

**Constitution  
of  
Australian Timber Flooring Association Limited**

**atffa**®

**Australasian timber flooring association**

*Local professionals, world-class standards*

**First Constitution October 2007**

**Amended October 2008**

**Amended September 2009**

**Amended October 2010**

**Amended March 2013**

**Last amended October 2018**

**A Company Limited by Guarantee**

## 1. **Name**

The name of the Company is **Australian Timber Flooring Association Limited** (the "Association").

## 2. **Definitions**

(1) In this Constitution, unless the contrary intention appears-

**"Act"** means the **Corporations Act 2001**;

**"Board"** means the Board of Directors for the time being of the Association;

**"Financial year"** means the year ending on 30 June;

**"General meeting"** means a general meeting of members convened in accordance with rule 17

**"Member"** means a person or corporation admitted to membership of the Association;

**"Rules"** means the clauses of this Constitution.

**"Secretary"** means any person appointed for the time being to perform the duties of the Secretary of the Association.

## 3. **Alterations to the Constitution**

(1) This Constitution may be altered, rescinded or repealed by the Association by special resolution of a General Meeting of the Association.

(2) To the extent permitted by law, the replaceable rules in the Act do not apply to the Association.

## 4. **Purpose**

(1) The Association:

(a) Is a company limited by guarantee; and

(b) Will operate for the promotion, development and attainment of its objects; and

(c) The assets and income of the Association shall be applied solely in furtherance of its objects and no portion shall be distributed directly or indirectly to the members of the Association except as bona fide compensation for services rendered or expenses incurred on behalf of the Association.

## 5. **Objects**

(1) The objects for which the Association is established are to:

- (a) Represent the interests of members to governments, other organisations and the community;
- (b) To promote and improve the services provided by members;
- (c) To communicate with and facilitate the sharing of ideas among members for the advancement of the timber flooring industry;
- (d) To promote and advance ethical and responsible behaviour to foster community confidence in the integrity of timber flooring professionals;
- (e) To provide skills development, business and employment support;
- (f) To provide research and development in the industry; and
- (g) Carry out all other tasks or activities which are necessary or incidental to the achievement of any of the objects of the Association.

(2) The Association may in any manner permitted by the Act exercise any power, take any action, or engage in any conduct or procedure, which under the Act a company limited by guarantee may exercise or undertake.

## 6. **Liability of Members**

(1) The liability of members is limited.

(2) Every member undertakes to contribute to the property of the Association in the event of the Association being wound up while a person or body is still a member or within one (1) year of that person or body ceasing to be a member, for payment of the debts and liabilities of the Association (contracted before the person or body ceases to be a member) and of the costs, charges and expenses of winding up and for the adjustment of the rights of contributors among themselves, such amount as may be required not exceeding \$1 per member.

## 7. **Control with Board**

(1) The management and control of the Association shall be vested in a Board of Directors as hereinafter provided.

(2) The Board may, subject to the provisions of this Constitution and the decisions of any board meeting, exercise every power of the Association.

(3) The Board may delegate all or any of its powers of management and control to a Committee or delegated staff member(s).

## **8. *Membership, entry fees and subscription***

(1) A person who applies and is approved for membership as provided in this Constitution is eligible to be a member of the Association on payment of the annual subscription payable under this Constitution.

(2) A person who is not a member of the Association at the time of the incorporation of the Association (or who was a member at that time but has ceased to be a member) must not be admitted to membership unless-

- (a) he or she applies for membership in accordance with sub-rule 3; and
- (b) the admission as a member is approved by the Board.

(3) An application for membership of the Association must be completed in a format prescribed by the Board, with receipt of the prescribed fee.

(4) As soon as practicable after the receipt of an application, the Secretary must refer the application to the Board.

(5) The Board must determine whether to approve or reject the application.

(6) The Secretary must, within 28 days after receipt of the amounts referred to in sub-rule (3), enter the applicant's name in the register of members.

