

*Omond & Co*

## Constitution

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of

**Wine Communicators of Australia  
Limited**

**ACN**

**A Company Limited by Guarantee  
and not having a Share Capital**

*Corporations Act, 2001*

Omond & Co  
15B Merton Street  
Albert Park Victoria 3205  
Tel + 61 (0) 3 9682 6688  
Fax + 61 (0) 3 9682 6466  
Our Ref JLO

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**Constitution**  
of  
**Wine Communicators of Australia Limited**  
(ACN \* \* \*)  
**A Company Limited by Guarantee**  
**and not having a Share Capital**

**1. Preliminary**

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**1.1 Definitions**

In this Constitution, unless the context otherwise requires:

**"Advisory Committee"** means an advisory committee as appointed by the Board pursuant to clause 13.10(b)(iii);

**"Alliance Partner"** means a person or corporation appointed by the Board pursuant to clause 15.4;

**"Audit Committee"** means the audit committee as appointed by the Board pursuant to clause 13.10(b)(i);

**"Board"** means the directors acting as a board of directors;

**"By-Laws"** means the administrative rules to be used in conjunction with the Constitution for managing the affairs of the Company made by the Board pursuant to Rule 28 of the Constitution;

**"Chairman"** means the Chairman of the Board appointed pursuant to clause 11.5;

**"Chief Executive Officer"** means the person appointed by the Board by Resolution pursuant to clause 16.1;

**"Company"** means Wine Communicators of Australia Limited;

**"Corporate Member"** means a member specified in the Members' Register as a Corporate Member;

**"Deductible Gift Recipient"** has the meaning given to it by the *Income Tax Assessment Act 1997 (Cth)*;

**"Directors" or "Director"** means the Directors of the Company from time to time;

**"Executive Committee"** means the executive committee as appointed by the Board pursuant to clause 13.10(b)(iv);

**"Financial Year"** has the same meaning as in the Law;

**"Gift Fund"** means a fund maintained for the Objectives in accordance with section 30-125 of the *Income Tax Assessment Act 1997 (Cth)*;

**"Income Tax Exempt Entity"** means an entity endorsed as exempt from income tax under Subdivision 50-B of the *Income Tax Assessment Act 1997 (Cth)*;

**"Law"** means the *Corporations Act 2001 (Cth)*;

**"Member"** means a person who is granted membership in the Company and registered in the Members' Register;

**"Members' Register"** means the register of Members to be kept in accordance with the Law;

**"month"** means calendar month;

**"Office"** means the registered office for the time being of the Company;

**"Original Member"** means the original members of the Company as at the date of incorporation of the Company;

**"Patron"** means the person appointed by the Board pursuant to clause 15.4;

**"related body corporate"** has the same meaning as in the Law;

**"replaceable rules"** means the provisions of the Law which would but for the Constitution apply as replaceable rules under section 141 of the Law;

**"Resolution"** means a Resolution other than a Special Resolution;

**"Seal"** means the common seal of the Company or, where appropriate, the duplicate seal or the official seal;

**"Secretary"** means a person appointed as secretary from time to time;

**"Special Resolution"** means subject to the Law, a Resolution that has been passed by at least 75% of the votes cast by Members entitled to vote on the Resolution;

**"State"** means a State of the Commonwealth of Australia

**"State Chapter"** means the sub group of the members of the company, who are resident in a particular State and registered as such;

**"in writing"** or **"written"** includes printing, lithography, photography and other means of representing or reproducing words in a visible form.

**"Deputy Chairman"** means Deputy Chairman of the Board appointed pursuant to clause 11.5;

## **1.1 Interpretation**

In this Constitution, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) words importing a gender include every gender;
- (c) references to the Law, any section, regulation or schedule of the Law or any other legislation are references to that law as amended, consolidated, supplemented or replaced;
- (d) headings are for convenience only and must be ignored in interpreting this Constitution; and
- (e) references to any person include references to any individual, company, body corporate, association, partnership, firm, joint venture, trust or government agency.

## **1.2 Constitution subject to the Law**

This Constitution is subject to the Law and where there is any inconsistency between a clause and the Law, the Law prevails to the extent of the inconsistency.

## **1.3 Replaceable Rules not to apply**

The Replaceable Rules are displaced by this Constitution and do not apply to the Company.

## **2. Company Limited by Guarantee**

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### **2.1 Liability of Members Limited**

The liability of the Members of the Company is limited.

### **2.2 Guarantee by Members**

Every Member undertakes to contribute an amount not exceeding \$20.00 to the property of the Company, in the event of the Company being wound up while he or she is a Member or within 1 year after ceasing to be a Member, for:

- (a) payment of the debts and liabilities of the Company contracted before ceasing to be a Member;
- (b) payment of the costs, charges and expenses of winding up the Company; and
- (c) adjustment of the rights of the contributories among themselves.



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### **3. Objectives of the Company**

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- (a) The objectives of the Company are to operate as a not-for-profit business, wine community-focused organisation, committed to being the independent organisation of wine professionals.
- (b) Without limiting the generality of Clause 3(a), the objectives and purposes of the Company include:
  - (i) to be the preeminent international organisation connecting business professionals working with wine;
  - (ii) to provide a professional, convivial and enjoyable forum for the interchange of ideas and knowledge among people involved in wine;
  - (iii) to deliver essential, insightful information, resources and thought leadership toward the sustainable, development of a world class Australian wine industry;

### **4. Income and Property**

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The income and property of the Company wherever derived will be applied towards the promotion of the objects of the Company as set out in this Constitution and no portion will be paid or transferred directly or indirectly by way of dividend bonus or otherwise to Members of the Company, except as bona fide compensation for services rendered or expenses incurred on behalf of the Company.

