

CONSTITUTION

OF

SENSES FOUNDATION (INCORPORATED)

16 August 2001

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**CONSTITUTION
of
SENSES FOUNDATION (INCORPORATED)**

PART I - INTERPRETATION

The following shall have the meanings respectively assigned to them unless there is something in the subject or context herein inconsistent therewith:-

- 1.01 "the Act" shall mean the Income Tax Assessment Act 1936 (as amended);
- 1.02 "Annual General Meeting" shall mean a meeting called pursuant to section 16.01 of these Rules;
- 1.03 "Auditor" shall mean the duly qualified person or firm appointed by the Board from time to time to act as Auditor of Senses;
- 1.04 "Chief Executive Officer" shall mean the person appointed by the Board from time to time as the Chief Executive Officer of Senses;
- 1.05 "the Board" shall mean the Board of Management of Senses as appointed or elected from time to time.;
- 1.06 "Board Members" shall mean the duly elected members of the Board;
- 1.07 "General Meeting(s)" includes references to both Annual or Special General Meetings;
- 1.08 "Members" shall mean those persons who are appointed in accordance with Part VI of these Rules;
- 1.09 "Month" shall mean calendar month;
- 1.10 "the Objects" shall mean the objects of Senses as set out in Part III of these Rules;
- 1.11 "people who are blind, deafblind or multi-sensory impaired" shall mean and include people who are blind, deafblind and people who have a combination of sensory impairments and who are eligible to access the services of Senses;
- 1.12 "deafblind" shall mean a unique sensory disability of combined loss of hearing and vision, which significantly affects communication, socialisation, mobility and daily living;
- 1.13 "the Powers" shall mean the powers of Senses as set out in Part IV of these Rules;
- 1.14 "Residents" shall mean and include all persons who are residents or occupants under the care of Senses or its identifiable business entities;
- 1.15 "these Rules" shall mean the Constitution of Senses as altered or added to from time to time;

1.16 "Special General Meetings" shall mean a meeting called pursuant to Section 16.03 of these Rules;

1.17 "the State" shall mean the State of Western Australia;

1.18 "Senses" shall mean Senses Foundation (Inc).

Section 1.02

Expressions referring to writing shall unless the contrary intention appear, be construed as including references to printing, large print, braille, lithography, photography and other modes of representing or reproducing words in a visible form;

Section 1.03

Words or expressions contained in these Rules shall be interpreted in accordance with the Interpretation Act 1984 (as amended).

Section 1.04

Except to the extent that such interpretation shall be excluded by or be repugnant to the context of these Rules words imputing the masculine gender shall extend to and include the feminine gender and the neuter gender and vice versa and words imputing the singular number shall extend to and include the plural number and singular number respectively.

Section 1.05

The headings shall not affect the construction of these Rules.

PART II - NAME

Section 2.01

The name of the organisation is Senses Foundation (Incorporated).

PART III - OBJECTS

The Objects of Senses shall be as follows:-

Section 3.01

To enable people who are blind, deafblind or multi-sensory impaired to meet their needs and aspirations by accessing a range of services which include but do not limit in any way the generality thereof, employment, training, recreation, social, residential, respite and accommodation and such other facilities and opportunities of their choice as the Board may in its absolute discretion determine from time to time.

Section 3.02

To enhance the capacity of Senses to achieve the Objects by developing, constructing and otherwise maintaining appropriate facilities for the benefit of people who are blind, deafblind or multi-sensory impaired, and the staff and volunteers who provide the support required.

Section 3.03

To strengthen ties within the community by encouraging inclusive, participative and empowering relationships for the benefit of people who are blind, deafblind or multi-sensory impaired.

Section 3.04

To periodically or regularly print, publish and distribute any newspapers, periodicals, books or leaflets to further and better promote the Objects.

