



# Constitution

*Effective 12 December 2013*

## **The Australian Gas Association Limited**

ABN 98 004 206 044

### **Trading as *AGA (Company)***

*A Company Limited by Guarantee*

Constitution – The Australian Gas Association Limited

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# 1 Definitions and interpretation

## 1.1 Definitions

In this constitution unless the contrary intention appears:

<b>Alternate Director:</b>	means a person appointed as an alternate director by a <b>Director</b> in accordance with article 11.8
<b>article:</b>	means an article of this <b>Constitution</b>
<b>Associate Member:</b>	means a person entered in the register of <b>Members</b> as an <b>Associate Member</b> and <b>Associate Membership</b> has a corresponding meaning.
<b>Auditor:</b>	means the auditor for the time being of the <b>Company</b> .
<b>Board of Directors:</b>	means all or some of the <b>Directors</b> of the <b>Company</b> acting together as a Board.
<b>Certificate:</b>	means a certificate issued by the <b>Company</b> under the <b>Rules Governing</b> .
<b>Certificate Holder:</b>	means a person who holds a current: (i) <b>Certificate of Compliance</b> , or; (ii) a <b>Certificate</b> ; issued under the <b>Rules Governing</b> .
<b>Certificate Holder Member:</b>	means a person entered in the member register as a <b>Full Member</b> in the <b>Certificate Holder</b> Category and <b>Certificate Holder Membership</b> has a corresponding meaning.
<b>Certificate of Compliance:</b>	means a <b>Certificate</b> issued by the <b>Company</b> under the <b>Rules Governing</b> evidencing that the <b>Product</b> complies with requirements set out in applicable <b>Standards</b> .
<b>Chairman:</b>	means the chairman of the <b>Board of Directors</b> of the <b>Company</b> .
<b>Chief Executive:</b>	means a person appointed to that office under article 12.
<b>Company:</b>	means The Australian Gas Association Limited ABN 98 004 206 044 trading as "AGA".
<b>Conformity Assessment Body:</b>	Means an organisation that is independently accredited to provide certification services in accordance with requirements of " <a href="#">ISO/IEC 17065 : 2012 - Conformity assessment - Requirements for bodies certifying products, processes and services</a> "

<b>Constitution:</b>	means this constitution as amended from time to time.
<b>Corporations Act:</b>	means the Corporations Act 2001 (Commonwealth).
<b>Deputy Chairman:</b>	means the deputy chairman of the <b>Directors</b> of the <b>Company</b> .
<b>Director:</b>	means a director of the <b>Company</b> .
<b>Directors:</b>	means all or some of the <b>Directors</b> of the <b>Company</b> acting as a <b>Board Of Directors</b> .
<b>Financial Year:</b>	means the period from 1 July in any year to 30 June in the next (both inclusive).
<b>Full Member:</b>	means a person entered in the register of <b>Members</b> as a <b>Full Member</b> and <b>Full Membership</b> has a corresponding meaning.
<b>Independent Director:</b>	means a <b>Director</b> who the <b>Board of Directors has determined</b> is independent , having regard to Schedule 1.
<b>Miscellaneous Member:</b>	means a person entered in the <b>Member</b> register as a <b>Full Member</b> in the <b>Miscellaneous</b> Category and <b>Miscellaneous Membership</b> has a corresponding meaning.
<b>Member:</b>	means a person entered in the <b>Member</b> register and listed as a <b>Member</b> of the <b>Company</b> and <b>Membership</b> has a corresponding meaning.
<b>Membership Eligibility Criteria:</b>	means; <ul style="list-style-type: none"> <li>(i) In the case of an applicant for <b>Full Membership - Certificate Holder</b> category, a person who holds a current <b>Certificate Or Certificate Of Compliance</b>.</li> <li>(ii) In the case of an applicant for <b>Full Membership – Miscellaneous Member</b> category, a person who has first satisfied the <b>Directors</b>, of their real and significant interest in the objects of the <b>Company</b> set out in <b>Article 2.1</b> and the furtherance of those objects.</li> <li>(iii) In the case of applicant for <b>Associate Membership</b>, a person who operates or conducts business in an industry in which AGA operates.</li> </ul>
<b>Organisation:</b>	means a body corporate or an unincorporated body or association, but does not include an institution.
<b>Part:</b>	means a “numbered section” of this <b>Constitution</b> .
<b>Product:</b>	Includes domestic and commercial products including, but not limited to, gas appliances, components and cylinders, electrical equipment, plumbing and drainage products and Whitegoods and other domestic and commercial products.



- Proxy:** means a person who is appointed by a **Member** of the **Company** to attend and represent the **Member** at a meeting of the **Company's Members**, and to cast a vote on behalf of the **Member**.
- Registered Office:** means the registered office for the time being of the **Company**.
- Rules Governing:** means the set of rules published by the **Company** which governs the **Certification of Products**.
- Services:** means any services provided by the **Company** for the benefit of Australian industry and community.
- Secretary:** means a person appointed as a secretary of the **Company**, and where appropriate includes an acting secretary and a person appointed by the **Directors** to perform all or any of the duties of a secretary of the **Company**.
- Whitegoods:** include but are not limited to air-conditioners, refrigerators, stoves , washing machines, dishwashers, clothes dryers.
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## 1.2 Interpretation

In this *constitution*:

- a) the word **person** includes a firm, a body corporate, an unincorporated association or an authority;
- b) the singular includes the plural and vice versa;
- c) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- d) a reference to **writing** includes typewriting, printing, telex, telegram, facsimile, email and other modes of representing or reproducing words in a visible form;
- e) a power, an authority or a discretion given to a *director*, the *directors*, the *company* in general meeting, or a *Member* may be exercised from time to time and at any time;
- f) a day is to be interpreted on the period of time commencing at midnight and each 24 hours later; and
- g) the words “include”, “includes” and “including” are not used as, nor are they to be interpreted as, words of limitation, and, when introducing an example do not limit the meaning of the words to which the example relates to that example or examples of a similar kind.
- h) a reference to a Standard shall also be a reference to that Standard as amended from time to time, or a relevant alternative Standard as amended from time to time.