(7) An applicant for membership becomes a member and is entitled to exercise the rights of membership when his or her name is entered in the register of members.

(8) If the Board rejects an application, the Board must, as soon as practicable, notify the applicant in writing that the application has been rejected.

(9) A right, privilege, or obligation of a person by reason of membership of the Association-

- (a) is not capable of being transferred or transmitted to another person; and
- (b) terminates upon the cessation of membership whether by death, resignation, termination or otherwise.

(10) The annual subscription is the relevant amount prescribed by the Board.

## **9. *Categories of Membership***

(1) The categories of membership shall be as determined under By-laws promulgated by the Board from time to time.

## **10. Register of members**

- (1) The Secretary must keep and maintain a register of members containing-
  - (a) the name and address of each member; and
  - (b) the date on which each member's name was entered in the register.
- (2) The register is available for inspection free of charge by any member upon request, by visiting the ATFA office to do so.
- (3) A member may not make a copy of entries in the register.

## **11. Ceasing membership**

- (1) A member of the Association who has paid all moneys due and payable by a member to the Association may resign from the Association by giving one month's notice in writing to the Secretary of his or her intention to resign.
- (2) After the expiry of the period referred to in sub-rule (1)--
  - (a) the member ceases to be a member; and
  - (b) the Secretary must record in the register of members the date on which the member ceased to be a member.
- (3) A member shall cease to be a member if that member's current membership fee remains overdue for payment for a period of three months.

## **12. Discipline, suspension and expulsion of members**

When a member is challenged against the Association Code of Conduct and Ethics (whether by the Association itself, another member or a member of the public), the following will apply:

- (1) Automatically, the Chief Executive Officer (the "CEO") of the Association will instigate an investigation which considers only the facts of the allegation.
- (2) The CEO will report the findings of this investigation to the next available Board meeting.
- (3) Four possible actions will be available to the Board:
  1. No action required.
  2. A misdemeanour has occurred for which the member will receive written advice.
  3. The member must appear before the Board to explain his/her actions.
  4. A significant breach has occurred for which the member will be de-registered from the Association and will receive written advice.

(4) The Directors will determine the most appropriate course of action based upon the facts presented and vote on the action proposed. A vote of half the directors present plus one will result in the action being instigated.

(5) The Association has the capacity to immediately de-register a member from the Association whether that be as a result of the investigation or if the Association has facts which substantiate de-registration.

(6) A member may appeal the decision of the Board within 14 days of the action being taken, outlining any points to the contrary or information not previously presented. The Board will consider the members response and uphold or repeal the action specified. The Boards decision is final.

#### **12A *Excluded Member***

(1) A member of the Association becomes an “excluded member” if the member:-

(a) becomes bankrupt, insolvent or otherwise takes advantage of bankruptcy laws by entering into a Part IX agreement or Part X arrangement or agreement pursuant to the *Bankruptcy Act 1966*; or

(b) is a director, secretary or officer as defined in the *Corporations Act 2001* of a company or other entity that has a provisional liquidator, liquidator, receiver, manager, administrator or controller appointed, or is wound up or ordered to be wound up; or

(c) is convicted of an indictable offence(s).

(2) When a member becomes an “excluded member”. The membership of the excluded member with ATFA is deemed automatically terminated.

(3) The Secretary must record in the register of members when a member becomes an excluded member.

(4) This Rule 12A & the following Rule 12B binds all current and future members effective from March 6<sup>th</sup> 2013.

#### **12B. *Restoration of membership of excluded member***

(1) The Board has the power and absolute discretion to re-admit and/or to restore the membership of a member who is excluded due to the operation of Rule 12A above.