### **5. Deductible Gift Recipient and Income Tax Exempt Entity**

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#### **5.1 Deductible Gift Recipient**

- (a) The Company may seek to become and remain a Deductible Gift Recipient.
- (b) The Company must if it becomes a Deductible Gift Recipient notify the Australian Taxation Office if it ceases to be entitled to be endorsed as a Deductible Gift Recipient.

#### **5.2 Income Tax Exempt Entity**

- (a) The Company may endeavour to become and remain an Income Tax Exempt Entity.
- (b) If the Company becomes an Income Tax Exempt Entity it must notify the Australian Taxation Office if there is a material change in the purposes or activities of the Company such that it ceases to be entitled to be endorsed as an Income Tax Exempt Entity.

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## 6. Membership

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### 6.1 Application for membership

A person may apply for membership in such form as the Board may from time to time prescribe.

### 6.2 Admission to membership

- (a) Every applicant for membership of the Company (other than those specified in the Company's application for registration) must:
- (i) be an individual, partnership, corporation or organisation that:
    - (A) is interested in and agrees to support the purposes and activities of the Company;
    - (B) agrees to abide by this Constitution as amended from time to time; and
    - (C) meets any additional criteria established for membership in the Company as may be adopted by the Board and approved by the Members from time to time; and
  - (ii) sign an application for membership, including the required guarantee, in such form as may from time to time be prescribed by the Company.
- (b) At the next meeting of the Board after the receipt of any application for membership, that application will be considered by the Board, which will determine upon the admission or rejection of the applicant. In no case is the Board required to give any reason for the rejection of an applicant.
- (c) Upon consent of the Board by resolution, the applicant will become a Member of the Company.
- (d) The Secretary must enter in the Members' Register the name of any person admitted as a Member.

### 6.3 Rights and privileges of membership

Without limiting any other rights conferred on Members, Members have the right to receive notice of, attend and vote at any general meeting of the Company.

### 6.4 Variation of Members' rights

If at any time the membership of the Company is divided onto different classes of Members, the rights attached to any class may, subject to the Law, be varied or cancelled, unless otherwise provided by this Constitution or by the terms of grant of membership of that class, only by:

- (a) Special Resolution passed at a meeting of the class of members whose rights are being varied or cancelled; or

- (b) the written consent of members with at least 75% of the votes in the class.

In relation to any meeting to approve that special Resolution:

- (c) the necessary quorum is the members present personally or by proxy attorney or representative and entitled to vote in respect of at least 5% of the class; and
- (d) the provisions contained in this Constitution relating to notice of meetings, the appointment of a chairman and of proxies, attorneys and representatives, the depositing and form and validity of proxies and the conduct of general meetings will otherwise apply to any meeting of a class.

## **6.5 Cessation of membership**

- (a) A Member may at any time, by giving notice in writing to the Secretary, resign their membership of the Company but will continue to be liable for any annual subscription and all arrears due and unpaid as at the date of their resignation and for all other moneys due by them to the Company and in addition for any sum not exceeding \$20.00 for which they are liable as a Member of the Company under clause 2.2.
- (b) Unless all the Members unanimously agree otherwise, a person will cease to be a Member if any Member wilfully refuses or neglects to comply with the provisions of this Constitution or is guilty of conduct which in the opinion of the Board is prejudicial to the interests of the Company, the Board has the power by Resolution to censure, fine, suspend or expel the Member from the Company.

## **7. General Meetings**

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### **7.1 Annual general meetings**

Subject to the Law, a general meeting of the Company called the annual general meeting must be held at least once in every calendar year no later than five months after the end of the financial year of the Company. All other meetings of the Company will be called general meetings and may be convened at any time.

### **7.2 Deemed holding of annual general meeting**

An annual general meeting will be deemed to have been held if the Company has held a general meeting at which Resolutions have been passed dealing with all matters required to be dealt with at an annual general meeting, but this does not affect the obligation to hold an annual general meeting as required by the Law or this Constitution.

### **7.3 Convening of general meetings**

In relation to the convening of general meetings:

- (a) the Board may convene general meetings to be held at any place the Directors think fit; and

- (b) a general meeting must be convened by the Directors as soon as practicable following a requisition of Members in the manner provided for by the Law.

#### **7.4 Notice of general meetings**

Except as permitted by the Law, at least fourteen (14) days' notice of every general meeting (or if the meeting is one at which it is proposed to pass a Special Resolution, at least twenty-one days' (21) notice) must be given in the manner provided by this Constitution to the Members entitled to attend, and the persons entitled under this Constitution to receive notices.

#### **7.5 Contents of notice of general meetings**

- (a) Every notice convening a general meeting must set out:
- (i) the place, date and time for the meeting (and if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this);
  - (ii) the rights of and requirement for a Member to appoint a proxy;
  - (iii) be accompanied by an instrument of proxy in the form which complies with the Law, and this Constitution or in any other form as the Directors may from time to time prescribe or accept; and
  - (iv) otherwise comply with the requirements of section 249L of the Law.

#### **7.6 Omission to give notice**

Except as prescribed by the Law, the accidental omission to give notice of a meeting to any Member or the non-receipt of notice of a meeting by any Member will not invalidate any of the proceedings at that meeting.

### **8. Proceedings at General Meeting**

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#### **8.1 Member deemed to be present**

A Member may attend a general meeting at which it is entitled to be present, and is deemed to be present, in any of the following ways:

- (a) in person;
- (b) by attorney;
- (c) by proxy;
- (d) in the case of a Member that is a body corporate, by a representative appointed by section 250D of the Law.

## **8.2 Business at annual general meeting**

The business of an annual general meeting will be:

- (a) to receive and consider the profit and loss account and balance sheet and the reports of the Directors and of the auditors and the statement of the Directors;
- (b) to appoint Directors in place of any retiring Director or any Director whose office will be vacated by virtue of clause 12.1(b) or 12.4; and
- (c) to transact any other business which may be properly brought before the meeting.