Section 3.05

To enable Senses to develop, implement and maintain services for people who are blind, deafblind or multi-sensory impaired by collecting funds and soliciting, receiving, enlisting, and accepting financial and other aid, subscriptions, donations and bequests from any legitimate source. Senses being a “Public Fund” within the meaning of Section 78 of the Act will accept donations, gifts, contributions and payments for the purposes of Senses from Members of the public desirous of making the same.

Section 3.06

To do all things necessary to secure grants for the achievement of any or all of the Objects from any person, corporate body, Local, State or Federal Governments and/or any other statutory body or organisation.

Section 3.07

To carry on such activities that are beneficial to the attainment of the Objects and which are beneficial or desirable in the interests of people who are blind, deafblind or multi-sensory impaired which may include the establishment of Trust Funds or Foundation as seen fit by the Board from time to time.

PART IV - POWERS

Without limiting the generality of the Objects Senses shall in addition thereto have the following powers and which powers shall be exercised by the Board except as otherwise specified by these Rules:-

- 4.01 to raise, obtain and receive funds or other aid for the purposes of achieving the Objects by means of subscriptions, donations, bequests, entertainments, or other functions, or by any other lawful means;
- 4.02 to apply to all the relevant statutory and government departments, for the appropriate consents, approvals, authorisations and exemptions (as the case may be) in connection with the fulfilling of the Objects and the exercising of the Powers;

- 4.03 to merge with, amalgamate, affiliate, enter into reciprocal arrangements, and/or to subscribe to, become a member of and co-operate with any other company, organisation, institution or association, whether incorporated or not, whose Objects are similar to those of Senses provided always that Senses shall not subscribe to or support with its funds any such company, organisation, institution or association which does not prohibit the distribution of its income and property amongst its members to an extent at least as great as that imposed on Senses under or by virtue of these Rules and unless that company, organisation, institution or association also satisfies the requirements of Section 78 of the Act;
- 4.04 to borrow or raise or secure the payment of money in such manner as Senses may think fit and to secure the same or the repayment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by Senses in any way and in particular by the issue of debentures or mortgages perpetual or otherwise charged upon all or any of Senses' property (both present and future), and to purchase, redeem or pay off such securities;
- 4.05 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 Senses' property of whatsoever kind sold by it, or any money due to it from purchasers and others;
- 4.06 to purchase, take on lease or exchange, hire and otherwise acquire and maintain any lands, buildings, easements or property, real and personal, and any rights or privileges which may be required for the purpose of, or capable of being conveniently used in connection with any of the Objects or general advancement of Senses;
- 4.07 to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or part of the assets and rights of Senses;
- 4.08 to appoint, employ, dismiss or suspend the Chief Executive Officer and/or such other executives, employees, contractors and other persons as may be necessary or convenient for the purposes of Senses from time to time;
- 4.09 to appoint or employ such Solicitors, Accountants and/or other professionals that may be necessary or desirable for the purposes of Senses from time to time;
- 4.10 to establish and support or assist in the establishment and support of associations, institutions, superannuation and other funds, trusts and conveniences, calculated to benefit employees or past employees of Senses or the dependants or connections of any such persons, and to grant pensions and allowances, and to make payments towards insurance, and to subscribe or guarantee money for charitable or benevolent objects for any public, general, or other useful objects;
- 4.11 to construct, improve, maintain, develop, work, manage, carry out, alter or control any land, houses, buildings, grounds, works or conveniences and to contribute to, subsidise or otherwise assist and take part in the construction, improvement, development, working, management, carrying out, alteration or control thereof;

