

Constitution

of

The Crane Industry Council of Australia

(ACN 002 565 773)

(A Company Limited By Guarantee)

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**DAMIEN J SMITH LAWYERS & CONSULTANTS
Level 1, 21 Burwood Road, Hawthorn Vic 3122
Ph: (03) 9819 6799 · Fax: (03) 9819 2593
Email: smithdj@enterprisecare.com.au**

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1. NAME

1.1 The name of the company is The Crane Industry Council of Australia (hereinafter called “the Company”).

2. COMPANY

2.1 The Company is a company limited by guarantee.

3. LEGAL CAPACITY AND POWERS

3.1 The Company has the legal capacity and, subject to the provisions of the Act, all the rights, powers and privileges of a natural person

3.2 Provided that the Company shall not support with its funds any activity or endeavour to impose on or procure to be observed by its Members or others any regulations or restrictions, which if an object of the Company would make it a trade union within the meaning of the Trade Unions Act.

4. OBJECTS

4.1 The objects of the Company are:

- (a) To promote, advance, encourage, co-ordinate and liaise on the activities of the Australian Crane Industry in concert with all industry stakeholders.
- (b) To consult, advise or assist Government or Public Authorities in formulating and implementing regulations relating to sound technical vehicle safety and design as it applies to the use of cranes and associated equipment within Australia.
- (c) To promote safety awareness within the industry.
- (d) To collect and circulate information relating to the Australian Crane industry and to issue such publications as may be deemed necessary or desirable.
- (e) To consider all questions connected with the Australian Crane Industry and advise thereon and to take such action or adopt such attitude in relation thereto as the Council sees fit in the interests of the Industry and to obtain as far as possible consistency or unification of legislation and regulations as between the States and Territories of Australia.
- (f) To do all such lawful things as are incidental or conducive to the above objects or any of them.

5. MEMBER CONTRIBUTION

5.1 The liability of the Members is limited by guarantee.

5.2 Each Member undertakes to contribute an amount as may be required not exceeding one hundred dollars (\$100) to the property of the Company in the event of the Company being wound up:

- (a) at a time when that person is a Member; or
- (b) within one year of the time that person ceased to be a Member,

for:

- (c) payment of the debts and liabilities of the Company contracted before that person ceased to be a Member;
- (d) payment of the costs, charges and expenses of winding-up the Company; and
- (e) adjustment of the rights of the contributories amongst themselves.

6. REPLACEABLE RULES

- 6.1 Except where the contrary intention appears in this Constitution, an expression in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Act, has the same meaning as in the provision of the Act.
- 6.2 The replaceable rules referred to in the Act are displaced by this Constitution.

7. DEFINITIONS

- 7.1 In this Constitution

“Act” means the Corporations Act 2001 (Commonwealth).

“AGM” means the Annual General Meeting of Members.

“Article” means an article of this Constitution.

“Board” means the board of directors of the Company, which is constituted by the persons who hold office as directors, from time to time.

“Business Day” means a day except a Saturday, Sunday or public holiday in New South Wales.

“Cessation Event” means:

- (a) death or bankruptcy of that Member; or
- (b) that Member becoming of unsound mind or becoming a person whose property is liable to be dealt with under a law about mental health.

“Directors” mean the directors of the Company for the time being.

“Expulsion Event” means, in respect of a Member:

- (a) the Member has intentionally, recklessly or negligently breached a provision of this Constitution;
- (b) the conduct of the Member, in the opinion of the Directors, is unbecoming of the Member or prejudicial to the interests or reputation of the Company; or
- (c) the Member is, or any step is taken for the Member to become, either an insolvent under administration.

“Fees” means a fee or levy payable by Members as determined by Members from time to time in General Meeting.

“General Meeting” means a meeting of the Members of the Company.

“Industry” means the Crane Industry of Australia.

“Industry Forum” means the body established under this Constitution.

“Legal Costs” of a person means legal costs incurred by that person in defending an action for a Liability of that person.

“Liability” of a person means a liability incurred by that person as an officer of the Company or a subsidiary of the Company.

“Member” means a person whose name is entered in the Register as a Member of the Company.

“Notice” means a notice given pursuant to, or for the purpose of, this Constitution or the Act.

“Prescribed Notice” means 21 days or any shorter period of notice for a meeting allowed under the Act.

“Register” means the register of Members kept under the Act.

“Relevant Officer” means a person who is, or has been, a Director or Secretary.

“Resolution” means a resolution other than a special resolution

“Seal” means the common seal of the Company and includes any official seal of the Company

“Secretary” means any person appointed to perform the duties of Secretary of the Company and includes an Honorary Secretary

“Special Resolution” means a resolution:

- (d) of which notice has been given; and
- (e) that has been passed by at least 75% of the votes cast by Members entitled to vote on the resolution

“State” means the State of New South Wales.

