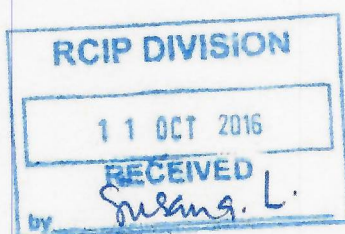


ORIGINAL

CONSTITUTION
of
the
PACIFIC WATER AND WASTEWATER
ASSOCIATION INCORPORATED

Incorporated under the
Incorporated Societies Ordinance of 1952
of
Samoa



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1. DEFINITIONS AND INTERPRETATION

1.1. In these clauses unless there is something in the subject or context inconsistent therewith:

- a. "Affiliated Member" shall be a person or an organization that became a member of the Association pursuant to Clause 9.2.3 hereof.
- b. "Allied Member" shall be a person or an organization became a member of the Association pursuant to Clause 9.2.2 hereof.
- c. the "Association" means the Pacific Water and Wastewater Association Incorporated
- d. the "Board" means the Board of Directors
- e. "Chairperson" means the Chairperson of the Board of Directors.
- f. "Chief Executive" means the recognized chief executive officer, however titled and whether acting or confirmed in the position, of a Pacific Utility Member.
- g. "Constitution" means the Constitution of the Pacific Water and Wastewater Association.
- h. the "Directors" means Directors that make up the Board of Directors.
- i. "Honorary Member" shall be a person who became a member of the Association pursuant to Clause 9.2.6 hereof.
- j. "Host Chairperson" shall mean the Chief Executive, including in an Acting capacity, of the Pacific Utility Member whose utility has been nominated and elected as the venue for the next Annual General Meeting.
- k. "Individual Member" shall be a person who became a member of the Association pursuant to Clause 9.2.4 hereof .
- l. The "Law" means the Incorporated Societies Ordinance 1952 of Samoa.
- m. "Office" means the registered office of the Association.
- n. "Pacific Utility Member" shall mean a water or wastewater utility that became a member pursuant to Clause 9.2.1 hereof.
- o. the "Register" means the register of members to be kept pursuant to the Law

- p. "Regulations" includes by-laws and rules.
 - q. "Seal" means the Common Seal for the time being of the Association.
 - r. "Secretary" includes assistant secretary and deputy secretary and any other officer authorized to perform duties of the Secretary.
 - s. "Writing" includes by fax and e-mail.
- 1.2. Words importing the singular number only include the plural number and vice versa and words importing any gender shall include the other genders.
- 1.3. Words defined in the law shall have a corresponding meaning herein.
- 1.4. Headings and the index hereto are inserted for guidance only and do not form part of these Clauses and shall be disregarded for the purpose of construction of these Clauses.

2. NAME

The name of the society shall be the Pacific Water and Wastewater Association Incorporated ("the Association").

3. OFFICE

The office of the Association shall be in such place in Samoa or elsewhere in the Pacific as the Board of Directors of the Association may from time to time determine.

4. OBJECTIVES AND POWERS

4.1 The objectives for which the Association is established are:-

- a. To serve as the principal water and wastewater voice of and for the Pacific Island nations and utilities;
- b. To develop expertise in the Pacific for the sustainable management of water and wastewater services by shaping a cohesive, proficient and robust water and wastewater sector.

4.2 The Association shall act to achieve these objectives through skill development, by the setting and upholding of standards, through advocacy, by the inclusion and advancement of

gender equity in the water and wastewater services sector and by collaboration among the members of the Association and with third parties.

4.3 The Association has, in addition to all powers implied by law or by this Constitution, the power to undertake any action or activity that promotes or otherwise furthers the objectives of the Association, without any limitation whatsoever, unless prohibited by any Law.

4.4 None of the objectives of the Association shall extend to empower the Association to bind its members to observe or impose any significant restraint on competition among themselves or between themselves and other persons not to support with its funds or endeavor to impose on or procure to be observed by its members or others any regulation or restriction which if an object of the Association would make it a trade union within the meaning of any trade union-related laws of Samoa or any corresponding or similar legislation in any other Member Country.

5. APPLICATION OF INCOME AND PROPERTY

The income and property of the Association whensoever derived, shall be applied solely towards the promotion of the objectives of the Association and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise howsoever, by way of profit to members of the Association. PROVIDED that nothing herein contained shall prevent the payment in good faith of remuneration to any officers or servants of the Association or to any member of the Association in return for any services actually rendered to the Association nor for goods supplied in the ordinary and usual way of business, nor prevent the payment of interest at a reasonable rate on money borrowed from any other member of the Association or payment or reimbursement of reasonable traveling accommodation or sustenance expenses incurred by officers of the Association when engaged in the affairs or business of the Association.

6. LIABILITY

The liability of the members of the Association is limited.

7. CONTRIBUTION ON WINDING UP

Each member of the Association undertakes to contribute to the property of the Association in the event of its 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 Association contracted before he ceased to be a member and of the costs and expenses of winding up and for adjustment of the rights of

the contributories among themselves, such amount as may be required not exceeding \$50.00 (Fifty) Samoan Tala.