## **8.3 Quorum for general meeting**

No business will be transacted at any general meeting unless a quorum is present at the beginning of the business. A quorum is constituted by 5 Members of the Company present in person or by attorney or proxy.

## **8.4 Representative of body corporate**

Where:

- (a) a person present at a meeting is authorised to act as the representative of a body corporate at the meeting under an authority given by the body corporate under Section 250D of the Law; and
- (b) the person is not otherwise entitled to be present at the meeting,

the body corporate will, for the purposes of this Constitution, be deemed to be present in person at the meeting.

## **8.5 No quorum**

If a quorum is not present within 30 minutes after the time appointed for the meeting, any meeting convened on a requisition of Members is dissolved but any other meeting stands adjourned to the same day in the next week at the same time and place or to any other day, time and place as the Directors may appoint by notice to the Members. If at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the adjourned meeting, then those Members who are present in person are deemed to be a quorum and may transact the business for which the meeting was called.

## **8.6 Chairman of general meeting**

The Chairman or, in the Chairman's absence, a Deputy Chairman (if any) is entitled to take the chair at every general meeting. If there is no Chairman or if at any meeting the Chairman is not present within fifteen minutes after the time appointed for holding the meeting or if the Chairman is unwilling to act, the Directors present may choose a Chairman. If the Directors do not choose a Chairman, the Members present must choose one of the Directors to be Chairman and if no Director is present or willing to take the chair, the Members must choose someone to be Chairman.

## **8.7 Powers of Chairman**

At any general meeting, a declaration by the Chairman that a Resolution or Special Resolution has been carried or carried by a particular majority or not carried and a recording of that declaration in the minute book will be conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against that Resolution or Special Resolution.

## **8.8 Adjournment of general meeting**

The Chairman of a general meeting may, with the consent of the meeting, adjourn the meeting from time to time and from place to place, but only business left unfinished at the original meeting may be transacted at the adjournment.

## **8.9 Notice of adjourned meeting**

If any general meeting is adjourned for more than twenty-one days, a notice of the adjournment must be given to Members of the Company entitled to attend, in the same manner as notice was or ought to have been given of the original meeting. In the case of all other adjournments, it is not necessary to give notice of an adjournment or of the business to be transacted at an adjourned meeting.

# **9. Voting**

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## **9.1 Resolution determined by majority**

At a general meeting, unless otherwise required by this Constitution or the Law:

- (a) all questions submitted to the meeting will be decided by a simple majority of votes;
- (b) in the first instance, voting will be on a show of hands. A poll may be demanded on any question before the close of the meeting by the Chairman, any Member, or their proxy, attorney or representative. The Chairman must decide in each case the manner in which a poll will be taken, and the result of the poll will 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 will be taken immediately. Any dispute relating to the admission or rejection of a vote must be determined by the Chairman and the Chairman's determination made in good faith will be final and conclusive. The demand for a poll may be withdrawn.

## **9.2 Votes**

- (a) On a show of hands or poll, every person present as a Member and entitled to vote, or as a representative, proxy or attorney of a Member and entitled to vote, will have one vote.
- (b) 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 will be entitled to a second or casting vote.
- (c) A Member may vote in person or by proxy.

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- (d) 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 or her committee or trustee or by such other person as properly has the management of his or her estate, and any such committee, trustee or other person may vote by proxy.
  - (e) No Member is entitled to vote at any General Meeting if the Member's annual subscription (if any) is more than 2 months in arrears at the date of the meeting.
  - (f) the Company may hold a meeting of its Members at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate.

### **9.3 Attorney of Member**

Any Member may appoint an attorney to act on their behalf at all meetings of the Company or all meetings of the Company during a specified period. Before the first meeting at which the attorney acts on the Member's behalf, a power of attorney must be deposited at the Office or at any place specified in the notice convening that meeting. At the first meeting and at any subsequent meeting to which the power of attorney may relate, the attorney must hand to the Chairman of the meeting a properly executed declaration of non-revocation of the power of attorney.

## **10. Proxies**

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### **10.1 Instrument appointing proxy**

The instrument appointing a proxy must be in writing signed by the appointor or by the appointor's attorney properly authorised in writing, or, if the appointor is a body corporate, under its common seal or signed by at least two of its officers.

### **10.2 Deposit of proxy with Company**

- (a) The instrument appointing a proxy and the original power of attorney (if any) under which it is signed or a certified copy of the power of attorney must be received by the Company at least 48 hours before the time for holding the meeting by delivery to the Company's registered office, by facsimile received at a fax number at the Company's registered office or otherwise by any other means permissible under section 250B(3) of the Law.
- (b) An instrument appointing a proxy will only be valid for 12 Months from the date of its execution unless it states that it is valid for all meetings until revoked, except that any instrument may be used at any adjournment of the meeting for which it was originally intended.

### **10.3 Validity of vote given in accordance with proxy**

Unless the Company has received written notice of the matter before the start of the meeting at which a proxy or an attorney votes, a vote cast by the proxy or attorney will be valid even if, before the proxy or attorney voted:

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- (a) the Member dies; or
  - (b) the Member is mentally incapacitated; or
  - (c) the Member revokes the proxy's or attorney's appointment; or
  - (d) the Member revokes the authority under which the proxy was appointed by a third party.

#### **10.4 Form of proxy**

- (a) Every instrument of proxy must specify the Member's name and address, the Company's name, the proxy's name or the name of the office held by the proxy and the meetings at which the proxy may be used, and must otherwise comply with the provisions of section 250A of the Law.
- (b) The instrument of proxy may be worded so that a proxy is directed to vote either for or against each of the Resolutions to be proposed. Any instrument of proxy deposited in accordance with this Constitution in which the name of the appointee is not filled will be deemed to be given in favour of the Chairman of the meeting to which it relates.