8. INTERPRETATION

8.1 In this Constitution:

- (a) a reference to a meeting of Members includes a meeting of any category of Members;
- (b) a Member is taken to be present at a meeting of Members if the Member is present in person; or
- (c) a reference to a notice or document in writing includes a notice or document given by fax, email or any other form of written communication.

8.2 In this Constitution, headings are for convenience only and do not affect interpretation and unless the context indicates a contrary intention:

- (a) a reference to a function includes a reference to a power, authority or duty;

- (b) a reference to the exercise of a function includes, where the function is a power, authority or duty, a reference to the exercise of the power or authority of the performance of the duty;
- (c) words importing the singular include the plural (and vice versa);
- (d) words indicating a gender include every other gender;
- (e) the word “person” includes an individual, the estate of an individual, a corporation, unincorporated enterprise, sole trader, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust operating within or connected with the Australian Crane Industry;
- (f) where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning; and
- (g) the word “includes” in any form is not a word of limitation.

8.3 Unless the context indicates a contrary intention, in this Constitution:

- (a) a reference to an Article is to an article of this Constitution; and
- (b) a reference to this Constitution, is to this Constitution (and where applicable any of its provisions) as modified or repealed from time to time.

8.4 Unless the context indicates a contrary intention, in this Constitution, a reference to any statute or to any statutory provision includes any statutory modification or re-enactment of it or any statutory provision substituted for it, and all ordinances, by-laws, regulations, rules and statutory instruments (however described) issued under it.

8.5 Unless the context indicates a contrary intention, in this Constitution:

- (a) an expression that deals with a matter dealt with by a provision of the Corporations Act has the same meaning as in that provision; and
- (b) an expression that is defined in the Act has the same meaning as in that section.

8.6 Expressions referring to “writing” shall unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form.

9. EXERCISE OF POWERS

9.1 Where this Constitution confers a power or imposes a duty, then, unless the contrary intention appears, the power may be exercised and the duty must be performed, from time to time, as the occasion requires.

10. MEMBERS

10.1 Register and Categories of Members

10.1.1 The Company must keep a Register of Members.

10.1.2 Persons may be admitted from time to time as Members.

10.1.3 Membership in the Company shall be divided into the following categories:

- (a) Member – means a person who has been accepted by the Board;
- (b) Company Life Member – means a person who has been granted life membership of the Company by at least a two-third majority vote of the Directors of the Board.

10.1.4 A Member shall be entitled to:

- (a) vote at general meetings of the Company;
- (b) stand for any office or position within the Company; and
- (c) access member services and benefits.

10.1.5 A Company Life Member shall only be entitled to:

- (a) vote at general meetings of the Company;
- (b) access member services and benefits; and
- (c) be a member of the Industry Forum.

10.2 **Application for Membership**

10.2.1 Every applicant for membership of the Company:

- (a) must complete a Membership Application; and
- (b) lodge that Membership application together with the prescribed annual fee.

10.2.2 At the next meeting of the Board after application for membership, such application shall be considered by the Board, who shall thereupon determine upon the admission or rejection of the applicant. In no case shall the Board be required to give any reason for the rejection of an applicant.

10.2.3 When an applicant has been accepted for membership the Secretary shall forthwith send to the applicant written notice of the acceptance. Upon payment of the first annual subscription the applicant shall become a Member of the Company, provided nevertheless that if such payment were not made within two calendar months after the date of the notice, the Board may in its discretion cancel its acceptance of the applicant for membership of the Company.

10.3 **Membership not transferable**

10.3.1 The rights and privileges of any Member shall attach to the person and not be transferable.

10.4 **Subscriptions**

10.4.1 The entrance fee and annual subscription payable by Members of the Company shall be such as the Company in general meeting shall from time to time prescribe, provided that until the Company shall otherwise resolve the entrance fee shall be nil and the annual subscription shall be as determined by the Board from time to time.

10.4.2 All annual subscriptions shall become due and payable in advance on the 1st day of July in every year.

11. **CESSATION OF MEMBERSHIP**

11.1 **Ceasing to be a Member**

11.1.1 A person will cease to be a Member if:

- (a) the Member dies;
- (b) the Member resigns in accordance with Article 11.2.1 ;
- (c) the Member is expelled under Article 11.3.1; or
- (d) a Cessation Event occurs in respect of the Member.

11.1.2 The estate of a deceased Member is not released from any liability in respect of that person being a Member.

11.2 **Resignation**

11.2.1 A Member may at any time by giving notice in writing to the Secretary resign their membership of the Company but shall continue to be liable for an annual subscription and all arrears due and unpaid at the date of the resignation and for all other moneys due by them to the Company and in addition for any sum not exceeding one hundred dollars (\$100) for which they are liable as a Member of the Company under Article 10.2.3 of the Constitution.

11.2.2 Unless the notice provides otherwise, a resignation by a Member takes effect immediately on the giving of that notice to the Company.