## 2. Objects and powers of the company

### 2.1 Objects

The objects of the **Company** are:

- a) to support Australian industry through the provision of quality:
  - (i) certification services, laboratory services for certification, laboratory testing and product development with respect to gas appliances, components and cylinders, electrical equipment, plumbing and drainage products, **Whitegoods** and other domestic and commercial products of similar type, and;
  - (ii) **Services**.
- b) to support efforts of industry in improving the safety, reliability and environmental performance of **Products** for the benefit of the Australian community;
- c) to provide technical expertise and test facilities to assist government and regulatory authorities investigate safety-related incidents or develop strategies to improve safety for the benefit of the Australian community;
- d) to liaise and encourage information exchange with **Organisations** involved in the manufacture, supply, compliance testing and assessment of **Products** both in Australia and internationally;
- e) to advance knowledge and stimulate innovation and research in respect of **Products** for the benefit of the Australian community;
- f) maintain and preserve the historic records of the **Company**;
- g) to do everything that the **Company** may consider incidental to or conducive to the furtherance of those objects or any of them.
- h) to maintain the independence of the **Company** from the excess influence of any sector of the gas appliance, components and cylinders, electrical equipment, plumbing and drainage products, **Whitegoods** and other similar domestic and commercial products industries in order to preserve the benefits the **Company** provides to the safety of the Australian community.

### 2.2 Powers

For the purpose of carrying out its objects, the **Company** has all the powers conferred on it by the **Corporations Act**.

### 3. Income, payments and property

#### 3.1 *Company's application of income*

All the *Company's* profits (if any), other income and property, however derived, must be applied only to promote its objects.

#### 3.2 *No dividends, bonus or profit to be paid to Members*

None of the *Company's* profits, other income or property may be paid or transferred to the *Members*, directly or indirectly, by any means.

#### 3.3 *Payments in good faith*

Subject to *article 9.14, article 3.2* does not prevent the payment in good faith to an officer or *Member*, or to a firm of which an officer or *Member* is a partner:

- a) of remuneration for services to the *Company*;
- b) for goods supplied to the *Company* in the ordinary course of business;
- c) of interest on money borrowed from them by the *Company* at a rate not exceeding the rate fixed for the purposes of this *article 3.3* by the *Company* in general meeting; or
- d) of reasonable rent for premises let by them to the *Company*.

#### 3.4 *Application of property on winding up*

If any property remains on the winding-up or dissolution of the *Company* and after satisfaction of all its debts and liabilities, that property may not be paid to or distributed amongst the *Members* but must be given or transferred to some other *Organisation*:

- a) having objectives similar to those of the *Company*; and
- b) whose constitution prohibits the distribution of its income and property among its members to an extent at least as great as that imposed on the *Company* under this *Constitution*.

The *Organisation* is to be determined by the *Members* at or before the time of dissolution.

## 4. Membership

### 4.1 Who are the Members

The **Members** of the **Company** are, subject to **article 4.8**, those persons who have been entered in the **Membership Register** and who have paid a subscription in accordance with **article 5.2**.

### 4.2 What are the classes and categories of Membership

The classes of **Membership** of the **Company** are:

- a) **Full Member**, and;

There are two categories of **Full Members**:

(i) **Certificate Holder Members**, being people who meet the **Membership Eligibility Criteria for a Certificate Holder Member**, and agree to be bound by this **Constitution** and any other rules, by-laws, policies or other standards prescribed by the **Directors** from time to time, and have no outstanding accounts or debts payable to the **Company**;

(ii) **Miscellaneous Members**, being people who meet the **Membership Eligibility Criteria for a Miscellaneous Member**, and agree to be bound by this **Constitution** and any other rules, by-laws, policies or other standards prescribed by the **Directors** from time to time, and have no outstanding accounts or debts payable to the **Company**; and

- b) **Associate Members**, being people who have met the **Membership Eligibility Criteria** for an **Associate Member**, and agree to be bound by this **Constitution** and any other rules, by-laws, policies or other standards prescribed by the **Directors** from time to time, and have no outstanding accounts or debts payable to the **Company**.

### 4.3 Rights of Full Members

A **Full Member** has the right to:

- a) if a body corporate, appoint and remove representatives according to Section 250D of the **Corporations Act**;
- b) receive notice of and attend every general meeting of the **Company**;
- c) exercise at any general meeting of the **Company** that number of votes determined according to **article 8.2**.

### 4.4 Rights of Associate Members

Each **Associate Member** has:

- a) the right to receive notice of and attend every general meeting of the **Company**.
- b) the right to attend and speak at every general meeting of the **Company**;
- c) the right to the right to vote conferred by **article 4.5(b)(ii)**; but
- d) no right to vote at any general meeting.

#### 4.5 **Directors may create and vary classes and class rights**

The **Directors** may, subject to this constitution and the **Corporations Act**:

- a) with the consent in writing of 75% of the **Full Members**, establish any new class of **Members** and define the rights, restrictions and obligations of **Members** in that class, and;
- b) vary or cancel the rights, restrictions and obligations of **Members** in any new or existing class, if:
  - i. 75% of the **Members** of that class give their written consent; or
  - ii. a special resolution to that effect is passed at a separate meeting of those **Members**.

**Parts 6 and 7 apply**, so far as they are capable of application, and with the necessary changes, to meetings of every separate class.

#### 4.6 **Application for membership**

An application for admission to **Membership** as a **Full Member** or an **Associate Member** must:

- a) be in writing in the form from time to time determined by the **Directors**; and
- b) state:
  - i. the class of **Membership** for which application is made;
  - ii. if there are different categories within that class of **Membership**, the category in respect of which that class of **Membership** sought; and
  - iii. state that, if admitted to **Membership**, the applicant will be bound by this **Constitution**,

and must be accompanied by payment of that amount as the **Directors** may determine from time to time to be payable by applicants for **Membership** of the class and category sought.

