

**A COMPANY LIMITED BY
SHARE CAPITAL**

**CONSTITUTION
OF
MELBOURNE AVIATION GROUP PROPRIETARY LIMITED
ACN: 004 589 557**



Level 7, 555 Lonsdale Street

Melbourne Vic 3000

Tel: (03) 8601 8888

Fax: (03) 9670 1509

Our ref: JCR:ASP:20150434

Constitution MAG v 14Aug15 clean copy.docx

Contents

Clause Number	Page
Headings	1
Name of the Company	2
Objects	3
Application of Income and Property	3
Limited Liability	3
No Distribution to Members	3
Membership	3
Annual Levy	5
Cessation of Membership	6
Disciplining Members.....	6
Company Officer	7
Removal and Resignation of Directors.....	9
Office Bearers	9
Board Meetings.....	10
Minutes.....	11
Inspection of Records	11
Meeting of Members	12
Annual General Meeting	13
Members Voting.....	13
Insurance	14

Indemnity.....	14
Accounts and Audit.....	14
General	15
Variation	15
Interpretation of Constitution	15
Notice	15
Winding Up.....	16

CONSTITUTION
OF
MELBOURNE AVIATION GROUP PROPRIETARY LIMITED

HEADINGS

1 Definitions and interpretation

(a) Definitions

- (i) **Act** means the Corporations Act 2001 and includes any amendment or re-enactment of it or any legislation passed in substitution for it;
- (ii) **Annual General Meeting** means the annual general meeting required by the Act;
- (iii) **Board** means the Directors for the time being of the Company or such one or more of them as have authority to act for the Company;
- (iv) **business day** means a day that is not a Saturday, a Sunday or a public holiday or bank holiday in Melbourne, Victoria;
- (v) **Chairman** means the individual elected as Chairman of a meeting of Members or the Director elected as Chairman pursuant to Clause 33;
- (vi) **Company or Group** means Melbourne Aviation Group Proprietary Limited (ACN: 004 589 557), a Company limited by share capital;
- (vii) **Constitution** means the Constitution for the time being in force;
- (viii) **Deputy Chairman** means the Director elected as Deputy Chairman pursuant to Clause 33;
- (ix) **Directors** means the Directors for the time being of the Company or the Directors assembled as the Board;
- (x) **General Meeting** means an Annual General Meeting or a Special General Meeting
- (xi) **Member** means a Member of the Company in accordance with the provisions of Clause 8;
- (xii) **Minutes** means the Minutes prepared in accordance with Clause 39;
- (xiii) **Office Bearers** means a position referred to in Clause 30;

- (xiv) **Policy** means the Melbourne Aviation Group Policies and Operating Rules (attached hereto and marked **Annexure A**) and otherwise as amended from time to time by the Board;
 - (xv) **Secretary** means the Company Secretary referred to in Clause 31 and any other person appointed to perform the duties of a Secretary of the Company;
 - (xvi) **Service Agreement** means the Melbourne Aviation Group Proprietary Limited Service Agreement (attached hereto and marked **Annexure B**) and otherwise as amended from time to time by the Board; and
 - (xvii) **Special General Meeting** means a meeting of the Members duly convened in accordance with this Constitution other than the Annual General Meeting.
- (b) Interpretation
- (i) Reference to:
 - A one gender includes the others;
 - B the singular includes the plural and the plural includes the singular; and
 - C a person includes a body corporate.
 - (ii) Except so far as the contrary intention appears in this Constitution:
 - A an expression has in this Constitution the same meaning as in the Act; and
 - B if an expression is given different meanings for the purposes of different provisions of the Act, the expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Act, the same meaning as in that provision of the Act.
 - (iii) "Including" and similar expressions are not words of limitation.
 - (iv) Headings and any table of contents or index are for convenience only and do not form part of this Constitution or affect its interpretation.

NAME OF THE COMPANY

- 2 The name of the Company shall be "Melbourne Aviation Group Proprietary Limited".

OBJECTS

- 3 The objects of the Company are:
- (a) to acquire, maintain and operate aircraft for the purpose of providing private flying to its Members;
 - (b) to provide Members with access to the best aircraft for the lowest cost; and
 - (c) to do all such other lawful things as are incidental or conducive to the attainment of the above object or which are directly or indirectly in the interests of the Company.

APPLICATION OF INCOME AND PROPERTY

- 4 The income and property of the Company from wherever it is derived must be applied solely towards the promotion of the objects of the Company set out in Clause 3.

LIMITED LIABILITY

- 5 The liability of Members is limited.