11.3 **Expulsion or suspension**

11.3.1 Subject to Article 11.3.2 , the Company may expel or suspend a Member by a resolution of the Directors if:

- (a) An Expulsion Event occurs in respect of the Member; and
- (b) The Company gives that Member at least 15 Business Days notice in writing stating the Expulsion Event and that the Member is liable to be expelled or suspended; and informing the Member of their right under Article 11.3.2

11.3.2 If the subscription of a Member shall remain unpaid for a period of two calendar months after it becomes due then the Member may after notice of the default shall have been sent to him by the Secretary be debarred by resolution of the Board from all privileges of membership provided the Board may reinstate the Member on payment of all arrears if the Board thinks fit to do so.

12. **COMPLAINTS AND RESOLUTION OF DISPUTES**

12.1 A complaint must be in writing and contain particulars of the allegations on which it is founded.

12.2 The Board may consider and investigate a complaint even if it does not comply with these requirements but must not refer the complaint until they are complied with.

12.3 **Where to lodge complaints**

12.3.1 A complaint made to the Board is to be lodged with the Secretary.

12.4 **Further particulars may be required from complainant**

12.4.1 The Board may require the complainant to provide further particulars of a complaint.

12.5 **Committee**

12.5.1 If, in the opinion of the Board, it is expedient to appoint a committee of the Board to make, or to assist in making, an investigation into the complaint, it shall appoint a committee accordingly, and

shall cause such committee to report to the Board, and the Board may adopt or reject the report, either wholly or in part.

12.6 **Course of action available to the Board on a complaint**

12.6.1 The Board may :

- (a) Dismiss the complaint;
- (b) Determine that no further action should be taken in respect of the complaint.

12.6.2 If the Board does not:

- (a) Dismiss the complaint;
- (b) Determine that no further action should be taken in respect of the complaint – than written notice of the making of the complaint is to be given to the Member against whom the complaint is made.

12.6.3 The notice must be sent by certified mail to the Member's address as shown on the Register of Members.

12.6.4 The Board is to fix a time and place for the hearing and is to give not less than 14 days' notice to the hearing to:

- (a) The Member concerned;
- (b) The complaint, if any.

12.6.5 The Member must be given an opportunity of attending before the Board to defend himself, herself or itself and to meet any of the allegations made in the complaint.

12.6.6 On the hearing on a complaint, the Board may make a finding against a Member if:

- (a) A majority of the Board are of that opinion; or
- (b) The Member who is the subject of the complaint admits it to the Board.

12.7 **Powers of Board**

12.7.1 The Board may:

- (a) Dismiss the complaint;
- (b) Take no action;
- (c) Caution or reprimand the Member;
- (d) Expel the Member;
- (e) Suspend the Member for a fixed period of time.

12.8 **Member to be notified of decision**

12.8.1 The Secretary shall inform the Member of the decision of the Board.

12.9 **Appeal**

- 12.9.1 Any person affected may appeal against a decision by the Board, and the appeal must be dealt with at the next General Meeting thereafter at which:
- (a) The Member concerned has the right to address the General Meeting; and
 - (b) A simple majority decides the question.

13. GENERAL MEETINGS

- 13.1 General Meetings shall be held each year and at such time and place as the Board may determine.
- 13.2 All General Meetings, other than the Annual General Meetings, shall be called Extraordinary General Meetings.
- 13.3 Any member of the Board may whenever he thinks fit convene an Extraordinary General Meeting, and extraordinary general meetings shall be convened on such requisition or in default may be convened as provided by the Act.
- 13.4 A General Meeting must be held at a reasonable time and place.
- 13.5 A General Meeting may be held at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate.
- 13.6 Members shall be entitled to be present at General Meetings.
- 13.7 Subject to the provisions of the Act relating to special resolutions and agreements for shorter notice, fourteen days' notice at the least (exclusive of the day on which the notice is served or deemed to be served, and exclusive of the day for which notice is given) specifying the place the day and the hour of meeting and in case of special business the general nature of that business shall be given to such persons as are entitled to receive such notices from the Company.
- 13.8 For the purpose of Article 13.7 all business shall be special that is transacted at an Extraordinary General Meeting, and also that is transacted at an Annual General Meeting, with the exception of the consideration of the accounts, balance sheets and the report of the Board and Auditors, the election of officers and other Directors of the Board and the appointment of the Auditors, if necessary.

14. PROCEEDINGS AT GENERAL MEETING

- 14.1 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. Save as herein otherwise provided four (4) Members present in person shall be a quorum.
- 14.2 In determining whether a quorum is present, count individuals attending as proxies. However, if a Member has appointed more than one proxy or representative, count only one of them. If an individual is attending both as a Member and as a proxy, count them only once.
- 14.3 If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved; it shall stand adjourned to the same day in the next week at the same time and place, or to such other day and at such other time and place as the Board may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, being-not less than three, shall be a quorum
- 14.4 The President shall preside as Chairman at every general meeting of the Company, or if there is no President, or if he is not present within fifteen minutes after the time appointed for the holding of the meeting or is unwilling to act, the Vice-President shall be the Chairman or if the Vice-President is not present or is unwilling to act then the Members present shall elect one of their number to be Chairman of the meeting.