- 4.12 to establish any account or accounts with any Building Society(ies), Bank(s) or other Financial Institution(s) and to operate by and in all usual ways any such account or accounts;
- 4.13 to make, draw, accept, endorse, discount, execute and issue cheques, promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments;
- 4.14 to purchase or otherwise acquire and undertake all or any part of the property, assets, liabilities and engagements of any one or more of the companies, organisations, institutions or associations with which Senses is authorised to merge, amalgamate or affiliate;
- 4.15 to transfer all or any part of the property, assets, liabilities and engagements of Senses to any one or more of the companies, organisations, institutions, or associations with which Senses is authorised to merge, amalgamate or affiliate;
- 4.16 to make donations for patriotic or charitable purposes, provided always that the recipient of such donation satisfies the requirements of Section 78 of the Act;
- 4.17 to grant options in respect of any assets held by Senses to any person, firm or company;
- 4.18 to give effectual receipts, discharges or releases for any moneys received by or on behalf of Senses or otherwise relating to any of the acts, matters or things provided for in these Rules, and to receive property by gift inter-vivos or by Will or other provisions of any Trust or otherwise and to administer the same according to these Rules;
- 4.19 to set aside out of the income of Senses from time to time such sum or sums of money as the Board may in its absolute discretion deem sufficient to pay any advancement, distribution, debt or obligation due or accruing due for the necessary or incidental application and promotion of Senses Objects, powers, rights, liberties, duties and liabilities;
- 4.20 to engage in, conduct and participate in any business or commercial activity in its own right or with any other person, corporate body, association or organisation;
- 4.21 to make such grants to or in aid of or to make donations or give assistance to or make contracts with such individuals, associations or corporate bodies (whether within or outside the State) as may be necessary or desirable;
- 4.22 to have and exercise such powers as may be necessary to allow the Board to attain the Objects as set out in these Rules.

PART V - INCOME AND PROPERTY

Section 5.01

The income and property of Senses shall be applied solely towards the promotion of the Objects and it shall not allow any Member to secure a pecuniary profit from any of its transactions and no portion of the income or property shall be paid or

transferred directly by way of dividend bonus or otherwise by way of profit to the Members and no Member shall have any interest of any sort in the assets of Senses except by way of indemnity against any liability incurred by that Member on behalf of Senses.

Section 5.02

The Board may authorise payment to any person for goods supplied or for services rendered to Senses notwithstanding that the person who supplied those goods and/or services may be an officer, servant or Member.

PART VI - MEMBERSHIP

Membership of Senses is open to :-

Section 6.01 - Life Members

A person who in the opinion of the Board has given outstanding service to Senses, and is appointed by the Board to be a Life Member of Senses.

Section 6.02 - Subscribing Members

A person may apply for Membership of Senses and when approved by the Board must pay the annual Membership fee as shall be determined from time to time by the Board.

Section 6.03

The annual subscription for Membership to Senses shall be set by the Board and ratified by the Members of Senses. No subscriptions are required to be paid by Life Members.

Section 6.04

Any Member whose subscription is unpaid three months after becoming due and payable shall cease to be a Member of Senses.

PART VII - GOVERNANCE

Section 7.01

The management and control of Senses shall be vested in the Board.

Section 7.02 – Composition of the Board

The Board will encourage people of ability who may be blind, deafblind or multi-sensory impaired, or have knowledge of the issues facing these people, to nominate for positions on the Board. And, appropriate assistance will be provided for access and support to communicate and participate effectively.

The Board shall comprise of no more than ten (10) and no less than seven (7) Members. The Board may act notwithstanding that the number of Board Members may be fewer than ten (10), however, the number of Board Members shall not in any event be fewer than seven (7), refer Section 7.07(ii). Casual vacancies may be filled by the Board and any person elected to such vacancy shall hold office until the next AGM or for the remainder of the term as the Board Member to whose place he/she is

elected would have held office had he/she continued, when that person should nominate for re-election.

Section 7.03

Each Board Member shall hold office for a period of three (3) years.

Section 7.04

The Board shall consist of the President, Vice-President and Chairperson of the Audit and Compliance Committee and such other Board Members that may be elected from time to time.

Section 7.05

No person who is currently registered as a paid employee of Senses or who is receiving financial benefit from Senses or who is in debt to Senses shall be eligible to serve as a Board Member.