8. DISTRIBUTION OF PROPERTY ON WINDING UP

If upon the winding up or dissolution of the Association there remains after satisfaction of all its debts and liabilities any property whatsoever, the same shall not be paid to or distributed amongst the members of the Association but shall be given or transferred to some institution or institutions having objectives similar or in part similar to the objectives of the Association and which 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 Association under or by virtue this Clause, such institution or institutions to be determined by the members of the Association at or before the time of dissolution, and in default thereof by such Judge of the Supreme Court of Samoa as may have or acquire jurisdiction in the matter.

9. MEMBERS AND THEIR QUALIFICATIONS

9.1 Classes of Membership

The membership classes of the Association shall be Pacific Utility Members, Allied Members, Affiliated Members, Individual Members, Student Members and Honorary Members.

9.2 Qualifications for Class of Membership of Association

An organization or individual that has the qualifications set out below for particular classes of membership shall be eligible to apply for membership of such classes as follows:

9.2.1 Pacific Utility Membership

A Pacific Utility Member will be any water and wastewater utility including any public or private water and/or wastewater corporations, government departments, statutory bodies or other agencies whether incorporated or unincorporated which are directly responsible for water supply and/or wastewater services within a country listed in this Clause 9.2.1, i.e.:

- American Samoa
- Commonwealth of the Northern Marianas
- Cook Islands
- Federated States of Micronesia
- Fiji
- French Polynesia
- Guam

- Kiribati
- Marshall Islands
- Nauru
- New Caledonia
- Niue
- Palau
- Papua New Guinea
- Solomon Islands
- Tokelau
- Tonga
- Tuvalu
- Vanuatu
- Wallis and Futuna
- Samoa

or from any other Pacific Island Nation acknowledged as such by the Board, that indicated, in accordance with Clause 9.3, of its desire to become a Pacific Utility Member.

9.2.2 Allied Membership

A person or organization that is engaged in an activity or which is interested in any of the activities within the scope of the Association's objectives or activities may apply to the Association to become an Allied Member of the Association.

9.2.3 Affiliated Membership

An organization (e.g. international organizations, governments, NGOs and similar institutions) that has a non-for-profit interest in any of the activities within the scope of the Association's objectives or activities may apply to the Association to become an Affiliated Member of the Association.

The Board may, in its discretion, determine that an Affiliated Member shall have to apply for Allied Membership if it appears to the Board that the Affiliated Member has a pecuniary interest in his or her membership in the Association.

9.2.4 Individual Membership

A person that has a non-for-profit interest in any of the activities within the scope of the Association's objectives or activities may apply to the Association to become an Individual Member of the Association.

The Board may, in its discretion, determine that an Individual Member shall have to apply for Allied Membership if it appears to the Board that the Individual Member or the organization he or she is affiliated with has a pecuniary interest in his or her membership in the Association.

9.2.5 Student Membership

A person who is a full time student at an academic institution and has a non-for-profit interest in any of the activities within the scope of the Association's objectives or activities may apply to the Association to become a Student Member of the Association.

The Board may, in its discretion, determine that a Student Member shall have to apply for Allied Membership if it appears to the Board that the Student Member or the organization he or she is affiliated with has a pecuniary interest in his or her membership in the Association.

9.2.6 Honorary Members

The Board may from time to time appoint Honorary Members at its discretion for a renewable period of 1 (one) year. Honorary Members shall be chosen on the basis of outstanding services to the water industry in member countries or for outstanding services to the Association. Honorary Memberships may be revoked at any time by decision of the Board. Honorary Members are not subject to application or subscription fees.

9.3 Application for Membership

- a. Any organization meeting the criteria of Clause 9.2.1 is automatically eligible for Pacific Utility Membership and need not make formal application to the Association to secure membership, beyond an indication in writing that the organization desires to become a Pacific Utility Member of the Association, ascribes to the objectives of the Association and agrees to be bound by the Constitution and the Resolutions of its governing bodies.
- b. The application of any other category of membership of the Association shall:
 1. Be lodged at the office of the Association;
 2. Be in writing in such form as the Board may from time to time require.
 3. State the full name and address of the applicant
 4. State the type of membership requested and the justification therefor;

5. Contain such other particulars as the Board may from time to time require
6. Contain the ascription to the objectives of the Association and agreement to be bound by its Constitution and the Resolutions of its governing bodies.
7. Be signed by the applicant
8. Be accompanied by such application and/or annual membership fee as the Board may determine from time to time

9.4 Acceptance of Members

The CEO shall determine the particular class of membership to which the applicant is to be admitted and report thereon to the Board of Directors.

The CEO or the Directors may decide that an applicant is eligible for a different type of membership than that which is sought.

9.5 Rejection of Members

No applicant whose application is rejected shall be entitled to submit a further application for membership within twelve months of such rejection unless the Directors in their absolute and unfettered discretion so permit.

9.6 The Register of Members

In addition to other particulars required by the Law, the Secretary shall enter in the Register the following particulars with respect to each member.

- a. The member's full name and address
- b. The date upon which the member was entered in the Register as a member.
- c. The member's type of membership.
- d. The date at which any member who ceased to be a member during the previous seven years so ceased to be a member.

