

Constitution

The International Software Escrow Association

“ISEA”

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1. NAME

The name of the Association is *THE INTERNATIONAL SOFTWARE ESCROW ASSOCIATION* (“*ISEA*”) hereinafter referred to as the “Association”

2. PURPOSE

The purpose of the association is to:

- 2.1. provide an international forum for subscribing associates to leverage their efforts in promoting high quality technology escrow protection, in particular, software escrow protection, as an operational risk management good governance practice of international standing;
- 2.2. provide a body of knowledge that will assist subscribing associates in maintaining the highest professional standards for delivering software escrow services;
- 2.3. provide cross border services to fellow members on a consistent and mutually beneficial basis;
- 2.4. encourage general awareness and knowledge of the practice of technology escrow for people and/or organisations who have an interest in information technology, risk management and corporate governance;
- 2.5. be of benefit to the business of all members of the Association.

3. OBJECTIVES

The objectives of the Association are:

- 3.1. The maintenance of standards, thereby ensuring consistently high quality software escrow services rendered by subscribing associates and based on the professional guidelines as set out in the CWA 16320 document set;
- 3.2. To advance the theory and practice of software escrow in all its aspects;
- 3.3. Encourage the collective creation of an adequate legal framework and binding legal certainty in the field of software escrow and related legal topics;
- 3.4. To provide a forum for discussion on subjects of interest to persons engaged in enterprise risk management, in particular risk management associated with dependency on software products;
- 3.5. To preserve at all times the trusted, neutral and independent status of professional escrow services practitioners;
- 3.6. To instill a high standard of professional behavior on the part of all members of the Association in the interests of preserving and enhancing the stature of the escrow services profession;
- 3.7. to promote public relations programmes designed to inform the business world about the escrow profession and to give a proper appreciation of its purpose;

4. MEMBERSHIP

- 4.1. Membership shall be open to any professional or private entity (“Entity”) that is involved in the provision of professional technology escrow services, and/or associated services, where

- such an Entity wishes to further the interests of the Association. The Entity concerned may be represented by an individual person or persons, only one of which will be the official nominated representative (“Representative”) for that Entity.
- 4.2. Any Entity seeking membership shall make application to the Management Committee, and the Management Committee shall determine whether the application is successful or not.
- 4.3. Each Entity admitted to membership (a “Member”) shall be;
- 4.3.1. Bound by the Constitution and By-laws of the Association.
- 4.3.2. liable for such fees and subscriptions as may be fixed by the Association.
- 4.3.3. Entitled to all advantages and privileges of membership of the association.
- 4.4. Membership Categories:
- 4.4.1. ORDINARY MEMBER
Any Entity that is a paid-up Member of the Association is entitled enjoy the privileges of the Association and the Representative of such Entity is entitled to hold any office.
- 4.4.2. PATRON
The Association may, at its discretion, elect a patron or vice patron of the Association for such period as may be deemed necessary. Such patron or vice patron shall not be eligible to vote unless they are current, Representative Member of the Association under another category of membership.
- 4.5. The Management Committee shall appoint a member of the Management Committee to maintain an up to date register of Members of the Association.
- 4.6. A Member may at any reasonable time inspect the records and documents of the Association.

5. SUBSCRIPTIONS AND FEES

- 5.1. Each Member of the Association shall pay an annual subscription at such time and of such amount and on such conditions as may from time to time be determined by the Management Committee.
- 5.2. The entrance fee, if any, payable on admission to membership of the Association shall be determined by the Management Committee.

6. TERMINATION OF MEMBERSHIP

- 6.1. Any Member’s membership may be terminated by the following events;
- 6.1.1. Resignation
- 6.1.2. Expulsion
- 6.1.3. a Member’s annual membership fee remains unpaid after six months of falling due;
- 6.2. The Management Committee shall have the power to suspend or expel any Member of the Association for:
- 6.2.1. False or inaccurate statements made in the Member’s application for membership of the Association,
- 6.2.2. breach of any rule, regulation or by-law of the Association and
- 6.2.3. by any act detrimental to the Association, after having due inquiry process has been fulfilled.
- 6.3. Any Member who is expelled, suspended or has their membership terminated, shall have the right to appeal against their suspension or expulsion by presenting their case to a General Meeting called for such purpose, and the decision of the General Meeting shall be final.

