
- and shall hold office until the first Annual General Meeting of the Company.
- 87.5 The Company must:-
- (a) at its first Annual General Meeting appoint an auditor; and
  - (b) at each subsequent Annual General Meeting, if there is a vacancy in the office of auditor, appoint an auditor to fill the vacancy.
- 87.6 An auditor appointed pursuant to Article 87.5 shall hold office until resignation or removal from office or until the auditor is not capable of acting as auditor for any reason.
- 87.7 An auditor may be removed by resolution passed at a General Meeting.
- 87.8 Where an auditor resigns in accordance with Article 87.6 or is removed in accordance with Article 87.7, the Board may appoint another person to be the auditor.
- 87.9 The auditor appointed pursuant to Article 87.8 shall remain as auditor until the next Annual General Meeting, whereupon their appointment shall be subject to the ratification or otherwise of the Members.

## **88. Dividends and Reserves**

No payment of dividends or other distributions to Members shall be made.

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## **WINDING UP**

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### **89. Procedure**

The Company may be dissolved by a special resolution of Members.

### **90. Contribution of Members on Winding Up**

In the event of the Company being wound up while an Person is a Member, or within one year of ceasing to be a Member, every Member undertakes to contribute to the assets of the Company such amount as may be required not exceeding the Guarantee for the payment of the debts and liabilities of the Company contracted whilst the Member or past Member as the case may be was a Member of the Company, and the costs charges and expenses of winding up and for the adjustment of the rights of the contributors amongst themselves.

### **91. Distribution of Property on Winding Up**

- 91.1 In the event of the Company being wound up, any surplus assets remaining after the payment of the Company's liabilities and expenses shall not be paid or distributed to the Members but will be given or transferred to such other institution or company:-
- (a) having similar objects to those described in Article 4.1; and

Annexure A

Constitution  
National Lotteries and Newsagents Association Ltd

---

- (b) is an institution or body and which prohibits the distribution of income, profit or assets to its Members; and
- (c) which has gained approval from the Commissioner to be recognised as a body whose income is exempt from taxation; and
- (d) if the Company has been registered by the Australian Charities and Not-for-profits Commission as a registered charity, the other fund, authority or institution is a registered charity.

91.2 Such institution or company will be determined by the Members of the Company on or before the time of such winding up or dissolution, failing such determination the institution or company shall be determined by application to the Supreme Court in the deemed State of registration.

The Person whose details are shown below is the Person specified in the application for the Company's registration as the Person who consents to become a Member and who has agreed to the terms of the foregoing Constitution.

Full name and address of Subscriber

VANA Ltd  
ACN 004 238 644  
Suite 4, 202 Ferntree Gully Road  
CLAYTON VIC 3168

DATED: 29th January, 2020



## National Lotteries and Newsagents Association Ltd

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### FORM OF PROXY

I/We	[Name]	
------	--------	--

being a Member/Members of the abovenamed Company, hereby appoint

Proxy	[Name]	
	[Address]	

or, in their absence,

Proxy	[Name]	
	[Address]	

as my/our proxy to vote for me/us on my/our behalf at the General Meeting of the Company to be held on the date shown below and at any adjournment of that meeting.

Date of general meeting	
-------------------------	--

Signed by the Member(s)	
-------------------------	--

Signed by the Member(s)	
-------------------------	--

If this is a directed proxy, please indicate your voting intentions in relation to the resolution(s).

Resolution Number	Vote in favour of	Vote against	Abstain from voting



---

Castle Corporate Pty Ltd  
ABN 36 065 276 655  
Level 2  
2A Cambridge Street  
BOX HILL VIC 3128  
P 03 9898 6666  
W [castlecorp.com.au](http://castlecorp.com.au)  
E [castle@castlecorp.com.au](mailto:castle@castlecorp.com.au)

235V: Incorporates alterations of 01/02/2017 in matter R2016/287

I CERTIFY under section 161 of the Fair Work (Registered Organisations) Act 2009 that the pages herein numbered 1 to 31 both inclusive contain a true and correct copy of the registered rules of VANA Limited

DELEGATE OF GENERAL MANAGER

FAIR WORK COMMISSION

[IMPORTANT: Enquiries about these rules or other rules relating to this organisation which are currently in force may be directed to any office of the Fair Work Commission.]

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## 1. INTERPRETATION

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### VANA LIMITED - CONSTITUTION

#### 1. INTERPRETATION

##### 1.1 Definitions

1. In this Constitution, the following expressions have the following meanings:

"Associate Member" means an associate member of VANA pursuant to clause 7.3.

"Board" means the board of Directors of VANA.

"Constitution" means this constitution as amended from time to time or as substituted and replaced.

"Country Director" means a Director whose business is in the Country Zone.

"Country Zone" means all areas of Victoria except the Metropolitan Zone.

"Director" means a director of VANA.

"Executive Directors" means those Directors elected by the Board as Executive Directors pursuant to clause 20 to hold the offices of Chairperson, Vice Chairperson, Treasurer and Other Executive Director.

"Life Member" means a person appointed as a Member for life pursuant to clause

"Major Circulation Contract" means either a Major Daily Newspaper Contract or a Magazine Contract.

"Major Daily Newspaper Contract" means a direct written agreement between an agent and a publisher of a major daily newspaper which is a newspaper that:

- (a) is distributed throughout Victoria;
- (b) is distributed on each or at least on average 5 days each week; or
- (c) is distributed in the local market place for newspapers in such amounts that it on average constitutes at least 50% of the weekly total newspaper circulation for that area; and
- (d) is any other newspaper that the Board from time to time declares as to be a major daily newspaper.

"Major Magazine Contract" means a direct written agreement between an agent and a publisher of magazines that are distributed in such amounts and at such frequencies as the Board considers necessary.

"Member" means a member of VANA pursuant to clause 7.

"Metropolitan Director" means a Director whose business is in the Metropolitan Zone.

"Metropolitan Zone" means any area in Victoria located on a Greater Melbourne Map as indicated in the Melway Greater Maps. In order to avoid confusion, the Greater Melbourne maps are maps 1A-2T and 3-387 in the 1997 edition of the Melway Map.

## 1. INTERPRETATION

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"Newsagency" means the business of selling or circulation of newspapers, periodicals and similar publications which may also be conducted in conjunction with the retail of stationery, greeting cards, toys, novelties and other articles commonly sold in Newsagents' shops.

"Newsagent" means a person who principally conducts a Newsagency business.

"Non-Member" means a person who is not a Member of VANA.

"Non-Member Director" means the Director specified in clause 13.1(d).

"Objects" means the objects of VANA described in clause 3.1.

"Office" means the office of a holder of an office.

"Office-holders" means the Directors and includes Executive Directors.

"Ordinary Director" means a Director other than an Executive Director.

"Scrutineer" means a person appointed as such under clause 24 in relation to any election required in accordance with this Constitution.

"Seal" means the common seal of VANA.

"The Act" means the Corporations Law or any statutory modification amendment or re-enactment thereof for the time being in force and any reference to any provision thereof is to that provision as so modified amended or re-enacted.

"VANA" means VANA Limited.

### 1.2 Construction

In this Constitution, unless the context otherwise requires:

- (a) Australia. A reference to Australia is a reference to the Commonwealth of Australia.
- (b) Business Day. If a person is required to pay money or do an act or thing on a day that is not a Business Day, then the person may pay the money or do the act or thing on the next Business Day.
- (c) Collective references. Reference to a thing (including an amount) is a reference to all or any part of it and a reference to a group of things or persons is a reference to any one or more of them.
- (d) Corporations Law defined terms. Except as far as the contrary intention appears in these clauses, where a clause deals with a matter also dealt with by a provision of the Act, the expression has the same meaning as in that provision.
- (e) Defined expressions. If a word or phrase is defined, a related word or phrase has the corresponding definition.
- (f) Division 10. Division 10 of Part 1.2 of the Act applies to these clauses as if they were an instrument made under the Act in force on the day when these clauses become binding on VANA.

**2. VANA'S NAME AND STATUS**

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- (g) Gender. A reference to a gender includes the other genders.
- (h) Headings. A heading must be ignored in construing this document.
- (i) Inclusive terms. If an inclusive term is used, such as "includes" or "including", then this must be construed as "includes, without limitation" or "including, without limitation".
- (j) Joint liability. An obligation on two or more parties binds each partly jointly and severally.
- (k) Joint obligation. An obligation incurred in favour of two or more parties may be enforced by each of those parties jointly and severally.
- (l) Numbers. A word in the singular form includes the plural, and vice versa.
- (m) Person. A reference to a person includes a corporation or body politic.
- (n) Register. A reference to the register means the register of Members and includes where appropriate a reference to a branch register.
- (o) Section. A reference to a section is a reference to a section of the Act.
- (p) Statutory amendment. A reference to a statute (including without limitation, the Act), ordinance, code or other law includes:
  - (i) a regulation and other statutory instrument under it; and
  - (ii) a consolidation, amendment, re-enactment or replacement of any of them.
- (q) Variation. A reference to this or any other document includes the document as varied or replaced.
- (r) Writing. A reference to writing includes any mode of representing or reproducing words in tangible and permanently visible form, and includes a telex, facsimile or electronic mail transmission.

**2. VANA'S NAME AND STATUS****2.1 Name**

The name of the association is VANA Limited.

**2.2 Industry**

The industry in or in connection with which VANA is formed is the Newsagency industry.

**2.3 Public company**

VANA is a public company.

**2.4 Company limited by guarantee**

VANA is a company limited by guarantee.

#### 4. APPLICATION OF VANA'S PROPERTY

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##### 2.5 Replaceable Rules do not apply

The Replaceable Rules in the Act do not apply to VANA.