NO DISTRIBUTION TO MEMBERS

- 6 No portion of the income or property of the Company may be paid directly or indirectly, by way of dividend, bonus or otherwise to the Members of the Company.
- 7 Clause 6 does not prevent:
- (a) the payment in good faith of remuneration to any officer, servant or Member of the Company in return for any services actually rendered to the Company or for goods supplied in the ordinary and usual conduct of business;
 - (b) the payment of interest at a rate not exceeding 12% per annum on money borrowed from any Member of the Company;
 - (c) the payment of reasonable and proper rent by the Company to a Member of the Company for premises leased by the Member to the Company;
 - (d) the reimbursement of expenses incurred by any Member on behalf of the Company;
 - (e) a distribution in accordance with Clause 64 should the Company be wound up or dissolved.

MEMBERSHIP

8 Company's Obligations

The Company must ensure that every Member has received a copy of the Service Agreement and Policy.

9 Number of Members

The number of Members of the Company is limited to no more than thirty-eight (38) at any one time.

10 Admission to Membership

- (a) Membership can only be acquired by purchasing shares in the Company from either:
 - (i) a current Member of the Company who wishes to sell its shares; or
 - (ii) the Board who are holding shares on trust in accordance with Clause 15.
- (b) A Member who intends to sell its shares must immediately notify the Chairman or Secretary of its intention to sell its shares.
- (c) The Member must source a potential purchaser unless the Chairman or Secretary is already aware of a potential purchaser and notifies the Member of same.
- (d) Any potential purchaser of shares must comply with Clause 11 hereof.
- (e) The price of the shares is to be negotiated directly between the potential purchaser of the shares and the Member wishing to exit the Company. The terms of settlement negotiated between the potential purchaser and the Member must require that settlement occur no less than twenty-eight (28) days after an agreement is reached.
- (f) Immediately after an agreement between a Member and potential purchaser is reached in accordance with Clause 10(e) hereof, the Member must notify the Chairman or Secretary of the identity of the potential purchaser if it has not already done so.
- (g) The Board may in its absolute discretion refuse any transfer of shares if it determines that the transfer is not in the best interests of the Company. In the event the Board determines to exercise its discretion to refuse the transfer of

shares, the current Member will be notified no less than fourteen (14) days prior to the settlement date negotiated in accordance with Clause 10(e) hereof.

11 Membership Requirements

- (a) All new Members must have conducted a familiarisation flight with an appropriately qualified flight instructor approved by the Board.
- (b) All Members must comply at all times with the provisions of the Service Agreement and Policy.
- (c) Only real persons may be a Member and shares may not be jointly held.

12 Registration of transfers

- (a) A Member transferring shares remains the holder of the shares until the transfer is registered and the name of the person to whom they are being transferred is entered in the register of Members in respect of the shares.
- (b) The Directors are not required to register a transfer of shares in the Company unless:
 - (i) the transfer and any share certificate have been lodged at the Company's registered office; and
 - (ii) any fee payable on registration of the transfer has been paid; and
 - (iii) the Directors have been given any further information they reasonably require to establish the right of the person transferring the shares to make the transfer.
- (c) The Directors may refuse to register a transfer of shares in the Company if:
 - (i) the shares are not fully-paid; or
 - (ii) the Company has a lien on the shares.
- (d) The Directors may suspend registration of transfers of shares in the Company at the times and for the periods they determine. The periods of suspension must not exceed thirty (30) days in any one (1) calendar year.
- (e) The Directors shall ensure that the Company's regulatory records are up to date and accurate.

ANNUAL LEVY

- 13 Members are required to pay an annual levy, the sum of which is to be determined at the commencement of each financial year by the Board.

CESSATION OF MEMBERSHIP

- 14 A Member ceases to be a Member:
- (a) upon death or total and permanent incapacity;
 - (b) upon bankruptcy;
 - (c) in the event that the Member is expelled pursuant to Clause 16; or
 - (d) upon transferring shares to a new Member in accordance with Clause 9.
- 15 If a Member ceases to be a Member pursuant to Clause 14(a), (b) or (c) then the Board shall purchase the shares of the relevant Member at a price equal to the average price of all share purchases negotiated in accordance with Clause 9 hereof in the most recent full financial year, less any outstanding capital calls, levies, fees and charges owing to the Company by the relevant Member. The Board shall hold such shares on trust for the Company until a potential purchaser can be secured, at which time, the requirements of Clause 10(d) to (g) shall apply as if the Board were the exiting Member..