#### 4.7 **Admission to Membership**

Applications for admission to **Certificate Holder Membership** category or **Associate Membership** are to be considered by the **Chief Executive** who may approve or refuse **Membership** applications in accordance with guidelines set out and promulgated by the **Directors**, or may refer applications to the **Board of Directors**. The guidelines will provide that:

- a) where an **Organisation** is a **Certificate Holder Member** of the **Company** then no director of, employee of or consultant to that **Organisation** will be admitted as a **Certificate Holder Member**;
- b) where a director or employee of an **Organisation**, or a consultant to an **Organisation**, is a **Certificate Holder Member** then the **Organisation** itself will not be admitted as a **Certificate Holder Member** and no other director or employee will be admitted as a **Certificate Holder Member**; and

- c) Where an **Organisation** is a **Certificate Holder Member** of the **Company** then no related entity will be admitted as a **Certificate Holder Member**.

Applications for admission as a **Miscellaneous Member** must be referred to the **Board of Directors** for consideration and approval by a majority of **Directors** at their sole discretion.

#### 4.8 Ceasing to be a **Member**

A **member** ceases to be a **Member**:

- a) on cancellation of all **Certificates** held by a **Member**;
- b) on death;
- c) on becoming bankrupt or insolvent or making an arrangement or composition with creditors of the person's joint or separate estate generally;
- d) on becoming of unsound mind or someone whose person or estate is liable to be dealt with in any way under a law relating to mental health;
- e) if that **Member** fails to pay any subscription in accordance with **article 5.2**;
- f) if, in the opinion of the **Directors**, that **Member** ceases to satisfy the criteria for admission to **Membership** of any class and category.
- h) in the circumstances described in **article 4.9 and 4.10**.
- i) if a corporation, being dissolved or otherwise ceasing to exist, having a liquidator or provisional liquidator appointed to it, or being unable to pay its debts.

#### 4.9 Resignation

A **Member** may by written notice to the **Company** resign their **Membership** with immediate effect or with effect from a specified date occurring not more than 12 months after the service of the notice.

#### 4.10 Termination

Notwithstanding any other **article** in this **Constitution**, the **Directors** may by written notice to a **Member** terminate their **Membership** with immediate effect or with effect from a specified dated occurring not more than 12 months after service of the notice.

#### 4.11 Cancellation

In the event that a **Member** ceases to be a **Certificate Holder Member**, all **Certificates** held by the **Member** at that time shall be cancelled.

#### 4.12 No claim against the *Company*

No *Member* whose *Membership* ends has any claim against the *Company* for damages or otherwise.

#### 4.13 *Membership* cannot be dealt with

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

- a) is not capable of being disposed of or made the subject of any trust; and
- b) ends when that person's *Membership* ends.

#### 4.14 Limited liability

The *Members* have no liability as *Members* except as set out in *article 18*.

### 5 *Membership* subscriptions

#### 5.1 *Directors* to determine

The *Directors* must determine the subscriptions to be paid by *Members* for each *Financial Year*.

The *Directors* may determine:

- a) different subscriptions for different classes of *Membership* and for different categories within any class; and
- b) that the subscription for a class of *Membership* or category is zero.

#### 5.2 Timing

The *Directors* must notify the *Members* of the subscriptions (if any) payable by them as soon as reasonably practicable after the beginning of each *Financial Year*.

Each *Member* must pay the subscription for which it is liable under this *Constitution* in respect of a *Financial Year* no later than the date in that *Financial Year* determined by the *Directors*.

#### 5.3 Former *Members* remain liable

Any *Member* whose *Membership* ends remains liable to the *Company* for all subscriptions due by them to the *Company* before their *Membership* ended.

If any subscriptions have been paid in advance, no amount is refundable to any *Member* whose *Membership* has ended unless first approved by the *Directors*.



## 6 General meetings

### 6.1 Annual general meeting

Annual general meetings of the **Company** are to be held according to the **Corporations Act**.

### 6.2 Power to convene general meeting

The **Directors** may convene a general meeting when they think fit and must do so if required to do so under the **Corporations Act**.

### 6.3 Members have power to convene general meeting

Either:

- a) a **Director**; or
- b) any two or more **Full Members** (other than **Associate Members**),

may convene a general meeting at the cost of the **Company** if there are insufficient **Directors** in office to constitute a quorum according to **article 11.6**.

### 6.4 Notice of general meeting

Notice of a meeting of **Members** must be given according to **Part 16** and the **Corporations Act**.

### 6.5 Directors entitled to attend general meetings

A **Director** is entitled to receive notice of and attend and speak at all general meetings.

### 6.6 Cancellation or postponement of general meeting

Where a general meeting (including an annual general meeting) is convened by the **Directors** they may, if they think fit, cancel the meeting or postpone the meeting to a date and time they determine.

However, this **article** does not apply to a meeting convened:

- a) by **Members** according to the **Corporations Act**;
- b) by the **Directors** at the request of **Members**; or
- c) by a court.

## 6.7 Written notice of cancellation or postponement of general meeting

Notice of cancellation or postponement of a general meeting must state the reason for doing so and be given to:

- a) each **Member** individually; and
- b) each other person entitled to a notice of a general meeting under the **Corporations Act**.

## 6.8 Contents of notice postponing general meeting

A notice postponing a general meeting must specify:

- a) the new date and time for the meeting;
- b) the place where the meeting is to be held, which may be either the same as or different to the place specified in the notice originally convening the meeting; and
- c) if the meeting is to be held in two or more places, the technology that will be used to hold the meeting in that manner.