- 14.5 The Chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 14.6 At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:
- (a) by the Chairman; or
 - (b) by at least three Members present in person or by proxy. Unless a poll is so demanded a declaration by the Chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour or against the resolution. The demand for a poll may be withdrawn.
- 14.7 If a poll is duly demanded it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the Chairman directs, and the result of the poll shall be the resolution of the meeting at which the poll was demanded but a poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith.
- 14.8 In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a second or casting vote.
- 14.9 A Member may vote in person or by proxy or by attorney and on a show of hands every person present who is a Member or a representative of a Member shall have one vote and on a poll every Member present in person or by proxy or by attorney or other duly authorised representative shall have one vote.
- 14.10 A Member who is of unsound mind or whose person or estate is liable to be dealt with in any way under the law relating to mental health may vote, whether on a show of hands or on a poll, by his Board or by his trustee or by such other person as properly has the management of his estate, and any such Board, trustee or other person may vote by proxy or attorney.
- 14.11 No Member shall be entitled to vote at any General Meeting if unfinancial at the date of the meeting.
- 14.12 The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing or, if the appointor is a corporation, either under seal or under the hand of an officer or attorney duly authorised. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll. Unless otherwise instructed the proxy may vote as he thinks fit.
- 14.13 The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the registered office of the Company, or at such other place within the State as is specified for that purpose in the notice convening the meeting, not less than forty-eight hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than twenty-four hours before the time appointed for the taking of the poll and in default the instrument of proxy shall not be treated as valid
- 14.14 A vote given in accordance with the terms of an instrument of proxy or attorney shall be valid notwithstanding the previous death or unsoundness of mind of the principal or revocation of the instrument or of the authority under which the instrument was executed, if no intimation in writing of such death, unsoundness of mind or revocation as aforesaid has been received by the Company at the registered office before the commencement of the meeting or adjourned meeting at which the instrument is used.

14.15 **Business of Annual General Meeting**

14.15.1 An Annual General Meeting must be held at least once in each calendar year and within 5 months after the end of its financial year.

14.15.2 The Board must lay before the Annual General Meeting:

- (a) the financial report; and
- (b) the Board's report; and
- (c) the auditor's report;

for the last financial year that ended before the Annual General Meeting.

14.15.3 The business of an Annual General Meeting may include any of the following:

- (a) to read and confirm the minutes of the last Annual Meeting and any special General Meeting since;
- (b) the consideration of the annual financial report, the Board's report and auditor's report;
- (c) the election of members of the Board;
- (d) the appointment of the auditor;
- (e) the fixing of the auditor's remuneration;
- (f) to deal with notices of motion;
- (g) to deal with special business;
- (h) to transact any such other business as shall be brought forward.

14.15.4 The chair of an Annual General Meeting must allow a reasonable opportunity for the Members as a whole at the meeting to ask questions about or make comments on the management of the Company.

14.16 **Auditors**

14.16.1 If the auditor or his or her representative is at the meeting, the chair of an Annual General Meeting must allow a reasonable opportunity for the Members as a whole at the meeting to ask the auditor or their representative questions relevant to the conduct of the audit and the preparation and content of the auditor's report.

14.16.2 The auditor is entitled to attend any General Meeting.

14.16.3 The auditor is entitled to be heard at the General Meeting on any part of the business of the General Meeting that concerns the auditor in their capacity as auditor.

14.16.4 The auditor is entitled to be heard even if:

- (a) the auditor retires at the General Meeting; or
- (b) the General Meeting passes a resolution to remove the auditor from office.

14.16.5 The auditor may authorise a person in writing as their representative for the purpose of attending and speaking at any General Meeting.

