



Research, Education, Technical Support & Information

ABN 69 003 696 526

Unit 50, 8 Avenue of the Americas, Newington, NSW 2127 PO Box 6165, Silverwater, NSW, 1811
Phone: (02) 9748 4443 Fax: (02) 9748 2858 E-mail info@wtia.com.au URL <http://www.wtia.com.au>

AUSTRALIAN CORPORATIONS LAW

A COMPANY LIMITED BY GUARANTEE

CONSTITUTION

OF

WELDING TECHNOLOGY INSTITUTE OF AUSTRALIA

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AUSTRALIAN CORPORATIONS ACT 2001**A COMPANY LIMITED BY GUARANTEE****CONSTITUTION
OF
WELDING TECHNOLOGY INSTITUTE OF AUSTRALIA*****C O N T E N T S***

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AUSTRALIAN CORPORATIONS ACT 2001
A COMPANY LIMITED BY GUARANTEE

CONSTITUTION
OF
WELDING TECHNOLOGY INSTITUTE OF AUSTRALIA

1. INTERPRETATION

1.1 In this Constitution, unless there is something in the subject or context inconsistent therewith:

the “Act” means the Corporations Act (Cth) 2001 as amended from time to time or legislation passed in substitution

“approved” means approved by the Council;

the “Chairman” means the person referred to in Section 27.2

the “Chief Executive Officer” means the person appointed under Section 32.2(h)

the “Commission” refers to the Australian Securities and Investments Commission

the “Constitution” means the constitution of the Institute

“the Council” means the Council of the Institute constituted pursuant to Section 26.1 and includes a meeting of the Council at which a quorum is present

a “Council Member” or “Councillor” is a person elected as a member of the Council pursuant to Section 26.1 and shall be a director as defined in Section 9 of the *Corporations Act 2001* and shall be subject to the duties and powers pursuant to Part 2D.1 of the *Corporations Act 2001*

the “Commonwealth” means the Commonwealth Government or any department, authority, statutory body or other institution or person under the authority thereof

the “Company Secretary” means the person appointed pursuant to Section 204 in Part 2D.4 of the *Corporations Act 2001* to carry out functions pursuant to Section 188 of the *Corporations Act 2001*

a “Division” means a particular Division of the Institute formed according to Section 15.4 which shall be regulated and controlled as per Section 15.5

the “Institute” means the Welding Technology Institute of Australia pursuant to Section 2.1

“Member” means a member of the Institute and includes each of the categories of members set out in Section 14

the “National Office” means the registered office of the Institute

the “President” means the person appointed pursuant to Section 27.1

the “Register” means the Register of Members kept pursuant to the Act

“welding” is a process involving the joining of materials in a way that produces a continuous, non-discrete, structure. The joining process may or may not involve application of heat and the

parts may or may not be fused. For the purposes of the Institute, welding includes other associated and supporting processes, as well as the processes related to the total life cycle of the welded structure or product

“in writing” or “written”, unless the contrary intention appears, shall be read as including references to printing, lithography, photography or other modes of representing or reproducing words in a visible form

words importing the singular number include the plural number and vice versa

words importing the masculine gender include the feminine and neuter genders

words importing persons include bodies corporate

words or expressions contained in these sections shall be interpreted in accordance with the provisions of the Act as in force at the date at which these Sections become binding on the Institute

2. NAME

- 2.1. The name of the Company is “Welding Technology Institute of Australia” (hereinafter called “the Institute”).

3. OBJECTS OF THE INSTITUTE

The objects for which the Institute is established are:

- 3.1 To promote the advancement of the science, art, process, occupation, practice and standard of welding and other processes associated with or having the same or similar functions or purposes as welding or other allied, ancillary or complementary sciences, arts, processes and occupations and industries (welding, associated processes and other allied, ancillary or complementary sciences, arts, processes and occupations being hereinafter referred to as “welding”).
- 3.2 To undertake, arrange, supervise, provide facilities for and otherwise promote and assist research with respect to welding.
- 3.3 To undertake, arrange and promote the transfer of welding technology for the benefit of members of the Institute and the welding industry.
- 3.4 To undertake, arrange and promote education, training, qualification, certification, consultancy and technical support for the benefit of members of the Institute and the welding industry.
- 3.5 To promote the advancement of welding technology and associated industries.

4. POWERS OF THE INSTITUTE

The Institute shall have the following powers solely for the purpose of carrying out the aforesaid objects and not otherwise:

- 4.1 To enter into contracts or arrangements with any technical organisation, body, institution or person or any government department, authority, statutory body, university or other place of learning, for the purpose of carrying out any research, investigation or other work related to welding for or on behalf of the Institute pursuant of matters mentioned in paragraphs (3), (4) and (5) or the transfer of welding technology or the objects of the Institute generally.

