



THE NETWORK OF ALCOHOL AND OTHER DRUGS AGENCIES INCORPORATED

CONSTITUTION

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1. DEFINITIONS

1.1 In this Constitution:

Accreditation means:

- (a) before 29 November 2022, accreditation as an alcohol and other drug provider with an acceptable quality improvement provider, as determined by the Board acting reasonably; or
- (b) from 29 November 2022 onwards, accreditation as an alcohol and other drug provider under the National Quality Framework for Drug and Alcohol Treatment Services,

and **Accredit** has the corresponding meaning.

ACNC Regulation means Australian Charities and Not-for-profits Commission Regulation 2013 (Cth).

Act means the *Associations Incorporation Act 2009* (NSW).

AGM or **Annual General Meeting** means the annual general meeting that NADA is required to hold in accordance with the Act.

Associate Member means a Member in the Membership class set out in clause 4.4.4.

Board Committee means a committee of the Board established under clause 6.1.8.

Board of Directors or **Board** means the committee required to be established under the Act to govern the affairs of NADA.

By-Laws means by-laws of NADA under clause 6.1.6.

Chair means the chair of NADA appointed under clause 6.4.1(a).

Chief Executive Officer means the NADA chief executive officer appointed by the Board.

Constitution means this constitution as amended or supplemented from time to time.

Delegate means an Ordinary Member's delegate under clause 4.5.2(a).

Department means the Department of Finance, Services and Innovation.

Deputy-Chair means the deputy-chair of NADA appointed under clause 6.4.1(b).

Director means a committee member under the Act (and includes both Elected Directors and Independent Directors).

Elected Director means a Director elected by the Members pursuant to clause 6.3.1.

Independent Director means a Director appointed by the Board pursuant to clause 6.3.4.

Member means a Member of NADA under clause 4 (and includes both Associate Members and Ordinary Members), and **Membership** has the corresponding meaning.

Membership Fee means the subscription fee payable by Members pursuant to clause 4.7.

NADA means the incorporated association under the *Associations Incorporation Act 2009* (NSW), named Network of Alcohol And Other Drugs Agencies Incorporated (Registration Number Y0296130).

Office Bearer means an office bearer appointed under clause 6.4 (and includes both the Chair and the Deputy-Chair).

Officer means:

- (a) a Director;

- (b) a person:
 - (i) who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of NADA;
 - (ii) who has the capacity to affect significantly NADA's financial standing; or
 - (iii) in accordance with whose instructions or wishes the Board is accustomed to act;
- (c) a receiver, or receiver and manager, of the property of NADA;
- (d) an administrator of NADA;
- (e) a liquidator of NADA; or
- (f) a trustee or other person administering a compromise or arrangement made between NADA and someone else.

Ordinary Member means a Member in the Membership class set out in clause 4.4.3.

Public Officer means the public officer of NADA pursuant to section 34 of the Act.

Regulation means the Associations Incorporation Regulation 2022 (NSW).

Secretary means—

- (a) the Commissioner for Fair Trading in the Department, or
- (b) if there is no such position in the Department, the Secretary of the Department.

Special General Meeting means a general meeting of NADA other than an Annual General Meeting.

Special Resolution means a special resolution under section 39 of the Act, which complies with clauses 7.2 and 7.3.

1.2 In this Constitution:

- (a) A reference to a function includes a reference to a power, authority, and duty, and
- (b) A reference to the exercise of a function includes, if the function is a duty, a reference to the performance of the duty.

1.3 The provisions of the *Interpretation Act 1987* (NSW) apply to and in respect of this Constitution in the same manner as those provisions would so apply if this Constitution were an instrument made under the Act.

2. NAME

The name of the association is Network of Alcohol and Other Drugs Agencies Incorporated.

3. OBJECTS

The objects of NADA shall be to support non-government drug and alcohol organisations in NSW and the ACT to reduce the alcohol and drug related harm to individuals, families and the community. NADA will achieve this object by:

- 3.1 representing and advocating for the interests of the non-government alcohol and other drugs sector in NSW and the ACT;

- 3.2 contributing to the development of evidence-based policy for the alcohol and other drugs sector at state and national levels;
- 3.3 providing data and information management services to the non-government alcohol and other drugs sector in NSW and the ACT;
- 3.4 developing and facilitating partnerships between the non-government alcohol and other drugs sector and a wide range of government and other agencies that support the sector; and
- 3.5 supporting organisational capacity and workforce development of the non-government alcohol and other drugs sector in NSW and the ACT.