7. POWERS OF THE ASSOCIATION

- 7.1. To open and operate bank accounts;
- 7.2. To invest its money –
- 7.2.1. in any security in which trust moneys may be invested; or
- 7.2.2. in any other manner authorised by the rules of the Association;
- 7.3. To borrow money upon such terms and conditions as the Association thinks fit;
- 7.4. To give such security for the discharge of liabilities incurred by the Association as the Association thinks fit;

- 7.5. To appoint agents and employees to transact any business of the Association on its behalf for reward or otherwise;
- 7.6. To acquire, hold, deal with, and dispose of any real or personal property;
- 7.7. To build construct erect maintain alter and repair any premises building or other structure of any kind and to furnish equip and improve the same for use by the Association;
- 7.8. Accept donations and gifts in accordance with the objects of the Association;
- 7.9. Print and publish any information by any media including newsletters, newspapers, email, websites, articles or leaflets for promotion of the Association;
- 7.10. Provide gifts and prizes in accordance with the objects of the Association;
- 7.11. Organise social events for Members and the promotion of the Association; and
- 7.12. To enter into any other contract the Association considers necessary or desirable.

8. MANAGEMENT COMMITTEE

- 8.1. Management of the Association shall be vested in the Management Committee elected by the Members at the Annual General Meeting and consisting of:
 - 8.1.1. Chairman
 - 8.1.2. Secretary / Treasurer
 - 8.1.3. One other Member
- 8.2. No person shall hold more than one position on the Management Committee at any one time. A person shall cease to be a member of the Management Committee at the conclusion of the Annual General Meeting which follows his/her election and she/he will be eligible for re-election.
- 8.3. A quorum of the Management Committee shall be a simple majority of its members.
- 8.4. If the Chairperson is unable to attend, a chairperson nominated by the meeting shall chair that meeting.
- 8.5. A member of the management committee may lose his or her seat on the committee for either of the following:
 - 8.5.1. Absence from three or more meetings without leave of absence.
 - 8.5.2. Found not to be a paid-up Member of the Association.

9. POWERS OF THE MANAGEMENT COMMITTEE

- 9.1. The Management Committee shall carry out the day-to-day running of the Association and shall have the power to:
 - 9.1.1. Administer the finances, open trust accounts, appoint bankers, and direct the opening of banking accounts for specific purposes and to transfer funds from one account to another, and to close any such account;
 - 9.1.2. Fix the manner in which such banking accounts shall be operated upon, providing the Management Committee passes all payments;
 - 9.1.3. Fix fees and subscriptions payable by members and decide such levies, fines and charges as is deemed necessary and advisable, and to enforce payment thereof;
 - 9.1.4. Adjudicate on all matters brought before it which in any way affect the Association.
 - 9.1.5. Cause minutes to be made of all proceedings at meetings of the Committee and General Meetings of Members;
 - 9.1.6. Make, amend and rescind rulings and By-laws;
 - 9.1.7. Have the power to form and appoint any sub committees as required for specific purposes;
 - 9.1.8. at their discretion, employ a person or persons to carry out certain duties required by the Association, at salaries or remunerations for such period of time, as may be deemed necessary.
 - 9.1.9. Should a vacancy occur on the Management Committee during the year of office, the Management Committee shall appoint a successor until the next Annual General Meeting.
 - 9.1.10. Appoint an officer or agent of the Management Committee to have custody of the Association's records, documents and securities.

10. PROPERTY OF THE ASSOCIATION

The Association must apply all property and income of the Association towards the promotion of the objects or purposes of the Association and no part of that property or income is to be paid or otherwise distributed, directly or indirectly, to members of the Association, except in good faith in and specifically for the promotion of those objects or purposes.

11. AUDITOR

- 11.1. As and when necessary, the Annual General Meeting shall elect or appoint an Auditor or Auditors.
- 11.2. The Auditor shall examine and audit all the books and accounts of the Association annually, and have the power to call for all books, papers, accounts, receipts etc., of the Association and report thereon to the Annual General Meeting.