- 4.2 To encourage and provide facilities for the discovery of, to investigate and test, and to make known the nature or merits of, inventions, processes, procedures, materials and designs relating to welding or which may seem capable of being used by members of the Institute for any of the purposes of welding in its application to trade and industry.
- 4.3 To conduct and carry out or assist in conducting and carrying out all kinds of research, experiments, tests and technical work relating to welding and the designing, building and development of plant, machinery and processes in relation to welding.
- 4.4 To establish, form, equip, maintain, support or assist laboratories, workshops, factories or other buildings and plants (stationary or mobile) for the purposes of research, testing, experimenting and other scientific or technical work in relation to welding.
- 4.5 To establish, provide and maintain rooms, offices, museums, libraries, lecture-halls and other facilities as are necessary for the carrying on of the Institute's activities.
- 4.6 To disseminate, extend, impart, and promote knowledge of all aspects of welding and their respective application to industrial purposes and to promote proficiency and efficiency therein and to consider, originate and promote reforms and improvements in the application and use of the various welding processes in to and for industrial and commercial purposes.
- 4.7 To afford members of the Institute opportunities for the exchange of ideas and information with respect to the science, art, process, occupation, practice and standard of welding and to encourage proficiency therein and to publish, promote or assist in the publication or supply of information in relation thereto.
- 4.8 To conduct education, training and examinations in aspects of welding as prescribed by the Institute and to issue certificates of competency in recognition of the qualifications thereby gained or in recognition of other qualifications prescribed from time to time by the Institute or its Council. Every certificate thus granted must be clearly endorsed that it is merely a certificate issued on behalf of the Institute without implying in any way that it takes effect under any government department, statutory or other power or authority, unless the Institute is lawfully authorised to endorse or imply otherwise.
- 4.9 To assist in and advise on the formulation of Australian Standards for industrial application as they are related to welding.
- 4.10 To act on behalf of the welding industry to offer advice to and to otherwise encourage educational authorities to achieve and maintain the educational standards required by the industry and the rationalisation of those standards throughout Australia.
- 4.11 To develop, establish, administer, manage and act as the secretariat for other bodies, organisations or companies related to welding, whether wholly owned or independent.
- 4.12 To arrange, conduct, or participate in any congress, seminar, conference, symposium, lecture, training course, exhibition, demonstration, public meeting or other activity pursuant of the objects of the Institute or which will assist with the promotion, development or administration of the Institute.
- 4.13 To produce, publish and distribute all such books, manuals, pamphlets, periodicals, magazines, posters, films, videos and other publications or training aids as a means of the dissemination of knowledge which the Institute considers is necessary for or conducive to the carrying out of the objects of the Institute and to accept and publish advertisements therein on such terms as it considers desirable.

- 4.14 To collect, arrange, index and publish information relative to materials, methods, processes, patents, machines, appliances, tools and other things related to welding and to establish or maintain a bureau or data bank of information on such aforesaid matters for the benefit of members of the Institute and others.
- 4.15 To establish, endow, maintain, contribute towards or otherwise support any scholarship, bursary, lectureship, prize, medal or award to enable, assist or reward any proficiency, research, investigation, experiment, literary contribution, essay or effort connected directly or in any other manner with welding or the application of welding to trade or industry. Provided that no member of the Institute shall receive any scholarship, bursary, lectureship, prize, medal, award or distinction of monetary values except as a successful competitor at any competition held or promoted by the Institute.
- 4.16 To apply to any government, government department, statutory authority, public body, local government or other authority, corporation, company or person for and accept grants of money or of real or personal property of any kind, gifts, subscriptions, sponsorship or any other assistance for the carrying out of the objects of the Institute.
- 4.17 To subscribe to, become a member of, and co-operate with or amalgamate with any other association or organisation, whether incorporated or not, whose objects are similar to those of the Institute. Provided that the Institute shall not subscribe to or support with its funds or amalgamate with any association or organisation which does not prohibit the distribution of its income and property among its members to an extent at least as great as that imposed on the Institute under or by virtue of Section 5 of this constitution.
- 4.18 In furtherance of the objects of the Institute to acquire by purchase, hire, lease, exchange, application, grant, gift or otherwise howsoever:
- (i) any real property and any estate or interest therein, whether such property be held in fee simple or be leasehold property or property held under any other tenure,
 - (ii) any easement or other right or interest in any such property,
 - (iii) any personal property,
 - (iv) any patents, patent rights or inventions, copyrights, design, trade marks, secret processes, technical information, licenses, franchises and other rights, privileges or concessions.

Provided that in case the Institute shall take or hold any property which may be subject to any trusts the Institute shall only deal with the same in such manner as is allowed by law having regard to such trusts.

- 4.19 To enter into any arrangements with any government or authority, supreme, municipal, local or otherwise that may seem conducive to the objects of the Institute or any of them and to obtain from any such government or authority any rights, privileges and concessions which the Institute may think it desirable to obtain; and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions.
- 4.20 To appoint, employ, remove or suspend such professional or technical advisors, research workers, instructors, supervisors, managers, clerks, secretaries, workmen and other persons as may be necessary or convenient for the purposes of the Institute.
- 4.21 To establish and support or aid in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees or past employees of the Institute or the dependents or connections of any such persons; and to grant pensions and

allowances; and to make payments towards insurances; and to subscribe or guarantee money for charitable or benevolent objects, or for any public, general or useful object.

- 4.22 To construct, improve, maintain, develop, work, manage, carry out, alter or control any houses, buildings, grounds, works or conveniences which may seem calculated directly, or indirectly, to advance the Institute's interests, and to contribute to, subsidise or otherwise assist and take part in the construction, improvement, maintenance, development, working, management, carrying out, alteration or control thereof.
- 4.23 To invest and deal with money of the Institute not immediately required in such manner as may be permitted by law for the investment of trust funds.
- 4.24 To borrow or raise or secure the payment of money in such manner as the Institute may think fit and secure the same or the repayment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the Institute in any way and in particular by the issue of debentures perpetual or otherwise charges upon all or any of the Institute's property (both present and future), and to purchase, redeem or pay off such securities.
- 4.25 To make, draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments.
- 4.26 In furtherance of the objects of the Institute to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the Institute and to grant licences to use patents, copyrights, designs, secret processes or other property of the Institute.
- 4.27 To take or hold mortgages, liens and charges to secure payment of the purchase price or any unpaid balance of the purchase price, of any part of the Institute's property of whatsoever kind sold by the Institute, or any money due to the Institute from purchasers and others.
- 4.28 To take any gift of property whether subject to any special trust or not, for any one or more of the objects of the Institute but subject to the proviso in paragraph (19) of this Section 4.
- 4.29 In furtherance of the objects of the Institute to guarantee the contracts, liabilities or obligations of any person or body (corporate or unincorporate).
- 4.30 To pay the costs, charges and expenses relating to the ongoing development of the Institute.
- 4.31 To do any of the things mentioned in this Section alone or in conjunction or association or co-operation with any other persons or bodies corporate or unincorporate.
- 4.32 To procure the Institute to be registered or recognised in any part of the world.
- 4.33 To transact any lawful business in aid of the Commonwealth of Australia in the prosecution of any war in which the Commonwealth of Australia is engaged.
- 4.34 To implement an appeals process for any operation within the Institute.