#### **10.5 Resolutions without meetings**

Any Resolution, other than a Resolution to remove an auditor under section 329 of the Law, may be passed without a general meeting being held if all the Members entitled to vote on the Resolution (or being corporations, their duly authorised representatives or attorneys) sign a statement that they are in favour of a Resolution set out in the document. Identical copies of the document and accompanying information may be distributed for signing by different Members. The Resolution is passed when the last Member signs the document

### **11. Directors**

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#### **11.1 Number of directors**

The number of the Directors must not be less than six (6), nor more than twelve (12)

#### **11.2 Residence of directors**

At least 6 of the Directors must be natural persons who ordinarily reside within Australia.

#### **11.3 Consent**

Before being appointed as a Director a person must give the Company a signed consent to act as Director which must be retained by the Company.

#### **11.4 Appointment of directors**

The appointment of Directors is by resolution of the Company.



### **11.5 Chair and Deputy Chair**

- (a) The Directors may appoint a person to be the Chair, The Chairman will preside at all meetings of the Company and the Board and preside at meetings of the executive committee. The Chairman may appoint, with the consent of the Board, standing committees, task forces and their respective chairpersons. The Chairman will perform such other duties as may be prescribed from time to time by the Board.
- (b) The Directors may appoint a person or persons to be Deputy Chairman. The Deputy Chairman will in the absence of the Chairman preside at meetings of the Company and the Board and be a member of the Executive Committee.
- (c) The Directors may appoint persons to be Office Bearers as described in the By-Laws. Those Office Bearers to fulfil the roles and responsibilities as determined by the Board from time to time.
- (d) The Directors may appoint persons to take on Committee Roles as described in the By-Laws. Those Committee Roles to fulfil the roles and responsibilities as determined by the Board from time to time.

### **11.6 Directors may fill casual vacancies**

The Directors have the power at any time to appoint a person to fill a casual vacancy because of death, resignation, removal, disqualification or otherwise, except that the total number of Directors must not at any time exceed twelve. Casual appointments will hold office until the next appointment of Directors is made under clause 12.

### **11.7 Auditor cannot be director**

Subject to the Law, an auditor of the Company or partner or employee or employer of an auditor must not be appointed a Director of the Company.

### **11.8 Alternate directors**

Subject to the Law and clause 11.7, each Director may by writing under hand or by facsimile appoint any person to act as an Alternate Director in the Director's place during any period the Director thinks fit and for whom the Director has obtained the prior consent of the Board. Any Alternate Director:

- (a) may be removed or suspended from office by written notice to the Company from the Director who appointed the Alternate Director;
- (b) is entitled to receive notice of meetings of the Board, to attend meetings (if the Director who appointed the Alternate Director is not present) and to be counted towards a quorum at meetings;
- (c) is entitled to vote at meetings he or she attends on all resolutions on which the appointor could vote had he or she attended and, where the alternate is a Director in

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- the alternate's own right, will have a separate vote on behalf of the Director the alternate is representing in addition to the alternate's own vote;
- (d) may exercise any powers that the appointor may exercise in the alternate's own right where the appointor is unavailable for any reason except the power to appoint an Alternate Director. The action of an Alternate Director will be conclusive evidence as against third parties of the unavailability of the appointor;
  - (e) will automatically vacate office if the Director who appointed the alternate is removed or otherwise ceases to hold office for any reason;
  - (f) while acting as a Director is responsible to the Company for the alternate's own acts and defaults and will not be deemed to be the agent of the appointor;
  - (g) will not be entitled to receive any remuneration from the Company but will be entitled to reimbursement for reasonable travelling and other expenses incurred by the alternate in attending meetings of the Board or otherwise on the Company's business;
  - (h) will not be taken into account in determining the number of Directors for the purposes of this Constitution; and
  - (i) may act as an alternate for more than 1 Director.

## **12. Directors' Tenure of Office**

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### **12.1 Directors' tenure of office**

- (a) Subject to the Law and clause 12.1(b), each Director, with the exception of the Special Role Director; will hold office for two (2) years, until the director retires in accordance with this Constitution or until the Director's office is vacated in accordance with this Constitution.
- (b) The Special Role Director; will hold office for one (1) year, until the director retires in accordance with this Constitution or until the Director's office is vacated in accordance with this Constitution.
- (c) One year after the first appointments, and thereafter at each Annual General Meeting, the office of one half of Directors will be vacated, which will include the Special Role Director (in addition to any casual appointments terminated in accordance with clause 11.6).
- (d) The Directors to vacate their offices under clause 12.1(b) will be chosen to do so in the following order:
  - (i) the most senior Directors (based on length of service) first; and
  - (ii) if necessary, by lot from among Directors ranking equally in seniority (based on length of service).

## **12.2 Retiring director eligible for re-appointment**

Subject to clause 12.1 and 12.4, a Director who retires or whose office is vacated under this Constitution is eligible for appointment or re-appointment to the Board.

## **12.3 Removal of director by the Company**

The Company may by Resolution remove any Director at any time.

## **12.4 Vacation of office**

The office of a Director will be automatically vacated if the Director:

- (a) commits an act of bankruptcy or enters into an arrangement or composition with all or a substantial number of his or her creditors;
- (b) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the laws relating to mental health;
- (c) resigns office by notice in writing to the Company; or
- (d) vacates office or is prohibited from being a Director in accordance with any of the provisions of the Law or any order made under the Law.

A Director whose office is vacated under sub-clauses (a), (b), (c) or (d) will not be eligible for re-election until the disability (or disabilities) referred to is (or are) removed.