9.7 Termination of Membership

A member's membership of the Association may be terminated by a decision of the Board of Directors:

- a. For failure to pay the annual membership fee as provided for in Clause 10;
- b. If the Directors in their absolute and unfettered discretion decide a member no longer fulfills the qualifications for the class of membership provided for in Clause 9 and the Member refuses to apply for the class of membership as determined by the Directors;
- c. For misconduct if the Directors are satisfied that a member may have been guilty of breach of any provisions of the Constitution, Resolutions of the Board or of any regulation or of the member's obligations to the Association or acts in a manner which is to the detriment of the Association;
- d. If a member resigns membership by notice in writing to the Association; and
- e. If a member becomes bankrupt or enters into liquidation.

10. ANNUAL MEMBERSHIP FEES

- 10.1 The Board shall determine from time to time the annual membership fees for its members and may set annual fees based on the class of membership, the size of the member or any other criteria as it deems fit.
- 10.2 If any Pacific Utility Member shall fail to pay subscriptions as a member of the Association within three months of the beginning of the Association's financial year, notice shall be sent to the representative of such member notifying it. If such subscription has not been paid prior to the Annual General Meeting after the date of such notice the member concerned shall thereupon cease to be an active member of the Association but if at any time such member through its representative gives to the Board of Directors a satisfactory explanation the Board of Directors may in its absolute discretion and upon such terms as it may think fit reinstate such member to active membership..
- 10.3 If any Allied or Individual member shall fail to pay subscriptions as a member of the Association within three months of the beginning of the Association's financial year, notice shall be sent to the representative of such member notifying it. If such subscription has not been paid prior to the Annual General Meeting after date of such notice the member concerned shall thereupon cease to be a member of the Association but if at any time such member through its representative gives to the Board of Directors a satisfactory explanation the Board of Directors may in its absolute discretion and upon such terms as it may think fit reinstate such member.

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10.4 A member which is in arrear in its membership fees shall not have the right to vote at the General Meeting or the Council or the right to be elected to the Board or any Committee of the Board.

10.5 A Board, Executive Board or Committee member from a Pacific Utility Member that ceased to be an active member pursuant to Section 10.2 shall be considered as having resigned from their position as such from the date that the Pacific Utility Member ceased to be an active member of the Association.

10.6 A Board, Executive Board or Committee member from an Allied or Individual Member that ceased to be a member of the Association pursuant to Section 10.3 shall be considered as having resigned from their position as such from the date that the Allied or Individual Member ceased to be a member of the Association.

11. GENERAL MEETINGS

11.1 Annual General Meeting

An Annual General Meeting of the Association shall be held once at least in every calendar year at such time and such place as the Directors may determine.

11.2 Extraordinary General Meetings

All general meetings other than the Annual General Meeting shall be called Extraordinary General Meetings. The Directors whenever they think fit and they shall when required under the Law convene an Extraordinary General Meeting.

Upon the written request of at least 20% of the combined membership of the Pacific Utility Members and the Allied Members the Board shall call an Extraordinary General Meetings to meet within sixty days of the request.

11.3 Notice of Meeting

Subject to the requirements of the Law not less than thirty day notice of any Annual or Extraordinary General Meeting specifying the place the day the time of the meeting and in the case of special business the general nature of such business shall be given to all members entitled to receive notices of meetings in the manner prescribed by these clauses PROVIDED that a meeting called by notice shorter than aforesaid shall be duly called if it so agreed as provided by the Law.

11.4 Agenda for General Meeting

A Pacific Utility Member or Allied Member may request that a matter be put on the Agenda by notice to the Chairperson at least 14 days before the General Meeting takes place upon which the matter will be put on the Agenda as requested.

11.5 Omission to Give Notice

Accidental omission to give notice of a general meeting to or the non-receipt of notice of a meeting by any member shall not invalidate the proceedings at such meeting.

12. PROCEEDINGS AT GENERAL MEETINGS

12.1 Regular Business

Ordinary Business of an Annual General Meeting shall be as follows

- a. to receive the Profit and Loss Account and Balance Sheet
- b. to receive the Annual Report of the Board of Directors
- c. to receive the Auditor's Report
- d. to elect Directors as provided by these Clauses
- e. to transact such other business as is required by the Law or these Clauses to be transacted at the Annual General Meeting

12.2 Quorum

The quorum for a General Meeting shall be 60% (sixty percent) of the total Pacific Utility Members of the Association and at least 4 Allied Members representatives, all personally present or represented by proxy. Except as is specifically provided to the contrary in these Clauses no item of business shall be transacted at a general meeting except the election of a chairperson and the adjournment of the meeting unless the requisite quorum is present at the commencement of transaction of that item of business.

12.3 Lack of Quorum

If within thirty minutes after the time appointed for the meeting a quorum is not present the meeting shall stand adjourned to such time and place as the chairperson of the meeting may determine (subject to the requirements of this Clause as to notice of the adjourned meeting).

12.4 Adjournment

The Chairperson of a General Meeting may with the consent of the meeting adjourn the same from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business which was left unfinished at the meeting from which the adjournment took place. If any meeting is adjourned for more than thirty days or because a quorum is not present then notice of such adjournment shall be given to all the members entitled to receive notices of General Meetings but otherwise it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting. If notice of adjournment is thereby required the notice shall be of the same duration and it shall be given in the same manner as notice of the original meeting was required to be given.

12.5 Chairperson

The Chairperson of the Board if he is present within thirty minutes after the time appointed for the holding of the meeting and willing to act shall preside as Chairperson of every General Meeting. If the Chairperson of the Board is not so present or is unwilling to act then the Vice-Chairperson shall preside as chairperson of the meeting. If none of the foregoing persons is present and willing to act the meeting shall choose a Director, or if no Director is present and willing to act then any member, to preside as chairperson of the meeting.