4. MEMBERSHIP

4.1 GENERAL

4.1.1 Register

- (a) A register of Members (whether in written or electronic form) shall be maintained specifying:
 - (i) the name, postal and email address of each organisation which is a current Member of NADA, or an organisation which stopped being a Member in the last seven years;
 - (ii) the date on which the organisation became a Member; and
 - (iii) in the case of a former Member, the date on which it ceased to be a Member.
- (b) The register of Members shall be kept at the main premises of NADA.
- (c) The NADA Membership database and Member-related information is available to all Members on the NADA website.
- (d) If the register of Members is kept in electronic form:
 - (i) it must be convertible into hard copy, and
 - (ii) the requirements of subclauses (b) and (c) apply as if a reference to the register of Members is a reference to a current hard copy of the register of Members.

4.1.2 Entitlements not transferable

- (a) A right, privilege or obligation which an organisation has by reason of being a Member of NADA is not transferable.
- (b) Rights, privileges, or obligations are terminated on cessation of the organisation's Membership.

4.2 MEMBERS LIABILITY

The liability of a Member to contribute towards the payment of the debts and liabilities of NADA, or the costs, charges, and expenses of the winding up of NADA is limited to the amount, if any, of any unpaid Membership Fee.

4.3 APPLICATION FOR MEMBERSHIP

- 4.3.1 Application for Ordinary and Associate Membership shall be made in writing to NADA's nominated officer using the prescribed application form.

- 4.3.2 Application for Membership must be endorsed by a current Ordinary Member of NADA, demonstrating endorsement on the prescribed application form.
- 4.3.3 Where an organisation satisfies the conditions to be an Ordinary Member, it cannot apply for, or maintain status as an Associate Member.
- 4.3.4 The Chief Executive Officer (or another person appointed by the Chief Executive Officer for that purpose) shall submit applications for Membership to the Board for consideration at the next Board meeting.
- 4.3.5 Where an application for Membership is approved by the Board, the Chief Executive Officer (or another person appointed by the Chief Executive Officer for that purpose) shall inform the applicant and notify the applicant of the Membership Fee payable.
- 4.3.6 An applicant is entered into the register of Members and becomes a Member of NADA once approved by the Board.
- 4.3.7 If the Board rejects a Membership application, the Board will not be required to provide the applicant with any reasons for the rejection, and there will be no rights of appeal.

4.4 MEMBERSHIP CATEGORIES

- 4.4.1 An organisation is qualified to be a Member of NADA if:
- (a) it agrees with the objects of NADA;
 - (b) it is a not for profit, non-government organisation registered as a charity by the Australian Charities and Not-for-profits Commission;
 - (c) satisfies the criteria for the relevant class of Membership;
 - (d) it is a body formed or incorporated within the state of New South Wales or the Australian Capital Territory; and
 - (e) has been approved for Membership by the Board.
- 4.4.2 There shall be two (2) categories of NADA Membership:
- (a) Ordinary Member; and
 - (b) Associate Member.
- 4.4.3 Ordinary Membership shall be available to organisations whose mission or purpose includes to reduce alcohol and drug related harm to individuals, families, and the community. The organisation must provide evidence-based drug and alcohol services and be Accredited.
- 4.4.4 Associate Membership shall be available to organisations whose mission or purpose includes to reduce alcohol and drug related harm to individuals, families, and the community. The organisation must provide evidence-based drug and alcohol services and have a formal quality improvement program but not yet be Accredited.
- 4.4.5 An organisation (as identified by its Australian Business Number) shall only be permitted to hold up to one Membership.
- 4.4.6 Notwithstanding clause 4.4.3, Ordinary Members as the date of adoption of this Constitution in 2022 who are not yet Accredited and wish to obtain Accreditation may do so by 31 December 2023, without

losing current Ordinary Membership status and privileges. Ordinary Members who fail to obtain Accreditation by 31 December 2023 will be categorised as Associate Members from 1 January 2024.

4.5 PRIVILEGES AND OBLIGATIONS

4.5.1 All Ordinary Members and Associate Members are entitled to the services provided by NADA and to participate in the Association's Board Committees.

4.5.2 Ordinary Members:

- (a) are entitled to appoint a Delegate with one vote at NADA meetings (and may remove or replace that Delegate at any time). An alternate Delegate may be nominated to represent the Ordinary Member where the primary Delegate is unable to attend a meeting; and
- (b) may nominate persons to stand for and be elected to the Board.