Provided that the Institute shall not support with its funds any activity or endeavour to impose on or procure to be observed by its members or others any regulations or restrictions which if an object of the Institute would make it a trade union within the meaning of the Trade Unions Act 1958.

The powers set forth in Sub-section 161(1) of the Corporations Act 2001 shall not apply to the Institute except insofar as they are included in this Section 4.

5. INCOME, EXPENDITURE AND PROPERTY

- 5.1 The income and property of the Institute whencesoever derived, shall be applied solely towards the promotion of the objects of the Institute as set forth in this Constitution, and no portion thereof shall be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise, to the members of the Institute.
- 5.2 Nothing herein contained shall prevent the payment in good faith:
- 5.2.1 of reasonable and proper remuneration to any officer or servant of the Institute or to any member of the Institute in return for services actually rendered to the Institute,
 - 5.2.2 for goods supplied by any member of the Institute in the ordinary or usual way of business,
 - 5.2.3 of interest, at a rate not exceeding the rate for the time being fixed for the purpose of this paragraph by the Constitution, upon money lent by any member of the Institute,
 - 5.2.4 of reasonable and proper rent for premises demised or let by any member of the Institute,
 - 5.2.5 to a member of the Institute, by way of reimbursement of reasonable travelling and sustenance expenses incurred by him when engaged on the affairs or business of the Institute.
- 5.3 No member of the Council, as elected according to Section 26.1 shall be appointed to any salaried office of the Institute or any office of the Institute paid by fees and no remuneration or other benefit in money or money's worth shall be paid or given by the Institute to any member of such Council, except interest on money lent as mentioned in paragraph (5.2.3), rent as mentioned in paragraph (5.2.4), and reimbursement of expenses as mentioned in paragraph (5.2.5), of Sub-Section (2) of this Section 5, unless otherwise approved at a General Meeting of the Institute.
- 5.4 Section 5.3 shall not apply to a payment to a company or corporation of which a member of the Institute or a member of such Council, is a member and in which he holds less than one-hundredth part of the capital; and such member shall not be bound to account for any share of profits he may receive in respect of such payment.

6. ADDITION, ALTERATION OR AMENDMENT

No addition, alteration or amendment shall be made to or in the Constitution for the time being in force, unless the same shall have been initially approved by special resolution by Members at a General Meeting of the Institute, and then lodged with the Commission.

7. LICENCE CONDITIONS

The fifth sixth and eleventh sections of this Constitution contain conditions upon which approval is granted by the Commission to the Institute in pursuance of the provisions of Sections 150 and 151 of the Corporations Act 2001. For the purpose of preventing any evasion of the provisions of the said sections the Commission may from time to time on the application of any member of the Institute and on giving notice to the Institute of its intention so to do and after affording the Institute an opportunity of being heard in opposition thereto, within such time as may be specified in such notice, impose further conditions which shall be duly observed by the Institute.

8. LIABILITY OF MEMBERS

The liability of the members is limited.

9. LIMIT OF LIABILITY OF MEMBER

Every Member of the Institute undertakes to contribute to the property of the Institute in the event of the same being wound up while he is a member, or within one year after he ceases to be a member, for payment of the debts and liabilities of the Institute (contracted before he ceases to be a member) and of the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding one hundred dollars (\$100.00).

10. DISTRIBUTION OF ASSETS AFTER WINDING-UP OR DISSOLUTION

If upon the winding-up or dissolution of the Institute there remains, after satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the members of the Institute, but shall be given or transferred to some other institution or institutions having objects similar to the objects of the Institute and whose Constitution shall prohibit the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Institute under or by virtue of Section 5 hereof, such institution or institutions to be determined by the members of the Institute at or before the time of the dissolution and in default thereof by application to the Supreme Court of New South Wales of determination. Provided that if at the time of the winding-up or dissolution the Institute is in receipt of a grant from the Government of the Commonwealth of Australia the determination by the members of the Institute of such institution shall be subject to the approval of the said Government.

11. TRUE ACCOUNTS

True accounts shall be kept of the sums of money received and expended by the Institute and the matters in respect of which such receipt and expenditure takes place, and of the property, assets and liabilities of the Institute and, subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed in accordance with the Constitution for the time being in force shall be open to the inspection of the members. Once at least in every year, the accounts of the Institute shall be examined by one or more properly qualified Auditor or Auditors who shall report to the members in accordance with the provisions of the Act.

12. REGISTERED OFFICE

The registered office of the Institute shall be the National Office from which business is directed.

13. MEMBERSHIP

13.1 The subscribers to the Constitution and such other persons or organisations, whether national or foreign, as the Council shall admit to membership in accordance with this Constitution, shall be members of the Institute.

13.2 The number of members of the Institute is unlimited.

14. CLASSIFICATION OF MEMBERSHIP

Membership shall be divided into two sections as follows:

- (a) Corporate Members
- (b) Individual Members

Categories of membership within each section, and the qualifications for admission to those categories, shall be as defined from time to time by the Council and promulgated in the by-laws.

15. SPECIAL CONDITIONS OF MEMBERSHIP

- 15.1 Conditions applying to specific categories of membership shall be as defined from time to time by the Council and promulgated in the by-laws.
- 15.2 Subject to conditions as prescribed by the Council, members of the Institute shall be entitled to advertise or otherwise make known such membership for business or for personal reasons and may display the Institute's logo.
- 15.3 Each member of the Institute shall be attached to one of the Divisions of the Institute and no Individual Member or nominated delegate of a Corporate Member may be attached to more than one Division.
- 15.4 A Division of the Institute may be established with the consent of Council in each State and Territory of Australia and in any Foreign Country, as is practicable and lawful.
- 15.5 Each Division of the Institute shall be regulated and controlled as operational units of the Institute responsible to the Chief Executive Officer in accordance with the policies of, and under any terms of reference as approved by the Council.
- 15.6 The membership of each Corporate Member shall be recorded as being held by the Chief Executive Officer of that Member or by a person delegated with the authority to act for and on his behalf. This person shall have the same entitlements as an Individual Member and shall be eligible to stand for election as a Member of Council in accordance with the provisions of Section 31 and may act as the nominated delegate for the purpose of involvement in the activities of a Division.