- (2) An excluded member may apply to the Association for the Board's consideration for the membership to be restored.
- (3) The Board may restore the membership of an excluded member if the Board is satisfied that the excluded member has taken all reasonable steps to avoid the circumstances that resulted in the automatic termination of the membership.
- (4) In the application to the Board, the excluded member must supply information or the evidence which identifies the causes(s) of the event triggering automatic termination and provide details as to what steps were taken to avoid the event resulting in automatic termination.
- (5) The Board shall exercise its discretion under Rule 12B(1) to restore the membership of an excluded member if the Board is, in its absolute opinion after reviewing the information and evidence provided, that the membership should be restored.
- (6) The Board's decision to exercise the power under Rule 12B(1) shall be decided on a case-by-case basis in the Board's absolute discretion.

### **13. *Disputes***

- (1) The grievance procedure set out in this Rule applies to disputes under these Rules between a member and the Association.
- (2) Each party to the dispute is to discuss the matter in dispute within 21 days after the dispute comes to the attention of both parties.
- (3) If the parties are unable to resolve the dispute, then the parties must, within 10 days, hold a meeting with a mediator nominated by the Institute of Arbitrators and Mediators Australia and share the associated costs evenly.
- (4) The mediator cannot be a member who is a party to the dispute.
- (5) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation and do all things reasonable to resolve the matter.
- (6) If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Act, through mediation or otherwise at law.

### **14. *Annual general meetings***

- (1) The Board may determine the date, time and place of the annual general meeting of the Association.
- (2) The notice convening the annual general meeting must specify that the meeting is an annual general meeting.

(3) The ordinary business of the annual general meeting shall be-

(a) to confirm the minutes of the previous annual general meeting and of any general meeting held since that meeting; and

(b) to receive from the Board reports upon the transactions of the Association during the last preceding financial year; and

(c) to elect officers of the Association; and

(d) to receive and consider the reports submitted by the Association in accordance with the Act.

(4) The annual general meeting may conduct any special business of which notice has been given in accordance with these Rules.

#### **15. *Special general meetings***

(1) In addition to the annual general meeting, any other general meetings may be held in the same year.

(2) All general meetings other than the annual general meeting are special general meetings.

(3) The Board may, whenever it thinks fit, convene a special general meeting of the Association.

(4) If, but for this sub-rule, more than 15 months would elapse between annual general meetings, the Board must convene a special general meeting before the expiration of that period.

#### **16. *Special business***

All business that is conducted at a special general meeting and all business that is conducted at the annual general meeting, except for business conducted under the rules as ordinary business of the annual general meeting, is deemed to be special business.

#### **17. *Notice of general meetings***

(1) The Secretary of the Association, at least 21 days, before the date fixed for holding a general meeting of the Association, must cause to be sent to each member of the Association, a notice stating the place, date and time of the meeting and the nature of the business to be conducted at the meeting.

(2) Notice may be sent by prepaid post to the address appearing in the register of members or by facsimile transmission or electronic transmission. The Association is not responsible for any notices not received by a member who has not updated their details in the register of members.

(3) No business other than that set out in the notice convening the meeting may be conducted at the meeting.

(4) A member intending to bring any proper business related to a General Meeting must do so in writing, or by electronic transmission, notifying the Secretary of that business, who must include that business in the notice calling the next general meeting, where the information is deemed relevant.

#### **18. *Quorum at general meetings***

(1) No item of business may be conducted at a general meeting unless a quorum of members entitled under these Rules to vote is present at the time when the meeting is considering that item.

(2) Attendance reflecting half the number of Directors plus one, personally present (being members entitled under these Rules to vote at a general meeting) constitute a quorum for the conduct of the business of a general meeting.

#### **19. *Presiding at general meetings***

(1) The President, or in the President's absence, the Vice-President, shall preside as Chairperson at each general meeting of the Association.

(2) If the President and the Vice-President are absent from a general meeting, or are unable to preside, the members present must select one of their number to preside as Chairperson.

#### **20. *Adjournment of meetings***

(1) The person presiding may, with the consent of a majority of members present at the meeting, adjourn the meeting from time to time and place to place.