4.5.3 Associate Members are entitled to attend but may not vote at NADA meetings, or nominate persons to stand for and be elected to the Board.

4.5.4 Obligations

- (a) Ordinary Members and Associate Members are obliged to:
 - (i) pay Membership Fees when due;
 - (ii) comply with the provisions of this Constitution; and
 - (iii) attend general meetings of NADA where possible.
- (b) Ordinary Members and Associate Members are obliged to provide NADA with details of:
 - (i) their address, including details of changes within 21 days of relocation;
 - (ii) the name and contact details of their nominated Delegate and alternate Delegate under clause 4.5.2(a); and
 - (iii) such other information as determined by the Board.

4.6 CESSATION OF MEMBERSHIP

4.6.1 Dissolution or insolvency of Member

If a Member is:

- (a) dissolved or otherwise ceases to exist; or
- (b) has:
 - (i) a receiver;
 - (ii) a receiver and a manager;
 - (iii) a liquidator;
 - (iv) an administrator;
 - (v) an administrator of a deed of company arrangement; or
 - (vi) a trustee or other person administering a compromise or arrangement between the Member and someone else,

appointed to it, then it shall cease to be a Member of NADA.

4.6.2 Resignation

A Member of NADA may resign from Membership of NADA by first giving to the Chief Executive Officer (or another person appointed by the Chief Executive Officer for that purpose) written notice of at least one month (or such other period as the Board may determine) of the Member's intention to resign and, on the expiration of the period of notice, Membership ceases.

4.6.3 Failure to renew Membership

A Member shall cease to be a Member of NADA if its Membership Fee is not paid within the period defined at clause 4.7.3, and a deferment or waiver of fees has not been granted under clause 4.7.4.

4.6.4 Expulsion by NADA

- (a) A Member shall cease to be a Member if the Board passes a resolution that the Member has:
 - (i) persistently refused or neglected to comply with a provision of this Constitution;
 - (ii) acted in a manner detrimental to the interests of NADA and its Members: or
 - (iii) is no longer qualified to be a Member per the requirements of clause 4.4.1,and if the Board passes such a resolution, it must serve the Member with a notice of the expulsion.
- (b) As an alternative to expelling a Member, the Board may resolve to suspend a Member's membership.
- (c) A Member may appeal against the decision to expel or suspend the Member by written notification of the appeal to the Chief Executive Officer within 14 days after the expulsion or suspension notice has been served, in which case the expulsion or suspension shall be stayed until the appeal is determined under subclause (d).
- (d) The Board shall convene within 28 days after the appeal has been received to determine continuation or otherwise of the Membership.
- (e) At the meeting of the Board held under clause 4.6.4(d), the Member the subject of the resolution will have the opportunity to attend and make verbal representations, or to submit written representations before the meeting.
- (f) Natural justice will be applied throughout any process under this clause 4.6.4.

4.6.5 Relinquishment of privileges and obligations

Cessation of Membership of NADA relinquishes all Membership privileges and obligations.

4.6.6 Notification

Cessation of Membership shall be confirmed in writing by NADA to any organisation which ceases to be a Member under this clause 4.6.

4.7 MEMBERSHIP FEE

4.7.1 Membership Fees are payable per each financial year, that being 1st July to 30th June.

4.7.2 Rates

- (a) The Board shall determine the rates of Membership Fees taking into consideration the costs of service delivery to Members, and access and equity issues across the Membership.
- (b) The Membership Fees shall be clearly defined and made available to all interested parties.

4.7.3 Payment of Membership Fees

- (a) Notice of Membership Fees due shall be provided to Members at the cessation of each financial year and are due within one month of notice being provided.
- (b) New Members during a financial year shall pay Membership Fees *pro rata* for the remaining financial year.
- (c) Members failing to pay Membership Fees within one month of notice being issued shall be provided with a second notice of Membership Fees due, with requirement to pay within a further one month.
- (d) Failure to pay Membership Fees after the second notice and set time period shall result in suspension or cessation of Membership, at the discretion of the Board.