16. ADMISSION OF MEMBERS

- 16.1 The application for membership shall be made in writing, signed by the applicant and shall be in such form and shall contain or accompany such evidence of qualification for admission, as the Council may from time to time prescribe or require.
- 16.2 The Council shall have the absolute discretion to grant, defer or refuse any application for membership or transfer of membership from one category to another or to stipulate the category of membership to which an applicant may be admitted or transferred commensurate with these Sections. Such decisions by Council shall be final for which no reasons need be given. The Council may exercise these discretions directly.
- 16.3 Every application for admission as a Member shall be forwarded directly to the National Office for processing in accordance with Section 16.2.

In no case shall the Institute be required to give any reason for the rejection of an applicant.

- 16.4 Each Member shall agree to observe the provisions of this Constitution and all by-laws, rules and regulations of the Institute for the time being in force.

17. REGISTER OF MEMBERS

- 17.1 A Register of all members of the Institute shall be kept and maintained at the National Office. The Register shall be kept in such manner as is required by the Act and shall include such particulars as the Council prescribes.

- 17.2 Any Individual Member, or nominated delegate of any Corporate Member, who shall at any time change his address or occupation as recorded for the time being in the Register, shall forward written advice without delay to the National Office. The Institute shall be entitled to act on such written advice and may direct all correspondence to the address last notified to the Institute by the Member or nominated representative.
- 17.3 The registration and rights of any Individual Member of the Institute shall not be transferable and shall cease on death, resignation or removal from membership.

18. CESSATION OF MEMBERSHIP

18.1 A Member shall cease to be a member of the Institute:

- (a) if he resigns by notice in writing to the National Office.
- (b) if, being a natural person, he becomes bankrupt or makes any assignment or composition with his creditors generally, or, being a corporation, a resolution is passed or an order is made for its winding up;
- (c) if he becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the Act relating to mental health;
- (d) if any entrance fee, subscription or other due payable by him remains unpaid for six months after it has become payable and after compliance with Section 20.4, he shall cease to be a member;
- (e) if he is expelled in accordance with Section 18.2.

18.2 If any Member wilfully refuses or neglects to comply with the provisions of the Constitution of the Institute or is guilty of any conduct, which in the opinion of the Council, is unbecoming of a Member or prejudicial to the interests of the Institute, the Council shall have power by resolution to censure, fine, suspend or expel the Member from the Institute.

Provided that at least fourteen days before the meeting of the Council at which such a resolution is passed the Member shall have had notice of such meeting and the nature of what is alleged against him and requiring him to attend and that he shall at such meeting and before the passing of such resolution have had an opportunity of giving orally, or in writing, any explanation or defence he may think fit and if at the meeting such a resolution be passed the Member concerned shall be dealt with accordingly and in the case of a resolution for his expulsion the Member shall be expelled. For the purposes of this Section the Council may delegate any of its power, functions or duties in accordance with Section 32.2(f).

19. RESIGNATION OF A MEMBER

A Member may at any time, by giving one month prior notice in writing to the National Office, resign his membership of the Institute but, nevertheless, shall continue to be liable for any annual subscription and all arrears, due and unpaid at the date of his resignation and for all other monies due by him to the Institute and, in addition, for any sum for which he is liable as a member of the Institute under Section 9 of the Constitution.

20. FEES AND SUBSCRIPTIONS

20.1 Membership fees and subscriptions payable to the Institute shall be reviewed and set annually by the Council for each succeeding year.

- 20.2 Subscriptions shall be due and payable, after receipt of an invoice, on the first day of January or at such other date as determined by the Council, of each calendar year covered by the subscription.
- 20.3 Members may pay up to three years subscriptions in advance if they so desire. In these circumstances the subscription rate for each year shall be that which is set by the Council for the first year of the advance payments. Should a Member cease to retain his membership for any of the reasons covered in Sections 18 and 19 then advance payments covering any full year may be refunded at the discretion of the Council.
- 20.4 If the subscription of a Member or other fees payable by a Member remain unpaid for a period of six calendar months after the due date and after dispatch of a reminder invoice, then the Member shall, after written notice of the default has been dispatched to him and by resolution of the Council or their delegate (in accordance with Section 32.2(f)), cease to be a member of the Institute. The Member shall remain liable for payment of all arrears as if he resigned. The Council or their delegate (in accordance with Section 32.2(f)) may reinstate the Member on payment of all arrears if deemed proper and appropriate to do so.
- 20.5 New applications for membership shall be accompanied by payment of the relevant fees. Those whose application is accepted between the first day of July and the thirtieth day of September in any year, inclusive, shall be liable for payment for half of the subscription for the current year whilst those whose application is accepted between the first day of October and the thirty first day of December in any year, inclusive, shall not be liable for payment of any subscription for the current year but shall be liable for the full subscription for the succeeding year.
- 20.6 The Council may at any time waive or defer payment of subscriptions or arrears or other fees of any Member, or temporarily defer membership, in cases of undue hardship or other special circumstances considered worthy of such action. The Council may take such action directly or on the recommendation of a relevant delegate (appointed in accordance with Section 32.2(f)).