15. DIRECTORS AND OFFICE BEARERS

- 15.1 The Board shall comprise of a minimum of five (5) and a maximum of twelve (12) Directors of whom up to two (2) can be appointed by the Board.
- 15.2 The office bearers of the Company shall consist of a President and a Vice President both of whom shall be Members of the Company.
- 15.3 The Board may consist of the office bearers and eight (8) Directors, of whom there shall be up to but no more than two (2) each from Queensland, New South Wales, Victoria, South Australia and Western Australia, all of whom shall be elected as herein provided, together with up to two (2) further Directors who are to be appointed and neither of the appointed Directors are required to be Members.
- 15.4 At the first annual general meeting of the Company following adoption of this Constitution and at the AGM of the Company in each year thereafter the members of the Board shall be elected by postal vote from among the Members and all members of the Board including the office bearers shall hold office for two (2) years until the next AGM when they shall retire but they shall be eligible for re-election.
- 15.5 The election of office bearers shall take place within two (2) weeks of the AGM and shall be of and from the recently elected Directors of the Board.
- 15.6 The election of members of the Board (other than the appointed directors if any) shall take place in the following manner:
- (a) Any two Members of the Company shall be at liberty to nominate any other Member to serve as a member of the Board;
 - (b) Nominations shall be called for at least 42 (forty two) days before the AGM. The nomination, which shall be in writing and signed by the Member and their proposer and seconder shall be lodged with the Secretary at least 28 (twenty eight) days before the Annual General Meeting at which the election is to take place;
 - (c) A returning officer and two scrutineers must be appointed by the Board to oversee the election of the Directors;
 - (d) A list of the candidates names shall be sent to Members and displayed on the Web site of the Company, and on the noticeboard in the registered office of the Company for at least fourteen (14) days immediately preceding the Annual General Meeting;
 - (e) If there be only the required number of nominees to fill the vacancies, no ballot will be necessary and the Chairman of the Annual General Meeting shall declare those nominees duly elected;
 - (f) Balloting lists shall be prepared (if necessary) containing the names of the candidates, and each voting Member shall be entitled to vote for any number of such candidates not exceeding the number of vacancies;
 - (g) Each Member eligible to and wishing to vote must complete the ballot paper and return it to the Secretary so that the ballot paper is received by the Returning Officer at least seven (7) days prior to the Annual General Meeting;
 - (h) The decision of the returning officer as to the formality or informality of any vote shall be final;
 - (i) The results of the ballot must be announced at the Annual General Meeting and recorded in the minutes of that meeting;

- (j) The candidates with the most number of votes shall be duly elected until all vacancies are filled;
- (k) If two (2) or more candidates for a vacancy obtain an equal number of votes the Chairman of the Annual General Meeting must determine between them by lot which of them shall be excluded.
- (l) In the case where an insufficient number of candidates are nominated, nominations will be accepted from the floor at the meeting and in the case of nominations not being forthcoming the Board shall fill the remaining vacancy or vacancies as a casual vacancy.

- 15.7 The Company may from time to time by ordinary resolution passed at a general meeting increase or reduce the number of office bearers or other members of the Board.
- 15.8 The Board shall have power at any time, and from time to time, to appoint any member to the Board, either to fill a casual vacancy or as an addition to the existing office bearers or other members of the Board but so that the total number at any time shall not exceed the number fixed in accordance with these articles. Any office bearer or other member of the Board so appointed shall hold office only until the next following annual general meeting.
- 15.9 The Company may by ordinary resolution of which special notice has been given remove any office bearer or other member of the Board before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead; the person so appointed shall hold office only until the next following annual general meeting.
- 15.10 The office of a member of the Board shall become vacant if the Member:
- (a) becomes bankrupt or makes any arrangement or composition with his creditors generally;
 - (b) becomes prohibited from being a director of a company by reason of any order made under the Act;
 - (c) ceases to be a member of the Board by operation of the Act;
 - (d) 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
 - (e) resigns his office by notice in writing to the Company; or
 - (f) ceases to be a Member of the Company.

Provided always that nothing in this Paragraph shall affect the operation of Article 20.2 to 20.3 of the Constitution of the Company.

16. POWERS AND DUTIES OF THE BOARD

- 16.1 The Company must be managed by or under the direction of and controlled by the Board.
- 16.2 The Board has and may exercise the functions conferred or imposed on it by or under the Constitution.
- 16.3 Without prejudice to and without limiting the powers conferred by the Constitution, the Board shall have the power to do any of the following:
- (a) open and maintain a bank account or bank accounts to be operated by such person or persons whether members of the Board or not as it shall from time to time determine;

- (b) appoint any staff as may be necessary;
- (c) employ and superannuate officers and employees;
- (d) review staff position annually;
- (e) publish and distribute information concerning the Constitution and the regulations to Members and other interested persons;
- (f) do all such other things that are in the opinion of the Board incidental to or conducive to the attainment of the objects of the Company;
- (g) do all things necessary to give effect to the powers contained in the Constitution.

16.4 The members of the Board may, by power of attorney, appoint any person or persons to be the attorney or attorneys of the Company for such purposes, with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the members of the Board), for such period and subject to such conditions as they think fit.

16.5 Any such power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorney as the members of the Board think appropriate and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in him or her.

16.6 All acts done by any meeting of the Board or of a committee of the Board or by any person acting as a member of the Board are, notwithstanding that it is afterwards discovered that there was some defect in the appointment of a person to be a member of the Board or a member of the committee, or to act as a member of the Board, or that a person so appointed was disqualified, is valid as if the person had been duly appointed and was qualified to be a member of the Board or to be a member of the committee.

16.7 **Board Meetings**

16.7.1 The Board must meet not less than four (4) times per annum for the transaction of ordinary business.

16.7.2 The President or any two members of the Board giving reasonable notice to the members of the Board may call a Board meeting.