DISCIPLINING MEMBERS

- 16 If any Member:
- (a) In the opinion of the Board, wilfully refuses or neglects to comply with the provisions of this Constitution or the Service Agreement or the Policy; or
 - (b) is guilty of any conduct which, in the opinion of the Board is unbecoming of a Member prejudicial to the interests of the Company;
- the Board may resolve to censure, suspend or expel the Member from the Company and, in the case of expulsion, acquire the Member's shares in accordance with Clause 15.
- 17 At least one (1) week before the Board meeting at which a resolution of the nature referred to in Clause 16 is passed, the Directors must give notice to the Member of the meeting, what is alleged against the Member and the intended resolution;
- 18 At the meeting and before the passing of the resolution, a Member given notice pursuant to Clause 17 must have an opportunity of giving orally or in writing any

explanation or defence the Member sees fit, which the Board must consider however the resolution of the Board will be final and binding.

COMPANY OFFICER

19 Director's Qualifications

- (a) The Directors must be Members.

20 Number of Directors

- (a) The number of Directors must be not less than four (4) at any time.

21 Members may appoint a Director

- (a) The Members may appoint a person as a Director by resolution passed in General Meeting.

22 Board may appoint other Directors

- (a) The Board may appoint a person as a Director by resolution.
- (b) A person can be appointed as a Director in order to make up a quorum for a Directors' meeting even if the total number of Directors of the Company is not enough to make up that quorum.
- (c) If a person is appointed under this section as a Director of a proprietary Company, the Company must confirm the appointment by resolution within six (6) months after the appointment is made. If the appointment is not confirmed, the person ceases to be a Director of the Company at the end of those six (6) months.

23 Alternate Directors

- (a) With the other Directors' approval, a Director may appoint an alternate to exercise some or all of the Director's powers for a specified period.
- (b) If the appointing Director requests the Company to give the alternate notice of Directors' meetings, the Company must do so.
- (c) When an alternate exercises the Director's powers, the exercise of the powers is just as effective as if the powers were exercised by the Director.
- (d) The appointing Director may terminate the alternate's appointment at any time.
- (e) An appointment or its termination must be in writing. A copy must be given to the Company.

24 Powers and duties of the Board

- (a) The business of the Company is to be managed by or under the direction of the Board.
- (b) The Board may exercise all the powers of the Company except any powers that the Act or this Constitution requires the Company to exercise in General Meeting.
- (c) Subject to the Act and without limiting Clause 24(b), the main duties of the Board are to carry out the objects contained in Clause 3 herein and to create and amend the Service Agreement and Policy.

25 Negotiable instruments

- (a) Any two (2) Directors may sign, draw, accept, endorse or otherwise execute a negotiable instrument.
- (b) The Board may determine that a negotiable instrument may be signed, drawn, accepted, endorsed or otherwise executed in a different way.

26 Conflict of Interest

If a Director has a material personal interest in a matter that relates to the affairs of the Company and:

- (a) under section 191 of the Act the Director discloses the nature and extent of the interest and its relation to the affairs of the Company at a Board meeting;
or
- (b) the interest is one that does not need to be disclosed under section 191 of the Act;

then:

- (c) the Director may vote on matters that relate to the interest; and
- (d) any transactions that relate to the interest may proceed; and
- (e) the Director may retain benefits under the transaction even though the Director has the interest; and
- (f) the Company cannot avoid the transaction merely because of the existence of the interest.

If disclosure is required under section 191 of the Act, paragraphs 26(e) and 26(f) apply only if the disclosure is made before the transaction is entered into.

27 Remuneration of Directors

- (a) The Directors of the Company are to be paid the remuneration that the Members determine by resolution at a General Meeting.
- (b) The Company may also pay the Directors' travelling and other expenses that they properly incur:
 - (i) in attending Board meetings or any meetings of committees of the Board; and
 - (ii) in attending any General Meetings of the Company; and
 - (iii) in connection with the Company's business.

REMOVAL AND RESIGNATION OF DIRECTORS

28 Director may resign by giving written notice to Company

A Director may resign as a Director giving a written notice of resignation to the Board.

29 Removal by Members

The Board:

- (a) may by resolution remove a Director from office; and
- (b) may by resolution appoint another person as a Director instead.

OFFICE BEARERS

30 The Office Bearers of the Company are:

- (a) the Chair;
- (b) the Deputy Chair;
- (c) the Company Secretary;
- (d) the Finance Director; and
- (e) the Maintenance Director.

31 The Office Bearers hold office on such terms and conditions, as to remuneration and otherwise, as the Board determines.