21. GENERAL MEETINGS

- 21.1 An Annual General Meeting of the Institute shall be held in accordance with the provisions of the Act.
- 21.2 The Annual General Meeting shall be held once in every calendar year at such time not being more than five (5) months after year end. Annual General Meetings are to be held at a place at the discretion of the Council.
- 21.3 All general meetings other than Annual General Meetings shall be called Extraordinary General Meetings.
- 21.4 The Council may at any time it sees fit, convene an Extraordinary General Meeting. An Extraordinary General Meeting may also be convened by a requisition made in writing to the Company Secretary by not less than five per cent of the members of the Institute who are entitled to vote or in default may be convened by such requisitionists as provided by the Act.
- 21.5 All business shall be deemed special that is transacted at an Extraordinary General Meeting; also, all that is transacted at an Annual General Meeting, with the exception of the consideration of the accounts, balance sheets, and the reports of the Council and Auditors, the declaration of the election of officers and members of the Council in place of those who are retiring and confirmation of the appointment of the Auditors.

22. NOTICE OF GENERAL MEETINGS

At least twenty-one days notice (exclusive of the day on which the notice is served or deemed to be serviced) of every General Meeting shall be given to each member who is entitled to vote. A

copy of the Annual Accounts for presentation at the AGM shall be included with the notice. In the case of special business the general nature of that business shall be given in the notice.

23. QUORUM AT GENERAL MEETINGS

- 23.1 No business shall be transacted at any General Meeting unless a quorum is present.
- 23.2 Fifteen Members entitled to vote present in person or by proxy who are at any Annual General Meeting duly convened shall constitute a quorum with power to act. Fifteen Members present in person or by proxy who are entitled to vote at any Extraordinary General Meeting duly convened shall constitute a quorum with power to act.
- 23.3 If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to such other day and at such other time and place as the Council may determine and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the members present (being not less than five) shall be a quorum.
- 23.4 The President shall preside as Chairman at every General Meeting of the Institute or, if he is not present within fifteen minutes after the time appointed for the holding of the meeting or is unable to act, then the members of the Council present shall select one of their number present to be chairman or in default of their doing so the Members present shall elect a Member to be the Chairman of the meeting.
- 23.5 The Chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or the business to be transacted at an adjourned meeting.

24. PROXIES

- 24.1 At any General Meeting votes may be given either personally or by proxy.
- 24.2 The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing or, if the appointor is a corporation, either under seal or under the hand of an officer or attorney duly authorised. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll. A Member shall be entitled to instruct his proxy in favour of or against any proposal resolutions. Unless otherwise instructed the proxy may vote as he thinks fit.
- 24.3 The instrument appointing a proxy and if applicable the power of attorney or other authority if any under which it is signed or a notarially certified copy of that power or authority shall be deposited with the Company Secretary or President of the Institute not less than twenty four hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposed to vote, and in default the instrument of the proxy shall not be treated as valid.
- 24.4 The instrument appointing a proxy may be in the following form or in a form substantially the same as the following form or on a form forwarded with the notice of meeting

I, of

being an **Individual / *Corporate* member of Welding Technology Institute of Australia hereby

appoint of

or failing him of

as my proxy to vote for me on my behalf at the (Annual General Meeting or Extraordinary General Meeting as the case may be) of the Institute, to be held

on the day of 20 and at any adjournment thereof.

My proxy is hereby authorised to vote: **in favour of/ *against* the following resolutions:

(Insert resolutions)

Signed this day of 20

(Note - in the event of the Member desiring to vote for or against any Resolution he shall instruct his proxy accordingly. Unless otherwise instructed, the proxy may vote as he thinks fit).

** Strike out whichever is not desired.*

24.5 A proxy need not be a member of the Institute. Such proxy shall have the same right as a Member to speak at the meeting to the resolution to which he is duly authorised to vote.

25. VOTING AT GENERAL MEETINGS

25.1 No Member shall be entitled to vote at any General Meeting if his annual subscription or other monies due by him to the Institute shall be more than one month in arrears at the date of the meeting.

25.2 Each eligible Individual Member is entitled to one (1) vote and each eligible Corporate Member is entitled to the number of votes as determined by the number of times the annual Individual membership fee divides into their annual Corporate membership fee, rounded to the nearest whole number up to a maximum of 20 votes.

25.3 A resolution put to the vote of any General Meeting shall be decided on a show of hands of every Member who are eligible to vote and is present in person or by proxy or by attorney unless (before or on the declaration of the result of the show of hands) a poll is demanded-

- (a) by the Chairman, or
- (b) by at least three Members present in person or by proxy.

Unless a poll is so demanded, a declaration by the Chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Institute, shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

25.4 If a poll is duly demanded it shall be taken in such a manner, and either at once or after an interval or adjournment or otherwise, as the Chairman directs, and the result of the poll shall be the resolution of the meeting at which the poll was demanded but a poll demanded on the election of a Chairman or on a question of adjournment shall be taken forthwith.

25.5 In the case of an equality of votes, the Chairman of the meeting shall be entitled to a second or casting vote.

26. COUNCIL

26.1 There shall be a governing Council which shall be the governing body of the Institute whose members shall consist of up to ten (10) representatives of Members of the Institute duly elected in accordance with Section 31 , who shall be Councillors of the Institute. Where fewer than ten (10) Councillors are holding office, the Councillors may by resolution appoint further Councillors to a maximum of ten (10).

27. THE PRESIDENT

27.1 The Council shall elect from amongst its members who were elected according to Section 26.1 a person to be President.

27.2 The President shall be the nominal Head of the Institute and shall preside as chairman at all General Meetings and meetings of the Council.

28. TERMS OF OFFICE

28.1 Members of the Council as elected according to Section 26.1 shall be elected for a three year term of office (deemed to commence from the next Annual General Meeting to the third anniversary thereafter) and shall be eligible for re-election for any number of succeeding terms of three years, consecutive or otherwise.

28.2 One third of the members of the Council (or the nearest practicable proportion thereof), as elected according to Section 26.1 shall be elected to Council each year.