## **13. Proceedings of Directors**

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### **13.1 Board meetings and quorum for board meetings**

- (a) The Directors may meet for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit but must meet at least once in every three (3) month period.
- (b) The quorum will be 6 Directors. If the number of Directors falls below 6, the Directors may act for the sole purpose of filling the casual vacancy or vacancies pursuant to clause 11.6.
- (c) If a quorum is present at the beginning of the meeting, it is deemed to be present throughout the meeting even if a Director absents himself or herself, or absents from voting, for any reason.

### **13.2 Conduct of board meetings**

A Directors' meeting may be called or held by telephone or by using any other technology consented to by all the Directors. The consent may be a standing one and may only be varied or withdrawn by a further ordinary Resolution of Directors.

### 13.3 Convening of board meeting and place of meeting

The Board must meet whenever a meeting is called by at least three (3) Directors provided that not less than one working days' written notice has been given to the other Directors.

### 13.4 Secretary

A secretary of the Company must be appointed by the Directors in accordance with the Law. The secretary must be ordinarily resident in Australia. The Directors may also appoint acting and assistant secretaries. Any such appointment may be for such term, at such remuneration and on such conditions as the Directors think fit and any person so appointed may be removed by the Directors. The Secretary must keep minutes that record all Resolutions and proceedings of all meetings of the Board. The Secretary must notify members of the Board in writing not less than 7 working days in advance of a Board meeting (unless a shorter period is agreed) and will, at that time, provide the minutes of the previous meeting and the agenda for the coming meeting.

### 13.5 Responsibilities of the Board

- (a) The Board is responsible for, and has the sole power in respect of, the policy, practices, overall management and operation of the Company. The Board may delegate any such responsibilities to the Chief Executive Officer or its Committees or otherwise as it may determine.
- (b) Without limiting paragraph (a), the specific responsibilities of the Board include the business plan include following (where applicable):
  - (i) adoption of business plan and budget on a yearly basis (which will include, amongst other matters, items listed below);
  - (ii) Set strategic corporate goals;
  - (iii) set policies governing the operation of the Company;
  - (iv) provide and monitor performance against broad objectives;
  - (v) consider and approve recommendations from committees for the distribution of funds;
  - (vi) review progress in achieving the Objectives of the Company;
  - (vii) appoint members to committees and the executive committee;
  - (viii) appoint and remove the Chief Executive Officer approve the terms and conditions of appointment and the remuneration of the Chief Executive Officer;
  - (ix) determine the delegation to the Chief Executive Officer;
  - (x) supervise the activities of the Chief Executive Officer;
  - (xi) set guidelines on the admission of new members;

- (xii) set guidelines for the appointment and secondment of staff;
- (xiii) set guidelines for the making of public announcements by the Company;
- (xiv) determine the insurances to be effected by the Company; and
- (xv) ensure that the Company is managed in a financially responsible and prudent manner to best achieve the Objectives with a particular focus on available and projected funds in the short and medium term.

### **13.6 Board meeting competent to exercise all powers**

A meeting of the Directors at which a quorum is present may exercise all or any of the powers and discretions vested in or exercisable by the Directors generally.

### **13.7 Resolution passed deemed to be determination of board**

Any Resolution properly passed at a duly convened meeting of the Directors at which a quorum is present will be deemed to be a determination by all the Directors of the Board for the purposes of this Constitution.

### **13.8 Questions to be decided by majority**

Questions arising at any meeting will be decided by a majority of votes of Directors present and entitled to vote. The Chairman will have a casting vote as well as a deliberative vote.

### **13.9 Resolution in writing**

A Resolution in writing of which notice has been given to all Directors entitled to receive notice of a meeting of the Directors and which is signed by a majority of Directors entitled to attend and vote at meetings of the Directors is valid as if passed at a meeting of the Directors duly convened and held. Copies of the document may be distributed for signing by different Directors but each copy must have identical wording. The Resolution is passed when the last Director signs the document.

### **13.10 Committee powers and meetings**

- (a) The Directors may delegate any of their powers to a committee of Directors and officers and may revoke any such delegation. Any committee must exercise the powers delegated to it in accordance with any directions of the Board and will be accountable and report to the Board. The meetings and proceedings of any committee consisting of two or more Directors or officers will be governed by the provisions of this Constitution regulating the meetings and proceedings of the Directors so far as they are applicable and are not superseded by any direction made by the Board under this clause.
- (b) Subject to the above clause 13.10(a):
  - (i) the Board will appoint an Audit Committee, which will consist of 2 Directors and the Chief Executive Officer. In addition, the Board may

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appoint a financial manager to the Audit Committee. The Audit Committee will :

- (A) oversee the financial management of the Company;
  - (B) liaise with the Auditors;
  - (C) oversee and prepare financial statements on behalf of the Board;  
and
  - (D) report to the Board on a regular basis regarding the financial status of the Company; and
- (ii) the Board may appoint a Fund Raising Committee, which will consist of the Chief Executive Officer and at least two Directors and any other person the Board thinks fit. The Fund Raising Committee will :
- (A) oversee the fundraising initiatives of the Company;
  - (B) assist in the development of strategies for fund raising;
  - (C) secure sources of funds from government, corporate and public sectors;
  - (D) ensure financial due diligence over all fundraising activities of the Company is observed;
  - (E) report to the Board on strategies and outcomes on fundraising activities of the Company; and
- (iii) the Board may appoint Advisory Committees, which will consist of Directors and others determined by the Board, to provide advice and guidance to the Board on matters relating to the Company's objectives including, but not limited to, sponsorships, patrons, fundraising, national and international alliances, regional development, special events and promotions.
- (iv) the Board will appoint an Executive Committee which will consist of the Chairman, the Deputy Chairman, the Chief Executive Officer and one other Director appointed by the Board. The Executive Committee will have those powers delegated to it by the Board.
- (c) Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments.
- (d) Each committee may adopt rules for its own government not inconsistent with this Constitution or with rules adopted by the Board.
- (e) Every committee may meet and adjourn as it thinks proper. Questions arising at any meeting will be determined by a majority of votes of the Members present, and in the

case of an equality of votes the Chairman of the committee will have a second or casting vote.