4.7.4 Waiver or delay of fees

- (a) Written request for a delay in payment of Membership Fees or a waiver of Membership Fees may be made by a Member to the Chief Executive Officer, within one month of the notice of Membership Fees, outlining the circumstances for which the Member is unable to pay Membership Fees at that time.
- (b) Approval for a deferment in payment of Membership Fees or a waiver of Membership Fees shall be determined by the Chief Executive Officer in consultation with the Board.
- (c) Written notification of approval or otherwise for a deferment in payment of Membership Fees or a waiver of Membership Fees shall be provided to the Member.

4.8 DISPUTES BETWEEN MEMBERS

4.8.1 Disputes between Members (in their capacity as Members) will be referred to the Board, which must take steps to resolve the dispute.

4.8.2 If either party is not satisfied with the resolution of the dispute within thirty (30) days of referral to the Board, then that party may refer the dispute to mediation, with the mediator being agreed to by the parties to the dispute.

4.8.3 If the parties to the dispute are unable to agree on the mediator, then the mediator will be appointed by the President of the Law Society of New South Wales, with the costs of the mediator being shared equally by the parties to the dispute.

5. GENERAL MEETINGS

5.1 The Board may from time to time call general meetings.

5.2 The Annual General Meeting shall be held:

- (a) within six (6) months after the close of NADA's financial year, or
- (b) within such later time as may be allowed by the Secretary or prescribed by the Regulation.

5.3 At least fourteen (14) days before the Annual General Meeting, or any other general meeting, a notice of such meeting and an agenda of the business to be transacted shall be posted to Members. In the case of general meetings where a Special Resolution is to be proposed, notice of the meeting shall be given to Members at least twenty-one (21) days before the meeting.

- 5.4 A general meeting of NADA may be held at two (2) or more venues using any technology that gives each of the Members a reasonable opportunity to participate.
- 5.5 The Board may cancel a general meeting of NADA:
- (a) convened by the Board; or
 - (b) which has been called by Members under clause 5.9, upon receipt of a written notice withdrawing the requisition from those Members.
- 5.6 In the case of the Annual General Meeting the following business shall be transacted:
- (a) Welcome to Country;
 - (b) Confirmation of minutes of the last Annual General Meeting and any Special General Meeting held since that meeting;
 - (c) Presentation of the annual report, audited financial statements, and the Board of Directors report upon the activities of NADA in the last financial year;
 - (d) Election of Directors of the Board as required by clause 6.3.16.3.1 of this Constitution;
 - (e) Appointment of an auditor for the ensuing year; and
 - (f) To decide on any resolutions submitted to the meeting.
- 5.7 Copies of the Board report, balance sheet, statement of accounts for preceding year, estimate for current year, and any additional financial statements as required under the Act shall be made available to any Member upon request in the seven (7) days preceding the Annual General Meeting.
- 5.8 The Board may convene a Special General Meeting at any time.
- 5.9 A Special General Meeting must be convened by the Board within one (1) month of receiving a written request to do so from at least 15% of the Ordinary Members which:
- (a) states the purpose or purposes of the meeting;
 - (b) is signed by the Ordinary Members making the requisition;
 - (c) is lodged with the Chief Executive Officer (or another person appointed by the Chief Executive Officer for that purpose); and
 - (d) may consist of several documents in a similar form, each signed by one or more of the Ordinary Members making the requisition.
- 5.10 If the Board fails to convene a Special General Meeting to be held within one (1) month after that date on which a requisition of Ordinary Members for the meeting is lodged with the Chief Executive Officer (or another person appointed by the Chief Executive Officer for that purpose), any one or more of the Ordinary Members who made the requisition may convene a Special General Meeting to be held not later than three (3) months after the date of the requisition.
- 5.11 Terms or resolutions for discussion at general meetings (including Annual General Meetings and Special General Meetings) must be submitted in writing by Ordinary Members to the Chief Executive Officer (or another person appointed by the Chief Executive Officer for that purpose), provided that such submissions are received no later than three (3) weeks before the general meeting. The Board shall determine whether such items will be placed on the agenda to be discussed at the relevant general meeting.
- 5.12 The quorum for all meetings of NADA shall be as follows:
- (a) at the time of commencement of the meeting, there shall be present at least 20% of all Ordinary Members who are entitled to vote at the meeting;

- (b) once a quorate meeting has commenced, the business of the meeting may be conducted and transacted notwithstanding that the number of Ordinary Members present falls below 20% of all Ordinary Members; and
- (c) notwithstanding the above provision, the quorum in relation to any resolution or Special Resolution before any meeting which relates to the change, alteration or variation of the Constitution (not the By-Laws) shall be 25% of all Ordinary Members who are entitled to vote at the meeting.