Section 7.06

The Board shall at its first meeting immediately following the Annual General Meeting elect from amongst its Members those Office Bearers due for re-election, these may include the President (tri-annually), Vice-President and Chairperson of the Audit and Compliance Committee (refer to section 8.02).

Section 7.07

- (i) Five (5) Members of the Board shall be deemed to constitute a quorum.
- (ii) Where a Board Member is unable to attend a Board meeting they may appoint another Board Member to act as a proxy and vote on their behalf at that meeting only. A new proxy for each such meeting must be a written and signed request for that Board Member to vote on behalf of the absent Board Member. This request may be electronically conveyed by email, facsimile or TTY to the Secretary or Chief Executive Officer and must be tabled at that Board meeting.

Section 7.08

One-third (1/3) of the Board Members being those Board Members who have held office for the longest period since being last elected or (where the requisite number cannot be determined) being such Board Members as the President may determine, shall retire tri-annually, but every retiring Board Member may nominate for re-election to the Board, but cannot undertake more than two (2) consecutive three (3) year terms as President or six (6) x one (1) year terms of any other office bearer.

Section 7.09

Nominations for election to the Board may be made by any Member and must be seconded by another Member and must be accompanied by the assent of the nominee. Nominations must be lodged with the Chief Executive Officer at least fourteen (14) days before the date of the Annual General Meeting. Voting shall be by a show of hands (unless the President in his absolute discretion calls for a ballot) and in the event of an equality of votes the President shall have a casting as well as a deliberative vote.

Section 7.10

The Board shall be empowered to make repeal and amend any by-laws passed for the carrying out of the Objects provided always that the by-laws shall conform with these Rules.

Section 7.11

A special meeting of the Board may be called at the request of five (5) Board Members or by the President. The request must be submitted to the President and shall detail the business to be discussed. Seven (7) days notice of the intention to hold a special meeting must (if possible) be given to all Board Members.

Section 7.12

The Board shall have power to appoint committees to carry out the responsibilities of the Board of Senses and all such Committees shall be subject to the jurisdiction of the Board. The authority delegated to any committee shall be defined from time to time by the Board. The President shall be an ex officio member of all committees.

Section 7.13

The Board may co-opt such person(s) as it shall think fit to be a Board Member in addition to the Board Members elected at the General Meeting provided always however, that the total number of Board Members shall not exceed ten (10). Any person so co-opted to the Board shall be entitled to vote and to hold office until the next Annual General Meeting following the date of his/her appointment, when that person should nominate for re-election.

Section 7.14

The position of office bearer on the Board and that of any other Board Member becomes vacant if the Board Member:-

- 7.14.1 dies;
- 7.14.2 resigns by notice in writing;
- 7.14.3 is convicted of an offence under the Associations Incorporation Act; or
- 7.14.4 is determined by a resolution supported by three-quarters (3/4) of the full complement of Board Membership to be incapable of performing the duties of a Board Member or is judged to be unfit to continue as a member of the Board; or
- 7.14.5 the Board Member is absent from three (3) consecutive meetings of the Board unless he has lodged an apology with the Board and the Board is satisfied that there is a valid reason for such absence.

Section 7.15

The Board shall meet with such frequency and at such place, date and hour as it shall determine from time to time providing a minimum of three (3) meetings are held every financial year.

PART VIII - OFFICE BEARERS

Section 8.01

The office bearers of Senses shall comprise the President, Vice-President and the Chairperson of the Audit and Compliance Committee.

Section 8.02

The President shall be elected by the Board and shall hold office for three (3) years and not more than six (6) years continuously. The Vice President and Chairperson of the Audit and Compliance Committee shall be elected by the Board annually and shall not serve for more than six (6) years continuously.