(2) No business may be conducted at an adjourned meeting other than the unfinished business from the meeting that was adjourned.

(3) If a meeting is adjourned for 14 days or more, notice of the adjourned meeting must be given in accordance with rule 17.

(4) Except as provided in sub-rule (3), it is not necessary to give notice of an adjournment or of the business to be conducted at an adjourned meeting.

#### **21. *Voting at general meetings***

(1) Upon any question arising at a general meeting of the Association, a member has one vote only, with the exception of enterprises who have joined as part of a franchise group where only the head enterprise will hold the one vote for the block of franchise outlets.

(2) All votes must be given personally or by proxy.

(3) In the case of an equal number of voting on a question, the Chairperson of the meeting is entitled to exercise a second or casting vote.

(4) A member is not entitled to vote at a general meeting unless all moneys due and payable by the member to the Association have been paid in full.

## **22. Poll at general meetings**

(1) If at a meeting a poll on any question is demanded by not less than 3 members, it must be taken at that meeting in such manner as the Chairperson may direct and the resolution of the poll shall be deemed to be a resolution of the meeting on that question.

(2) A poll that is demanded on the election of a Chairperson or on a question of an adjournment must be taken immediately and a poll that is demanded on any other question must be taken at such time before the close of the meeting as the Chairperson may direct.

## **23. Manner of determining whether resolution carried**

If a question arising at a general meeting of the Association is determined on a show of hands-

(a) a declaration by the Chairperson that a resolution has been-

(i) carried; or

(ii) carried unanimously; or

(iii) carried by a particular majority; or

(iv) lost; and

(b) an entry to that effect in the minute book of the Association--

is evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

## **24. Proxies**

(1) Each member is entitled to appoint another member as a proxy by notice given to the Secretary no later than 24 hours before the time of the meeting in respect of which the proxy is appointed.

(2) The notice appointing the proxy must be in the form set out in Appendix 2.

## **25. Composition of the Board**

The Board shall consist of the CEO (non-voting and not a Director) and not less than 8 and not more than 12 Directors or such other number as shall be determined from time to time in general meeting.

## **26. Functions of the Board**

The control, management and conduct of the affairs of the Association, subject to the provisions of this Constitution, shall be vested in the Board which may exercise all the powers of the Association and may, without affecting the generality of the foregoing:

(a) borrow money on behalf of the Association either with or without security and if with security may give security by mortgage, charge or lien over all or any part of the property of the Association;

(b) invest money of the Association and from time to time vary those investments;

(c) appoint any staff, appoint or engage any professional or other assistance or service required by the Association in the carrying out of its activities and pay reasonable remuneration and fees therefore;

(d) open any banking account and operate the same;

(e) pay all expenses in setting up and registering the Association; and

(f) exercise all such other powers of the Association as are not, by the Act or by this Constitution, required to be exercised by the Association in general meeting, subject nevertheless to this Constitution, to the Act, and to such regulations being not inconsistent with the Constitution and the Act as may be prescribed by the Association in general meeting, but no regulation made by the Association in general meeting shall invalidate any prior act of the Directors which would have been valid if that regulation had not been made.

## **27. Office holders**

(1) The Board shall comprise the following three officers with voting powers who shall be appointed as given below:

(a) a President (elected by Directors);

(b) a Vice-President (elected by Directors); and

(c) a Treasurer (elected by Directors).

Noting: the ATFA CEO will also hold the title of Company Secretary (non-voting, not a Director).

(2) All voting officers shall be members, or the representative of a member business of the Association and represent the interests of the ATFA as a whole rather than those of a particular constituency. The Board may commission advice from a suitably qualified person or persons.

## **28. CEO**

The CEO shall be engaged on terms and conditions agreed in writing between the Board and the CEO. The powers and duties of the CEO shall be as agreed between the CEO and the Board and such further or other powers, duties and discretions as determined by the Board from time to time.