### 3. OBJECTS OF VANA

#### 3.1 VANA's primary Objects

VANA's primary Objects are to:

- (a) protect and promote the employer related interests of Members, in their capacity as Newsagents;
- (b) provide assistance and advice for Members in matters pertaining to the Newsagency industry;
- (c) protect and promote the status and business interests of Members;
- (d) exercise all such powers permitted under the Act in respect of companies limited by guarantee; and
- (e) do all such other things as are or may appear to be incidental, necessary, convenient or conducive to the attainment of the above Objects or any of them or any Objects of a like or similar nature.

#### 3.2 Construction of Objects

The Objects of VANA specified in each sub-clause and paragraph in clause 3.1:

- (a) are to be regarded as independent Objects;
- (b) except where otherwise expressed in such sub-clause or paragraph, must be in no way limited or restricted by reference to or inference from the terms of any other paragraph or sub-clause; and
- (c) may be carried out and exercised in as full and ample manner and must be construed in as wide a sense as if each of such paragraphs and sub-clauses defined the Objects of a separate, distinct and independent company.

### 4. APPLICATION OF VANA'S PROPERTY

#### 4.1 Promotion of Objects

VANA's income and assets:

- (a) must be applied solely towards the promotion of VANA's Objects specified in clause 3.1; and
- (b) subject to clause 4.2, must not be distributed directly or indirectly to a Member.

#### 4.2 Other payments

Clause 4.1(b) does not prevent the payment of:



**6. WINDING UP**

- (a) reasonable and proper remuneration to a Member (including without limitation, to members that are Directors in accordance with clause 17.4) in return for goods or services supplied or provided to VANA by that Member, including reimbursement for expenses reasonably incurred by that Member in providing those goods or services;
- (b) interest, at a rate not exceeding a normal commercial rate, on any money lent to VANA by a Member; or
- (c) a repayment to a departing Member of all or part of his or her financial contribution to VANA whilst that person was a Member.

**5. LIABILITY OF MEMBERS**

Each Member's liability is limited to an amount not exceeding \$10.

**6. WINDING UP****6.1 Contribution of Members upon winding up**

Each Member undertakes to contribute an amount not exceeding \$10 to VANA's property if VANA is wound up:

- (a) while that person is a Member, or
- (b) within one year after the person ceased to be a Member, for payment:
  - (i) of VANA's charges, debts and liabilities contracted before the person ceased to be a Member;
  - (ii) of the costs and expenses of the winding up; and
  - (iii) for the adjustment of the rights of contributors among themselves.

**6.2 Restrictions on distribution of surplus**

If VANA is wound up or dissolved and, after satisfaction of all its debts and liabilities and the repayment to the Members of the amount of their contribution to VANA according to clause 4.2(c), there is any property remaining, this property must only be paid or distributed to another entity:

- (a) which has similar Objects to those contained in clause 3.1; or
- (b) some charitable institution,

so long as in either case the entity is prohibited from paying or transferring any income or property to its own Members other than in a manner contemplated by clause 4 and this clause 6.2.

**6.3 Determination of relevant entity**

The identity of the relevant entity to which property is to be distributed under clause 6.2 is to be determined:

- (a) by the ordinary resolution of Members at or before the time of the winding up or dissolution of VANA; or

**7. MEMBERSHIP**

- (b) in default of the making of such a resolution under clause 6.3((a)), by such Judge of the Supreme Court of Victoria as may have or acquire jurisdiction in the matter.

**7. MEMBERSHIP****7.1 Qualification for application to membership**

- (a) A person is eligible to apply to be a Member of VANA if they conduct a business which satisfies any of the following categories of a Newsagent and in doing so are an employer:
- (i) Full Service Newsagent;
  - (ii) Retail Only Newsagent
  - (iii) Distribution Only Newsagent
- (b) Full Service Newsagent is a person who holds three or more Major Circulation Contracts, at least one of which is a Major Daily Newspaper Contract and whose business comprises:
- (i) a retail outlet for the retail sale of newspapers and magazines;
  - (ii) retail distribution, which involves distributing newspapers and magazines to other retail outlets or to persons who operate a home delivery business; and
  - (iii) home delivery, which involves delivering papers and magazines direct to consumers at their residence or place of business.
- (c) Distribution Only Newsagent is a person who holds three or more Major Circulation Contracts, at least one of which is a Major Daily Newspaper Contract and whose business comprises:
- (i) retail distribution (as described in clause 7.1(b)(ii)); and
  - (ii) home delivery (as described in clause 7.1(b)(iii)).
- (d) Retail Only Newsagent is a person who conducts a retail outlet selling newspapers and magazines who either:
- (i) holds three or more Major Circulation Contracts at least one of which is a Major Daily Newspaper Contract; or
  - (ii) conducts a retail business which in the opinion of the Board has the appearance or branding of a retail business focusing on the retail sale of newspapers and magazines. The Board may set indicative criteria from time to time. The type of criteria likely to be relevant to the Board (but recognising the Board's discretion and the need for the Board to alter criteria from time to time) might include:
    - (A) the relative importance of turnover, revenue or any other relevant business performance indicator relevant to determining the proportion and extent of the applicant's circulation of newspapers in comparison with the total turnover, revenue or other corresponding relevant business indicators concerning the applicant's business that the Board considers relevant;

**8. MEMBER'S REPRESENTATIVE**

- (B) the product range carried and the services provided by the applicant's business that is directly related to what is commonly understood by the general public to be the business of a Newsagency;
- (C) the extent to which the applicant's business premises carries signage and is readily identifiable by the general public that the applicant's business is that primarily of Newsagency and not any other type of business;
- (D) any particular or special local factors relating to the applicant or its business, including without limitation, the remoteness of the applicant's business and the extent of other Newsagents that operate in the same general locality of the applicant; and
- (E) such other factors as the Board considers relevant.

An applicant will not become a Member until they are duly accepted as such by the Board.

**7.2 Life Members**

- (a) The Board may from time to time and at its absolute discretion appoint any Member or former Member of VANA who by reason of valuable services rendered have been appointed as a Member of VANA for life ("Life Members"). The Board will determine its own procedure for appointing Life Members.
- (b) Life Members will be deemed to be Members and have all the rights under and are subject to this Constitution as if they were a Member. (Life Membership may be revoked by the Board).

**7.3 Associate Member**

The Board may at its discretion appoint any person as an Associate Member. An Associate Member will enjoy such rights conferred on him or her by the Board but will not have the right to be elected as a Director by reason of their Associate Membership, or to vote at a general meeting of VANA.

**7.4 Membership application procedure**

Every applicant for membership of VANA other than Life Members and Associate Members must be:

- (a) proposed by one and seconded by another Member;
- (b) made in writing, signed by the applicant and their proposer and seconder; and
- (c) in the form prescribed by the Board from time to time.

**8. MEMBER'S REPRESENTATIVE**

- (a) A Member or Associate Member of VANA which is a firm or company must by notice in writing, on behalf of the manager, secretary or other person authorised in that behalf, appoint a person as a representative to act on behalf of such firm or company in the affairs and proceedings of VANA ("Representative").

## 9. ENTRANCE FEE AND SUBSCRIPTION

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- (b) Any Representative may by like notice be removed as the Representative and another Representative appointed in their stead in the manner provided.
- (c) A Representative has all the privileges of and is subject to the provisions of this Constitution accorded to a Member or Associate member as the case may be,

### 9. ENTRANCE FEE AND SUBSCRIPTION

#### 9.1 Payment of Fees

- (a) Each Member and Associate Member must pay:
  - (i) an entrance fee; and
  - (ii) an annual subscription fee according to the rate or rates fixed and adopted by the Board from time to time.
- (b) All subscriptions are payable by the Member and Associate Member in advance or at such other intervals or times that the Board decides, provided any invoice for an annual subscription fee must be sent to a Member at least 30 days prior to the Annual General Meeting.
- (c)
  - (i) A Member shall be a Financial Member unless they are in arrears in relation to any entrance fee, annual subscription fee or contribution.
  - (ii) A member is in arrears in relation to an entrance fee, annual subscription fee or contribution if they have not paid the relevant amount in full within 30 days of being invoiced, provided a Member shall be deemed to be in arrears if they have not paid their annual subscription fee in full seven days prior to the AGM.
  - (iii) A member shall remain in arrears until all outstanding amounts have been paid. At its discretion the Board may, on application by a Member who is in arrears, waive payment of the outstanding monies in whole or part. The Board may remove from the Register of Members any Member who has been in arrears for twelve months, provided no Member shall be purged until the Board has issued a final call for payment and thirty days have elapsed without full payment being received.
  - (iv) Whilst in arrears a Member shall enjoy none of the rights or privileges of membership but shall continue to be subject to all of the obligations of membership.

#### 9.2 Notification to applicant

VANA must provide written notification to applicants for Membership and Associate Membership of VANA of:

- (a) all financial obligations arising from such Membership or Associate Membership; and
- (b) the circumstances and manner in which a Member and an Associate Member of VANA may resign from such membership or associate membership.

## 10. CESSATION OF MEMBERSHIP

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### 10. CESSATION OF MEMBERSHIP

#### 10.1 Membership cessation events

A person ceases to be a Member of VANA if the person:

- (a) dies;
- (b) resigns that respective membership in accordance with this Constitution;
- (c) has their membership terminated in accordance with this Constitution; or
- (d) sells or transfers their Newsagency business or part of their Newsagency Business and their respective membership is then terminated in accordance with this Constitution.

A person will cease to be an Associate Member if any of the events set out in clauses 10.1(a), (b), and (c) occur in respect of them.

#### 10.2 Membership entitlements not transferable

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

- (a) is not capable of being transferred or transmitted to another person; and
- (b) terminates upon cessation of the person's respective membership.

## 11. RESIGNATION

### 11.1 Resignation of membership

- (a) A Member or Associate Member of VANA may resign from their respective membership by written notice addressed and delivered to the Treasurer.
- (b) A notice of resignation from membership or associate membership of VANA will take effect on the day on which the notice is received by VANA or on any such later date specified in the notice.

### 11.2 Recovery of moneys owing

Any membership fees or other moneys owing and outstanding by either a former or current Member or Associate Member of VANA may be sued for and recovered in the name of VANA as a debt due to VANA.