5.13 MAKING OF DECISIONS

5.13.1 Voting at general meetings, including the Annual General Meeting shall be by a show of hands unless a secret ballot is demanded. Decisions shall be made by a simple majority vote except for those matters which must be decided by Special Resolution, where a three-quarters majority is required.

5.13.2 Each Ordinary Member organisation has one (1) vote on a resolution.

5.13.3 Votes shall be given personally. If the Delegate of an Ordinary Member cannot attend a general meeting, that Ordinary Member can vote by proxy given in writing to their alternate Delegate, or any other Delegate.

5.13.4 An instrument of proxy is valid if it contains the following information:

- (a) the name and address of the appointor;
- (b) the name of NADA;
- (c) the proxy's name or the name of the office of the proxy; and
- (d) the meeting at which the instrument of proxy may be used.

5.13.5 Save as provided otherwise by this Constitution, all questions and resolutions shall be decided by a majority of votes.

5.13.6 In the case of an equality of votes, the meeting chair shall have a further casting vote in addition to a casting vote.

5.13.7 An Ordinary Member who has failed to pay their Membership Fees in accordance with clause 4.7.3(d) shall have no vote.

5.13.8 Business shall be conducted on normal meeting procedures, except where this is inconsistent with the provisions of this Constitution.

5.13.9 NADA may hold a postal or electronic ballot (as the Board determines) to determine any issue or proposal. A postal or electronic ballot is to be conducted in accordance with Schedule 3 to the Regulation.

5.14 CHAIR

The Chair shall chair each general meeting. In the absence of the Chair or if the Chair is unwilling or unable to chair the meeting, then the following person will chair the meeting in lieu of the Chair:

- (a) Deputy-Chair; or
- (b) in the absence of the Deputy-Chair or if the Deputy-Chair is unwilling or unable to chair the meeting, another Director chosen by the Members present at the meeting; or
- (c) if the Directors are unwilling or unable to chair the meeting, a Delegate chosen by the Members present at the meeting.

5.15 AUDIT

In relation to NADA's audit:

- (a) The auditor(s) shall be elected at the Annual General Meeting. The auditor(s) shall examine all relevant financial records and provide a report to the Members at the Annual General Meeting.
- (b) The auditor should be an independent contractor engaged by the Board.
- (c) Subject to subclause (d), notice of the intention to nominate an auditor to replace the current auditor shall be given to the Chief Executive Officer at least twenty-one (21) days before the Annual General Meeting. The Chief Executive Officer shall send a copy of the nomination to the current auditor at least seven (7) days before the Annual General Meeting and if the auditor so wishes they should be heard at such Annual General Meeting.
- (d) Where the current auditor submits their resignation or notifies the Chief Executive Officer of his/her intention not to seek re-election as auditor, subclause (c) shall not apply. A vacancy occurring in the office of auditor during the year shall be filled by the Board.

6. BOARD OF DIRECTORS

6.1 FUNCTION AND POWERS

6.1.1 Subject to the Act, the Regulation, and this Constitution, the Board of Directors:

- (a) is to govern the strategy, risk management and financial affairs of NADA;
- (b) may exercise all such functions as may be exercised by NADA, other than those functions that are required by this Constitution to be exercised by a general meeting of Members of NADA; and
- (c) has power to perform all such acts and do all such things as appear to the Board to be necessary or desirable for the governance of the affairs of NADA.

6.1.2 The Board shall consist of at least nine (9) and up to eleven (11) Director positions, in accordance with clause 6.1.3.

6.1.3 The Board shall consist of:

- (a) up to nine (9) Elected Directors; and
- (b) up to two (2) Independent Directors.

6.1.4 The Board shall meet as often as necessary to conduct the business of NADA, provided that it meets not less than six (6) times annually. The Board may meet in-person or using technology.

6.1.5 The quorum for the Board shall be six (6) Directors.

6.1.6 The Board may from time to time make, repeal, and amend any such By-Laws (not inconsistent with this Constitution) as they shall deem expedient for the management and well-being of NADA. All By-Laws made by the Board of Directors under this clause, shall remain lawful and operative until repealed by the Board.

6.1.7 In relation to funds management, all deposits, transfers, and payments will be detailed in the financial reporting for the organisation and be ratified by the Board.