16.7.3 The conduct of business at the meetings of the Board is, subject to the Constitution, as determined by the Board.

16.7.4 A Board meeting may be called or held using any technology consented to by all the members of the Board. The consent may be a standing one. A member of the Board may only withdraw their consent within a reasonable period before the meeting.

16.7.5 The President or, in the absence of the President, a Vice-President or in the absence of both of them, another member of the Board elected to chair the meeting by the members of the Board present, is to preside at a meeting of the Board.

16.7.6 Except as otherwise provided by the Constitution, the quorum for a meeting of the Board is five (5), and the quorum must be present at all times during the meeting.

16.7.7 If the total number of members of the Board is not enough to make up that quorum, then the Board may only act for the purpose of increasing the number of members of the Board to make up a quorum or for convening a General Meeting.

16.7.8 A decision of the Board must be passed by a majority of the votes cast by the members of the Board entitled to vote on the resolution.

- 16.7.9 In case of an equality of votes, the chair has a casting vote if necessary in addition to any vote they have in their capacity as a member of the Board.
- 16.7.10 A member of the Board is not entitled to vote in respect of any contract or proposed contract with the Company in which he or she is in any way, whether directly or indirectly, interested or in respect of any matter arising out of such a contract or proposed contract and, if he or she votes in contravention of this Article, his or her vote shall not be counted.
- 16.7.11 If all the members of the Board have signed a document containing a statement that they are in favour of a resolution in terms set out in the document, a resolution in those terms shall be deemed to have been passed at a meeting of the Board held on the day on which the document was signed and at the time at which the document was last signed by a member of the Board or, if the members of the Board signed the document on different days, on the day on which, and at the time at which, the document was last signed by a member of the Board.
- 16.7.12 The members of the Board may pass a resolution without a Board meeting being held if all the members of the Board entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- 16.7.13 Separate copies of a document may be used for signing by the members of the Board if the wording of the resolution and statement is identical in each copy.
- 16.7.14 The resolution is passed when the last the member of the Board signs.
- 16.7.15 Passage of such a resolution must be recorded in the minutes.
- 16.8 **Secretary**
- 16.8.1 The Board is to appoint the Secretary.
- 16.8.2 The Secretary must consent in writing to holding the position of Secretary .
- 16.8.3 The Secretary has and may exercise such functions as are conferred or imposed on the Secretary by or under the Constitution.
- 16.8.4 The Secretary is responsible for performing such duties as pertain to his or her office.
- 16.8.5 The same person may be both a member of the Board and the Secretary
- 16.8.6 The Board may, from time to time, appoint a person to act as Secretary during the illness or absence of the Secretary, and the person, while so acting, has and may exercise all the functions of the Secretary and is taken to be the Secretary .
- 16.8.7 The Secretary may delegate to a person the exercise of:
- (a) any of the functions of the Secretary under the Constitution, other than this power of delegation; or
 - (b) any functions delegated to the Secretary by the Board, unless the Board otherwise provides in its instrument of delegation to the Secretaries.
- 16.8.8 The Secretary may resign by giving written notice of the resignation to the Company.
- 16.9 **Chief Executive Officer**
- 16.9.1 The Chief Executive Officer shall be appointed by the Board in accordance with the Act but otherwise for such term, and upon such conditions as the Board thinks fit.

- 16.9.2 The Chief Executive Officer may also act as Secretary.
- 16.9.3 The Association shall be managed by the Chief Executive Officer who may exercise all powers of the Association which are not, under the Act or this Constitution, required to be exercised by the Board or in General Meeting.
- 16.9.4 The Chief Executive Officer shall manage the Association under the direction of the Board and in accordance with this Constitution, the regulations and all policies of the Association.
- 16.10 **Delegation and Committees**
- 16.10.1 The Board may delegate any of its powers to a committee of the Board consisting of such members of the Board as the Board decides.
- 16.10.2 A committee must exercise the powers delegated to it in accordance with any directions of the Board.
- 16.10.3 The effect of the committee exercising a power in this way is the same as if the Board exercised it.
- 16.10.4 The delegation must be recorded in the minute book.
- 16.10.5 The members of such a committee may elect one of their number as chair of their meetings.
- 16.10.6 The procedure for the calling of meetings of any such committee and for the conduct of business at those meetings is as determined by the Board or (subject to any direction of the Board) by the committee.
- 16.10.7 A committee may meet and adjourn as it thinks proper.
- 16.10.8 Questions arising at a meeting of a committee shall be determined by a majority of votes of the members present and voting.
- 16.10.9 In the case of an equality of votes, the chair, in addition to his or her deliberative vote (if any), has a casting vote.
- 16.10.10 The Board may delegate to the Secretary or any other person the exercise of any of its functions, other than this power of delegation.