### 11.3 Notification of resignation

- (a) A notice delivered to the Treasurer in accordance with clause 11.1 shall be taken to have been received by VANA when it was delivered.
- (b) A notice of resignation that has been received by VANA is not invalid because it was not addressed and delivered in accordance with clause 11.1.
- (c) A resignation for membership or associate membership of VANA is valid even if it is not effected in accordance with this clause if the Member or Associate Member is informed in writing by or on behalf of VANA that the resignation has been effected.

## 12. TERMINATION OF MEMBERSHIP

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**12. TERMINATION OF MEMBERSHIP**

## 12.1 Termination, suspension and cautioning by Board resolution

If a Member or Associate Member of VANA:

- (a) is of general bad character;
  - (b) is convicted of a serious indictable offence;
  - (c) fails to comply with any provisions of the Constitution or any reasonable directions given by the Board from time to time;
  - (d) has any amount of entrance fees, subscription fees or any other moneys owing in arrears for a period of two months or more; or
  - (e) (refused certification on 3 August 2000)
- the Board may by resolution, approved by at least three-fourths of the Directors present at the meeting, terminate or suspend that Member's or Associate Member's membership or caution that Member or Associate Member in writing.

## 12.2 Right to be heard

- (a) The Member or Associate Member that is the subject of an event referred to in clause 12.1, must be given written notice of any proposed resolution referred to in clause 12.1 at least 14 days before the meeting of the Board for which the resolution is moved.
- (b) At the meeting, referred to in clause 12.1 the Member (or the Associate Member as the case may be) and the person or persons alleging that an event referred to in clause 12.1 has occurred shall have a full and fair opportunity of presenting their case.
- (c) If the Board resolves to terminate or suspend a Member's or Associate Member's membership, or otherwise cautions the Member or Associate Member, it shall instruct the Treasurer to advise the relevant Member or Associate Member in writing of the contents and effect of its resolution accordingly.

## 12.3 Appeal against rejection or termination of membership

A person whose application for membership (or associate member as the case maybe) has been rejected or whose membership has been terminated or suspended or the Member or Associate Member is otherwise cautioned pursuant to this Constitution may, within 1 month of receiving written notification thereof, lodge with the Treasurer a written notice of that person's intention to appeal against the Board's decision made under clause 12.1 ("Appeal").

## 13. BOARD

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### 12.4 Extraordinary General Meeting to determine Appeal

- (a) Upon receipt of a notice referred to in clause 13.3, the Treasurer must convene, an extraordinary General Meeting to determine the Appeal within three months of receipt of the notice.
- (b) At any such meeting, the applicant and each Board member involved in making the Board's decision in the resolution referred to in clause 12.1 has the opportunity to fully present their respective cases.
- (c) The Appeal will be determined by a majority of votes of the Board members present at such meeting.
- (d) The Treasurer must immediately notify the applicant for the Appeal of the outcome of the Appeal.

### 12.5 Immediate Termination

Regardless of clause 12.1, the membership of a Member or Associate Member of VANA will be terminated immediately upon such person ceasing to be eligible to become a Member in accordance with this Constitution.

### 12.6 Termination upon sale or transfer of Newsagency Business

Any Member or Associate Member whose Newsagency, or part of their Newsagency, is assigned or transferred to another person, their membership, is terminated immediately, unless the Board in its discretion otherwise directs.

## 13. BOARD

### 13.1 Constitution of Board

- (a) The Board of VANA will consist of a maximum of 10 Directors:
- (b) There may be casual vacancies on the Board and the Board will be fully operative so long as there are at least three Directors, two of whom must satisfy the criteria of a Full Service Newsagent as set out in clause 7.1.
- (c) There must be at least two Directors who satisfy the criteria of Full Service Newsagent (under clause 7.1) for every Director who satisfies the criteria of either Distribution Only Newsagent or Retail Only Member (under clause 7.1).
- (d) There may be a maximum of two directors who are Non-Members of VANA.

## 14. ELECTION OF BOARD

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### 13.2 Cessation of Board membership

A vacancy in the Office of a Board member occurs if that Board member:

- (a) dies;
- (b) becomes an insolvent under administration within the meaning of the Act;
- (c) resigns from Office upon that Board member notifying the Board in writing and such notice having been accepted by the Board (acceptance of which shall not be unreasonably withheld);
- (d) is dismissed from Office in accordance with clause 16; or
- (e) becomes of unsound mind or person whose estate is liable to be dealt with in any way under the law relating to mental health.

### 13.3 Excess Directors

If the number of members on the Board at any time exceeds the maximum number permitted under this Constitution subsequent to its amendment, then on the date that the amendment takes effect, the member of the Board whose nomination was last received by VANA ceases to be a member of the Board.

## 14. ELECTION OF BOARD

### 14.1 Encouragement of demographical representation

In order to encourage a demographically proportional distribution of Directors on the Board, VANA will encourage the appointment of Country Directors and Metropolitan Directors to the Board, though this is not mandatory.

### 14.2 Retirement and re-election

- (a) All Directors (other than a Non-Member Director) elected at an Annual General Meeting must retire at the third Annual General Meeting after their election. A retiring Director is eligible for re-election.
- (b) At every Annual General Meeting, the following Directors must retire but are eligible for re-election:
  - (i) all Non-Member Directors;
  - (ii) all casual vacancies appointed to the Board in accordance with clause 15.8 since the immediately preceding Annual General Meeting.

### 14.3 Maximum Term of appointment

Regardless of any other provision a Director must not hold Office for a term longer than four years without re-election.



## 15. ELECTION OF BOARD MEMBERS

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### 14.4 Amendment of requirements

VANA's General Meeting may from time to time:

- (a) increase or subject to the Act and the Workplace Relations Act 1996, reduce the number of Directors; and
- (b) alter the Directors' term of Office.

## 15. ELECTION OF BOARD MEMBERS

### 15.1 Notification of election

Notice that nominations are required for those Offices to be filled at the Annual General Meeting shall be sent by the Returning Officer to each Member at least three months before the date of the Annual General Meeting. The Returning Officer must indicate on that Notice the number of nominations required for the categories of Directors specified in clause 13.1. The Returning Officer shall determine the place for the lodgment of nominations.

### 15.2 Nomination of Board members

Any two financial Members may nominate any other financial Member for election to the Board. Any two financial Members may nominate a person who is not a Member for election to the Board as a Non-Member Director specified in clause 13.1(d). Each nominee shall sign his or her assent to nomination on the nomination form.

### 15.3 Completion and return of nominations

Nomination papers signed by the nominators and endorsed with the consent of the candidate shall be forwarded so as to be received by the Returning Officer not later than 3 p.m. on the Friday closest to the [sixtieth] day before the Annual General Meeting.

### 15.4 Defective nominations

The Returning Officer shall check all nominations received to see if they comply with the requirements of this Constitution and whether there has been sufficient nominations to elect Directors in accordance with clause 13.1. If the Returning Officer discovers a nomination to be defective he shall, before rejecting the nomination, notify the person concerned and where it is practicable to do so, give the person the opportunity to remedy the defect within where practicable seven days of the person being notified.

### 15.5 Shortfall of nomination and election

If the number of nominations for proposed Directors within a category of Directors specified in clause 13.1 which are in order and received within the time prescribed does not exceed the number of vacancies for such category of Directors, the person or persons nominated as a Director shall be declared elected as Directors for that category.

### 15.6 Shortfall of nominations and vacancies

If there are insufficient nominations for proposed Directors within a category of Directors specified in clause 13.1 which are in order and received within the time prescribed to fill the vacancies for such category of Directors, a vacancy shall be left in such category.

## 16. DISMISSAL OF OFFICE-HOLDERS

### 15.7 Excess nominations and election

If the number of nominations for proposed Directors within a category of Directors specified in either clause 13.1 which are in order and received within the time prescribed exceeds the number of vacancies for such category of Directors, a postal ballot must within one month after the closing of nominations be taken amongst the Financial Members in accordance with clause 15. All Financial Members are only entitled to one vote and may vote for a nominee in any category of Director.

### 15.8 Casual vacancies

Any casual vacancy on the Board may be filled by:

- (a) a Member whose business is in the Country Zone if the vacancy is for a Country Director;
- (b) a Member whose business is in the Metropolitan Zone if the vacancy is for a Metropolitan Director; or
- (c) a person who is not a Member if the vacancy is for a Non-Member Director; that is appointed by the Board, subject to such appointment not resulting in the total number of Directors exceeding the maximum number fixed in accordance with this Constitution. The Member or non-Member filling the casual vacancy must retire at the next Annual General Meeting following their appointment to the Board but may be nominated for re-election to the Board.

## 16. DISMISSAL OF OFFICE-HOLDERS

### 16.1 Dismissal events

An elected Office-holder must not be dismissed from Office under this Constitution unless they have:

- (a) been found guilty in accordance with the Constitution of
  - (i) misappropriation of the funds of VANA;
  - (ii) a substantial breach of the Constitution;
  - (iii) gross misbehaviour or gross neglect of duty; or
- (b) ceased, according to this Constitution, to be eligible to hold the Office.

### 16.2 Allegations and hearing of dismissal

A Member or Associate Member may provide the Board with a notice in writing alleging that an Office-holder;

- (a) has contravened this Constitution;
- (b) has ceased, according to this Constitution, to be eligible to hold the Office;
- (c) has misappropriated any funds of VANA; or
- (d) has grossly misbehaved or grossly neglected his or her duty.

**17. POWERS, DUTIES AND REMUNERATION OF DIRECTORS**

The Board must inform the Office-holder in writing of the allegation(s) made pursuant to this clause and such Office-holder shall be called before the Board and given a reasonable opportunity to be heard.