PART IX - ROLE OF PRESIDENT

Section 9.01

The President shall for and on behalf of the Board oversee the affairs of Senses and shall (subject to his consent) if so requested by the Board, assume direct executive control and management of Senses and its affairs. The President shall also perform such other duties as may be reasonably required of him by the Board from time to time subject to the President's consent which shall not be unreasonably withheld. The President shall with the Board's consent have the right to delegate some or all of his responsibilities hereunder.

PART X - ROLE OF VICE PRESIDENT

Section 10.01

The Vice President shall act as and perform the duties of the President whenever the President shall be unable to do so and shall in addition thereto, perform such other duties as may be reasonably required by the Board from time to time.

PART XI - ROLE OF THE CHAIRPERSON OF THE AUDIT AND COMPLIANCE COMMITTEE

Section 11.01

The Chairperson of the Audit and Compliance Committee shall ensure that the Terms of Reference of the Audit and Compliance Committee are met.

PART XII - APPOINTMENT AND ROLE OF CHIEF EXECUTIVE OFFICER

Section 12.01

The Board shall appoint the Chief Executive Officer of Senses upon such terms and conditions as the Board shall think appropriate subject to the duties as stipulated in Section 12.02 hereof and/or as otherwise advised by the Board from time to time.

Section 12.02

The Chief Executive Officer shall be responsible for the day to day running, management and administration of Senses subject to the direction and control of the Board and shall perform such other tasks as shall be required by the Board from time to time.

PART XIII - SIGNING OF CHEQUES

Section 13.01

Any cheque or withdrawal form on the assets of Senses shall be signed by any two (2) people authorised by the Board from time to time and shall include the President, Vice President, Chief Executive Officer, Chairperson of the Audit and Compliance Committee, Manager Financial Services and other authorised Board Members or Senior Managers

PART XIV - COMMON SEAL

Section 14.01

The Chief Executive Officer shall retain custody of the Common Seal of Senses and shall only affix the same to any document by direction and/or ratification of the Board. The Chief Executive Officer shall keep a record of all documents to which the Common Seal has been affixed.

Section 14.02

Any two Board Members, one (1) of whom shall be the President, Vice President or Chairperson of the Audit and Compliance Committee shall sign and countersign the affixation of the Common Seal.

PART XV - CONTROL OF PROPERTY

Section 15.01

All property, both real and personal, of Senses shall be vested in the name of Senses.

PART XVI - ANNUAL AND SPECIAL GENERAL MEETINGS

Section 16.01

The Annual General Meeting of Senses shall be held once in every current year at such place and date (not being more than four (4) months from the expiration of Senses financial year unless that time is extended by the Board on application to the Commissioner under the Associations Incorporation Act 1987) as the Board may determine.

Section 16.02

The business of the Annual General Meeting shall include:-

- 16.02.1 presentation of the annual report and balance sheet to the end of the previous financial year;
- 16.02.2 the election of Board Members nominated in accordance with the procedures set down in Sections 7.08 and 7.09 hereof;
- 16.02.3 any other general business presented to the Annual General Meeting by any Member.

Section 16.03

- 16.03.1 A Special General Meeting may be called by direction of the Board at any time; or
- 16.03.2 A Special General Meeting may be called by direction of the Chief Executive Officer within fourteen (14) days after receipt by him of a request to that effect signed by at least ten (10) Members entitled to vote specifying the business to be discussed at such Meeting.

Section 16.04

Only Members of Senses who are present at any General Meeting shall be entitled to vote on the condition that their subscriptions (if they are Subscribing Members) for the current year have been paid at least one (1) calendar month prior to the date appointed for the General Meeting. No proxy voting shall be allowed and each Member shall be entitled to one (1) vote only.

Section 16.05

A quorum at any General Meeting shall consist of ten (10) Members entitled to vote.

PART XVII - CHAIRMAN

Section 17.01

The President or in his absence the Vice-President shall take the chair at all General Meetings and meetings of the Board. In the event of the absence of the President and Vice-President the meeting shall elect a Chairman from amongst the Members.