### **13.11 Validity of acts of directors**

All acts done by any meeting of the Directors or by a committee of the Directors or by any person acting as a Director are valid even if it is afterwards discovered that there was some defect in the appointment or election of any Director or person acting as a Director or that any Director was disqualified or had vacated office or was otherwise not entitled to vote or act.

## **14. Directors' Contracts**

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### **14.1 Directors not disqualified from holding office or contracting with Company**

Notwithstanding any rule of law or equity:

- (a) no Director will be disqualified by virtue of his office from holding any office or place of profit (other than as auditor) with the Company or with any company promoted by the Company or with any corporation in which the Company is a shareholder or in which the Company is otherwise interested;
- (b) no Director will be disqualified by virtue of his office from contracting with the Company (whether as vendor, purchaser or otherwise); and
- (c) no contract referred to in paragraph (b) or any contract or arrangement entered into by or on behalf of the Company in which any Director is in any way interested will be avoided and no Director will be liable to account to the Company for any profit arising from such a contract or arrangement or from any office referred to in paragraph (a) (or other place of profit) by reason only of that Director holding that office or of the fiduciary relations established by it.

### **14.2 Director may hold office or act in professional capacity**

Subject to the Law, a Director:

- (a) may hold any office in connection with the Company's business except that of auditor; and
- (b) may act individually or through the Director's firm in a professional capacity for the Company (except as auditor) and will be entitled to remuneration for professional services as though the Director were not a Director.

### **14.3 Director may vote on contract in which they are interested**

Subject to clause 14.5, a Director may vote in respect of any contract or arrangement in which the Director is interested (whether directly or indirectly) and may be counted in a quorum, may affix the Seal and may otherwise act in respect of such contract or arrangement.

#### **14.4 Director not deemed to be interested in certain contracts or arrangements**

A Director will not be deemed to be interested (whether directly or indirectly) or to have been at any time interested in any contract or arrangement or proposed contract or arrangement:

- (a) relating to any loan to the Company, merely by reason of the fact that the Director has guaranteed or joined in guaranteeing the repayment of such loan or any part of such loan; or
- (b) made or to be made with a corporation which under any provision of the Law is deemed to be related to or associated with the Company, merely by reason of his being a Director of that corporation.

#### **14.5 Directors to declare interest**

- (a) Any Director who is directly or indirectly interested in any contract or arrangement or proposed contract or arrangement with the Company must declare the nature of the interest at the meeting of the Directors at which the contract or arrangement is first considered (if the interest then exists) or, in any other case, at the first meeting of the Directors held after the interest is acquired.
- (b) The Director may be present and vote if Directors who do not have a material personal interest in the matter have passed a resolution that:
  - (i) identifies the Director, the nature and extent of the Director's interest in the matter and its relation to the affairs of the Company; and
  - (ii) states that those Directors are satisfied that the interest should not disqualify the Director from voting or being present.
- (c) A Director may give a standing notice of the nature and extent of the Director's interest in the matter and its relation to the affairs of the Company.
- (d) A general notice by a Director that the Director is a member of any specified corporation or firm and is to be regarded as interested in any contract which may be made with that corporation or firm after the date of that notice will be deemed to be a sufficient declaration of interest in relation to any contract so made provided the notice complies with the provisions of the Law and in particular Section 231(5) of the Law.

#### **14.6 Directors to declare potential conflicts**

Any Director who holds any office or possesses any property which might (whether directly or indirectly) create duties or interests in conflict with his duties or interests as a Director of the Company must declare the fact of his holding such office and the nature and extent of any conflict at the first meeting of the Directors held after the Director becomes a Director or (if already a Director) at the first meeting of the Directors held after the relevant facts came to the Director's knowledge.



#### **14.7 Secretary to record declarations of directors**

It will be the duty of the secretary to record in the minutes of the meeting any declarations made or notices given by a Director under this Constitution.

#### **14.8 Effect of failure to make or record disclosures**

Failure to make or to record any disclosures will not render voidable or void any contract, transaction or arrangement to which the disclosure relates.

### **15. Powers of Directors**

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#### **15.1 Powers of directors**

Subject to the Law and this Constitution, the business of the Company will 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 Law or by this Constitution, required to be exercised by the Company in general meeting.

#### **15.2 Powers to borrow or raise money**

Without limiting the previous clause, the Directors may from time to time borrow or raise any sum or sums of money or incur other financial obligations for the purposes of the Company and may give or take security over the repayment of such sum or sums or the payment, performance or fulfilment of any debts, liabilities, contracts or obligations incurred or undertaken by the Company on terms and conditions as they determine.

#### **15.3 Security over Company's assets**

Subject to the Law, if any Director or any other person becomes personally liable (whether as surety or otherwise) for the performance of any of the Company's obligations, the Directors may, despite their interest, execute or cause to be executed any mortgage, charge or security over or affecting the whole or any part of the assets of the Company by way of indemnity to secure the liability.

#### **15.4 Power to appoint Alliance Partner and Patron of the Company**

- (a) The Directors may appoint an Alliance Partner on terms and conditions they determine.
- (b) The Directors may appoint a person to the office of Patron on terms and conditions they determine.

### **16. Chief Executive Officer**

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#### **16.1 Appointment of Chief Executive Officer**

The Directors will appoint a person to the office of Chief Executive Officer. Subject to clause 12.4, a Chief Executive Officer is eligible for re-appointment.