**16.3 Dismissal from Office**

If, after reasonable consideration of the matter, the Board by resolution of at least three-fourths of the Directors present and voting at the meeting finds that the Office-holder:

- (a) has contravened this Constitution;
- (b) has ceased, according to this Constitution, to be eligible to hold the Office;
- (c) has misappropriated any funds of VANA; or
- (d) has grossly misbehaved or grossly neglected his or her duty,  
the Office-holder will be dismissed from and cease to hold the Office and their membership of the Board.

**17. POWERS, DUTIES AND REMUNERATION OF DIRECTORS****17.1 General power of management**

- (a) Subject to the Act and this Constitution, the management of the business and affairs of VANA is vested in and may be under the direction of the Directors and they may exercise all such powers of VANA as are not, by the Act or by this Constitution, required to be exercised by VANA in General Meeting.
- (b) Without limiting this clause 17.1, the Directors:
  - (i) must carry into effect the Objects of the Association;
  - (ii) may pay all expenses incurred in promoting and forming the Association; and
  - (iii) may exercise all the powers of VANA to borrow, save or invest money, to charge, acquire, dispose, or otherwise deal with any property or business of VANA and to issue debentures or give any other security for a debt, liability or obligation of VANA or of any other person.
- (c) The Directors may:
  - (i) delegate to a person so appointed any of the powers vested in the Directors on such terms as the Directors think fit;
  - (ii) remove a person so appointed and revoke or vary such delegation; and
  - (iii) authorise any delegate or attorney appointed by the Directors in accordance with this Constitution to sub-delegate all or any of the powers vested in that person.

## 17. POWERS, DUTIES AND REMUNERATION OF DIRECTORS

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### 17.2 Other offices of Directors

Subject to the Act and the Workplace Relations Act 1996, a Director may hold any other Office or Offices under VANA (except that of auditor) together with the Office of Director and on the conditions of remuneration and otherwise as the Board may arrange. All such arrangements must be recorded by the Secretary and made available for inspection by Members upon request.

### 17.3 Power to appoint attorneys

- (a) The Directors may, by power of attorney, appoint any person to be the attorney of VANA. An attorney may be appointed for such purposes, with the power, authority or discretion (being power, authority or discretion vested in or exercisable by the Directors), for such period and subject to such conditions as the Directors determine.
- (b) Any power of attorney may contain any provision for the protection and convenience of persons dealing with the attorney as the Directors think fit. The power of attorney may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.

### 17.4 Remuneration

- (a) The Directors may be paid or provided with remuneration for their services in accordance with the Act. Remuneration may take the form of an allowance paid to Directors in anticipation of expected expenses. The amount paid to individual Directors will be as determined by the Directors, providing that such amount is reasonable taking into account the circumstances of VANA and the individual Director in each case. Directors' remuneration must be recorded by the Treasurer and such records be made available for inspection by a Member upon request. Directors' remuneration must be fully disclosed in VANA's Financial Reports.
- (b) Remuneration of Directors is deemed to accrue from day to day.
- (c) Remuneration includes salary, wages, bonuses and allowances paid for the sole purpose of meeting expenses incurred in connection with performing services as a Director holding their respective office.
- (d) The Directors may also be paid all travelling and other expenses properly incurred by them in attending and returning from meetings of the Directors or any committee of the Directors or General Meetings of VANA or otherwise in connection with the business of VANA.

### 17.5 Signing of documents and cheques

At least one Executive Director shall sign all documents including cheques, but other Directors may also exercise this power by resolution of the Board. Each document and cheque shall be countersigned by the Treasurer or some other Director appointed for this purpose by the Board.

### 17.6 Entry into industrial agreements

The Board may also enter into industrial agreements. Conditions upon which these agreements and documents required by law may be signed shall be identical with those relating to the signing of documents and cheques.

## 18. PROCEEDINGS OF DIRECTORS

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**18. PROCEEDINGS OF DIRECTORS**

## 18.1 Directors to regulate

- (a) The Directors may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit.
- (b) A Director may at any time, and the Treasurer must on the requisition of a Director, convene a meeting of the Directors.

## 18.2 Written resolution

A resolution in writing signed or assented to by telegram, cablegram, radiogram, facsimile, telex, electronic mail or other form of visible communication by all the Directors is as valid and effective as if it had been passed at a meeting of Directors duly convened and held. Any resolution may consist of several documents in like form each signed by one or more of the Directors. If the Directors signed the document on different days, the resolution is taken to have been passed at the time at which the document was last signed by a Director. A reference in this clause 18.2 to all the Directors does not include a reference to a Director who, at a meeting of Directors, would not be entitled to vote on the resolution.

## 18.3 Telephone and other meetings

Without limiting the power of the Directors to regulate their meetings as they think fit, a meeting of Directors or the Executive may be held where one or more of the Directors is not physically present at the meeting, provided that:

- (a) all persons participating in the meeting are able to communicate with each other effectively simultaneously and instantaneously whether by telephone or other form of communication;
- (b) notice of the meeting is given to all the Directors entitled to notice according to the usual procedures agreed on or laid down from time to time by the Directors of VANA and such notice does not specify that Directors are required to be present in person;
- (c) if a failure in communications prevents condition ((a)) from being satisfied by that number of Directors which constitutes a quorum, then the meeting is suspended until condition ((a)) is satisfied again. If condition ((a)) is not satisfied within 15 minutes from the time the meeting was interrupted, the meeting is deemed to have terminated; and
- (d) any meeting held where one or more of the Directors is not physically present is deemed to be held at the place specified in the notice of meeting if a Director is present there. If no Director is present at the place specified, the meeting is deemed to be held at the place where the chairperson of the meeting is located.

## 18.4 Decisions of the Board and the Executive

Subject to this Constitution, questions arising at any meeting of Directors and the Executive are decided by a majority of votes of the Directors present and voting. A determination of a majority of Directors is for all purposes deemed to be a determination of the Directors. If the votes are equal, the chairperson of the meeting has a second or casting vote.

## 18. PROCEEDINGS OF DIRECTORS

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### 18.5 Quorum

At a meeting of Directors, the number of Directors whose presence is necessary to constitute a quorum is the number determined by the Directors and, unless so determined, is three.

### 18.6 Authority to act where vacancy

If there is a vacancy in the Office of a Director, the remaining Directors may act. If the number of remaining Directors is not sufficient to constitute a quorum at a meeting of Directors or the Executive, the Directors may act only for the purpose of increasing the number of Directors to a number sufficient to constitute a quorum at a meeting of the Directors or the Executive or for the purpose of convening a General Meeting of VANA.

### 18.7 Chairperson

- (a) The Directors must elect one of their number as chairperson of their meetings and may determine the period of office of the chairperson.
- (b) Where a meeting of the Directors is held and:
  - (i) a chairperson has not been elected as provided; 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 may elect one of their number to be a chairperson of the meeting.

### 18.8 Non-effect of defects in appointments

- (a) All acts done by any meeting of the Directors, or by any person acting as a Director or Executive Director are deemed to be valid as if all persons had been duly appointed and were qualified to be a Director.
- (b) This is the case even if it is afterwards discovered there was some defect in the appointment of a person to be or to act as a Director or that a person so appointed was disqualified.

### 18.9 Director's personal interests

- (a) A director is obliged to declare any interest of conflict to the board if any issue (contract or other matter) is before the board to consider. The director should absent himself from discussions unless the board resolves otherwise. The director shall refrain from voting. If there is any doubt the board should immediately determine the issue of conflict.
- (b) The nature of the interest of conflict should be declared by the director at the first time the matter is considered by the board. If a director becomes interested in a contract or other matter at a later date, the director should advise the board of the conflict at the next board meeting. The treasurer must record all declarations in the minutes of the relevant directors meeting. Also the CEO shall be obliged to record in the conflict register such declarations of conflict of interest.
- (c) Each director must disclose to VANA according to the Act their interests in any contract or arrangement and the treasurer must record all declarations in the minutes of the relevant director's meeting.
- (d) A director may attest the affixing of the seal to any document relating to a contract or arrangements in which the director has an interest.

**20. THE EXECUTIVE**

- (e) A director will not be deemed to be in conflict merely by virtue of the director's involvement as a Newsagent.

**19. INDEMNITY**

Every Director (including Executive Directors), and other Office-holder, manager, servant or agent of VANA ("Indemnified Person") must be indemnified by VANA against:

- (a) a liability to another person incurred by the Indemnified Person in that capacity (other than a liability incurred to VANA or a related body corporate) unless the liability arises out of conduct involving a lack of good faith; and
- (b) a liability for costs and expenses incurred by the in that person's capacity within their respective authority as such:
- (i) in defending civil or criminal proceedings in which judgment is given in favour of the or in which the Indemnified Person is acquitted; or
- (ii) in connection with an application in relation to civil or criminal proceedings, in which the Court grants relief under the Act.

The amount to which such indemnity is provided shall immediately attach as a lien on the property of VANA and have priority as between the Members or other claims.

**20. THE EXECUTIVE****20.1 Constitution of the Executive**

- (a) There will be an Executive which consists of Directors elected by the Board as Executive Directors pursuant to this Constitution to hold the following offices:
- (i) a Chairperson;
- (ii) a Vice-Chairperson
- (iii) a Treasurer; and
- (iv) one Other Executive Director.
- (b) For the purposes of the Workplace Relations Act 1996, the offices of president, vice-president and secretary are held by the Chairperson, Vice Chairperson and Treasurer respectively.
- (c) Each person in clause 18 concerning the Proceedings of the Directors apply to proceedings of the Executive as if references to Directors are to Executive Directors, and references to meetings of the Executive except for clause 18.6 (Quorum), clause 18.7 (Authority to act where vacancy) and clause 18.8 (Chairperson of Board Meetings).

**20.2 Duties of the Executives**

It will be the duty of the Executive to do all such acts and things and exercise all such functions of the Board as may be delegated to it by the Board or by VANA in General Meeting.

## 21. ELECTION OF EXECUTIVE

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### 20.3 Co-opting of Members by the Executives

The Executive will be entitled to co-opt any Member of VANA in dealing with any particular matter in connection with which the Member concerned may be deemed to have special knowledge, but such co-opted Member shall not be entitled to vote.