## 6.9 Number of clear days for postponement of general meeting

The number of clear days from the giving of a notice postponing a general meeting to the date specified in that notice for the postponed meeting may not be less than the number of clear days' notice of the general meeting required to be given by this **Constitution** or the **Corporations Act**

## 6.10 Business at postponed general meeting

The only business that may be transacted at a postponed general meeting is the business specified in the notice originally convening the meeting.

## 6.11 Proxy, attorney or representative at postponed general meeting

Where:

- a) by the terms of an instrument appointing a **Proxy, attorney or representative**, they are authorised to attend and vote at a general meeting to be held on a specified date or at a general meeting or general meetings to be held on or before a specified date; and
- b) the date for the meeting is postponed to a date later than the date specified in the instrument,

then that later date is substituted for the date specified in the instrument, unless the appointing **Member** notifies the **Company** in writing to the contrary at least 48 hours before the time at which the postponed meeting is to be held.

## 6.12 Non-receipt of notice

The non-receipt of a notice convening, cancelling or postponing a general meeting by, or the accidental omission to give a notice of that kind to, a person entitled to receive it, does not invalidate any resolution passed at the general meeting or at a postponed meeting or the cancellation or postponement of the meeting.

## 7 Proceedings at general meetings

### 7.1 Reference to a *Member*

Unless the contrary intention appears, a reference to a *Member* in this *Part 7* means a person who is:

- (a) a *Member*;
- (b) a *Proxy*;
- (c) an *attorney*; or
- (d) a *representative*.

### 7.2 Number for a quorum

Subject to *article 7.5*, six *Full Members* present are a quorum at a general meeting.

### 7.3 Requirement for a quorum

An item of business may not be transacted at a general meeting unless a quorum is present when the meeting proceeds to consider it.

If a quorum is present at the beginning of a meeting it is taken to be present throughout the meeting unless the *Chairman* of the meeting on their own motion or at the request of a *Member*, present declares otherwise.

### 7.4 Quorum and time

If within 30 minutes after the time appointed for a general meeting a quorum is not present, the meeting:

- a) if convened by, or on requisition of, *Members* is dissolved; and
- b) in any other case stands adjourned to the same day in the next week and the same time and place, or to such other day, time and place as the *Directors* appoint by notice to those entitled to notice of the meeting.

## 7.5 Adjourned meeting

At a meeting adjourned under **article 7.4(b)**, four persons each being a **Full Member, Proxy** or **attorney** present at the meeting are a quorum.

If a quorum is not present within 30 minutes after the time appointed for the adjourned meeting, the meeting is dissolved.

## 7.6 Appointment and powers of *Chairman* of general meeting

If the **Directors** have elected one of their number as **Chairman**, that person is entitled to preside as **Chairman** at a general meeting.

## 7.7 Absence of *Chairman* at general meeting

If a general meeting is held and:

- a) a **Chairman** has not been elected by the **Directors**; or
- b) the elected **Chairman** is not present within 30 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the following may preside as **Chairman** of the meeting (in order of precedence):

- c) the **Deputy Chairman** (if any);
- d) a **Director** chosen by a majority of the **Directors** present;
- e) the only **Director Present**; or
- f) a **Member** chosen by a majority of the **Full Members** present.

## 7.8 Conduct of general meetings

The **Chairman** of a general meeting:

- a) has charge of the general conduct of the meeting and of the procedures to be adopted at the meeting;
- b) may require the adoption of any procedure which is in the **Chairman's** opinion necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the general meeting; and
- c) may, having regard where necessary to the **Corporations Act**, terminate discussion or debate on any matter whenever the **Chairman** considers it necessary or desirable for the proper conduct of the meeting,

and a decision by the **Chairman** under this **article** is final.

## 7.9 Adjournment of general meeting

The **Chairman** of a general meeting may at any time during the meeting adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting.

The adjournment may be either to a later time at the same meeting or to an adjourned meeting at any time and any place, but:

- a) in exercising this discretion, the **Chairman** may, but need not, seek the approval of the **Members** present. Unless required by the **Chairman**, a vote may not be taken or demanded by the **Members** present in respect of any adjournment; and
- b) only unfinished business is to be transacted at a meeting resumed after an adjournment.

## 7.10 Notice of adjourned meeting

It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for one month or more.

If a meeting is adjourned for one month or more, notice of the adjournment must be given in accordance with **article 6.4**.

## 7.11 Questions decided by majority

Subject to the requirements of the **Corporations Act**, and this **Constitution** a resolution is taken to be carried if a simple majority of the votes cast are in favour of the resolution.

## 7.12 Equality of votes - casting vote for **Chairman**

If there is an equality of votes, whether on a show of hands or on a poll, the **Chairman** of the general meeting is entitled to a casting vote.

## 7.13 Declaration of results

At any general meeting a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is properly demanded and the demand is not withdrawn.

A declaration by the **Chairman** that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the **Company**, is conclusive evidence of the fact.

Neither the **Chairman** nor the minutes need state, and it is not necessary to prove, the number or proportion of the votes recorded in favour of or against the resolution.

#### 7.14 Poll

If a poll is properly demanded, it must be taken in the manner and at the date and time directed by the **Chairman** and the result of the poll is the resolution of the meeting at which the poll was demanded.

A poll demanded on the election of a **Chairman** or on a question of adjournment must be taken immediately.

A demand for a poll may be withdrawn.

A demand for a poll does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.

#### 7.15 Objection to voting qualification

Objection may not be raised to the right of a person to attend or vote at a meeting or adjourned meeting or to vote on a poll except at that meeting or adjourned meeting or when that poll is taken.

Every vote not disallowed at the meeting or adjourned meeting or when the poll is taken is valid.

#### 7.16 **Chairman to determine any poll dispute**

If there is a dispute as to the admission or rejection of a vote, the **Chairman** of the meeting must decide it and the **Chairman's** decision made in good faith is final and conclusive.

### 8 Votes of *Members*

#### 8.1 Reference to present

Unless the contrary intention appears, a reference in this **Part 8** to a **Full Member** present is a reference to a **Full Member** present in person or by **Proxy**, *attorney* or *representative*.