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## **16.2 Remuneration of Chief Executive Officer**

The Chief Executive Officer will, subject to the terms of any particular agreement entered into, receive such remuneration (whether by way of salary, commission or participation in profits, or partly in one way and partly in another) as the Directors may determine.

## **16.3 Directors may confer powers on the Chief Executive Officer**

The Directors may grant the Chief Executive Officer any of the powers exercisable by the Directors on such terms and conditions and with such restrictions as they think fit. Any powers so conferred may be concurrent with or to the exclusion of their own powers. The Directors may at any time revoke, withdraw, alter or vary all or any of those powers.

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## **17. Attorneys**

### **17.1 Appointment of attorney**

- (a) The Directors may at any time by power of attorney under the Seal appoint any person or persons to be the attorney or attorneys of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under this Constitution) and for such period and subject to such conditions as the Directors think fit.
- (b) Any appointment may be made in favour of any company or the members, Directors, nominees or managers of any company or firm or in favour of any fluctuating body of persons (whether nominated by the Directors or otherwise) and any power of attorney may contain provisions for the protection or convenience of the attorney or attorneys and of persons dealing with the attorney or attorneys.

### **17.2 Sub-delegation of powers**

Any delegate, manager, agent or attorney appointed by the Directors may be authorised by the Directors to sub-delegate all or any of the powers, authorities and discretions given to them.

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## **18. Directors' Remuneration**

### **18.1 Remuneration of non-executive directors**

There will be no remuneration for services rendered as Directors (excluding any remuneration payable to any Director under any executive service contract with the Company or a related body corporate).

### **18.2 Expenses of directors**

The Directors may be paid travelling and other expenses incurred by them in attending and returning from meetings of the Directors, any committee of the Directors or any general meetings of the Company or otherwise in connection with the business of the Company, and any payment to a Director must be approved by the remainder of the Directors.

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## **19. Minutes and Registers to be kept**

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### **19.1 Minutes**

The Directors must ensure minutes of Directors meetings are prepared within one month of the relevant meeting, which minutes must contain details of:

- (a) the names of the Directors present at each meeting of the Directors and of any committee of Directors;
- (b) all declarations made or notices given by any Director (either generally or Specially) of his or her interest in any contract or proposed contract or of his or her holding of any office or property whereby any conflict of duty or interest may arise;
- (c) all orders made by the Directors and committees of Directors;
- (d) all Resolutions and proceedings of general meetings of the Company, meetings of the Directors and meetings of any committee of the Directors; and
- (e) Resolutions passed by Members or Directors without a meeting.

Any minutes of any general meetings of the Company, meetings of the Directors or meetings of any committee of the Directors must be signed by the Chairman of the meeting or by the Chairman of the next succeeding meeting and once signed will constitute evidence of the matters stated in the minutes.

### **19.2 Registers**

In accordance with the Law, the Directors must set up and maintain:

- (a) a Members' Register;
- (b) a register of charges;
- (c) any other registers required to be kept under the Law.

The registers may be kept either in a bound or loose leaf book or on computer. If a register is kept on computer, its contents must be capable of being printed out in hard copy.

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## **20. The Seal**

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If the Company has a Seal, the Directors must provide for the safe custody of the Seal. The Seal must be used only by the authority of the Board or a committee of the Directors with authority from the Board to authorise the use of the Seal. Every document to which the Seal is affixed must be signed by a Director and countersigned by another Director, the secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included.

## **21. Negotiable Instruments**

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### **21.1 Negotiable instruments**

All cheques, bills of exchange, promissory notes and other negotiable instruments must be signed, drawn, accepted, made or endorsed (as the case may be) for and on behalf of the Company by such persons and in such manner as the Directors may determine.

## **22. Accounts**

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### **22.1 Accounting records**

The Directors must cause accounting and other records to be kept to correctly record and explain the transactions and financial position of the Company, to enable true and fair profit and loss accounts and balance sheets to be prepared and to permit preparation of any other documents required by the Law or this Constitution. The records must be kept:

- (a) in such manner to enable them to be conveniently and properly audited;
- (b) for seven years after the completion of the transactions or operations to which they relate; and
- (c) at such place as the Directors think fit and at all times be open to inspection by the Directors.

### **22.2 Accounts to be laid before annual general meeting**

At the annual general meeting, the Directors must lay before the Company:

- (a) a profit and loss account for the last financial year of the Company;
- (b) a balance sheet as at the date to which the profit and loss account is made up;
- (c) an account of the contributions (both cash and in-kind) of each Member for the last financial year; and
- (d) attached to the documents referred to in paragraphs (a) and (b), a report by the Directors with respect to the state of the Company's affairs, a statement by the Directors in accordance with the Law and the auditors' report in respect of the documents unless the Company in accordance with the Law has resolved not to appoint auditors.

The profit and loss accounts, balance sheets and reports must comply with all applicable provisions of the Law.

## **23. Audit**

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**23.1 Auditors**

- (a) Auditors of the Company must be appointed and removed and their remuneration, rights and duties will be regulated in accordance with the Law.
- (b) The accounts of the Company must be audited in respect of each financial year of the Company and the correctness of the profit and loss account, balance sheet and the account of Members' contributions must be ascertained by the auditors of the Company in accordance with the Law.

**23.2 Approval of accounts**

Accounts of the Company when prepared by the Directors will be conclusive except as regards any error identified within three months after the date of preparation. If any error is identified within this period, the accounts must immediately be corrected and will then be conclusive.

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**24. Inspection of Records****24.1 Inspection of records**

Each Member will be entitled to receive a copy of the annual financial statements of the Company within 30 days after their publication. A Member may inspect the accounting books and records of the Company upon giving reasonable notice to the Audit Committee. The Company must allow a Member at any reasonable time to inspect and take copies of or extracts from such accounting books and records.