### 20.4 Proceedings of the Executive

- (a) The Executive will meet together for the dispatch of business and adjourn or otherwise regulate their meetings as they think fit or as directed by the Board.
- (b) An Executive Director may at any time, and the Treasurer must on the requisition of an Executive Director, convene a meeting of the Executive.
- (c) A quorum for meetings of the Executive is three Executive Directors.

## 21. ELECTION OF EXECUTIVE

### 21.1 Term and re-election of Executive

- (a) The Executive must be elected every year by the Board in a one-tier collegiate electoral system.
- (b) The Executive must remain in Office until the next Executive is elected, provided that neither the Executive nor any Executive Director shall remain in Office for more than 14 months.
- (c) A retiring Executive Director is eligible for re-election as an Executive Director as long as they are a Director.
- (d) Notice that nominations are required for the offices of Executive Director shall be sent by the Returning Officer to each Director no more than 7 days after the completion of the election of Directors. The Returning Officer shall determine the place for the lodgment of nominations.
- (e) Any two Directors may nominate any other Director for election to the Executive. Each nominee shall sign their assent to nomination on the nomination form.
- (f) Nomination papers signed by the nominators and endorsed with the consent of the candidate shall be forwarded so as to be received by the Returning Officer not later than 3 p.m. on the Friday nominated by the Returning Officer which is not more than the 3rd Friday after the Notice in clause 21.1(d) was sent by the Returning Officer.
- (g) The Returning Officer shall check all nominations received to see if they comply with the requirements of the Constitution. If the Returning Officer discovers a nomination to be defective he shall, before rejecting the nomination, notify the person concerned and where it is practicable to do so, give the person the opportunity to remedy the defect within where practicable seven days of the person being notified.
- (h) If the number of nominations which are in order received for any Executive office within the time prescribed does not exceed the number of vacancies the person or persons nominated shall be declared elected to such office as the case requires.
- (i) Any casual vacancy on the Executive may be filled by any Director appointed by the Board;
- (j) The timing for election of the Executive may be shortened as agreed by the Board; and
- (k) Subject to compliance with relevant legislation, the Board may determine that the Australian Electoral Commission is not required to conduct elections of the Executive.



## 22. THE TREASURER

### 22.1 Duties of the Treasurer

The duties of the Treasurer are to:

- (a) act as Secretary to VANA;
- (b) ensure that all books and financial statements show a true and correct record of financial transactions of VANA;
- (c) prepare and present the Treasurer's report;
- (d) make all financial documents available to the auditors when required;
- (e) sign any instruments or documents when requested to do so by the Board;
- (f) invest funds as directed by the Board;
- (g) carry out the directions of the Board;
- (h) maintain a Register of Members and Associate Members;
- (i) arrange and attend all General Meetings of Members and Associate Members of VANA and Board Meetings;
- (j) keep accurate minutes of proceedings; and
- (k) perform all such duties that the Chairman on the instruction of the Board or VANA from time to time direct.

### 22.2 Delegation of Treasurer's duties

The Treasurer may delegate these duties as appropriate provided that duties attaching to an Office-holder under the Workplace Relations Act 1996 is only delegated to another Office-holder of VANA.

### 22.3 Treasurer's salary and conditions

The salary and conditions of employment of the Treasurer will be agreed upon with the Board from time to time.

## 22A. ELECTORAL ROLL

The names and addresses of members who are entitled under these Rules to vote in an election shall form the roll of voters for the election. The Returning Officer shall prepare a roll of those voters who, on the seventh day before the date determined for the opening of nominations, are entitled to vote in the election.

**23. CONDUCT OF THE BALLOT****23.1 Appointment of Returning Officer**

The Board must appoint a Returning Officer for each election. The Returning Officer must not be:

- (a) the holder of an Office within VANA;
- (b) an employee of VANA; or
- (c) a candidate.

**23.2 Requirement for ballot**

If more nominations are received than there are vacancies for a position on the Board or the Executive as the case may be, the Returning Officer must conduct a secret postal ballot.

**23.3 Preparation, sending and return of ballot papers**

- (a) If a ballot is conducted the Returning Officer must have ballot papers printed and delivered to the Returning Officer containing the names of the candidates for each position in alphabetical order showing against each name the suburb, town or locality in which the Newsagency is situated, (and for elections of Directors, the category of Director specified in clause 13.1 that the candidate is nominated for) and indicating the number to be elected to each category of Director, the manner in which votes shall be recorded and the date and the time of closing of the ballot.
- (b) The Returning Officer shall cause to be sent to each Member (in the case of an election of Directors) or to each Director (in the case of an election of Executive Directors) by prepaid post a voting paper, a declaration envelope and an envelope addressed to the Returning Officer. Voting papers shall be sent to each Member or Director at that Member's or Director's address as previously notified to VANA. Absent voting shall be provided for by allowing Members or Directors to notify the Returning Officer in writing of a nominated address for the forwarding of ballot papers so long as such notification is received by the Returning Officer at least two days prior to the time ballot papers are posted to Members or Directors.
- (c) The Returning Officer must arrange facilities for the return of completed ballot papers by post without postage expense to voting Members or Directors.

Any reference to a declaration envelope and an envelope addressed to the Returning Officer shall be taken as a reference to a declaration envelope and a prepaid envelope in the form prescribed in Schedule 1B of the Workplace Relations Act 1996 and the Workplace Relations (Registration and Accountability of Organisations) Regulations.”

**23.4 Preparation of voting papers**

All voting papers shall be initialled by the Returning Officer before they are issued and state the time and date (not being earlier than the tenth day nor later than the twentieth day in the case of an election of Directors, and not being earlier than the third day nor later than the tenth day in the case of an election of Executive Directors after the date upon which the voting papers are sent to voters) by which votes must be received by the Returning Officer (herein referred to as the closing of the ballot) and such directions as the Returning Officer deems fit as to the marking of the votes.

**23.5 Recording and return of votes**

The voter must indicate their vote by striking out the names of all candidates for a particular Office except that or those of the candidate or candidates for whom they wish to vote for that Office and shall place the

## 23. CONDUCT OF THE BALLOT

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completed ballot paper in the envelope addressed to the Returning Officer and seal the same. The voter must, deliver, or cause the envelope to be delivered to the Returning Officer.

### 23.6 Counting of votes

All valid voting papers which are received by the Returning Officer before the closing of the ballot must be counted.

### 23.7 Declaration of shortfall of nominations and election

If there are less nominations than there are vacancies for a position, the Returning Officer prepare a written report to the Annual General Meeting declaring the nominated person or persons elected.

### 23.8 Substituted ballot papers

The Returning Officer may supply a substituted ballot paper which they must initial to any voter who furnishes the Returning Officer with a damaged or misused ballot paper or furnishes evidence satisfactory to the Returning Officer of the destruction or loss of the ballot paper by the voter.

### 23.9 Election irregularities and informal votes

The Returning Officer must take such action and give such directions as are reasonably necessary in order to ensure that no irregularities occur in or in connection with the election and in order to remedy any procedural defects.

A vote in an election will be informal if:

- (a) the ballot paper is received by the Returning Officer after the notified hour on the closing date;
- (b) the voter votes for a greater or lesser number of candidates than the number of Offices to be filled;
- (c) the ballot paper does not bear the initials of the Returning Officer;
- (d) the ballot paper does not comply with the printed instructions for the ballot.

### 23.10 Scrutineering of vote

After the Returning Officer has counted the votes cast for all candidates, the Returning Officer must announce the result of the count to the scrutineers in attendance. Any scrutineer present is entitled to examine any ballot paper and to demand a recount they or not satisfied that the original count was correct. Upon completion of the counting the Returning Officer must sign a paper certifying the correctness of the totals of the votes cast for each candidate and recorded in that paper.

### 23.11 Returning Officer unable to act

In the event of the Returning Officer being at any time unable to act, the Chairperson may appoint some other person not being a person referred to in clause 13.1 of to act for the Returning Officer.

### 23.12 Duties of the Returning Officer

The Returning Officer must:

- (a) be responsible for the safe custody of the ballot papers;
- (b) obtain from the printer a certificate of the number of ballot papers printed;
- (c) initial every ballot paper prior to its distribution;

## 25. ANNUAL AND OTHER GENERAL MEETINGS

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- (d) issue a ballot paper and card and envelopes for the return of the vote to all Members or Directors entitled to receive a ballot paper;
- (e) control a ballot box for the reception of ballot papers and in the presence of the scrutineers, if they desire to be present, see that the box is empty immediately prior to be opening of the ballot and thereupon seal the said box and ensure that it remains sealed until the time fixed for the closing of the ballot;
- (f) at the time fixed for the closing of the ballot, open the ballot box in the presence of scrutineers who may be present and count all the votes cast;
- (g) lodge with the Treasurer with seven days of the count of the ballot a full report to the Annual General Meeting of the result of the ballot.

## 24. SCRUTINEERS

### 24.1 Appointment of Scrutineers

Any candidate in an election required under this Constitution may, if they so desire, appoint a scrutineer, who is a financial Member of VANA, to represent that candidate at the ballot ("Scrutineer"). The candidates appointing a Scrutineer must, before the commencement of the ballot, notify the Returning Officer, in writing, of the name of such scrutineer. The Executive may appoint a Scrutineer to represent it at any ballot.

### 24.2 Rights and restrictions of Scrutineers

A Scrutineer:

- (a) is entitled to be present throughout the ballot and may query the inclusion or exclusion of any vote in the count by the Returning Officer and has final determination of any votes so queried;
- (b) A Scrutineer must not remove, mark, alter or deface any ballot paper or other document used in connection with the election; and
- (c) must not interfere with or attempt to influence any Member or Director at the time such Member or Director is casting their vote.