#### 8.2 Voting rights

Subject to:

- a) the rights and any restrictions attached to or affecting any class or category of **Members**; and
- b) any other restrictions in this **Constitution**,

on a show of hands and on a poll, each **Full Member** present has one vote.

### 8.3 Right to appoint a *Proxy*

Subject to the *Corporations Act*, a *Member* entitled to attend at a meeting of the *Company* or of any class or category of *Members* is entitled to appoint another person (whether a *Member* or not) as *Proxy* to attend in the *Member's* place at the meeting.

A *Proxy* has the same rights as the *Member* to speak and (in the case of a *Full Member*) vote at the meeting and may be appointed in respect of more than one meeting.

### 8.4 Right to appoint attorney

A *Member* may appoint an *Attorney* to act on the *Member's* behalf at all or any meetings of the *Company* or of any class or category of *Members*.

To be effective, an instrument appointing an attorney under this clause, together with any evidence of non-revocation the *Directors* require, must be received by the *Company* at least 48 hours before the meeting.

### 8.5 Right to appoint a representative

Each *Member* which is a body corporate is entitled under the *Corporations Act* to appoint a *representative* to attend general meetings of the *Company*.

## 9 *Directors*

### 9.1 Number of *Directors*

The number of *Directors* is to be not less than three nor more than 10 and shall include:

- a) the *Chairman*
- b) the *Deputy Chairman*,
- c) the *Managing Director*.

The *Directors* in office at the time this *Constitution* takes effect continue in office notwithstanding this *article 9.1*.

### 9.2 Eligibility

Subject to *articles 9.4 and 9.5*, a person is not eligible to be elected or appointed as a *Director* unless that person:

- a) is a natural person who is a *Full Member*; or
- b) is a natural person who has been appointed by a majority of the *Directors* or nominated for election by a *Full Member* or *Director* and elected by vote of the *Members*.

### 9.3 Nomination of natural persons as *Directors*

Any **Full Member** or **Director** may nominate a natural person as a **Director**. Nominations must be provided to the **Registered Office** at least 45 days before the **Company's** Annual General Meeting and must include the nominee's acceptance in writing of the nomination, together with a disclosure by the nominee of any thing which may impact their independence if they become a **Director** of the **Company**.

Upon receipt of a nomination which is accompanied by the nominee's acceptance in writing and disclosure of all things which may impact the nominee's independence, the **Board of Directors** must determine whether the nominee is eligible for election as an **Independent Director**. If the **Board of Directors** determine that the nominee is not eligible for election as an **Independent Director** then the nominee is nevertheless eligible for election as a **Director** other than an **Independent Director**.

### 9.4 *Independent Directors*

A majority of the **Directors**, including the **Chairman, Deputy Chairman** and **Managing Director**, must at all times be **Independent Directors**.

The **Directors** must regularly assess the independence of each **Director** in light of the interests disclosed by them. Each **Independent Director** must provide the **Directors** with all relevant information for this purpose and must update their disclosure of interests immediately upon the occurrence of any thing which may impact their independence.

The **Directors** must disclose to the **Members**, in a timely fashion, any matter or circumstance which may affect a **Director's** status as an **Independent Director**.

### 9.5 Make up of *Independent Directors* appointed by the *Directors* or elected by the *Members*.

**Independent Directors**, to the extent that it is reasonably practicable to do so, shall possess specialist skills, experience or qualifications of particular value to the **Company** and may include fields such as law, finance, trade, product certification and safety assurance, engineering/physics, business management and safety regulation.

### 9.6 Make up of *Directors* who are *Full Members* and appointed by the *Directors* or elected by the *Members*.

**Full Member Directors**, to the extent that it is reasonably practicable to do so, shall possess the following skills:

- a) recognised technical skills and experience in the area of **Products**.
- b) recognised business skills and experience
- c) recognised experience in dealing with legislative issues affecting business regulation.



## 9.7 Election of *Directors*

At each third annual general meeting, the *Members* will elect up to ten *Directors*. *Independent Directors* must comprise a majority of the *Directors* elected by the *Members*, such that there must be at least one more *Independent Director* elected than there are directors other than *Independent Directors* elected.

## 9.8 Election of *Chairman* and *Deputy Chairman*

At the first *Directors'* meeting after each annual general meeting at which an election is conducted according to *article 9.7*, the *Directors* will elect a *Chairman* and *Deputy Chairman* from amongst the number of *Independent Directors*.

Only *Independent Directors* are eligible for election to the office of *Chairman* and *Deputy Chairman*.

Those persons hold those offices until the next annual general meeting at which elections are to be conducted according to *article 9.7*.

## 9.9 Other *Directors'* term of office

Subject to *articles 9.11 and 9.13* a *Director* holds office for a term of three years from the conclusion of the annual general meeting at which they are elected until the conclusion of the annual general meeting at which they must retire or stand for re-election.

## 9.10 Re-election

A retiring *Director* is eligible for re-election.

## 9.11 *Director* elected at general meeting

The *Company* may, at a general meeting at which a *Director* retires or otherwise vacates office, by resolution fill the vacated office by electing a person to that office.

## 9.12 Change of number of *Directors*

Subject to *article 9.1*, and subject to the overriding requirement that *Independent Directors* must always constitute a majority of the *Board of Directors*, the *Company* in general meeting may by resolution increase or reduce the number of *Directors*, and may alter the term of office of all or any of the *Directors*.

## 9.13 Casual vacancy

Subject to *articles 9.1 and 9.4*, the *Directors* may at any time appoint a person to:

- a) be a *Director*, either to fill a casual vacancy or as an addition to the existing *Directors*; or
- b) to fill a casual vacancy in the office of *Chairman* or *Deputy Chairman*.

A person appointed under this *article* holds office until the conclusion of the next annual general meeting of the *Company* at which *Directors* are elected and is eligible for election at that meeting.