12.6 Show of Hands

Except in so far as these Clauses require a ballot every question submitted to a General Meeting shall in the first instance be decided by a show of hands of those eligible to vote.

12.7 Minutes as evidence of Result Thereof

At any meeting unless a poll is duly demanded before or upon the declaration of a show of hands a declaration by the Chairperson of the meeting to the effect that a resolution has been carried or carried unanimously or by a particular majority or lost having regard to the majority required and an entry to that effect in the minute book signed by the Chairperson at that or the next succeeding meeting 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.

12.8 Demand for Poll

A poll shall be duly demanded only if before or on the declaration of a show of hands it is demanded by the Chairperson of the meeting or by a member present in person or by proxy and entitled to vote.

12.9 Taking a Poll

A poll demanded on the election of a Chairperson of a General Meeting or on a question of adjournment shall be taken forthwith and a poll demanded on any other question shall be taken in such manner and as such time and place as the Chairperson of the meeting directs and either at once or after an interval or adjournment or otherwise any result of the polls shall be deemed to be a resolution passed on the date on which it was in fact passed. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll is demanded.

12.10 Disputed Votes

No objection shall be made as to the validity of any vote except at the meeting or poll at which the vote is tendered and every vote not disallowed at such meeting or poll and whether given or purporting to be given personally or by proxy attorney shall be deemed valid. In case of any dispute as to the admission or rejection of a vote the chairperson of the meeting shall determine the same and such determination made in good faith shall be final and conclusive.

12.11 Chairperson's Casting Vote

In the case of an equality of votes whether on a show of hands or on a poll the chairperson of the meeting at which the show of hands takes place or the polls is demanded shall have a casting vote in addition to any other vote or votes to which he may be entitled.

13. VOTING RIGHTS

13.1 Entitlement to Votes and Weight of Votes

- a. Only Pacific Utility Members and Allied Members shall have a right of vote.
- b. Except as provided in Clause 15.4 the voting shall be a weighted one whereby the combined votes of the Pacific Utility Members present in person or by proxy at the vote shall be equal to 60% of the vote and the combined votes of the Allied Members present in person or by proxy at the vote shall be equal to 40% of the vote
- c. Affiliated, Individual, Student and Honorary Members shall not have voting rights.
- d. No member shall be entitled to vote unless the member is current in the payment of his annual membership fee.

13.2 Manner of Voting

Votes may be given either personally or by proxy.

13.3 Proxy or certificate to be Deposited at Association's Office

The instrument appointing a proxy shall be deposited at the Association's Office or with the Chairperson or the Chief Executive Officer not less than 24 (twenty-four) hours before the time for holding the meeting or adjourned meeting at which the person named in such instrument proposes to vote or at such later times as the Board may permit but in any case shall be so deposited before being acted upon.

A proxy may be delivered in person or by way of letter, by fax or by electronically forwarding of a scanned copy of the proxy.

13.4 Duration of Proxy

Notwithstanding any other provision contained in an instrument of proxy no instrument of proxy shall be valid after the expiration of twelve months from the date of its execution.

13.5 Form of Proxy

Every instrument of proxy whether for a specified meeting or period or for all Annual or Extraordinary General Meetings shall be in writing under the hand of the appointer.

14. THE COUNCIL

14.1 Composition of the Council

The Council of the Association shall be composed of the Chief Executives, or of the equivalent position thereof, of all of the Pacific Utility Members. . The Chairperson of the Board will also serve as the Chairperson of the Council.

14.2 Functions of the Council

The Council shall have the following functions –

- a. To elect the six Directors from among the Pacific Utility Members in accordance with Clause 15.4.1.(a)
- b. To approve amendments, changes or replacement of the Constitution or any other founding documents of the Association in accordance with Clause 23.1.2.

14.3 Procedures of the Council

- 14.3.1 The provisions of Clauses 12.2-12.11 and 13.2-13.5 shall apply *mutatis mutandis* to the proceedings of the Council
- 14.3.2 Each Pacific Utility Member shall have a single vote at the proceedings of the Council
- 14.3.3 Pacific Utility Members who are in arrear in their membership fees shall not have a right of vote in the Council.

15. THE BOARD

15.1 Powers of the Board

The management and control of the business and affairs of the Association shall be vested in the Board. The Board may carry into effect all or any of the objectives of the Association as expressed or implied by the constitution and may exercise all such powers of the Association and do all such acts and things as may be exercised or done by the Association.

15.2 Composition of the Board

15.2.1 The Board of Directors shall be composed of the following ten natural persons namely:

- a. six directors elected by the Council in accordance with Clause 15.4.1 (a) from among the representatives of the Pacific Utility Members; and
- b. two directors elected by the General Meeting in accordance with Clause 15.4.1.(b) from among the representatives of the Allied Members; and
- c. two directors elected by the General Meeting in accordance with Clause 15.4.1.(c) from among the representatives of all classes of members of the Association.

15.2.2 In electing Directors the Council shall give due regard to the inclusion of women as directors by having at least one woman, and preferably more, from among the Pacific Utility Members, unless no woman serves, at the time the elections take place, as a Chief Executive or the equivalent thereof of a Pacific Utility Member.