28.3 The President shall be elected for a three year term of office and shall be eligible for re-election for a succeeding term not exceeding three years after which he must retire from that office.

28.4 For the whole term of office as President, the President shall continue as a member of the Council elected according to Section 26.1 automatically.

29. VACATION OF OFFICE

29.1 The office of a member of the Council elected according to Section 26.1 shall be vacated:

- (a) if by notice in writing to the President he resigns his office;
- (b) if he holds any office of profit under the Institute;
- (c) if he ceases to be a Member of the Institute who is entitled to hold office;
- (d) if he is not a member of the Institute who is entitled to hold office or ceases to be a representative of a Corporate Member;
- (e) if he becomes bankrupt or makes any arrangement or composition with his creditors generally;
- (f) if he becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the Act relating to mental health;
- (g) if he is absent from two consecutive meetings of the Council without leave of absence from the Council and the Council resolves that his office be vacated;
- (h) if he is directly or indirectly interested in any contract or proposed contract with the Institute, provided, however, that the office of a member of the Council shall not be vacated by reason of his being a member of any corporation or company which has entered or

proposes to enter into a contract with the Institute if such corporation or company is among the class of corporations or companies referred to in Section 5.4 of the Constitution of the Institute and if he has declared the nature of his interest in manner required by the Act;

- (i) if he is removed by resolution of the Institute under Section 29.2;
- (j) if he is prohibited from being a director of a company under any of the provisions of the Act.

Provided that nothing in this Section shall affect the operation of Section 5 of the Constitution of the Institute. In the case of any doubt or dispute the date of vacating of office shall be effective from such date as determined by the Council.

29.2 The Institute in General Meeting may by a simple majority remove any member of the Council elected according to Section 26.1 from office.

30. CASUAL VACANCIES

30.1 Should a casual vacancy occur in the office of any member of Council elected according to Section 26.1 the Council shall nominate a qualified person to fill the vacancy for the remaining period of the original appointment.

30.2 At no time shall the number limitations imposed by Section 26.1 be exceeded.

31. ELECTION AND NOTIFICATION OF COUNCILLORS

31.1 Members of the Council who are elected according to Section 26.1 shall be elected by a preferential ballot, conducted by post by the Company Secretary, to be concluded at least two days prior to the Annual General Meeting from which the appointments are to commence.

The method of election shall take place in the following manner:

- (a) A candidate shall be a Member of the Institute and shall be nominated by two Members eligible to vote.
- (b) The Company Secretary shall notify all Members of when nominations are due at least thirty days in advance.
- (c) Each nomination, shall be in writing and signed by the candidate and his proposer and seconder, shall be in such form and shall contain such evidence of Preferred Councillor Competencies as the Council may from time to time recommend and prescribe in policy and shall be lodged with the Company Secretary at least fourteen days prior to the due date of the election.
- (d) A list of the candidates names in alphabetical order, with the respective proposers and seconders names and their completed "Candidate Statement of Competency" shall be published and distributed to Members at least seven days prior to the due date of the election.
- (e) Ballot papers shall be prepared (if necessary) containing the names of the candidates only in alphabetical order and posted to each Member eligible to vote as per Section 25.1 and each eligible Member shall be entitled to the number of votes in accordance with Section 25.2.
- (f) Ballot papers duly completed shall be returned to the Company Secretary who will arrange for independent scrutineers to witness the ballot.

- (g) In the case there shall not be sufficient number of candidates nominated the Council may fill up the remaining vacancy or vacancies provided that at no time shall the number limitations imposed by Section 26.1 be exceeded.

32. POWERS OF THE COUNCIL

32.1 The responsibility and accountability for the management of the affairs and business of the Institute shall be vested in the Council which, in addition to the powers and authorities expressly conferred upon it by these Sections, may exercise all such powers and do all such acts and things as may be exercised or done by the Institute and are not hereby or by the Act expressly directed or required to be done by the Institute in General Meeting; but subject to any regulations from time to time made by the Institute in General Meeting, provided that no regulation shall invalidate any prior act of the Council which would have been valid if the regulation had not been made.

32.2 Without prejudice to and not in any way in limitation of the powers conferred by Section 32.1 and the other powers conferred by these Sections, it is hereby expressly declared that the Council shall have the following powers:

- (a) to make and impose, vary and repeal by-laws, rules and regulations for the administration and government of the Institute and for carrying its objects into effect; provided that:
 - (i) no by-law, rule or regulation shall operate so as to affect or vary any of the provisions of these Sections, and
 - (ii) any by-law, rule or regulation so made and any variation or repeal thereof shall be submitted to a vote at the Annual General Meeting of the Institute which is held next after the making thereof, and such by-law, rule, regulation, variation or repeal may be endorsed, varied or repealed by a simple majority at the Annual General Meeting;
- (b) to pay the costs, charges and expenses incidental to the continued registration and promotion of the Institute;
- (c) to pay all expenses incurred in carrying out the objects of the institute;
- (d) to determine who shall be entitled to sign on behalf of the Institute bills of exchange, promissory notes and other negotiable instruments, receipts, acceptances, endorsements, cheques, releases, contracts, certificates, correspondence and documents;
- (e) to appoint and maintain committees as the Council may from time to time determine are necessary to assist the governance functions of the Council. Persons so appointed may or may not be Members of the Institute or the Council. The Council shall make and impose upon committees such rules and regulations as may be necessary and may vary them from time to time as the Council deems fit;
- (f) to delegate any of its powers and or functions (not being duties imposed on the Council as the Councillors of the Institute by the Act or the general law) as per s.198D Corporations Act 2001 and to make and impose upon such delegates such rules and regulations and vary them from time to time as the Council thinks fit;
- (g) by power of attorney under s.123 Corporations Act 2001 to appoint at any time and from time to time any person to be the attorney of the Institute for such purposes with such powers and for such period and subject to such conditions as the Council thinks fit;
- (h) to appoint and at its discretion to dismiss, remove or suspend all such managers, secretaries, officers, clerks, agents and servants for permanent, temporary or special services as it may from time to time think fit, and to determine their duties and conditions of employment, and to fix and pay their salaries or emoluments and, in particular, to appoint and employ a Chief

Executive Officer, who shall be entrusted with the general direction and supervision of the work and staff of the Institute and shall have such other powers as Council may define from time to time.