PART XVIII -AMENDMENT TO CONSTITUTION

Section 18.01

The Constitution may be altered, added to or repealed at any Annual or Special General Meeting of the Members by resolution passed by 75% of those Members present and entitled to vote at the said meeting provided always that the notice convening such Meeting shall specify the proposed alterations, additions or repeal of the Constitution and shall give at least twenty one (21) days notice of such meeting.

PART XIX - AUDITOR

Section 19.01

The Auditor shall be appointed by the Board as soon as practicable following each Annual General Meeting. The Auditor shall retain office until the next appointment is so made or as may otherwise be determined by the Board.

Section 19.02

Upon the Auditor ceasing to be a registered company auditor he shall cease to be the registered Auditor of Senses and another Auditor shall be appointed by the Board as soon as practicable thereafter.

Section 19.03

The Auditor shall make his audit and report as far as possible in the same manner and dealing with the same matters as if he were auditing the affairs of a limited liability company.

PART XX - FISCAL YEAR

Section 20.01

The fiscal year of Senses shall be from the 1st day of July to the 30th day of June in each year.

PART XXI -NOTICES

Section 21.01

- 21.01.1 All notices required to be served hereunder shall be in writing, bold print or braille and shall be deemed to be duly given or made:-
- 21.01.1.1 in the case of delivery in person when delivered; or
 - 21.01.1.2 in the case of electronic transmission on receipt by the sender of a recognised acknowledgement of transmission to the recipient at the end of transmission;
 - 21.01.1.3 in the case of post at the time when the same would normally be delivered in the ordinary course of the post;
- 21.01.2 A written communication includes a notice by facsimile transmission, email or TTY.
- 21.01.3 Failure of any Member to receive a notice required to be given hereunder shall not invalidate any meeting of Members of Senses or course of action determined by the Board.

PART XXII - INDEMNITY

Section 22.01

Every Board Member and other officer or servant of Senses shall be indemnified by Senses against any claims, demands, actions or suits made against that person by reason of any act or thing done by him as a Member, Board Member, officer or servant in the proper and lawful discharge of his duties for and on behalf of Senses and it shall be the duty of the Board to pay out of the funds of Senses all costs necessarily or incidentally incurred (including travelling expenses) which that person may suffer as a result thereof.

Section 22.02

No Board Member or officer or servant of Senses shall be liable for the acts, receipts, neglects, or defaults of any other Board Member, officer or servant of Senses or for joining in any receipt or other act of conformity or for any loss or expense incurred by Senses through the insufficiency and/or deficiency of title to any property acquired by order of the officer for or on behalf of Senses or for the insufficiency and/or deficiency of any security in or upon which any of the moneys of Senses shall be invested or for any loss or damage arising from the bankruptcy, insolvency or the unlawful act of any person with whom any moneys, securities or assets shall be deposited or from any loss occasioned by any error of judgment or oversight on his part or for any other loss, damage or misfortune whatever which shall happen in the execution of his duties or in relation thereto unless the same shall occur through his own dishonesty, wilful negligence, default, breach of duty or breach of trust.

PART XXIII - DISSOLUTION

Section 23.01

If, on the winding up of Senses, any property of Senses remains after satisfaction of the debts and liabilities of Senses and the costs, charges and expenses of that winding up, that property shall be distributed

- (a) to another association incorporated under the Act; (which is a public benevolent institution i.e. an institution of such nature that donations to it are allowable deductions within the meaning of Section 78 (1) of the Act) or
- (b) for charitable purposes

which incorporated association or purposes, as the case requires shall be determined by resolution of the Members when authorising and directing the Board of Management under section 33 (3) of the Act to prepare a distribution plan for the distribution of the surplus property of Senses.

PART XXIV - INSPECTION OF RECORDS

Section 24.01

A Member may at any reasonable time inspect without charge the books, documents, records and securities of Senses.