6.1.8 The Board may delegate in writing to one or more Board Committees (consisting of such Ordinary Members or Associate Members of NADA as the Board deems appropriate) responsibility to progress

business of the Board. The Board may require any decisions made by the Board Committee to be approved at full Board meetings.

6.2 DECISION-MAKING

Questions arising at any meeting of the Board shall be decided by the majority of votes of those present. In case of any equality of votes the person appointed to chair the meeting shall have a second or casting vote.

6.3 ELECTION AND APPOINTMENT OF DIRECTORS

- 6.3.1 Nine (9) Elected Directors of the Board shall be elected by NADA Ordinary Members through an AGM.
- 6.3.2 Up to one person emanating from, and nominated by, an Ordinary Member can be an Elected Director at any given time.
- 6.3.3 Normally, the Ordinary Member's Delegate is the person eligible to be nominated as an Elected Director, but the Delegate may choose to nominate another person from the relevant Member to be nominated as an Elected Director.
- 6.3.4 Up to two (2) Independent Directors may be appointed by the other Directors at a properly constituted meeting of the Board after the AGM to ensure the Board has a broader perspective in skills terms and a diversity of representation in line with best governance practice.
- 6.3.5 The term of every Director position is three (3) years. At the conclusion of their term, Directors are entitled to seek re-election and reappointment subject to clause 6.3.6. The term of:
- (a) an Elected Director commences at the conclusion of the AGM at which the Director is elected and continues until the conclusion of the third AGM following the Director's election and appointment. This includes the term of an Elected Director who was first appointed to fill a causal vacancy in accordance with clause 6.5.2; and
 - (b) an Independent Director ends on the third anniversary of the Board meeting at which the Director was elected.
- 6.3.6 All Directors may only serve two (2) terms in succession, after which they are ineligible to be elected as any category of Director for a period of thirty six (36) months.
- 6.3.7 Nominations of candidates for election as an Elected Director shall be received by the Chief Executive Officer another person appointed by the Chief Executive Officer for that purpose no later than thirty-five days (35) days before the AGM.
- 6.3.8 Nominations of candidates for election as an Elected Director must be made in writing, signed by one Ordinary Member and accompanied by the written consent of the candidate and the Member from which that nominee emanates.
- 6.3.9 If the number of nominations received is equal to the number of vacancies to be filled in the election, the persons nominated are taken to be elected, and the AGM will note their election.
- 6.3.10 If insufficient nominations are received to fill the vacancies on the Board which are to be filled at the election, the candidates nominated are taken to be elected and further nominations may be received at the AGM.
- 6.3.11 If insufficient further nominations are received, any vacant positions remaining on the Board are taken to be casual vacancies.
- 6.3.12 If the number of nominations received exceeds the number of vacancies to be filled at the election, a ballot is to be held at the AGM.
- 6.3.13 A returning officer, who is independent from NADA Membership, shall be appointed by the chair to conduct the taking of the ballot for Board positions at the AGM.

6.3.14 The returning officer, after counting the votes, shall declare the Directors elected. In the event of a tie, the returning officer will hold another ballot between the tied candidates. In the event of another tie, clause 5.13.6 will apply.

6.3.15 The decision of the returning officer shall be final and binding in respect of all matters affecting the election.

6.4 OFFICE BEARERS

6.4.1 The Board shall, at its first meeting after an Office Bearer position, has become vacant, appoint a replacement Office Bearer from among the Directors sitting on the Board to be:

- (a) the Chair;
- (b) the Deputy-Chair; or
- (c) such other Office Bearer positions as the Board deems necessary from time to time.

6.4.2 The Office Bearers will hold office for terms of up to three (3) years each, as determined by the Board on appointment, but may be reappointed, so long as an Office Bearer does not hold office for longer than their term as a Director.

6.5 CASUAL VACANCIES

6.5.1 In the event of a casual vacancy occurring on the Board, the Board may appoint a person to take their place. To be clear, notwithstanding clause 6.1.2 provided there are at least 6 Directors the Board may meet to fill a casual vacancy.

6.5.2 Where the vacancy is for an Elected Director, the Board may choose a person emanating from an Ordinary Member to fill the vacancy, and the person so appointed is to hold office, subject to this Constitution, until the conclusion of the next AGM following the date of the appointment. At that AGM, an election shall be held to fill any remaining term of the vacating Director (if any).

6.5.3 Where the vacancy for an Independent Director, the Board may appoint any person who satisfies the requirements of clause 6.3.4 to fill the vacancy. That person will hold office for a fresh term in accordance with this Constitution.