- 32.3 The Council may exercise all the powers of the Institute including the power to borrow money and to mortgage or charge its property, or any part thereof, and to issue debentures and other securities whether outright or as security for any debt, liability or obligation of the Institute.
- 32.4 For the purpose of Section 5 of the Constitution the rate of interest payable in respect of money lent by a member to the Institute shall not exceed the lowest rate paid for the time being by banks in the State in respect of term deposits.

33. PROCEEDINGS OF THE COUNCIL

- 33.1 The Council shall meet for the dispatch of business and may adjourn and otherwise regulate its meetings as it thinks fit.
- 33.2 The quorum necessary for the transaction of business of the Council (whether meeting together either in person or by any form of audio or audio-visual instantaneous communication) shall be six members,.
- 33.3 If at any meeting of the Council, the President is not present or is unwilling or unable to act, the members of the Council present shall choose one of their number to be Chairman of the meeting.
- 33.4 A meeting of the Council at which a quorum is present shall be competent to exercise all the powers and discretions for the time being exercisable by the Council.
- 33.5 The continuing members of the Council may act notwithstanding any vacancy in the Council, but if and so long as their number is reduced below the number fixed by or pursuant to these Sections as the necessary quorum of the Council, the continuing members or members may act for the purpose of increasing the number of members of the Council to that number or of summoning a General Meeting of the Institute, but for no other purpose.
- 33.6 Resolutions arising at any meeting of the Council or at any meeting of a committee with powers delegated by the Council, shall be determined by a majority of votes. In the case of an equality of votes, the Chairman of the meeting shall have a second or casting vote as per s.248G Corporations Act 2001.
- 33.7 A member of the Council or office bearer of the Institute shall not vote in respect of any contract or proposed contract with the Institute in which he has directly or indirectly any pecuniary or other interest, or any matter arising there-out, and if he does so vote his vote shall not be counted.
- 33.8 The Council or any committee with powers delegated by the Council, may determine a resolution without any meeting. A resolution so determined must be evidenced in writing under the hands of a majority of all elected and appointed members of the Council, or committee and it shall be as valid and effectual as a resolution passed at a meeting of the Council, or committee duly convened and held. Any such resolution may consist of several documents in like form, each signed by one or more members of the Council, or committee.
- 33.9 The Council or any committee with powers delegated by the Council, may meet together either in person or by any form of audio or audio-visual instantaneous communication and may regulate such meetings as it thinks fit. A resolution passed by such a conference shall, notwithstanding that the Councillors are not present together at one place at the time of the conference, be deemed to have been passed at a meeting of the Council held on the day and at the time at which the conference was held. The provisions of these Sections relating to proceedings of Council meetings shall apply, so far as they are capable of application, to such conference.

- 33.10 Any member of the Council who is absent from any meeting thereof shall be entitled to record his vote on any resolution before such meeting by letter signed by him and delivered or sent by facsimile transmission to any member of the Council present thereat either before or at such meeting and such vote so recorded shall be accepted and recognised by the members present at such meeting, if delivered before the said matter is dealt with by it, as though recorded at such meeting by such members being present in person.
- 33.11 The Chief Executive Officer of the Institute by virtue of his office shall be permitted to attend Council meetings but shall not be a member of Council, and shall not be permitted to vote. He shall have the right to offer advice, make recommendations, speak for or against resolutions before the Council and perform specific tasks for and on behalf of the Council.
- 33.12 The Chief Executive Officer is not entitled to be present during any meeting of the Council (except by consent of the Council) when his appointment, removal, salary, conditions of employment, conduct or performance are the subject of discussion.
- 33.13 Any Member shall, by written submission addressed to the Chairman through the Company Secretary, be permitted to submit advice, counsel, comments, feedback and concerns regarding the governance and strategic policy matters dealt with by Council.
- 33.14 All acts done by any meeting of the Councillors or of a committee of Councillors, a Delegate or by any person acting as a Councillor are valid and effective 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 or the continuance of the appointment of the Councillor is invalid because the Company or Councillor did not comply with the Constitution or any provision of the Act.

34. MINUTES AND RECORDS

- 34.1 The Council shall cause minutes to be duly entered in books provided for the purpose-
- (a) of the names of the members of the Council present at each meeting of the Council;
 - (b) of all declarations made or notices given by any member of the Council (either generally or specially) of his interest in any contract or proposed contract or of his holding of any office or property whereby any conflict of duty of interest may arise;
 - (c) of all resolutions and proceedings of General meetings of the Institute and of meetings of the Council and committees of the Council,

and any such minutes of any meetings of the Council or of any committee of the Council if purporting to be signed by the Chairman of such meeting or by the Chairman of the next succeeding meeting shall be receivable as prima facie evidence of the matters stated in such minutes.

- 34.2 The Council shall cause to be kept in accordance with the provisions of the Act -
- (a) if it issues debentures, a register of holders thereof;
 - (b) a register of charges;
 - (c) a register of the members of the Council, managers and secretaries and all other officers appointed by the Council.

35. OBJECTIONS TO INSTITUTE WORK

- 35.1 Any member of the Institute who considers that his interests may be prejudicially affected by any work proposed to be undertaken by or for the Institute or with its assistance or co-operation may appeal to the Council or such other delegate as authorised by the Council against the particular work objected to and shall set forth in the appeal the grounds for the objection. The Council or such other delegate as authorised by the Council shall determine all questions raised on such appeal. The decision of the Council or such other delegate as authorised by the Council shall be final.