15.2.3 In electing the Directors pursuant to Clauses 15.4.1 (b) and (c) the General Meeting shall give due regard to including among the Board members one or more Directors that have a background in financing and/or accounting.

15.3 Qualification for Appointment

15.3.1 A person shall be qualified to be elected a Director pursuant to Clause 15.2.1 (a) to be re-appointed as a Director if that person is the Chief Executive or the equivalent thereof of a Pacific Utility Member at the time of his or her being elected as a Director.

15.3.2 A person shall be qualified to be elected a Director pursuant to Clause 15.2.1 (b) or to be re-appointed as a Director if that person is a principal or senior employee of an Allied Member at the time of his or her being elected as a Director.

15.4 Elections to the Board

15.4.1 The elections to the Board shall take place during the Annual General Meeting, in the following sequence –

- a. The Council shall elect the representatives of the Pacific Utility Members to the Board of Directors and notify the results thereof to the Annual General Meeting. In electing the Directors the Council shall strive that there will be two representatives of each small, mid and large-size utilities and that there be at least two representatives from utilities of the northern Pacific.
- b. The Annual General Meeting shall elect the representatives of the Allied Members to the Board of Directors in an election wherein each Pacific Utility Member and each Allied Member shall have one (1) vote.
- c. The Annual General Meeting shall elect two Directors pursuant to Clause 15.2.1 (c) by a weighted vote in accordance with Clause 13.1 (b)

15.4.2 The Board members shall be elected for a term of three years;

16. OFFICERS OF THE ASSOCIATION

16.1 Officers

The Officers of the Association shall be the Chairperson of the Board, the Vice-Chairperson, the Treasurer and the Secretary. To the extent possible one of the above functions will be filled by a woman Director.

16.2 Chairperson of the Board

The Board shall elect a Director from among the Pacific Utility Members Directors to be the Chairperson of the Board. Unless he ceases to be a Director or resigns as Chairperson of the

Board or is removed as hereinafter provided the Chairperson of the Board shall hold his position until the conclusion of the Annual General Meeting held which appoints a new Board. The Board may at any time by a majority vote of the Directors remove the Chairperson of the Board from office and appoint in his place another Director from among the Pacific Utility Members Directors .

16.3 Vice-Chairperson, Secretary and Treasurer

16.3.1 The Board shall elect from among its members a Vice-Chairperson, a Treasurer and a Secretary for a term not exceeding three years. Unless ceasing to be a Director or resigning from his or her position, or being removed as hereinafter provided, the Officers shall remain in their position until the conclusion of the Annual General Meeting which appoints a new Board. At least one of the Officers (in addition to the Chairperson) shall be a Director elected by the Council.

16.3.2 The Board may at any time by a majority vote remove any of its Officers and appoint in his or her place another Director.

16.3.3 The Vice-Chairperson shall chair meetings in which the Chairperson is absent and shall have in those meetings the powers conferred by this Constitution upon the Chairperson.

16.3.4 The Treasurer shall be elected from among the Directors having a background in financing or accounting.

16.4 Alternate Treasurer and Alternate Secretary

The Board may from time to time elect a Director to be an Alternate Treasurer or Alternate Secretary, and such Alternate Secretary or Alternate Treasurer shall hold office until he or she ceases to be a Director or resigns as Alternate Secretary or Alternate Treasurer as the case may be or is removed as hereinafter provided. The Board may at any time by majority vote remove the Alternate Secretary or Alternate Treasurer from office and appoint in his or her place another Director.

17. DISQUALIFICATION OF DIRECTORS

The office of a Director shall become vacant if:

- a. The Director is removed from office by resolution of the Association in General Meeting of which resolution Special Notice has been given in accordance with the constitution;

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- b. The Director becomes bankrupt or makes an arrangement or composition with or assigns his estate for the benefit of his creditors;
- c. The Director is found lunatic or becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law of any Member country relating to mental health;
- d. The Director resigns his office by notice in writing to the Association;
- e. If he or she absents him or herself from 3 (three) consecutive meetings of the Board without leave of absence from the Board;
- f. The Director is removed pursuant to any provision of these clauses;
- g. Having been convicted by a court of law of a felony;
- h. If by virtue of any law the Director ceases to be or becomes prohibited from being a Director;
- i. In case of a Director elected by the Council, if he or she ceases to be the Chief Executive or equivalent of the Pacific Utility Member or if the utility ceases to be a Pacific Utility Member of the Association;
- j. If the Pacific Utility Member with whom the Director is associated ceases to be an active member of the Association;
- k. If the Allied or Individual Member with whom the Director is associated ceases to be a member of the Association; and
- l. If the Director is no longer employed by a member.

18. PROCEEDINGS OF THE BOARD

18.1 General

The Board may conduct its business in meetings or by conference calls and it may adopt written resolutions by way of letters, faxes or by electronic media such as emails, without meetings.

18.2 Convening of Meetings

18.2.1 The Chairperson of the Board may and the Secretary or Chief Executive Officer, if directed by the Chairperson of the Board, shall convene a meeting of the Board. A meeting may be by way of a conference call.

18.2.2 The Board shall be convened for meetings not less than two times every year.

18.2.3 The Chairperson shall convene a meeting of the Board to take place within 14 days of being requested to do so by no less than three Board members. Notification of the meeting shall be provided not less than 7 days in advance and shall include the means of communication in case the meeting takes place by way of conference call..