12. GENERAL MEETINGS

12.1. Annual General Meeting

- 12.1.1. The Annual General Meeting of the Association will be held within four months of the end of the Association's financial year, and due to the internationally dispersed domicilia of the Members, will be called in a format that suits the Members of the Association.
- 12.1.2. The Secretary shall give at least fourteen (14) days notice of the date of the Annual General Meeting to the Members.
- 12.1.3. All paid-up Members may attend the Annual General Meeting.
- 12.1.4. The quorum at the Annual General Meeting, shall be a minimum of 30% (value to be rounded up to avoid fractions) of the total membership. If, at the end of 30 minutes after the time appointed in the notice for the opening of the Meeting, there be no quorum the meeting shall stand and be adjourned up to 7 days (exclusive of the day of the meeting) from the date appointed for the Meeting.
- 12.1.5. The agenda for an Annual General Meeting shall be;
 - 12.1.5.1. Opening of Meeting
 - 12.1.5.2. Apologies
 - 12.1.5.3. Confirmation of Minutes of previous Annual General Meeting
 - 12.1.5.4. Presentation of Annual Report
 - 12.1.5.5. Adoption of Annual Report
 - 12.1.5.6. Presentation of Treasurer's statement
 - 12.1.5.7. Election of New Executive and appointment of Auditor
 - 12.1.5.8. Acknowledgement to outgoing Executive
 - 12.1.5.9. Determination of Annual Membership Fee
 - 12.1.5.10. Notice of Motion
 - 12.1.5.11. Urgent general business
 - 12.1.5.12. Closure

12.2. General Meetings

- 12.2.1. General Meetings may be called by the Management Committee or at the request of the Chairperson and Secretary or on the written request of 20% (value to be rounded up to avoid fractions) of the total membership of the Association.
- 12.2.2. The Secretary shall give at least seven (7) days notice, in writing, of the date of the General Meeting to the members. Notice of General Meetings shall set out clearly the business for which the meeting has been called. No other business shall be dealt with at that General Meeting.
- 12.2.3. The quorum at the General Meeting shall be a minimum of 30% (value to be rounded up to avoid fractions) of the total membership.

13. VOTING

- 13.1. Voting powers at the Annual General Meeting and General Meetings:

- 13.1.1. The Chairperson shall be entitled to a deliberate vote and, in the event of a tied vote, the Chairperson shall exercise a casting vote.
- 13.1.2. Each individual paid-up Member present shall have 1 vote.
- 13.2. Voting powers at Management Committee Meetings;
- 13.2.1. The Chairperson shall be entitled to a deliberate vote, and, in the event of a tied vote, the Chairperson shall exercise a casting vote.
- 13.2.2. Each individual committee member present shall have 1 vote.

14. FINANCE

- 14.1. All funds of the Association shall be deposited into an account and/or accounts for the benefit of the Association. Such account may be a trust account with a reputable institution or with such bank or recognised financial institution as the Management Committee may determine.
- 14.2. All accounts due by the Association shall be paid by cheque or Internet Transfer after having being passed for payment at the Management Committee Meeting and when immediate payment is necessary, accounts shall be paid and the action endorsed at the next Management Committee Meeting.
- 14.3. The Secretary shall not spend more than a set amount Petty Cash without the consent of the Management Committee, and shall keep a record of such expenditure in a Petty Cash Book.
- 14.4. A statement showing the financial position of the Association shall be tabled at each Management Committee Meeting by the Treasurer.
- 14.5. A statement of Income and Expenditure, Assets and Liabilities shall be submitted to the Annual General Meeting. The auditor's report shall be attached to such financial report.
- 14.6. The financial year of the Association shall commence on 1 March of each year. If so required, the accounts, books and all financial records of the Association shall be audited each year.
- 14.7. The signatories to the Association's accounts will be the Treasurer and the Chairperson.

15. ALTERNATIONS TO THE CONSTITUTION AND BY-LAWS

- 15.1. No alteration, repeal or addition shall be made to the Constitution except at the Annual General Meeting, or General Meeting, called for that purpose and notice of all motions to alter, repeal or add to the Constitution shall be given to members fourteen (14) days prior to the Annual General Meeting, or seven (7) days prior to a General Meeting called for such purpose.
- 15.2. The Secretary shall forward such notices of motion to each Management Committee member at least fourteen (14) days prior to the Annual General Meeting or seven (7) days prior to a General Meeting.
- 15.3. Alterations to the By-laws can be made only at Management Committee Meetings provided notice of the proposed alterations has been duly notified to Committee Members.
- 15.4. Such motions, or any part thereof, shall be of no effect unless passed by a seventy five percent (75%) majority (Special Resolution) of those present and entitled to a vote at the Annual General Meeting, General Meeting or Management Committee Meeting, as the case may be.

16. DISSOLUTION

If, on the winding up of the Association, any property of the Association remains after satisfaction of the debts and liabilities of the Association and the costs, charges and expenses of that winding up, that property shall be distributed as the case requires, shall be determined by resolution of the members:

- 16.1. to its members, or
- 16.2. to another incorporated association having objects similar to those of the Association; or
- 16.3. for charitable or benevolent purposes.