### **29. *Appointment of Directors***

- (1) To be eligible to be a Director of the Association, the person must be a member, or the representative of a member business.
- (2) Subject to these Rules, each Director shall hold office until the annual general meeting next after the date of election but is eligible for re-election.
  - (a) In the case of the President the term of appointment will be for a maximum of two years with the option for one further year in the same continuous term not withstanding 29 (1) above. After the term as President the member may still stand as a Director or alternative Office Holder. He/she will be recognised as the Immediate Past President.
- (2) In the event of a casual vacancy occurring in the Board, the Board may appoint a member of the Association to fill the vacancy and the member appointed shall hold office, subject to these Rules, until the conclusion of the annual general meeting next following the date of the appointment.
- (3) A person is ineligible to be nominated or appointed as a Director at an annual general meeting or for a casual vacancy if they have been found guilty of an indictable offence or if they have brought the Association into disrepute, for example -
  - (a) By instigating legal action against the Association; or
  - (b) By actively promoting misinformation regarding the Association; or
  - (c) Being found to be in breach of the Association's Code of Professional Conduct and Ethics.

### **30. *Election of Directors***

- (1) Nominations of candidates for election as officers of the Board must be--
  - (a) made in writing, signed by two members of the Association and accompanied by the written consent of the candidate (which may be endorsed on the form of nomination); and
  - (b) delivered to the Secretary of the Association not less than 7 days before the date fixed for the holding of the annual general meeting.
- (2) A candidate may only be nominated for one office prior to the annual general meeting.
- (3) If insufficient nominations are received to fill all vacancies on the Board, candidates nominated shall be deemed to be elected and further nominations may be received at the annual general meeting.
- (4) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated shall be deemed to be elected.

(5) If the number of nominations exceeds the number of vacancies to be filled, a ballot must be held.

(6) The ballot for the election of officers must be conducted at the annual general meeting in such manner as the Board may direct.

### **31. *Vacancies***

The office of an officer of the Board, becomes vacant if the officer or member--

- (a) ceases to be a member of the Association; or
- (b) banned from being a Director by ASIC; or
- (c) convicted of an indictable offense; or
- (d) becomes an insolvent under administration within the meaning of the Act; or
- (e) fails to attend two (3) or more Board meetings in a calendar year without ATFA approved leave of absence; or
- (f) resigns from office by notice in writing given to the Secretary.

### **32. *Board meetings***

(1) The Board should meet as often as is necessary to discharge its duties at such place and such times as the Board may determine.

### **33. *Notice of Board meetings***

(1) Written notice of each Board meeting must be given to each member of the Board at least 7 business days before the date of the meeting.

(2) Written notice must be given to members of the Board of any special meeting specifying the general nature of the business to be conducted and no other business may be conducted at such a meeting.

### **34. *Quorum for Board meetings***

(1) A majority of the Directors constitutes a quorum for the conduct of the business of a Board meeting.

(2) No business may be conducted unless a quorum is present.

(3) The Board may act notwithstanding any vacancy on the Board.

### **35. *Presiding at Board meetings***

At Board meetings-

- (a) the President or, in the President's absence, the Vice-President presides; or
- (b) if the President and the Vice-President are absent, or are unable to preside, the Directors present must choose one of their number to preside.

### **36. *Voting at Board meetings***

(1) Questions arising at a Board meeting, or at a meeting of any sub-committee appointed by the Board, shall be determined on a show of hands or, if a Director requests, by a poll taken in such manner as the person presiding at that meeting may determine.

(2) Each Director present at a Board meeting, or at a meeting of any sub-committee appointed by the committee (including the person presiding at the meeting), is entitled to one vote and, in the event of a tied vote on any question, the motion will be deemed to have been lost.

### **37. *Removal of Board member***

(1) The Association in a General Meeting may, by majority resolution, remove any member of the Board before the expiration of the member's term of office and appoint another member in his or her place to hold office until the expiration of the term of the first-mentioned member.