18.3 Notice of Meetings

Notice of Board meetings together with the agenda items for the meeting shall be given to each Director, to the Chief Executive Officer and to the Host Chairperson either orally, in writing or by email, telegram, telex or facsimile.

18.4 The Chief Executive Officer

The Chief Executive Officer shall be invited, ex-officio, to all meetings of the Board, unless the Board decides otherwise, without right of vote.

18.5 Host Chairperson

The Host Chairperson shall be invited, ex-officio, to meetings of the Board in which the Annual General Meeting is on the agenda, without right of vote.

18.6 Quorum

The quorum for a Board meeting shall be six members, of which at least four are Directors elected by the Council, or a replacement thereof pursuant to Clause 18.7.2. A meeting of the Board at which a quorum is present shall be competent to exercise all or any of the authorities Powers and discretion for the time being vested in or exercisable by the Board.

In case of the absence of a quorum the Board meeting shall be postponed for 7 days and any presence of members shall constitute a legal quorum.

18.7 Vacancies

18.7.1 In case a vacancy occurs on the Board the vacancy shall be filled by elections at the next General Meeting from among the same class of the vacating Director and the director so elected shall serve for the remaining term of the vacating Director.

18.7.2 In case a vacancy occurs on the Board, the Board may, but is not required to, nominate a Director from among the same class of Directors of the vacating Director, to serve as a Director, until the next General Meeting where the vacancy on the Board will be filled in accordance with the procedures stipulated in Clause 15.

18.7.3 The Board may act notwithstanding any unfilled vacancy or vacancies on the Board provided that a Quorum is present at the meeting.

18.8 Chairperson

Meetings of the Board shall be chaired by the Chairperson or in his absence by the Vice-Chairperson and in the absence of both by a Director elected to the Board by the Council.

18.9 Decision of Questions

Questions arising at any meeting of the Board shall be decided by a majority of votes. In the case of an equality of votes the Chairperson of the meeting shall be entitled to a casting vote in addition to his own vote.

18.10 Written Resolution Effective Without Meeting

A resolution of the Board in writing signed by all the Directors for the time being shall have the same force and effect as a resolution passed at a meeting of the Board duly called and constituted. Any such resolution may consist of several documents in like form each signed by one or more persons and transmitted by way of facsimile or by forwarding a scanned document by way of an e-mail attachment or by any other electronic format for the transmission of documents but if so consisting of two or more documents shall have no force and effect until such documents are entered in the minute book recording the proceedings of the Board.

19. EXECUTIVE BOARD

19.1 An Executive Board comprising the Chairperson of the Board, the Secretary, the Treasurer, and one additional Director to be elected by the Board shall have the full authority of the Board to act on the Board's behalf when the Board is not in session, except in the following matters –

- 19.1.1 The appointment, determination of terms of employment or dismissal of the Chief Executive Officer;
- 19.1.2 The approval of the annual work plan and budget of the Association; and
- 19.1.3 The nomination of the External Auditors
- 19.1.4 The approval of the annual financial statements
- 19.2 The Chairperson shall be the Chairperson of the Executive Board.
- 19.3 At least two out of the four Executive Board members shall be Directors elected by the Council.
- 19.4 The Executive Board shall be convened not less than six (6) times per year in the manner the Board of Directors may be convened. For the purpose hereof a meeting of the Board qualifies as a meeting of the Executive Board.
- 19.5 The quorum for an Executive Board meeting shall be three members.
- 19.6 Questions arising at any meeting of the Executive Board shall be decided by a majority of votes and in the case of an equality of votes the chairperson of the meeting shall be entitled to a casting vote, in addition to his own vote.
- 19.7 A resolution of the Executive Board in writing signed by all its members shall have the same force and effect as a resolution passed at a meeting of the Executive Board duly called and constituted. Any such resolution may consist of several documents in like form each signed by one or more persons and transmitted by way of facsimile or by forwarding a scanned document by way of an e-mail attachment or by any other electronic format for the transmission of documents but if so consisting of two or more documents shall have no force and effect until such documents are entered in the minute book recording the proceedings of the Executive Board.
- 19.8 The Chief Executive Officer shall be invited, ex-officio, to all meetings of the Executive Board, unless the Executive Board decides otherwise, without right of vote.
- 19.9 The Host Chairperson shall be invited, ex-officio, to meetings of the Executive Board in which the Annual General Meeting is on the agenda, without right of vote.

20. DIVISIONS AND COMMITTEES

20.1 Delegation to Committees

The Board may delegate any of its powers, authorities or duties to Committees consisting of such Directors and other persons as they think fit to act whether in any of the Member

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Countries or elsewhere and may from time to time revoke withdraw alter or vary such delegation.

20.2 Ex-Officio Member of all Committees

Each Committee shall include at least one member of the Executive Board among its members. .

20.3 Directors May Prescribe Regulations for Committees

A committee shall have powers and duties and shall conform with such regulations as the Directors may prescribe either specifically or by regulations.

20.4 Chairperson

The Chairperson of a committee shall be such person as is appointed by the Chairperson of the Division or in the absence of such appointment such person as is from time to time determined by the Committee.