32 Eligibility and Nomination

- (a) Only Directors may be Office Bearers. Any Director is eligible for election to any Office Bearer position.
- (b) Each Director standing for election as an Office Bearer must be proposed by another Director.
- (c) A nomination may be:
 - (i) in writing, received by the Secretary not less than twenty-four (24) hours prior to the Board meeting at which the election is to take place and signed by the candidate and the proposer; or
 - (ii) made orally at the meeting, provided that the candidate is present and consents to the nomination.

33 Election Procedure – Office Bearers

- (a) If there is only one (1) candidate for election to any Office Bearer position that person is declared elected to that position.
- (b) If there is more than one (1) candidate for election to any Office Bearer position a ballot must be held. The candidate receiving the greatest number of votes cast in his or her favour is declared elected to that position.
- (c) In the case of an equality of votes in respect of any position a further ballot must be held immediately but if there is still an equality of votes the successful candidate must be determined by the Chair.
- (d) Subject to this Clause 33 a ballot is conducted in the manner the Board determine.

BOARD MEETINGS

34 Calling Board meetings

A Board meeting may be called by a Director giving reasonable notice individually to every other Director.

35 Quorum at Board meetings

Unless the Board determine otherwise, the quorum for a Board meeting is three (3) Directors and the quorum must be present at all times during the meeting.

36 Passing of Board resolutions

- (a) A resolution of the Board must be passed by a majority of the votes cast by Directors entitled to vote on the resolution.

- (b) The chair has a casting vote if necessary in addition to any vote they have in their capacity as a Director.

37 Chairing Board Meetings

- (a) The Chairman is the chair of all Board meetings.

38 Circulating Resolutions

- (a) The Directors may pass a resolution without a Board meeting being held if all the Directors entitled to vote on the resolution sign a document containing a statement that he or she is in favour of the resolution set out in the document.
- (b) 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.
- (c) The resolution is passed when the last Director signs.
- (d) For the purposes of this clause, a statement or statements forwarded via email shall be sufficient.

MINUTES

39 Minutes to be kept:

- (a) The Board must keep minute books in which they record within one month after a meeting;
 - (i) Proceedings and resolutions of General Meetings;
 - (ii) Proceedings and resolutions of Board meetings; and
 - (iii) The resolutions passed by Directors without a meeting.
- (b) The Board must ensure that minutes of a meeting where a resolution is passed are signed by the Chairman.
- (c) The Board must ensure that minutes of the passing of a resolution without a meeting are signed by a Director within a reasonable time after the resolution is passed.
- (d) The Board must record in the minute books the names of the Directors present at all Board meetings and General Meetings.

INSPECTION OF RECORDS

- 40 A Member is entitled to inspect the books of the Company upon providing a written request to the Company Secretary.

- 41 A potential purchaser pursuant to Clause 10 may inspect the books of the Company if permitted by the Board.

MEETING OF MEMBERS

42 Calling of meetings

- (a) Other than the Annual General Meeting, there shall be no requirement to hold a General Meeting.
- (b) A Special General Meeting may be called by a petition signed by no less than 50% of the Members entitled to vote at that point in time.

43 Notice

Notice of a General Meeting must be given to every Member at least twenty-one (21) days in advance of the General Meeting.

44 Quorum

- (a) The quorum for a General Meeting is fourteen (14) Members and the quorum must be present at all times during the meeting.
- (b) In determining whether a quorum is present, count individuals attending as proxies. However, if a Member has appointed more than one (1) proxy or representative, count only one (1) of them. If an individual is attending both as a Member and as a proxy, count them only once.
- (c) A General Meeting that does not have a quorum present within 30 minutes after the time for the meeting set out in the notice of meeting is adjourned to the date, time and place the Board specifies. If the Board does not specify one (1) or more of those things, the meeting is adjourned to:
 - (i) if the date is not specified—the same day in the next week; and
 - (ii) if the time is not specified—the same time; and
 - (iii) if the place is not specified—the same place.
- (d) If the General Meeting is adjourned for thirty (30) days or more, notice of the resumed meeting must be given to all Members.
- (e) If no quorum is present at the resumed meeting within 30 minutes after the time for the meeting, the meeting is dissolved.

45 Chairing Meetings of Members

The Chairman at the relevant time shall chair the General Meeting.

46 Appointing a proxy

A Member who is entitled to attend and cast a vote at a General Meeting may appoint a person as the Member's proxy to attend and vote for the Member at the General Meeting.

ANNUAL GENERAL MEETING

- 47 The Business of the Annual General Meeting may include consideration of the annual financial report, Directors' report and auditor's report, the election of Directors, the appointment of the auditor and the fixing of the auditor's remuneration. The Chairman of the Annual General Meeting must allow a reasonable opportunity for the Members at the meeting to ask questions about or make comments on the management of the Company. If the Company's auditor is at the meeting the Chairman of the meeting must allow a reasonable opportunity for the Members at the meeting to ask the auditor questions relevant to the conduct of the audit and the preparing and content of the auditor's report.