#### 9.14 Remuneration of *Directors*

A *Director* may be paid the remuneration from time to time fixed by the *Company* in general meeting.

A *Director* is also to be reimbursed out of the funds of the *Company* for their reasonable travelling, accommodation and other expenses incurred when travelling to or from meetings of the *Directors* or a Committee or when otherwise engaged on the affairs of the *Company*.

#### 9.15 *Director's* reimbursement must be approved

Any reimbursement to a *Director* must be approved by the *Directors*.

#### 9.16 *Director's* interests

Subject to complying with the *Corporations Act* regarding disclosure of and voting on matters involving material personal interests, a *Director* may:

- a) hold any office or place of profit in the *Company*, except that of *Auditor*;
- b) hold any office or place of profit in any other *Company*, body corporate, trust or entity promoted by the *Company* or in which it has an interest of any kind;
- c) enter into a contract or arrangement with the *Company*;
- d) participate in any association, institution, fund, trust or scheme for past or present employees or *Directors* of the *Company* or persons dependent on or connected with them;
- e) act in a professional capacity (or be a *Member* of a firm which acts in a professional capacity) for the *Company*, except as *Auditor*.
- f) participate in, vote on and be counted in a quorum for any meeting, resolution or decision of the *Directors* and may be present at any meeting where any matter is being considered by the *Directors*; and
- g) sign or participate in the execution of a document by or on behalf of the *Company*.

A *Director* may do any of those things despite the fiduciary relationship of the *Director's* office:

- h) without any liability to account to the *Company* for any *Direct* or indirect benefit accruing to the *Director*; and
- i) without affecting the validity of any contract or arrangement.

### 9.17 Vacation of office

In addition to the circumstances prescribed under the *Corporations Act*, the office of a *Director* becomes vacant if the *Director*:

- a) becomes of unsound mind or someone who is, or whose estate is liable to be dealt with in any way under a law relating to mental health;
- b) resigns office by notice in writing to the *Company*;
- c) was elected as an *Independent Director* but the *Board of Directors* determines that the *Director* no longer satisfies the criteria to be an *Independent Director*; or
- d) is not present personally or by *Proxy* or *Alternate Director* at meetings of the *Directors* for a continuous period of nine months without leave of absence from the *Directors*.

## 10 Powers and duties of directors

### 10.1 Directors to manage *Company*

The *Directors* are to manage the business of the *Company* and may exercise all the powers of the *Company* that are not, by the *Corporations Act* or by this *Constitution*, required to be exercised by the *Company* in general meeting.

### 10.2 Specific powers of *Directors*

Without limiting *article 10.1*, the *Directors* may:

- a) exercise all the powers of the *Company* to borrow or raise money, to charge any property or business of the *Company* or all of its uncalled capital and to issue debentures or give any other security for a debt, liability or obligation of the *Company* or of any other person; and
- b) do everything which in their opinion is necessary or convenient for implementing the objects of the *Company*.

### 10.3 Appointment of attorney

The *Directors* may appoint any person to be the *attorney* of the *Company* for the purposes and with the powers, authorities and discretions held by the *Directors* for the period and subject to the conditions they think fit.

## 10.4 Provisions in power of attorney

A power of *attorney* granted under **article 10.3** may contain any provisions for the protection and convenience of persons dealing with the *attorney* that the **Directors** think fit and may also authorise the *attorney* to delegate (including by way of appointment of a substitute attorney) all or any of the powers, authorities and discretions of the *attorney*.

## 10.5 Minutes

The **Directors** must direct minutes of meetings to be made and kept according to the **Corporations Act**.

# 11 Proceedings of *Directors*

## 11.1 *Directors* meetings

The **Directors** may meet together for conducting business, adjourn and otherwise regulate their meetings as they think fit.

## 11.2 *Director* may convene a meeting

A **Director** may at any time, and the *secretary* must on the written request of a **Director**, convene a meeting of the **Directors**.

## 11.3 Questions decided by majority

A question arising at a meeting of **Directors** is to be decided by a majority of votes of **Directors** present and entitled to vote and that decision is for all purposes a decision of the **Directors**.

## 11.4 *Alternate Director* or *Proxy* and voting

A person who is present at a meeting of **Directors** as an **Alternate Director** or as a **Proxy** for another **Director** has one vote for each absent **Director** who would be entitled to vote if present at the meeting and for whom that person is an **Alternate Director** or **Proxy**. If that person is also a **Director**, they have one vote as a **Director** in that capacity.

## 11.5 *Chairman's* casting vote

In the event of an equality of votes the **Chairman** of the meeting has a casting vote.

## **11.6 Quorum**

Until otherwise determined by the **Directors**, four **Directors** present in person or by **Proxy** are a quorum, providing a majority of the **Directors**, including the **Chair and Deputy Chair**, are **Independent Directors**.

## **11.7 Effect of vacancy**

The continuing **Directors** may act despite a vacancy in their number. However, if their number is reduced below the minimum fixed by **article 9.1**, the continuing **Directors** may, except in an emergency, act only for the purpose of filling vacancies to the extent necessary to bring their number up to that minimum or for calling a general meeting.

## **11.8 Appointment of Alternate Director**

Subject to the **Corporations Act**, a **Director** may appoint a person approved by a majority of the other **Directors**, to be an **Alternate Director** in the **Director's** place for a period that the **Director** thinks fit.

## **11.9 Alternate Director and meetings**

An **Alternate Director** is entitled to notice of all meetings of the **Directors** and, if the appointor does not attend a meeting, is entitled to attend and vote in the appointor's place.

## **11.10 Alternate Director's powers**

An **Alternate Director** may exercise all the powers of the appointor except the power to appoint an **Alternate Director** and, subject to the **Corporations Act**, may perform all the duties of the appointor that the appointor has not exercised or performed.