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**25. Notices****25.1 Service of notices by Company**

A notice may be given by the Company to any Member either personally, by facsimile or electronically to the relevant facsimile number or electronic address of the Member as shown on the Member's Register, by sending it by post addressed to the Member at the address shown in the Member's Register or otherwise by any other method, including by advertisement, as the Directors determine.

**25.2 Posting notices to overseas Members**

In the case of a Member whose registered address is outside Australia, a notice sent by post must be sent by pre-paid airmail in an envelope.

**25.3 Notice deemed to be served**

- (a) Any notice by advertisement will be deemed to have been served on the day of publication of the newspaper containing the advertisement.
- (b) Any notice sent by post will be deemed to have been served on the day following the day on which the notice is posted unless sent by airmail to an address outside the

country in which it was posted, in which case it will be deemed to have been served on the fifth (5) day following the day on which it is posted.

- (c) A notice sent by telex or facsimile or to the electronic address of a Member will be deemed to have been served on the same day it was sent.

#### **25.4 Service by post**

To prove service by post, it is sufficient to prove that the notice with required postage was properly addressed and posted. A certificate in writing signed by any manager, secretary or other officer of the Company that the notice was properly addressed and posted will be conclusive evidence of such matters.

#### **25.5 Notices to Members whose whereabouts unknown**

Where:

- (a) the Company has a genuine reason to believe that a Member is not known at the address shown for that Member in the Members' Register;
- (b) the Company has subsequently made an inquiry at that address as to the whereabouts of the Member; and
- (c) the inquiry either elicits no response or a response indicating that the Member's present whereabouts are unknown,

all future notices will be deemed to be given to the Member if the notice is exhibited in the Office for a period (not including weekends and public holidays) of forty-eight hours and will be deemed to be duly served at the end of that period. This clause will apply unless and until the Member informs the Company of a registered place of address or that the Member has resumed residence at the Member's address shown in the Member's Register or notifies the Company of a new address to which the Company may send the Member notices (which will be deemed to be the Member's registered address).

#### **25.6 Notice to deceased or bankrupt Members**

Any notice or document given to a Member will be deemed to have been properly given despite the Member's death or bankruptcy and whether or not the Company has notice of death or bankruptcy until some other person is registered in place of the Member.

#### **25.7 Signing of notices**

The signature to any notice to be given by the Company may be written or printed.

#### **25.8 Counting of days**

Where a given number of days' notice or notice extending over any other period is required to be given, the day on which notice is deemed to be given will be included in the number of days or other period.

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## **26. Winding Up**

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### **26.1 Distribution of assets**

(a) If upon the winding up or dissolution of the Company there remains after satisfaction of all its debts and liabilities any property whatsoever, the same must not be paid to or distributed amongst the Members of the Company but will be given or transferred to one or more other funds, authorities or institutions which or each of which:

- (i) has objects similar to the objects of the Company; and
- (ii) whose Constitution prohibits the distribution of its income and property among its Members to an extent at least as great as is imposed on the Company under or by virtue of clause 2.2,

to be determined by the Board at or before the time of dissolution and in default thereof by application to the courts for determination.

### **26.2 Fee or commission paid to liquidator to be approved in general meeting**

No fee or commission will be paid by the Company to any Director or liquidator upon any sale or realisation of the Company's undertaking or assets or any part of them except with the approval of the Company in general meeting, that meeting to be convened by notice specifying the fee or commission proposed to be paid.

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## **27. Indemnity and insurance**

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### **27.1 Indemnification of officers of the Company**

To the extent permitted by law:

- (a) the Company must indemnify each Director and other officer of the Company against any liability (other than legal costs) incurred in acting as a Director or officer of the Company other than:
  - (i) a liability owed to the Company or a Related Body Corporate;
  - (ii) a liability for a pecuniary penalty order under section 1317G or a compensation order under section 1317H of the Law; or
  - (iii) a liability that did not arise out of conduct in good faith;
- (b) the Company must indemnify each Director and other officer of the Company for costs and expenses incurred by a Director or officer of the Company in defending an action for a liability incurred in acting as a Director or officer of the Company except for legal costs incurred:

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- (i) in defending or resisting any proceedings, whether civil or criminal, in which the Director or officer is found to have a liability for which they could not be indemnified under subclause (a) above;
  - (ii) in defending or resisting criminal proceedings in which the Director or officer is found guilty;
  - (iii) in defending or resisting proceedings brought by the Australian Securities and Investments Commission or by a liquidator for a court order if the grounds for making the order are found by the court to have been established, except for costs incurred in responding to actions taken by the Australian Securities and Investments Commission or a liquidator as part of an investigation before commencing proceedings for the court order; or
  - (iv) in connection with proceedings for relief to the Director or other officer under the Law in which the relief is denied by the court; and
- (c) the Company may make a payment, or agree to make a payment, whether by way of advance, loan or otherwise, for any legal costs incurred by a Director or officer, on the condition that the Director or officer must repay the amount paid by the Company to the extent that the Company is ultimately found not liable to indemnify the Director or officer for those legal costs.

## **27.2 Insurance**

To the extent permitted by law the Company may pay, or agree to pay, a premium in respect of a contract insuring a person who is or has been a Director or other officer of the Company or of a subsidiary of the Company other than a liability arising out of:

- (a) conduct involving wilful breach of duty in relation to the Company; or
- (b) a contravention of section 182 or 183 of the Law.

## **28. By-Laws**

The Board may from time to time make, amend or repeal by-laws not consistent with these Rules, for the internal management of the Company and any by-law may be set aside by a Special Resolution of the Board.

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