(2) A member who is the subject of a proposed resolution referred to in sub-rule (1) may make representations in writing to the Secretary or President of the Association (not exceeding a reasonable length) and may request that the representations be provided to the members of the Board.

### **38. *Committees***

(1) The Board may delegate any of its powers not being powers exercisable by or duties imposed on the Directors by virtue of the Act or the general law to committees consisting of such Member or Members of the Board as it thinks fit. Any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the Board. A committee shall have the power to co-opt any Member or Members of the Association and each such Member shall have one vote at meetings of the committee.

(2) A committee may elect a Chair of its meetings, but if no such Chair is elected or if at any meeting the Chair is not present within 10 minutes after the time appointed for holding the meeting, the members present may choose one of their number to be the Chair of the meeting.

(3) A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present and in the case of an equality of votes the Chair shall have a second or casting vote.

### **39. Minutes of meetings**

(1) The Secretary of the Association must keep minutes of the resolutions and proceedings of each general meeting, and each Board meeting, together with a record of the names of persons present at Board meetings.

(2) To obtain a copy of the minutes of any Board meeting, a member must make a request in writing to the Secretary. The Board will then determine if the minutes contain any confidential information and if so, reserves the right to withhold the confidential information.

### **40. Funds and Accounts**

(1) The Directors must cause the Association to keep accounts of the business of the Association in accordance with the requirements of the Act.

(2) The Association shall appoint an auditor. The Directors must cause the accounts of the Association to be audited in accordance with the provisions of the Act.

(3) The Secretary of the Association must-

(a) collect and receive all moneys due to the Association and make all payments as authorised by the Association Treasurer, or in his/her absence, another nominated account signatory; and

(b) keep correct accounts and books showing the financial affairs of the Association with full details of all receipts and expenditure connected with the activities of the Association.

(4) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by two members of the Board, or the Secretary and one Board member.

(5) The CEO has authority to operate the bank accounts and transfer funds between the bank accounts of the Association.

(6) The funds of the Association shall be derived from annual subscriptions, donations and such other sources as the Board determines.

### **41. Notice to members**

Except for the requirement in rule 12, any notice that is required to be given to a member, by on behalf of the Association, under these Rules may be given by-

(a) delivering the notice to the member personally; or

(b) sending it by prepaid post addressed to the member at that member's address shown in the register of members, or by facsimile transmission or electronic transmission.

#### **42. *Winding up***

In the event of the association being dissolved, the amount that remains after such dissolution and the satisfaction of all debts and liabilities shall be transferred to another organisation with similar purposes which is not carried on for the profit or gain of its individual members.

#### **43. *Indemnity***

Every Director, agent, auditor, Secretary and other officer for the time being of the Association shall be indemnified out of the assets of the Association against any liability incurred by him or her in defending any proceedings, whether civil or criminal, in which judgement is given in his or her favour or in which he or she is acquitted or in connection with any application under the Act in which relief is granted to him or her by the court in respect of any negligence, default, breach of duty or breach of trust.

#### **44. *Custody and inspection of books and records***

(1) Except as otherwise provided in these Rules, the Secretary must keep in his or her custody or under his or her control all books, documents and securities of the Association.

(2) The Directors may authorise a member to inspect any accounts, books, securities and any other relevant documents of the Association.



**APPENDIX 2**

**FORM OF APPOINTMENT OF PROXY**

I, .....  
(name)

of .....  
(address)

being a member of .....  
(name of Association)

appoint .....  
(name of proxy holder)

of .....  
(address of proxy holder)

being a member of the Association, as my proxy to vote for me on my behalf at the Board/annual/special/general\* meeting of the Association to be held on

.....  
(date of meeting)

and at any adjournment of that meeting.

My proxy is authorised to vote in favour of/against\* the following resolution (insert details of resolution).

.....  
Signed  
Date

\* Delete if not applicable