## 25. ANNUAL AND OTHER GENERAL MEETINGS

The Annual General Meeting of the Association must be held during such month at such time and place as may be determined by the Board. Other General Meetings will be held as the Board determines from time to time provided that it will on request in writing by any fifteen Members call a General Meeting in compliance with such request. Such request must be in writing and signed by the Members concerned and set forth the objects of the meeting proposed to be called and be deposited with the Treasurer. If the Board does not proceed to cause a meeting to be held within twenty-one days from the date of such request being so deposited such Members or any other fifteen Members may themselves convene a meeting. Voting will be on the basis that each agency will be entitled to one vote. Decisions of Annual General Meetings and General Meetings will be binding on the Board and Executive. Twenty-one days notice shall be given of the Annual General Meeting.

**26. PROCEDURE AT MEETINGS OF THE ASSOCIATION**

## 26.1 Chairman

The chairman will preside at all meetings of VANA and in his or her absence the vice-chairman will preside. In the event that both the chairman and vice-chairman are absent the meeting must elect a chairman from among the board. The chairman shall be empowered to use his or her casting vote in addition to his or her ordinary vote. The following provisions will apply to the conduct of business at a meeting.

## 26.2 Voting - general

All questions will be decided by a show of hands unless a poll is demanded by any three members eligible to vote in which case two scrutineers shall be appointed by the meeting.

## 26.3 Quorum

A quorum at a General Meeting of members will consist of fifteen members.

## 26.4 General

- (a) In dealing with correspondence every letter as read will be taken as formally received unless a motion to the contrary be submitted and every letter may be dealt with immediately after the contents have been made known.
- (b) No discussion must take place except on a motion or amendment moved and seconded and put in writing if so demanded by the presiding officer.
- (c) Only one amendment will be entertained at one time. If the amendment be carried it will become the substantive motion, the original motion lapsing, and there will be no necessity to put the original motion to the meeting. It will be competent whether the amendment is carried or not to receive other amendments one at a time to be decided in like manner until the subject is finally disposed of. In a debate on a motion or amendment not more than two speakers other than the mover and the seconder will follow successively on the same side of the question. If two speakers having so spoken there be then no speaker to take the opposite side then the question shall be put forthwith.
- (d) No member may propose more than one amendment upon a motion and no member will speak more than once upon the same question which will include a motion and all amendments except the mover of the motion who will be entitled to reply and thereupon all discussions will cease and the question be put. Any member seconding a motion or amendment without remarks will not be held to have spoken thereon.
- (e) In the case of amendments being lost the presiding officer must put the motion to the vote. Any Member with the consent of the presiding officer may offer an explanation of any particular expression used by him or her but must confine himself strictly to such. Any subject that may be once settled by vote or division cannot again be entertained at the same meeting or at any subsequent meeting unless due notice be given at a meeting of the Association in which case the original mover and seconder of the motion must be properly notified.
- (f) A motion that the debate be now concluded may be moved at any stage of a debate and will immediately be put to the meeting without discussion. If lost the debate will continue as if such motion has not been moved. If carried then the amendment or motion if there be no amendment then under discussion will forthwith be put to the meeting without further discussion. If the amendment be carried it becomes a motion and the debate will proceed. If the amendment be lost other amendments may be received and dealt with as hereinbefore provided until the question is

**30. INDUSTRIAL RELATIONS**

finally disposed of. The motion that the debate be now concluded may be moved any number of times during a debate.

- (g) When a motion is moved and seconded that the Chairman's ruling be disagreed with the Chairman must immediately leave the chair and the question then before the chair be suspended. Another chairman must be appointed by the meeting and the question that the Chairman's ruling be disagreed with shall be discussed and decided after which the former chairman must resume the chair and the debate on the original question proceeded with.
- (h) On all questions and during all discussions the Member or Associate Member speaking must address the meeting through the presiding officer and be standing. In cases where a point of order is raised the Member or Associate Member raising the same must state his or her point of order clearly and distinctly and if a Member or Associate Member be speaking such Member or Associate Member must take his or her seat until the point of order is decided. The presiding officer will decide the matter promptly and not allow discussions.
- (i) Any Member or Associate Member violating any of these rules of debate may be dealt with by the Chairman. Any Member or Associate Member refusing to retract any offensive expression or to obey the direction of the Chairman may be debarred from taking part in any discussion until such retraction or obedience be duly made.

**27. ACCOUNTS**

The Board must cause true accounts to be kept of all sums of money received and expended by the Association and of the matters in respect of which such receipt and expenditure takes place and of all property credits and liabilities of the Association.

The Board must at every Annual General Meeting, lay before VANA a statement of accounts of VANA during the preceding year to comply with the Act and the Workplace Relations Act 1996.

**28. LOANS, GRANTS AND DONATIONS**

- (a) A loan, grant or donation of an amount exceeding \$1,000 must not be made by VANA unless the Board has satisfied itself:
  - (i) that the making of the loan, grant or donation would be in accordance with the other rules of VANA; and
  - (ii) in relation to a loan - that, in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory; and
- (b) has approved the making of the loan, grant or donation.

**29. ALTERATION TO ARTICLES**

The Articles of Association for the time being may be altered by resolution of at least three-fourths of votes of Members at a General Meeting called for the purpose. Twenty-one days notice or such shorter time permitted under the Act must be given of any such General Meeting.

**30. INDUSTRIAL RELATIONS**

VANA may be registered as an organisation of employers under the Workplace Relations Act 1996 as amended and in force from time to time, and shall be empowered to submit industrial disputes to conciliation or arbitration under the Workplace Relations Act 1996 that Act.

**35. INSPECTION OF RECORDS**

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**31. AUDITOR**

Once at least in every year the accounts of VANA must be examined and a certificate of correctness shall be given by a licensed Company Auditor who shall have at all reasonable times access to all books papers and documents of VANA. Such Auditor must be appointed by the Members at an Annual General Meeting and will hold office until such time as they cease, resign or are removed as Auditor in accordance with the Act.

**32. GROUPS**

Members in any particular locality or part of Victoria may form themselves into a Group for the purpose of the more effectual carrying into effect of the Objects of VANA. Any such Group may elect a Chairman and Secretary and hold meetings of its members from time to time and at such times as it deem expedient but any such Group must act always in conformity with the established policy of VANA and must co-operate with the Board and the Executive in all matters. Any such Group must have only an advisory role and must not be able to transact any business of VANA nor exercise any powers of VANA.

**33. CONTRIBUTION**

- (a) The Board may, with the sanction of a General Meeting, from time to time call upon the Members *pari passu* to contribute for the general purposes of VANA, for any special subject or for the purposes of emergency expenses incurred.
- (b) Each Member and Associate Member called upon to contribute under this clause must pay every call made to VANA forthwith.
- (c) No Member or Associate Member will be called upon to pay in any half year an amount which exceeding twice the amount of the annual subscription applicable to such Member or Associate Member.
- (d) A call will be deemed to be made at the time that the resolution of the Board making the same was passed.

**34. SEAL**

The Seal must be held in the safe custody of the Board and must not be affixed to any document except:

- (a) by the authority of the Board previously given;
- (b) in the presence of at least one Member of the Board who must sign every instrument to which the Seal is affixed; and
- (c) upon it being countersigned by the Treasurer or some other Director appointed by the Board.

**35. INSPECTION OF RECORDS**

The Directors must determine whether and on what conditions the accounting records and other documents of VANA or any of them are open to inspection of Members or Associate Members other than Directors. A Member other than a Director does not have the right to inspect any document of VANA except as provided by the Act or authorised by the Directors or by VANA in General Meeting.

## 37. REGISTERED ORGANISATION DISCLOSURE REQUIREMENTS

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### 36. NOTICES

#### 36.1 Method

A notice may be given by VANA to any Member or Associate Member either by serving it on the personally or by sending it by post to address shown in the register of Members (or Associate Members as the case may be) or the address supplied by the Member or Associate Member to VANA for the giving of notices to that person.

#### 36.2 Deemed receipt

Where a notice is sent by post, service of the notice is deemed to be effected by properly addressing, prepaying, and posting a letter containing the notice, and to have been effected, in the case of a notice of a meeting, on the day after the date of its posting and, in the any other case, at the time at which the letter would be delivered in the ordinary course of post.

#### 36.3 Persons entitled to notice

- (a) Notice of every General Meeting must be given in the manner authorised by this clause 36 to:
  - (i) every Member and Associate Member;
  - (ii) every person entitled to membership due to the death or bankruptcy of a Member or Associate Member who, but for their death or bankruptcy, would be entitled to receive notice of the meeting; and
  - (iii) the auditor of VANA.
- (b) No other person is entitled to receive a notice of General Meeting.

## 37. REGISTERED ORGANISATION DISCLOSURE REQUIREMENTS

### 37.1 Definitions

For the purposes of Clause 37, the following definitions apply:

- (a) **Board** means a group of persons who supervise, govern or otherwise have oversight of a corporation, organisation, association or other like body including a Board of Directors.
- (b) **Disclosure Period** means means the financial year unless a shorter period is specified.
- (c) **Declared Person or Body** means: (i) an officer of VANA who has disclosed a material personal interest under Clause 37.4(a); and (ii) the interest relates to, or is in, the person or body; and (iii) the officer has not notified VANA that the officer no longer has the interest
- (d) **Financial Duties** includes duties that relate to the financial management of VANA or a branch of VANA.
- (e) **General Manager** means the General Manager of the Fair Work Commission.
- (f) **Non-cash Benefit** means property or services in any form other than money, but does not include a computer, mobile phone or other electronic device that is used only or mainly for work purposes.
- (g) **Peak Council** has the same meaning as defined by section 12 of the *Fair Work Act 2009*.
- (h) **Office** has the same meaning as defined by section 9 of the *Fair Work (Registered Organisations) Act 2009*
- (i) **Officer** has the same meaning as defined by section 6 of the *Fair Work (Registered Organisations) Act 2009*.
- (j) **The Organisation** means VANA Ltd.