17. INDUSTRY FORUM

- 17.1 The Industry Forum shall consist of:
- (a) the State Presidents of the respective State Crane Industry Associations or their nominee;
 - (b) up to three (3) nominated persons from each of the State Crane Industry bodies;
 - (c) the Board; and
 - (d) any of the Company Life Members.
- 17.2 The Industry Forum shall have the power to:
- (a) act as a forum for considering the views of Members at large;
 - (b) participate in the strategic planning process;
 - (c) broadly comment on initiatives of the Company;

- (d) suggest to the Board matters that can be placed on the Industry Forum's annual agenda; and
- (e) consider any matter referred to it by the Board.

- 17.3 The Chairperson of the Industry Forum shall be the President for the time being of the Company or their nominee.
- 17.4 The Industry Forum shall meet at least once per year and that meeting can coincide with the holding of the Conference.
- 17.5 At meetings of the Industry Forum each participant will have one vote.
- 17.6 Each Member of the Industry Forum shall assume their duties at the time of a meeting of the Industry Forum and shall continue as a Member until expiry of his or her position as aforesaid unless such Member:
- (a) ceases to be a Member for any reason; or
 - (b) tenders his or her resignation from such office; or
 - (c) dies or becomes of unsound mind; or
 - (d) is removed from office by resolution of the Members at an AGM; or
 - (e) is found guilty by the Disciplinary Committee of an offence; or
 - (f) becomes a bankrupt under administration; or
 - (g) misses the face-to-face meeting and fails to show good cause to the Board.
- 17.7 Positions on the Industry Forum may be created or removed by the special resolution of the Membership in general meeting.

18. MINUTES

- 18.1 The Company must keep minute books in which it records:
- (a) proceedings and resolutions of General Meetings;
 - (b) proceedings and resolutions of Board meetings (including meetings of a committee of the Board);
 - (c) resolutions passed by members of the Board without a meeting.
- 18.2 The members of the Board must ensure that the minutes of a meeting are signed within a reasonable time after the meeting by one of the following:
- (a) the chair of the meeting;
 - (b) the chair of the next meeting.
- 18.3 The members of the Board must ensure that a member of the Board signs minutes of the passing of a resolution without a meeting within a reasonable time after the resolution is passed.
- 18.4 A minute that is so recorded and signed shall be conclusive evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.

19. COMMON SEAL AND EXECUTION OF DOCUMENTS

19.1 The Company may execute a document without using a common seal if the document is signed by:

- (a) two members of the Board;
- (b) a member of the Board and the Secretary .

19.2 If the Company has a seal:

- (a) the members of the Board shall provide for its safe custody of the seal;
- (b) it may only be used only with the authority of the members of the Board, or of a committee of the members of the Board authorised by the members of the Board to authorise the use of the seal.

19.3 The Company also may execute a document if the seal is fixed to the document and the fixing of the seal is witnessed by:

- (a) two members of the Board;
- (b) a member of the Board and the Secretary .

19.4 The Company may execute a document as a deed if the document is expressed to be executed as a deed and is executed in accordance with Articles 19.1 or 19.2, but this does not limit the ways in which the Company may execute a document (including a deed).

19.5 A member of the Board may sign an instrument to which the seal of the Company is affixed even though the member of the Board is interested in the contract or arrangement to which the instrument relates.

19.6 A person acting with the Company's authority and on its behalf can exercise the Company's power to sign, discharge and otherwise deal with contracts.

20. FINANCIAL REPORTS AND PROPERTY

20.1 The Board must apply the income and property of the Company solely towards the promotion of the objects of the Company as set forth in this Constitution and none of it may be paid or transferred, directly or indirectly, to Members, either by dividend, bonus or otherwise.

20.2 No member of the Board shall be paid any salary or fees or receive any remuneration or other benefit in money or money's worth from the Company unless approved at the AGM.

20.3 Articles 20.1 and 20.2 do not prevent the Board in good faith authorising:

- (a) the payment of:
 - (i) reasonable and proper remuneration or fees to any Member or employee for any goods or services provided or rendered to the Company;
 - (ii) any debt or any reasonable and proper fees to any member of the Board under a contract between the Company and that member of the Board for the provision of goods or services which are outside the scope of the ordinary duties of a director;
 - (iii) reasonable and proper rent for premises demised or let to the Company by any Member (including a member of the Board);

- (iv) interest at a rate not exceeding the lowest rate paid for the time being by the Company's bank in respect of term deposits on money borrowed from any Member (including a member of the Board);
- (b) the reimbursement of any member of the Board for out-of-pocket expenses properly incurred:
 - (i) in attending and returning from Board meetings or any meetings of committees of members of the Board;
 - (ii) in attending any General Meetings; and
 - (iii) in connection with the Company's business.