## **11.11 Alternate Director responsible for own acts and defaults**

While acting as a **Director**, an **Alternate Director** is responsible to the **Company** for the **Alternate Director's** own acts and defaults and the appointor is not responsible for them.

## **11.12 Alternate Director and remuneration**

An **Alternate Director** is not entitled to receive from the **Company** any remuneration or benefit under **article 9.13**.

## **11.13 Termination of appointment of Alternate Director**

The appointment of an **Alternate Director** may be terminated at any time by the appointor even if the period of the appointment of the **Alternate Director** has not expired, and terminates in any event if the appointor ceases to be a **Director**.

#### **11.14 Appointment or termination in writing**

The appointment or the termination of an appointment, of an **Alternate Director** must be effected by a notice in writing signed by the **Director** who makes or made the appointment and delivered to the **Company**.

#### **11.15 Alternate Director and number of Directors**

The **Alternate Director** is not to be taken into account separately from the appointor in determining the number of **Directors**.

#### **11.16 Director attending and voting by Proxy**

A **Director** may attend and vote by **Proxy** at a meeting of the **Directors** if the **Proxy**:

- a) is another **Director**; and
- b) has been appointed in writing signed by the appointor.

The appointment may be general or for one or more particular meetings.

#### **11.17 Convening meetings**

A **Director** may, and the **Secretary** on the request of a **Director** must, convene a meeting of the **Directors**.

#### **11.18 Chairman to preside over Directors' meeting**

The **Chairman** is entitled to preside at meetings of the **Directors**.

If the **Chairman** is not present and able and willing to act within 30 minutes after the time appointed for a meeting or has signified an intention not to be present and able and willing to act, the following may preside (in order of entitlement):

- a) the **Deputy Chairman**; or
- b) a **Director** chosen by a majority of the **Directors** present.

#### **11.19 Directors' committees**

The **Directors** may delegate any of their powers to committees consisting of those persons that they think fit and may revoke that delegation.

#### **11.20 Powers delegated to Directors' committees**

A committee to which any powers have been delegated under **article 11.19** must exercise those powers according to any directions of the **Directors**.

Those powers are then taken to have been exercised by the **Directors**.

### **11.21 Directors' committee meetings**

Subject to **article 11.20**, the provisions of this constitution as to the meetings and proceedings of the **Directors** apply, so far as they are capable of application and with the necessary changes, to meetings and proceedings of committees.

### **11.22 Circulating resolutions**

The **Directors** may pass a resolution without a **Directors'** meeting being held if all of the **Directors** who are entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.

Separate copies of a document may be used for signing by **Directors** if the wording of the resolution and statement is identical in each copy.

The resolution is passed when the last **Director** signs.

### **11.23 Meeting by use of technology**

A **Director's** meeting may be called or held using any technology to which each **Director** has consented.

The consent may be a standing one.

A **Director** may only withdraw their consent within a reasonable time before the meeting.

### **11.24 Validity of acts of Directors**

All acts done at a meeting of the **Directors** or of a committee of **Directors**, or by a person acting as a **Director**, are valid even if it is afterwards discovered that there was some defect in the appointment, election or qualification of any of them or that any of them were disqualified or had vacated office.

## **12 Chief Executive**

The **Directors** may appoint a **Chief Executive**.

The **Directors** may give a **Chief Executive** any of the powers conferred on them by this **Constitution**, including, at the **Directors'** discretion:

- a) for any time period;
- b) for specific purposes; and
- c) subject to any other terms and restrictions.

All or any of those powers may be given collaterally with or to the exclusion of the powers of the **Directors** and may be revoked or varied by the **Directors**.

## **13 Secretary**

### **13.1 Appointment of *secretary***

There must be at least one *Secretary* who is to be appointed by the *Directors*.

### **13.2 Suspension and removal of *secretary***

The *Directors* may suspend or remove a *Secretary* from that office.

### **13.3 Powers, duties and authorities of *secretary***

A *Secretary* holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, determined by the *Directors*.

## **14 Seals**

### **14.1 Safe custody of common seals**

The *Directors* must provide for the safe custody of any seal of the *Company*.

### **14.2 Use of common seal**

If the *Company* has a common seal or duplicate common seal:

- a) it may be used only with the authority of the *Directors*; and
- b) every document to which it is affixed must be signed by a *Director* and be countersigned by another *Director*, a *Secretary* or another person appointed by the *Directors* to countersign that document or a class of documents in which that document is included.

## **15 Inspection of records**

### **15.1 Inspection by Members**

Subject to the Corporations Act, the directors may determine whether and to what extent, and at what times and places and under what conditions, the accounting records and other documents of the company or any of them will be open to inspection by the members (other than directors).



## 15.2 Right of member to inspect

A member (other than a director) does not have the right to inspect any document of the company except as provided by law or authorised by the directors or by the company in general meeting.

# 16 Service of documents

## 16.1 Document includes notice

In this *Part 16*, a reference to a document includes a notice.

## 16.2 Methods of service

The *Company* may give a document to a *Member*:

- a) personally;
- b) by sending it by post to the address for the *Member* in the Register or an alternative address nominated by the *Member*; or
- c) by sending it to a fax number or electronic address nominated by the *Member*.

## 16.3 Post

A document sent by post:

- a) if sent to an address in Australia, may be sent by ordinary post; and
- b) if sent to an address outside Australia, must be sent by airmail,

and in either case is taken to have been received on the day after the date of its posting.

## 16.4 Fax or electronic transmission

If a document is sent by fax or electronic transmission, delivery of the document is taken:

- a) to be effected by properly addressing and transmitting the fax or electronic transmission; and
- b) to have been delivered on the day following its transmission.

## 17 Indemnity

### 17.1 Indemnity of officers, *Auditors* and agents

Every person who is or has been:

- a) a *Director*;
- b) a *Secretary*; or
- c) an *executive officer* of the **Company**,

is entitled to be indemnified out of the property of the **Company** against:

- d) every liability incurred by the person in that capacity (except a liability for legal costs); and
- e) all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity,

unless:

- f) the **Company** is forbidden by statute to indemnify the person against the liability or legal costs; or
- g) an indemnity by the **Company** of the person against the liability or legal costs would, if given, be made void by statute.