## 37. REGISTERED ORGANISATION DISCLOSURE REQUIREMENTS

- (k) **Related Party** has the same meaning as defined by section 9B of the *Fair Work (Registered Organisations) Act 2009*.
- (l) **Relative** in relation to a person, means (i) parent, step parent, child, stepchild, grandparent, grandchild, brother or sister of the person; or (ii) the spouse of the first mentioned person.
- (m) **Relevant Remuneration** in relation to an officer of VANA for a disclosure period is the sum of the following: (i) any remuneration disclosed to VANA by the officer under 37.3(a) during the disclosure period; and (ii) any remuneration paid, during the disclosure period, to the officer by VANA;
- (n) **Relevant Non-Cash Benefit** in relation to an officer of VANA for a disclosure period means the non-cash benefits provided to the officer, at any time during the disclosure period, in connection with the performance of the officer's duties as an officer, by VANA or by a related party of VANA.
- (o) **Remuneration** (i) includes pay, wages, salary, fees, allowances, leave, benefits or other entitlements; but (ii) does not include a non-cash benefit; and (iii) does not include the reimbursement or payment of reasonable expenses for the costs incurred in the course of the officer carrying out his or her duties.

## 37.2 VANA Policies and Procedures

VANA shall develop and implement policies and procedures relating to the expenditure of VANA

## 37.3 Disclosure of Officers Relevant Remuneration and Non-Cash Benefits

- (a) Each officer of VANA shall disclose to VANA any remuneration paid to the officer:
  - (i) because the officer is a member of a board, if:
    - A. the officer is a member of the board only because the officer is an officer of VANA; or
    - B. the officer was nominated for the position as a member of the board by VANA, a branch of VANA, or a peak council; or
  - (ii) by any related party of VANA in connection with the performance of the officer's duties as an officer.
- (b) The disclosure required by sub-rule (a) shall be made to VANA:
  - (i) as soon as practicable after the remuneration is paid to the officer; and
  - (ii) in writing.
- (c) VANA shall disclose to its members and its branches:
  - (i) the identity of the officers who are the five highest paid in terms of relevant remuneration for the disclosure period, and
  - (ii) for each of those officers:
    - A. the actual amount of the officer's relevant remuneration for the disclosure period; and
    - B. either the value of the officer's relevant non-cash benefits, or the form of the officer's relevant non-cash benefits, for the disclosure period.

### 37. REGISTERED ORGANISATION DISCLOSURE REQUIREMENTS

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(d) For the purposes of sub-rule (c), the disclosure shall be made:

- (i) in relation to each financial year;
- (ii) within six months after the end of the financial year; and
- (iii) in writing.

#### 37.4 Disclosure of Officer's Material Personal Interests

(a) Each officer of VANA shall disclose to VANA any material personal interest in a matter that:

- (i) the officer has or acquires; or
  - (ii) a relative of the officer has or acquires;
- that relates to the affairs of VANA.

(b) The disclosure required by sub-rule (a) shall be made to VANA:

- (i) As soon as practicable after the interest is acquired; and
- (ii) in writing.

(c) VANA shall disclose to the members of VANA and its branches any interests disclosed to VANA pursuant to sub-rule (a).

(d) For the purposes of sub-rule (c), the disclosures shall be made:

- (i) in relation to each financial year;
- (ii) within six months after the end of the financial year; and
- (iii) in writing.

#### 37.5 Disclosure of Payments

(a) VANA shall disclose to the members of VANA and its branches either:

- (i) each payment made by VANA, during the disclosure period:
  - A. to a related party of VANA or of a branch of VANA; or
  - B. to a declared person or body of VANA or a branch of VANA; or
- (ii) the total of the payments made by VANA, during the disclosure period:
  - C. to each related party of VANA; or
  - D. to each declared person or body of VANA.

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**37. REGISTERED ORGANISATION DISCLOSURE REQUIREMENTS**

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- (b) Sub-rule (a) does not apply to a payment made to a related party if:
- (i) the payment consists of amounts deducted by VANA from remuneration payable to officers or employees of VANA; or
  - (ii) the related party is an officer of VANA and the payment:
    - A. consists of remuneration paid to the officer by VANA; or
    - B. is reimbursement for expenses reasonably incurred by the officer in performing the officer's duties as an officer.
- (c) For the purposes of sub-rule (a), the disclosures shall be made:
- (i) in relation to each financial year;
  - (ii) within six months after the end of the financial year; and
  - (iii) in writing.

**37.6 Financial Training**

Within six months after beginning to hold an office, each officer of VANA whose duties include financial duties must complete training that:

- (a) has been approved by the General Manager under section 154C of the *Fair Work (Registered Organisations) Act 2009*; and
- (b) covers each of the officer's financial duties.

\*\*\*END OF RULES\*\*\*

# National Lotteries and Newsagents Association

## Subscription – Terms and Conditions

Last updated 3 March 2020

### 1. Purpose and objectives of the National Lotteries and Newsagents Association

The purpose and objectives of the National Lotteries and Newsagents Association Ltd (ABN 68 639 041 919) (**NLNA**) are to:

- a. promote the Australian newsagency industry including the owners and employees of retail newsagents, suppliers to newsagents and other relevant stakeholders (collectively the **Industry**);
- b. pool information, establish networks and share specialised skills and resources;
- c. provide a forum for all people engaged in the Industry to discuss best practice and enhance the future of the Industry;
- d. establish a national supplier network;
- e. improve the income, profile and to introduce initiatives to increase foot traffic for Newsagents across Australia; and
- f. work with government at all levels to ensure that the interests of the Industry are represented.

### 2. Who can be a subscriber?

- a. All Australian newsagents, Tatts lotto kiosks, and general & gifting stores that sell newspapers or have a licence with the Tatts Group (including pharmacies) can apply for subscription to the NLNA.
- b. Any newsagent, Tatts lotto kiosk, or general & gifting store that sells newspapers or has a licence with the Tatts Group (including pharmacies) that is located in Victoria and is a current and fully paid subscriber of VANA Ltd (trading as The Victorian Association for Newsagents) (VANA) will automatically have a subscription with the NLNA.
- c. Your subscription of the NLNA does not constitute you being a 'member' of the NLNA as that term is defined in the Constitution and you will have no voting or other rights under the Constitution.

### 3. Commencement and term of subscription

- a. Your subscription of the NLNA commences when the NLNA notifies you in writing that your subscription application has been accepted and either the first month's subscription fee or the annual fee has been debited from your Account (and in respect of VANA subscribers, your subscription of the NLNA commences at the time you have paid the relevant subscription fees to VANA and VANA notifies you that your subscription to VANA has been accepted).
- b. Subscription is provided:
  - i. for subscribers that pay annually (being 12 months subscription up front), for a period of 12 months unless cancelled earlier in accordance with these Terms; or

- ii. for subscribers that pay monthly, on a month-to-month basis until cancelled in accordance with these Terms.

#### 4. **Subscription fees**

- a. Subscription fees are notified by the NLNA on its website from time to time and will be reviewed annually.
- b. Subscription fees can be paid either monthly or annually by credit card or direct debit as nominated by you on the relevant subscription application form available from the NLNA website.

#### 5. **Subscription benefits**

The NLNA endeavours to provide you and other subscribers with a range of information, services and benefits in line with its purpose and objectives as set out in clause 1 of these Terms. Such services and benefits will be at the discretion of the NLNA from time to time.

#### 6. **Obligation of subscribers**

- a. As a subscriber, you must comply with these Terms and any other rules or policies put in place by the NLNA and communicated on its website from time to time.
- b. By submitting a subscription application to the NLNA, you accept and agree to be bound by these Terms (which may be updated by the NLNA from time to time).

#### 7. **Confidentiality and privacy**

- a. You agree:
  - i. that any information, materials, documents or advice we provide to you is for your personal use only;
  - ii. not to provide any information or advice we provide to you to any third party for the use or benefit of the third party; and
  - iii. not to use your access to our information and advice to obtain information or advice for the use of a third party.
- b. Subject to clause 7(c) of these Terms, we will keep all information (including details of your Account) collected as part of your Direct Debit Request confidential in accordance with applicable law. We will take reasonable efforts to keep any such information that we have about you secure and to ensure that any of our employees or agents who have access to information about you do not make any unauthorised use, modification, reproduction or disclosure of that information.
- c. We will only disclose information about you that we have collected as part of your Direct Debit Request:
  - i. to the extent specifically required or permitted by law or under our Privacy Policy; or
  - ii. for the purposes of these Terms, including disclosing information in connection with any query or claim.

- d. The privacy of your personal information is important to the NLNA. The way in which we collect, use, disclose and store your personal information is set out in our Privacy Policy. The terms of the Privacy Policy are incorporated into and form part of these Terms.

#### **8. Intellectual Property**

All Intellectual Property Rights in the NLNA website or in any other information, documents or material produced by the NLNA belong solely to the NLNA and nothing in these Terms affect the NLNA's ownership of, and rights or title to, those Intellectual Property Rights.