20.4 All payments to members of the Board must be approved at a meeting of the Board.

20.5 The Board shall cause proper accounting and other records to be kept and shall distribute copies of every profit and loss account and balance sheet (including every document required by law to be attached thereto) accompanied by a copy of the Auditors report thereon as required by the Act provided, however that the Board shall cause to be made out and laid before each annual general meeting a balance sheet and profit and loss account made up to date not more than five months before the date of the meeting.

20.6 The Board shall from time to time determine in accordance with the Constitution at what times and places under what conditions or regulations the accounting and other records of the Company shall be open to the inspection of Members.

21. AUDIT

21.1 A properly qualified Auditor or Auditors shall be appointed and their duties regulated in accordance with the Act.

22. NOTICE

22.1 A notice may be given by the Company to any Member by sending it by post to the address for the Member in the register of Members or the last address of the person known to the Secretary or the alternative address, if any, nominated by the Member .

22.2 A notice of a General Meeting sent by post is taken to be given 3 days after the letter is posted.

22.3 A notice sent by fax, e-mail or other electronic means is taken to be given on the business day after it is sent.

22.4 Notice of every general meeting shall be given in any manner hereinbefore authorised to:

- (a) every Member except those Members who (having no registered address within the State) have not supplied to the company an address within the State for the giving of notices to them; and
- (b) the auditor or auditors for the time being of the Company.

No other person shall be entitled to receive notices of general meetings.

23. DISSOLUTION AND WINDING UP

- 23.1 If upon the dissolution or winding-up of the Company there remains, after the satisfaction of all its debts and liabilities, any property whatever, the same shall not be paid to or distributed among the Members, but shall be given or transferred to some other fund, authority or institution:
- (a) having objects similar to the objects of the Company;
 - (b) which prohibits the distribution of its income and property to a similar extent to that imposed on the Company under Article 20.1; and
 - (c) which is a fund, authority or institution approved by the Commissioner of Taxation of the Commonwealth of Australia as a fund, authority or institution covered by the Income Tax Assessment Act 1997 (as amended).
- 23.2 That fund, authority or institution may to be determined by the Members at or before the time of dissolution, and insofar as effect cannot be given to such provision, then to some other charitable object which satisfies the criteria prescribed by Article 23.1.

24. INDEMNITY

- 24.1 Every member of the Board, Auditor, Secretary, or other officer for the time being shall be indemnified out of the assets of the Company against any liability incurred by that person arising out of the execution of the duties of his office which is incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in that person's favour or in which he is acquitted or in connection with any application under the Act in which relief is granted to him by the Court in respect of any negligence default breach of duty or breach of trust.

25. BY -LAWS AND REGULATIONS

- 25.1 The Company may at a General Meeting pass a resolution (not being a special resolution) making, altering or revoking a by-law or regulation dealing with:
- (a) the rights or obligations of Members; or
 - (b) other matters –
- which are not specified by the Constitution or the Act.
- 25.2 A by-law or regulation, which, directly or indirectly, is inconsistent with a provision of the Constitution or the Act, is invalid.
- 25.3 A copy of every alteration or addition made to the by-laws or regulations is to be sent to every Member at his or her last known address.
- 25.4 The omission, unless wilfully made, to send a copy or the non-receipt of it does not invalidate the alteration or addition.
- 25.5 The Board is the sole authority for interpreting the by-laws and regulations.

26. ADOPTION AND MODIFICATION OF CONSTITUTION

- 26.1 The Members may modify or repeal the Constitution, or a provision of the Constitution, by special resolution passed at either an Annual General Meeting or at an Extraordinary General Meeting.
- 26.2 A notice of the proposed alterations must be provided by properly addressing, prepaying, and posting a letter to every Member at least 30 days prior to the date of the meeting.

- 26.3 Date of effect of adoption, modification or repeal of Constitution. A special resolution adopting, modifying or repealing the Constitution takes effect:
- (a) if no later date is specified in the resolution, then on the date on which the resolution is passed; or
 - (b) on a later date specified in, or determined in accordance with, the resolution.

26.4 The Company must send a copy of the Constitution to a Member within 15 working days if the Member:

- (a) asks the Company, in writing, for the Copy; and
- (b) pays any fee (up to the prescribed amount) required by the Company.

27. TRANSITION PROVISION

27.1 Upon the adoption of this Constitution an interim Board shall be appointed, for a maximum of two (2) years, comprising of Members of the Company as follows:

- (a) The President and Vice President are to be the same persons as President and Vice President at the start of the AGM; and
- (b) The outgoing Directors under the preceding Constitution who are prepared to offer themselves to be appointed to the position as Directors on the Board; and
- (c) In the event of the Board being less than eight (8) in number then the various State Crane Industry Associations may put forward the name of the respective State nominee to become a Director and if there are more names than vacancies their names will be drawn by lot to bring the number of Directors of the Board up to eight (8); and
- (d) At the next AGM up to four (4) of those serving on the Board and its predecessor the longest shall retire and if eligible can offer themselves for election.