6.5.4 A casual vacancy in the office of a Director occurs if the Director:

- (a) dies;
- (b) becomes a mentally incapacitated person;
- (c) is prohibited from being a director of a company under the Act or the *Corporations Act 2001* (Cth);
- (d) is prohibited from being a responsible person of a registered entity under the ACNC Regulation;
- (e) is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for not less than three months;
- (f) resigns office by notice in writing to NADA;
- (g) is absent without the consent of the Board from three (3) consecutive Board meetings, unless the Board resolves to allow the Director to remain on the Board;
- (h) is the subject of a resolution being passed by a two-thirds (2/3) majority of Ordinary Members present at a general meeting of NADA specially called for the purpose to remove the individual from office;
- (i) holds any office of profit under NADA;

- (j) has ceased employment with that organisation or have been relieved of their duties; or
- (k) emanated from a Member organisation which has since ceased to be a Member of NADA.

6.6 CONFLICTS OF INTEREST

6.6.1 All Directors must:

- (a) disclose to the Board any actual or potential conflicts of interest which may exist, or be thought to exist in relation to the affairs of NADA as soon as they become aware of the issue; and
- (b) take any necessary and reasonable measures to try to resolve the conflict.

6.6.2 If a Director has disclosed an interest in a matter under clause 6.6.1, then that Director may only be present for any discussions or deliberations regarding that matter and/or vote if permitted to do so under section 31 of the Act (meaning that the Directors without that interest must have approved of that Director being present and/or voting).

6.7 BOARD MEETINGS

6.7.1 The Chair shall chair each Board of Directors meeting. In the absence of the Chair, then the following person will chair the meeting in lieu of the Chair:

- (d) Deputy-Chair; or
- (e) in the absence of the Deputy-Chair or if the Deputy-Chair is unwilling or unable to chair the meeting, another Director chosen by the Directors present at the meeting.

6.7.2 The Board should make decisions during Board meetings using consensus wherever possible.

6.7.3 Where consensus is not possible, Directors should vote with a show of hands. If the vote is tied, the chair of the meeting shall have the casting vote in addition to any deliberative vote.

6.7.4 There will be no proxy voting permitted for Board decisions, and no alternate Directors.

6.7.5 Decisions on urgent matters can be made "out of session" (outside of Board meetings) by email between sufficient Directors to constitute quorum. Any such decisions must be reported in the minutes of the next Board meeting.

7. SPECIAL RESOLUTIONS

7.1 A Special Resolution must be passed at a general meeting of NADA to effect the following:

- (a) Change of NADA's name;
- (b) Change of NADA's Constitution;
- (c) An amalgamation with another incorporated association, including:
 - (i) an amalgamation under the Act;
 - (ii) transferring a substantial part of NADA's assets and/or operations to another organisation; or
 - (iii) NADA receiving a substantial part of another organisation's assets and/or operations;
- (d) Voluntarily winding up NADA and distributing its property; and
- (e) Applying for registration as a company or a cooperative.

- 7.2 A Special Resolution shall be passed in the following manner:
- (a) A notice in writing must be sent to all Members advising that a general meeting is to be held to consider a Special Resolution;
 - (b) The notice must give details of the proposed Special Resolution, including a statement to the effect that the resolution is intended to be passed as a Special Resolution, and give at least twenty-one (21) days' notice of the meeting;
 - (c) A quorum must be present at the meeting;
 - (d) At least three quarters (3/4) of the Ordinary Members present at the meeting who validly vote on the Special Resolution must vote in favour; and
 - (e) In situations where it is not possible for a resolution to be passed as described above, a request may be made to the Secretary for permission to pass the resolution in some other way.
- 7.3 A Special Resolution cannot be passed by a postal vote.

8. PUBLIC OFFICER

- 8.1 The Public Officer is required to:
- (a) Apply to the Secretary for registration of a change in NADA's name, objects or Constitution in accordance with section 10 of the Act;
 - (b) Keep custody or control all records, books and other documents relating to NADA;
 - (c) Establish and maintain a register of Members of NADA in accordance with clause 4.1.1.
 - (d) Inform the Secretary of any change in their residential address.
- 8.2 The Chief Executive Officer is the Public Officer unless otherwise decided by the Board.
- 8.3 The Board may, at any time, remove the Public Officer and appoint a new Public Officer provided the person is 18 years of age or older and a resident of New South Wales.
- 8.4 The Public Officer shall be deemed to have vacated their position in the following circumstances:
- (a) Death;
 - (b) Resignation;
 - (c) Removal by the Board or at a general meeting;
 - (d) Bankruptcy;
 - (e) Mental incapacitation; and
 - (f) Residency outside New South Wales.