#### **9. Disclaimer and exclusion of liability**

- a. The NLNA has made every attempt to ensure the accuracy and reliability of the information provided on its website or in respect of any services, material, information or documents provided to you, however any such services, information, material or documents are provided on an 'as is' basis and the NLNA makes no warranties or representations whether express or implied, statutory or otherwise about, and does not accept any responsibility or liability for, the accuracy, completeness, legality or reliability of any information, material or documents on its website or that is provided to you.
- b. The NLNA website may contain links to other websites operated, controlled or produced by third parties. Those links are provided for convenience and may not remain current or be maintained. Unless otherwise indicated, we do not control, endorse, sponsor or approve any such third-party websites and we are not responsible for the content on those linked websites and have no control over or rights in those linked websites.
- c. To the maximum extent permitted by law, the NLNA is not liable to you, any subscriber or to any other person for any direct or indirect, incidental, special or consequential loss or damage arising out of, in relation to or in respect of any information, services, benefits, or material provided by the NLNA (or any representative or agent of the NLNA) or contained on its website irrespective of whether the loss or damage is caused by or relates to breach of contract, statute, tort (including negligence) or otherwise, or the NLNA or any other person was previously notified of the possibility of that loss or damage.
- d. Where the law (including without limitation the Competition and Consumer Act 2010 (Cth)) implies a warranty or guarantee into these Terms which may not lawfully be excluded, then provided it is fair and reasonable to do so, the NLNA's liability for breach of such a warranty or guarantee shall be limited, at its option, to any one or more of the following:
  - i. in the case of goods: replacement of the goods or the supply of equivalent goods; repair of the goods; payment of the cost of replacing the goods or acquiring equivalent goods; or payment of the cost of having the goods repaired; and

- ii. in the case of services, to either resupplying the services or payment of the cost of having the services supplied again

## 10. Cancellation of subscription

### 10.1 Cancellation by the NLNA by immediate notice

The NLNA may immediately terminate your subscription of the NLNA by giving written notice to you if you:

- a. commit a serious or persistent breach of any term or condition of these Terms;
- b. commit any other breach of any term or condition of these Terms which is not rectified within 20 business days after receiving notice of that breach from the NLNA;
- c. engage in any fraudulent or dishonest conduct;
- d. are convicted of any criminal offence;
- e. you have a subscription with VANA and your subscription with VANA lapses or is cancelled by you or VANA;
- f. fail to pay your subscription fees when due (or a direct debit or credit card payment is dishonoured and remains dishonoured for 30 days);
- g. undertake or are a part of any act or omission that harms or has the potential to harm the reputation or goodwill of the NLNA; or
- h. have a receiver, administrator, liquidator or other similar person appointed to you or any of your assets, or you become bankrupt or enter into any composition or arrangement with or for the benefit of your creditors generally.

### 10.2 Cancellation by subscriber

You may cancel your subscription at any time by providing 30 days written notice to the NLNA with such notice to be provided in accordance with clause 13.5(b).

### 10.3 Consequences

- i. On the expiry or termination of your subscription, you will not have access to any of the information or benefits provided by NLNA.
- j. Any subscriber that has paid their 12 months subscription up front will be entitled to a pro-rated refund of their subscription fee based on the number of months left in the 12-month term. Subscribers that pay on a monthly basis are not entitled to a pro-rated refund for any portion of the month remaining after the date of termination.

## 11. GST

Unless otherwise expressly stated, all fees, prices or other sums payable or consideration to be provided under or in connection with these Terms are exclusive of GST (as that term is defined in the A New Tax System (Goods and Services Tax) Act 1999 (Cth)).

## 12. Direct debit request service terms

### 12.1 Application of direct debit request service terms

- a. These Terms form your direct debit request service agreement with the NLNA (Debit User ID number is 042248).
- b. These Terms explain your obligations when undertaking a direct debit arrangement with the NLNA. It also details the NLNA's obligations to you as your direct debit provider.
- c. Please keep these Terms for future reference. They form part of the terms and conditions of your DDR and should be read in conjunction with the DDR authorisation form you have completed as part of your subscription application.

### 12.2 Debiting your account

- d. By signing a DDR or by providing us with a valid instruction, you have authorised us to arrange for funds to be debited from your Account.
- e. The NLNA will only arrange for funds to be debited from your Account as authorised in the DDR
- f. If the Debit Day falls on a day that is not a Business Day, we may direct your financial institution to debit your Account on the following Business Day. If you are unsure about which day your Account has or will be debited you should ask your financial institution.

### 12.3 Amendments by us

- g. We may vary any details of these Terms or a DDR at any time by giving you at least 14 days written notice.
- h. We reserve the right to cancel these Terms (and your subscription of the NLNA) if the first debit from your Account is returned unpaid or two or more debit attempts are returned unpaid by your financial institution.

### 12.4 Amendments by you

- i. You may change, stop or defer a Debit Payment, by providing us with at least 14 days' notice by contacting us:
  - i. in writing to Suite 4, 202 Ferntree Gully Road, Clayton, Victoria 3168 or email: [enquiries@nlina.com.au](mailto:enquiries@nlina.com.au); or
  - ii. by phone on (03) 8540 7000 during business hours.
- j. You can also arrange any change through your financial institution, which is required to act promptly on your instructions.
- k. If you change or defer a Debit Payment, your subscription of the NLNA will be suspended until the earlier of such time as payment is made or 3 months after the change or deferment. If you stop a Debit Payment, your subscription of the NLNA will be cancelled.

### 12.5 Your obligations



- l. It is your responsibility to ensure that there are sufficient clear funds available in your Account to allow a Debit Payment to be made in accordance with the DDR and these Terms.
- m. If there are insufficient clear funds in your Account to meet a Debit Payment:
  - i. you may be charged a fee and/or interest by your financial institution;
  - ii. you may also incur fees or charges imposed or incurred by the NLNA; and
  - iii. you must arrange for the Debit Payment to be made by another method or arrange for sufficient clear funds to be in your Account by an agreed time so that we can process the Debit Payment.
- n. You should check your Account statement to verify that the amounts debited from your Account are correct.

### 12.6 Errors

If you believe that there has been an error in debiting your Account, you should notify us directly (03) 8540 7000 during business hours and confirm that notice in writing with us as soon as possible (in the manner set out in clause 13.5(b)) so that we can resolve your query faster. Alternatively, you can refer the error directly to your financial institution.

### 12.7 Accounts

- o. Before completing the DDR, you should check with your financial institution to confirm that direct debiting is available from your Account.
- p. You should confirm that the Account details you provide to us are correct by checking them against a recent Account statement.
- q. If you have any questions about how to complete the DDR, you should contact your financial institution.

## 13. Definitions and general provisions

### 13.1 Definitions

In these Terms, unless the context requires otherwise:

**Account** means the bank account or credit card you hold with your financial institution from which we are authorised to arrange for funds to be debited;

**Business Day** means a day other than a Saturday or a Sunday or a public holiday in Victoria, Australia;

**Constitution** means the Constitution of the NLNA as in force from time to time;

**Debit Day** means the day that payment of your subscription fees is due;

**Debit Payment** means a particular transaction where a debit from your Account is made;

**Direct Debit Request** or **DDR** means the direct debit request form whereby you authorise the NLNA to arrange for funds to be debited from your Account;

**Intellectual Property Rights** means all present and future intellectual and industrial property rights conferred by statute, at common law or in equity, and wherever existing, including:

- a. patents, designs, copyright, source code, rights in circuit layouts, trade marks, know how, brand names, domain names, inventions, database rights, product names, product functionality, trade secrets and any other rights subsisting in the results of intellectual effort in any field, whether or not registered or capable of registration;
- b. any application or right to apply for registration of any of those rights;
- c. any registration of any of those rights or any registration of any application referred to in paragraph (b); and
- d. all renewals and extensions of those rights;

**Privacy Policy** means the NLNA privacy policy available at [Click Here](#);

**Terms** means these “Subscription – Terms and Conditions”, incorporating the “direct debit request service terms” and the “Privacy Policy”;

**us** or **we** means the NLNA; and

**you** means the person who has applied for subscription of the NLNA and (if applicable) has signed the DDR.

### **13.2 Governing law and jurisdiction**

- e. These Terms are governed by and must be construed in accordance with the law of Victoria, Australia.
- f. The parties submit to the exclusive jurisdiction of the courts of that State and the Commonwealth of Australia in respect of all matters arising out of or relating to these Terms, its performance or subject matter.

### **13.3 Entire understanding**

These Terms, together with any documents referred to in these Terms or executed under or in connection with these Terms, contain the entire understanding and agreement of the parties about the subject matter of these Terms and supersede, terminate and replace all prior representations, negotiations, agreements, arrangements, understandings and other communications between or involving some or all of the parties about that subject matter.

### **13.4 Invalid or unenforceable provisions**

Any provision of these Terms which is invalid or unenforceable in any jurisdiction must:

- g. to the extent it is capable of being read down in that jurisdiction, be read down in that jurisdiction to the minimum extent necessary to achieve validity or enforceability in that jurisdiction; and
- h. to the extent it is not capable of being read down in that jurisdiction, be severed from these Terms in that jurisdiction, without invalidating or affecting the remaining provisions of these Terms or the validity or enforceability of that provision in any other jurisdiction.

### **13.5 General**

- i. Headings are used for convenience only and do not affect the interpretation of these Terms.
- j. Any notice to be given by a party under these Terms may be given personally, by post, by email or (in respect of notice by the NLNA only) by displaying that notice on NLNA's website. Any notice to be given by a subscriber to the NLNA must be either:
  - i. sent by email to: [enquiries@nlna.com.au](mailto:enquiries@nlna.com.au); or
  - ii. delivered personally or sent by post to: Suite 4, 202 Ferntree Gully Road, Clayton, Victoria 3168
- k. These Terms may be amended or updated by the NLNA from time to time with the amended or updated Terms being available on the NLNA website.
- l. Words importing natural persons include partnerships, bodies corporate, associations, governments and governmental and local authorities and agencies.
- m. Wherever "include" or any form of that word is used, it must be construed as if it were followed by "(without being limited to)".
- n. A failure or delay by the NLNA in exercising any right conferred on the NLNA under these Terms does not operate as a waiver of the right.
- o. You must not transfer, assign, create an interest in or deal in any other way with any of its rights under these Terms without the prior written consent of the NLNA.
- p. Except to the extent these Terms provides otherwise, nothing in these Terms may be construed as creating a relationship of partnership, of principal and agent or of trustee and beneficiary.

Source: <https://www.nlna.com.au/terms-and-conditions/>

15 June 2020, 10:37AM

\*

I, the undersigned, desire to become a subscriber of the above-mentioned forms and agree, if elected, to be bound by the constitution and Rules of such Associations. I also agree that if at any time I wish to resign from NLNA, I must do so in writing as per the Constitution and Rules. The above particulars are true in every respect.