MEMBERS VOTING

- 48 A Member must have fully paid all fees, levies, rates or charges due and payable in order to be entitled to vote at any meeting of the Members.

- 49 Subject to any rights or restrictions attached on any class of shares, at a meeting of Members:

- (a) on a show of hands, each Member has one vote; and
- (b) on a poll, each Member has one vote for each share they hold.

- 50 Chair's casting vote

- (a) The chair has a casting vote, and also a vote in their capacity as Member.

- 51 Objections to right to vote

A challenge to a right to vote at a General Meeting of the Members:

- (a) may only be made at the meeting; and
- (b) must be determined by the chair, whose decision is final.

- 52 How voting is carried out

- (a) A resolution put to the vote at a General Meeting of the Members must be decided on a show of hands unless a poll is demanded.

- (b) Before a vote is taken the chair must inform the meeting whether any proxy votes have been received and how the proxy votes are to be cast.
- (c) On a show of hands, a declaration by the chair is conclusive evidence of the result, provided that the declaration reflects the show of hands and the votes of the proxies received. Neither the chair nor the minutes need to state the number or proportion of the votes recorded in favour or against.

53 When and how polls must be taken

- (a) A poll demanded on a matter other than the election of a chair or the question of an adjournment must be taken when and in the manner the chair directs.
- (b) A poll on the election of a chair or on the question of an adjournment must be taken immediately.

INSURANCE

54 The Company will take out comprehensive insurance cover for the aircraft owned by the Company and to cover any claims made by passengers or third parties with a minimum of \$5 million or such other sum as the Board determines by resolution from time to time.

55 To the extent permitted by the Act, the Company may, where the Directors consider it appropriate to do so insure the Directors and Company Secretary against any liability incurred by that person in his or her capacity as Director or Company Secretary or any liability for legal costs incurred by that person in his or her capacity as Director or Company Secretary.

INDEMNITY

56 To the extent permitted by the Act and acknowledging Clause 55, the Company indemnifies every person who is or has been a Director or Office Bearer of the Company against liability:

- (a) for all costs and expenses incurred by that person in defending any proceedings in which judgment is given in that person's favour or in which the person is acquitted or in connection with the application in relation to any proceeding in which the Court grants relief to the person under the law; and
- (b) incurred by the person, as a Director or Office Bearer of the Company to another person unless the liability arises out of conduct involving a lack of good faith.

ACCOUNTS AND AUDIT

57 Accounts

- (a) The Directors must cause proper accounting and other records to be kept.

58 Audit

- (a) The Company shall appoint an auditor as and when determined by the Board by resolution.
- (b) The remuneration of the auditor must be fixed and their duties regulated in accordance with the Act.

GENERAL

- 59 If some formality required by this Constitution is inadvertently omitted or is not carried out the omission does not invalidate anything, including any resolution, which but for the omission would have been valid unless it is proved to the satisfaction of the Directors that the omission has directly prejudiced any Member financially. The decision of the Directors is final and binding on all Members.

VARIATION

- 60 Subject to the Act, the Members may amend or repeal this Constitution, or a provision of this Constitution, by resolution at a Meeting called for that purpose, passed by no less than 50% of the members entitled to vote at that point in time.

INTERPRETATION OF CONSTITUTION

- 61 If any doubt shall arise as to the proper construction or meaning this Constitution or of any expression used therein, the decision of the Board shall be final and conclusive provided such decision is reduced to writing and recorded in the Minutes.
- 62 In the event of a conflict between the terms of this Constitution, the Service Agreement and the Policy or the expressions used therein, the decision of the Board shall be final and conclusive provided such decision is reduced to writing and recorded in the Minutes.

NOTICE

- 63 A notice may be served by any of the following methods:
- (a) by serving it upon the Member personally;
 - (b) by leaving it at the Member's address as recorded by the Board;

- (c) by sending it by post in a prepaid letter, envelope or wrapper addressed to the Member at the Member's address as recorded by the Board;
- (d) by sending it by facsimile transmission to a facsimile number nominated by the member for the purpose of serving notices upon the Member; or
- (e) by electronic mail if nominated by the Member for the purpose of serving notices on the Member.

WINDING UP

- 64 If at the time of winding up or dissolution of the Company, any property remains, after satisfaction of all its debts and liabilities, that property must be distributed to any Members of the Company.