### 17.2 Insurance

The **Company** may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a *Director* or *Secretary* or *executive officer* of the **Company** against liability incurred by the person in that capacity, including a liability for legal costs, unless:

- a) the **Company** is forbidden by statute to pay or agree to pay the premium; or
- b) the contract would, if the **Company** paid the premium, be made void by statute.

## 18 Winding up

Each **Member** undertakes to contribute to the **Company's** property if the **Company** is wound up while they are a **Member** or within one year after they cease to be a **Member**.

The contribution is for:

- a) payment of the **Company's** debts and liabilities contracted before they ceased to be a **Member**;
- b) the costs of winding up; and
- c) adjustment of the rights of the contributories among themselves,

and the amount is not to exceed \$10.00 per **Member**.

## 19 Accounts

The **Directors** must cause the accounts of the **Company** to be audited according to the requirements of the **Corporations Act** and any other applicable law.

## 20 Corporations Act

In this **Constitution** unless the contrary intention appears:

- a) an expression has, in a provision of this **Constitution** that deals with a matter dealt with by a particular provision of the **Corporations Act**, the same meaning as in that provision of the **Corporations Act**; and
- b) *section* means a section of the **Corporations Act**.

The provisions of the **Corporations Act** that apply as replaceable rules are displaced by this **Constitution** and accordingly do not apply to the **Company**.

## 21 Headings

Headings are inserted for convenience and do not affect the interpretation of this **Constitution**.

## 22 Powers

Powers conferred on the **Company**, the **Directors**, a committee of **Directors**, a **Director** or a **Member** may be exercised at any time and from time to time.

## 23 Constitution

### 23.1 References to this Constitution

A reference to this **Constitution** is a reference to it as amended from time to time.

### 23.2 Repealing the Constitution, Modifying the Constitution and Adopting a new Constitution

A special resolution in favour of adopting a new **Constitution** or modifying or repealing the **Constitution** of the **Company** (a 'Constitution Amendment Resolution') has no effect unless at the first meeting of the **Board of Directors** following the passing of the Constitution Amendment Resolution a majority of the **Independent Directors** of the **Company** vote in favour of:

- (a) approving the repeal of the **Constitution**;
- (b) approving the adoption of the new **Constitution** referred to in the Constitution Amendment Resolution;
- (c) approving the modification of the **Constitution** as set out in the Constitution Amendment Resolution.

## Schedule 1 - *Directors'* independence, skills, experience and knowledge

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### 1 Independence

A *Director* is considered to be an *Independent Director* by the *Company* if the *Director* is free from any business or other relationship giving rise to the potential of materially interfering with the exercise of their unfettered and independent judgement or could reasonably be perceived to do so.

A *Director* who:

- a) is a *Member*;
- b) is associated with a *Member* of the *Company*;
- c) is employed, or has previously been employed by a *Member* and there has not been a period of at least seven years between ceasing that employment and serving as a *Director*;
- d) is a material supplier or customer of the *Company* or a *Member*, or be an officer of or otherwise associated directly or indirectly with a material supplier or customer;
- e) has a material contractual relationship with the *Company* or a *Member* other than as a *Director* of the *Company*;
- f) is currently, or has within the past fifteen years been employed by a competitor of the *Company*;
- g) is associated with an *Organisation* which has availed itself, within the past seven years, of the *Company's Services* or similar services provided by the *Company's* competitors.

will not be an *Independent Director*, unless the majority of *Directors* when assessing the independence under *article 9.3* are satisfied on reasonable grounds that the *Director* is independent of external influence or perceived external influence despite the existence of one or more of these circumstances.

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## 2 Skills experience and knowledge

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In assessing the suitability of prospective nominees to serve as an *Independent Director*, the *Board* must ensure that the nominees will, as far as is practically possible, bring expertise such that the *Board of Directors* (as a whole) possesses the following core skills and experience;

- a) **STRATEGIC EXPERTISE:** - the ability to review the strategy through constructive questioning and suggestion;
- b) **ACCOUNTING AND FINANCE:** - the ability to read and comprehend the *Company's* accounts, financial material presented to the *Directors*, financial reporting requirements and some understanding of corporate finance;
- c) **LEGAL:** - Qualification in Law with significant experience in *Product Certification* and related fields and the Australian gas industry.
- d) **TECHNICAL AND SCIENTIFIC:** - Qualification in Engineering or Science with relevant experience and an ability to read and comprehend technical and scientific publications and understand the *Company's* capability, capacity, limitations and needs in managing a diverse range of advanced technical services.
- e) **RISK MANAGEMENT:** - experience in managing areas of major risk to the *Organisation*;
- f) **CONFORMITY ASSESSMENT BODY ("CAB"):** - a thorough understanding of the responsibilities and obligations of a "CAB" and accreditation requirements of "[ISO/IEC 17065 : 2012 - Conformity assessment - Requirements for bodies certifying products, processes and services](#)".
- g) **REGULATION:** - experience in public policy with respect to regulated industries, consumer safety and consumer products;
- h) **COMMONWEALTH, STATE & TERRITORY REGULATION:** - experience in the administration and application of state-based regulatory regimes applied in a national market and the implications and challenges for a *Conformity Assessment Body*.
- i) **BUSINESS MANAGEMENT :** qualifications and relevant experience
- j) **OCCUPATIONAL HEALTH AND SAFETY:** - a thorough understanding of *OH&S* requirements;
- k) **INCIDENT INVESTIGATION:**
- l) Experience with similar organisations or industries;
- m) **"NOT-FOR-PROFIT" INDUSTRY ASSOCIATION:** - a thorough understanding of the role and obligations of such an *Organisation*.

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