20.5 Quorum

The quorum for a committee meeting shall be (1/4) one quarter of the number of members or if the number of members is not divisible by four shall be the nearest whole number greater than one quarter of the number of such members.

20.6 Decision of Questions

Questions arising at any meeting of a committee shall be decided by a majority of votes and in the case of an equality of votes the chairperson of the meeting shall be entitled to a casting vote, in addition to his own vote.

21. VALIDITY OF ACTS

All acts done by any meeting of the Board or by any person acting as a Director shall notwithstanding that it is afterwards discovered that there was some defect in the appointment of any Directors or that they or any of them were disqualified be as valid as if every person had been duly appointed and was duly qualified.

22. CHIEF EXECUTIVE OFFICER

22.1 Appointment of Chief Executive Officer

The Board may from time to time appoint a person to be the Chief Executive Officer of the Association for such term not exceeding five years to serve at the pleasure of the Board.

The Board may at any time and from time to time suspend remove or dismiss the Chief Executive Officer from office and may appoint another in his place.

22.2 Remuneration of Chief Executive Officer

The Association will enter into an employment contract with the Chief Executive Officer for a prescribed period with performance criteria. The Chief Executive Officer shall receive a package of remuneration and benefits that the Board approves as part of the employment contract for the position.

22.3 Powers of Chief Executive Officer

The Directors may from time to time entrust to and confer upon the Chief Executive Officer powers and duties exercisable and to be performed under these Clauses by the Directors (other than those which are expressly conferred by these Clauses on the Board as such) as they may think fit and may confer such powers and/or duties for such time and upon such terms and conditions and with such restrictions as the Directors may think fit and expedient and may from time to time revoke withdraw alter or vary all or any of such powers and duties so entrusted and conferred;

PROVIDED that any powers which may from time to time be conferred upon a Chief Executive Officer pursuant to this Clause shall only be collateral with the powers of the Directors and shall not in any way exclude the powers or authorities of the Directors and the Chief Executive Officer shall be subject to the control of the Directors.

The Chief Executive Officer, subject to the control of the Board and within the powers conferred upon him or her by the Board, shall administer all financial matters and keep all financial records of the Association.

The Chief Executive Officer shall within the budget approved by the Board employ or engage such employees or contractors on such terms and conditions as may be appropriate to enable the affairs of the Association to be efficiently carried on, and may terminate the employment or engagement of such persons. Any hiring or dismissal of employees shall be notified to the Executive Board.

23. AMENDMENTS TO THE CONSTITUTION AND REGULATIONS

23.1 Constitution

- 23.1.1 The provisions of the Constitution may be amended or repealed only at an Annual General Meeting of the Association by a decision supported by 60% of the weighted vote present at the Annual General Meeting.
- 23.1.2 A motion to amend or repeal a provision of the Constitution may be presented by any Pacific Utility Member or Allied Member of the Association and will be accepted as a voting matter only if seconded by at least two other members.
- 23.1.3 Any request for an amendment will be presented to the Chairperson at least 21 days before the Annual General Meeting and forwarded to all Members by the Chairperson.
- 23.1.4 No vote on the amendment or the repeal thereof may be carried unless such amendment or repeal has been approved by a decision supported by 75% of the Council members present at the meeting duly called.

23.2 Regulations and By-laws

The Directors may from time to time make amend and repeal such regulations and by-laws as they deem necessary or expedient for the conduct and management of the Association and the furtherance of its objectives provided that such regulations and by-laws are not inconsistent with the Law or the Constitution.

24. FINANCIAL CONTROLS

- a. The Board of Directors will approve in a session prior to the financial year a budget for the PWWA, based on the estimated income and the approved work plan;
- b. The Executive Board will adopt rules on the authorizations required for obligation and expenditures of the Association;
- c. All obligations of the PWWA will require two signatures, at least one of them of the Chairperson or the Treasurer;
- d. The Board of Directors will appoint the external auditors as required by law.

25. FALSE STATEMENTS

No member shall make any false or misleading or inaccurate statement in or in connection with any application or nomination or proposal required by these Clauses (whether for membership or otherwise).

26. SEAL

26.1 Custody of Seal

The Directors shall provide for the safe custody of the Seal.

26.2 Authority for the Attestation of Seal

The Seal shall only be used by authority of the Directors and every instrument to which the seal is affixed shall be signed in writing by the Chairperson and shall be countersigned in writing by another Director or by some other person authorized by the Directors.

26.3 Official Seal for Use Abroad

The Directors may in accordance with the Law authorize the Association to have for use in any place outside Samoa an official seal and shall provide for the safe custody thereof and may by writing under the Seal empower any person either generally or in respect of any specified matters as the agents or attorney of the Association to execute on its behalf in such place.

27. OBLIGATIONS, CHEQUE AND BILLS

All obligations, cheques, bill of exchange and promissory notes and similar documents that bind or impose any financial or other obligation upon the Association shall be signed, drawn, accepted, made or endorsed as the case may be for and on behalf of the Association in such manner as the Directors shall from time to time determine.

28. MINUTES OF MEETINGS

28.1 Minutes

The Secretary shall cause Minutes to be duly entered in books provided for the purpose

- a. The names of the Directors present at each meeting of the Board and of the names of the Directors or other persons present at each meeting of any Division or Committee;
- b. The resolutions and proceedings of all meetings of the Association, the Board, the Executive Committee and of any Committee Meetings.
- c. In relation to the Executive Board or Committee which has appointed its own secretary the references above to the Secretary shall be read as referring to the Secretary of the Executive Board or the Committee.