- 8.5 When a vacancy occurs in the position of Public Officer, within twenty-eight (28) days the Board shall appoint a new Public Officer and notify the Secretary.

9. MISCELLANEOUS

9.1 INSURANCE

NADA may contract and maintain insurance.

9.2 FUNDS SOURCE

9.2.1 The funds of NADA shall be derived from the Membership Fee, donations, grants and such other sources approved by NADA.

9.2.2 All monies received by NADA shall be deposited at the earliest possible date to the credit of NADA's bank account.

9.3 FUNDS MANAGEMENT

9.3.1 The assets and income of NADA shall be applied to further NADA's objects, and no portion shall be distributed directly or indirectly to the Members of NADA, except as:

- (a) bona fide compensation for services rendered;
- (b) reimbursement for expenses incurred on behalf of NADA; or
- (c) where the Member accesses funds which were provided to NADA by government or another funding body for the purpose of distribution to Member organisations.

9.3.2 All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by any two (2) Directors or employees of NADA, being Directors or employees authorised to do so by the Board.

9.4 DISSOLUTION

9.4.1 In the event of NADA being dissolved or wound up, any assets supplied by the government or any unexpended grant must be returned to the department that provided it.

9.4.2 Any other assets that remain after dissolution and the satisfaction of all debts and liabilities, cannot be paid or distributed amongst Members, subject to clause 9.4.4.

9.4.3 Any such distribution of surplus property:

- (a) are to be determined by the Board or, if they determine, by the Ordinary Members in general meeting, at or before the time of dissolution and in default by application to the court;
- (b) must be approved by the Secretary, and
- (c) must be transferred to another association with similar purposes and which is charitable, which is not carried on for the profit or gain of its individual members.

9.4.4 In the event that a Member satisfies the requirements of clause 9.4.3(c), it may receive the surplus under that clause.

9.5 SERVICE OF DOCUMENTS

9.5.1 Services of documents on NADA is effected by serving them on the Public Officer.

9.5.2 In this Constitution, a notice may be served on or given to a person:

- (a) by delivering it to the person personally; or
- (b) by sending it by pre-paid post to the address of the person; or
- (c) by sending it by some form of electronic transmission to an address specified by the person for giving or serving the notice.

9.5.3 In this Constitution, a notice is taken, unless the contrary is proved, to have been given or served:

- (a) given or served personally, on the date on which it is received by the addressee; and
- (b) sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post; and
- (c) sent by some form of electronic transmission, on the date it was sent or, if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.

9.6 RETENTION AND INSPECTION OF DOCUMENTS

9.6.1 All records, books, financial documents, Board minutes and general meeting minutes of NADA are to be stored at the usual premises of NADA.

9.6.2 The following documents may be sent free of charge by email to Members at their request:

- (a) Annual reports and financial reports of NADA.
- (b) This Constitution.
- (c) Minutes of all general meetings of NADA.

9.7 INDEMNITY

9.7.1 To the extent permitted by law:

- (a) NADA indemnifies every person who is or has been an Officer against any liability for costs or expenses incurred by that person in defending any proceedings in which judgment is given in that person's favour, or in which the person is acquitted, or in connection with an application in relation to any proceedings in which the Court grants relief to the person under the law; and
- (b) NADA indemnifies every person who is or has been an Officer against any liability incurred by that person as an Officer to another person (other than NADA or a related body corporate of NADA) unless the liability arises out of conduct involving a lack of good faith.

9.7.2 NADA may pay, or agree to pay, a premium in respect of a contract insuring a person who is or has been an Officer against a liability:

- (a) incurred by the person in their capacity as an Officer or in the course of acting in connection with the affairs of NADA or otherwise arising out of the Officer's holding such office provided that the liability does not arise out of conduct involving a wilful breach of duty in relation to NADA, or a contravention of governance standard 5 in section 45.25 of the ACNC Regulation; or

- (b) for costs and expenses incurred by that person in defending proceedings, whatever their outcome.

9.8 FINANCIAL YEAR

The financial year of NADA is the 12-month period from 1st July to 30th June.