36. ACCOUNTS

- 36.1 The Council shall cause proper accounting and other reports to be kept of the sums of money received and expended by the Institute and of matters in respect of which such receipts and expenditures take place and of the assets and liabilities of the Institute, and of all sales and purchases of goods and services by the Institute.
- 36.2 The books of account shall be kept at the registered office of the Institute or at such other place or places as the Council thinks fit and shall be open at any time for inspection by the Chief Executive Officer, and such other officers or servants of the Institute as may be authorised by the Council.
- 36.3 The accounts and books of the Institute shall be open for inspection by any member of the Council upon his request and as is required to perform his duty as a member of the Council.
- 36.4 No member of the Institute except a member of the Council shall have any right of inspecting any account or book or paper of the Institute except as provided by the Act or by Section 11 of the Constitution or as authorised by the Council or by the Institute in General Meeting.
- 36.5 The Council shall cause a profit and loss account and a balance sheet (including every document required by law to be attached thereto) and the Auditor's report to be prepared and laid before the Institute in General Meeting, and copies thereof to be sent to all persons entitled to receive notices of general meetings of the Institute, in each case at the times and in the manner required by the Act; provided that the Council shall cause to be made and laid before each Annual General Meeting a balance sheet and profit and loss account, to be made up to date as is practicable before the date of the meeting.

37. AUDIT

A properly qualified Auditor or Auditors shall be appointed and his or their remuneration fixed and duties regulated in accordance with the Act and Section 11 of the Constitution.

38. FINANCE

- 38.1 Fees and subscriptions payable to the Institute according to Sections 20.1 and 20.2 shall be paid to the National Office.
- 38.2 All income derived directly by income producing activities undertaken or co-sponsored by or for the Institute (including any bodies or persons acting on behalf of Institute), such as meetings, seminars, conferences, examinations and any other activity to promote and carry out the objects of the Institute, shall be paid to the National Office or a duly authorised officer or body of the Institute.
- 38.3 The Council shall have sole and discretionary authority and ownership of all monies, securities, investments and property of the Institute.
- 38.4 The Council shall ensure that separate accounting records and a separate bank account are maintained for any activity specifically funded by grant or donation and for any activity which

attracts or may attract, grants or financial assistance in any form to support that activity, from the Commonwealth or any other source and the Council shall ensure that the activity is carried out and the funds dealt with in accordance with the terms and conditions (if any) of any grant or of any trust responsible for a grant or in the case of grants from the Commonwealth, comply with any reasonable request of the Commonwealth in relation thereto.

- 38.5 The Council may, at its discretion, direct the Chief Executive Officer to administer each or any funds made available to the Institute for specific purposes. The Chief Executive Officer shall ensure that separate accounting records and a separate bank account are maintained in respect of those funds.
- 38.6 At least two persons who are duly authorised by the Council, shall be required to sign cheques or any other documents, committing the Institute to the payment of Institute funds either directly or indirectly.
- 38.7 All funds and assets of the incorporated organisation shall be retained used or disbursed by the Institute for the same or similar purposes as those intended by the incorporated organisations but only as such purposes are consistent with the Constitution and these Sections.

39. NOTICES

- 39.1 A notice may be served by the Institute upon any Member personally or by sending it through the post in a prepaid letter, envelope or wrapper to such member at his registered place of address or may be served by electronic means.
- 39.2 Each Member whose registered place of address is not in the Commonwealth of Australia shall notify in writing to the Institute an address which shall be deemed to be his registered place of address within the meaning of Section 39.1.
- 39.3 Any notice sent by post shall be deemed to have been serviced seven days following the day on which the letter is posted and in proving such service it shall be sufficient to prove that the letter was properly addressed and put into the post office. A certificate in writing signed by a delegated officer of the Institute that the letter, envelope or wrapper containing the notice was so addressed and posted shall be conclusive evidence thereof.
- 39.4 The accidental omission to give notice of a meeting of members, Council, a committee or the non-receipt of notice of a meeting by any Member shall not invalidate the proceedings at any meeting.
- 39.5 Any notice or document sent by post to the registered address of any Member as aforesaid and notwithstanding that he be then deceased and whether or not the Institute has notice of his decease shall be deemed to have been duly serviced and such service for all purposes of these presents shall be deemed a sufficient service of such notice or document.
- 39.6 The signature to any notice to be given by the Institute may be written or printed.
- 39.7 Where a given number of days' notice or notice extending over any other period is required to be given the day of service shall unless it is otherwise provided be counted in such number of days or other period.
- 39.8 Notice of every General Meeting shall be given to all Members in any manner authorised by these Sections.

40. INDEMNITY

- 40.1 Subject to this Section, every member of the Council, the Auditor, the Chief Executive Officer, and every officer or servant of the Institute shall be indemnified by the Institute against, and it shall be the duty of the Council to pay, all costs, losses and expenses, including travelling

expenses, which he incurs or becomes liable to by reason of any contract entered into or act or thing done by him as such member of the Council, Chief Executive Officer, Auditor, officer or servant or in any way in the discharge of his duties.

40.2 Nothing in the preceding sub-Section shall extend to exempt any such person from, or to indemnify him against, any liability which by law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the Institute.

40.3 Notwithstanding anything in this Section every such person shall be indemnified out of the assets of the Institute against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgement is given in his favour or in which he is acquitted, or in connection with any application under the Act in which relief is granted to him by the Court in respect of any negligence, default, breach of duty or breach of trust.

41. WINDING UP

The provisions of Section 10 of the Constitution relating to the winding-up or dissolution of the Institute shall have effect and be observed as if the same were repeated in the sections of the constitution.

Signed by the President of the Institute in the presence of the respective witnesses whose signatures and addresses are set opposite to the signatures of the respective subscribers hereunder.

Signed

Arun Syam
WTIA President

Dated this 18th day of March 2010

Witness 1

Signed

Chris Smallbone

Name (print)

Witness 2

Signed

Anne Rorke

Name (print)