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28.2 Chairperson to Sign Minutes

Unless the minutes of a meeting of the Board or of a Committee or of the Association are signed by the Chairperson of the meeting at which the proceedings took place they shall be signed by the Chairperson of the next succeeding such meeting and any such minutes of any meeting of the Board or of any committee or the Association if purporting to be signed by the chairperson of such meeting or by the Chairperson or the next succeeding such meeting shall excepts as otherwise provided in these Clauses be receivable as prima facie evidence of the matters stated in such minutes.

29. ACCOUNTS

29.1 Books to be Kept

The Directors shall cause to be kept proper accounting and other records in accordance with the Law. Such records shall be kept at the Association Office or at such place or places as the Directors think fit.

29.2 Retention of Books

The Association shall retain such records for seven years at least after the completion of the transaction or operations to which they respectively relate.

29.3 Inspection of Books

Such records shall at all times be open to inspection by the Directors. No member who is not a Director shall have any Right of inspecting any account or book or document or record of the Association unless and except as conferred by statute or authorised by the directors or by a resolution of the Association in general meeting

29.4 Audit

Auditors shall be appointed and remunerated as required by the Law.

30. FINANCIAL YEAR

The financial year shall be from 1 July to 30 June of the following year.

31. TRAVELING EXPENSES

The expenses of the Association may include any traveling or hotel expenses of the representatives of Active Members, Members of the Board, Divisions or Committees, the Chief Executive Officer, Secretary and Staff employed by the Association.

32. NOTICES

32.1 Modes of Giving Notice to Member

A notice may be given by the Association to or served upon any member either personally or by internet, post or fax as hereinafter provided.

32.1 Notices by Post

A notice to be given to or served upon any member by post may be sent prepaid through the post addressed or with its envelope or wrapper addressed to such member at his Registered Address and notice so sent shall be deemed to have been duly given and served in the case of a notice of meeting at the expiration of fourteen days after such posting and in the case of any other notice at the time at which the same would have been delivered in the ordinary course of post. A certificate in writing signed by the Secretary or other officer of the Association that such notice was addressed and posted as aforesaid shall be conclusive evidence thereof.

32.2 Notices by Fax

A notice to be given to or served upon any member by fax may be sent addressed to such member at his Registered Address and fax number at that address and notice so sent shall be deemed to have been duly given and served in the case of a notice of meeting upon the date that the fax is sent. A certificate in writing signed by the Secretary or other officer of the Association that such notice was addressed and faxed as aforesaid shall be conclusive evidence thereof.

32.3 Notices by Email

A notice to be given to or served upon any member by email may be sent addressed to such member at his official email address and at that address and notice so sent shall be deemed to have been duly given and served in the case of a notice of meeting upon the date that the email is sent.

32.4 Registered Address

For the purposes of these Clauses the Registered Address of a member means his address in the Register

32.5 Signature of Notice

The signature to any notice to be given by the Association may be handwritten type or otherwise in writing.

32.6 How time counted

Where by these Clauses a specified number or not less than a specified number of clear days notice is required to be given neither nor the day of the meeting thereby called or other day upon which such notice will expire shall be included in the number of such clear days except as by the Law of these Clauses otherwise provided.

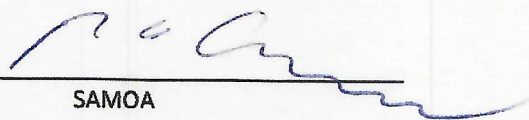
33. INDEMNITY

- 33.1 Subject to this Clause, every Director and every officer or servant of the Association is indemnified by the Association against all costs, losses and expenses, which he incurs or becomes liable to by reason of any contract entered into or act or thing done by him in good faith as such Director, officer or servant or in any way in the discharge of his duties.
- 33.2 Nothing in the preceding paragraph shall extend to exempt any such person from, or to indemnify him against any liability which by law through gross misconduct or fraud 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 Association.
- 33.3 Notwithstanding anything in this Clause every such person shall be indemnified out of the assets of the Association against any liability incurred by him in defending any proceedings, whether civil or criminal, in which Judgment is given in his favour or in which he is acquitted, or in connection with any application under the Law in which relief is granted to him by the Court.

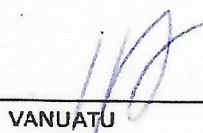
MINISTER'S SIGNATORIES



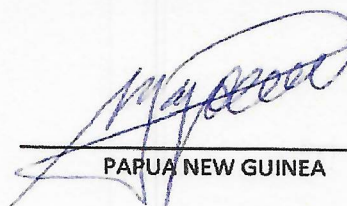
COOK ISLANDS



SAMOA



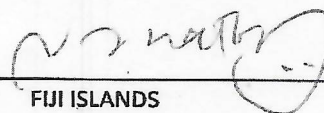
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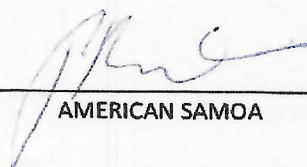
KINGDOM OF TONGA



FIJI ISLANDS



NEW CALEDONIA



AMERICAN SAMOA



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