

Master Locksmiths Association
of Australasia Limited

BY-LAWS

13 OCTOBER 2016



MASTER LOCKSMITHS

ASSOCIATION OF AUSTRALASIA



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1 PRELIMINARY

1.1 Introduction and link to Constitution

The Board of the Master Locksmiths Association of Australasia Limited (MLA), acting under Rule 3 of the Constitution of the Association, hereby makes the By-Laws as described herein.

1.2 Definitions and interpretations

For By-Laws, unless a contrary intention appears, refer to Schedule 1.

2 MEMBERS

2.1 Categories of membership

The categories of Membership of the Association shall be:

- (a) Business Member
- (b) Individual Member
- (c) Trade Member
- (d) Life Member
- (e) Provisional Member

2.2 Membership criteria

(a) Business Member

Any person who, or entity which:

- i. Carries on a Locksmithing and/or an Associated Security business as defined in Clause12;
- ii. Has been operating such business for at least two years or, in the case of a new business, has at least two years' experience working as a fully qualified locksmith; or
- iii. Employs a person, who can be the applicant, who has one or more of the following qualifications:
 - A Certificate III in Locksmithing, and/or Security Equipment and;
 - A Recognised Prior Learning assessment (RPL) from a TAFE facility;
- iv. Employs a person, who can be the applicant, who has successfully completed an MLA Trade Test, the composition of which may vary from time to time at the Board's discretion;
- v. Holds and maintains an appropriate Security Industry Licence/Registration, if applicable in the jurisdiction in which the person or entity carries on business; or,
- vi. Operates in a jurisdiction where licensing is not mandatory and provides a current Police name check report every three (3) years;
- vii. If registered in Queensland, undertakes and satisfies a Queensland Security Firm Audit every three years, and
- viii. Holds and maintains Public and Products Liability Insurance with extensions for Errors and Omissions; Loss of Keys and Statutory Liability to the level determined by the Board from time to time.

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(b) Individual Member

Any person who:

- i. Is employed in the Locksmithing and/or Associated Security Industry; and
- ii. Has one or more of the following qualifications:
 - A Certificate III in Locksmithing, and/or,
 - Successful completion of an MLA Trade Test, the composition of which may vary from time to time at the Board's discretion and/or,
 - A Recognised Prior Learning (RPL) Assessment from a TAFE facility; and
- iii. Holds and maintains an appropriate Security Industry Licence/Registration, if applicable in the jurisdiction in which the person or entity carries on business; or
- iv. Operates in a jurisdiction where licensing is not mandatory and provides a current Police name check report every 3 years; or
- v. Is an apprentice in the final year of a Certificate III in Locksmithing course.

(c) Trade Member

Any person who, or entity which:

- i. Provides goods and services to the Locksmithing and/or Associated Security industry, or has other interests in the industry,
- ii. Has been operating for at least two years.

(d) Provisional Member

Any person who, or entity which, has applied for MLA Business or Individual membership but has not yet satisfied all of the Membership criteria, with the exception of an appropriate Security Industry Licence and/or a Police Check.

Provisional Members will be admitted to this category of Membership for a maximum period of 6 months during which time they must satisfy all criteria for the category for which they have applied.

Provisional Membership does not apply to Trade Membership applications.

(e) Life Member

Any MLA Member who has been awarded Life Membership for services to the Association or the Locksmithing and/or Associated Security industry.

2.3 Membership rights

- (a) **Business Members and Life Members** shall have the right to hold any office and vote at general meetings of the Association and to participate in any MLA committees, Regions and/or Special Interest Groups.
- (b) **Business Members and Life Members** shall have the right to access the Members Only section of the MLA website.

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- (c) **Business Members** shall have the right to display the MLA logo on their premises, vehicles, stationery and websites. This right only applies to premises, vehicles, stationery and websites which bear the same name as the business named in the MLA membership register.
- (d) **Business Members** shall have the right to access the Association's restricted keying profiles upon completion of the relevant agreements.
- (e) **Business Members** shall have the right to be listed in the "Find a Locksmith" section of the MLA website.
- (f) **Business, Life and Trade Members** shall have the right to obtain, upon request, a list of Members in accordance with Rule 64 of the Constitution.
- (g) **Individual Members, Trade Members and Provisional Members** shall have the right to attend, but not vote at, any general meeting of the Association.
- (h) **Individual Members, Trade Members and Provisional Members** are not permitted to hold any Regional or National position of the Association unless seconded by the Board under Constitution Clause 5.4 (a).
- (i) **Trade Members** shall have the right to display the MLA logo on their websites, promotional material and publications.
- (j) **Individual Members** shall not have the right to display the MLA logo on their premises, vehicles, stationery and websites.
- (k) Upon ceasing to be a Member as defined under Rule 17 of the Association's Constitution, the Member must remove the Association's logo from all premises; vehicles; stationery; business cards; websites and advertising materials.
- (l) Upon ceasing to be a Member as defined under Rule 17 of the Association's Constitution, the Member must return any unsold or unused MLA products.

Note: These rights are specific to the relevant membership categories. In addition to these, all Members have general rights which are specified in Rule 18 of the Association's constitution.

2.4 No transfers

The rights of being a Member are not transferable whether by operation of law or otherwise.

2.5 Variation of Membership categories and rights

The Board may, from time to time, with due Membership consultation, determine:

- (a) The various categories of Membership of the Association;
- (b) Any restriction in the number of Members within each category;
- (c) The qualifications for admission to each category; and
- (d) The rights attached to being a Member in each category.

2.6 Certificates

- (a) The Association may issue to each Member, free of charge, a printed certificate evidencing that person as a Member;
- (b) The Association will, upon request, issue an electronic copy of a Membership certificate.

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- (c) The Association may issue a replacement Membership certificate if the Association receives and destroys the existing certificate, or at the discretion of the Association.

2.7 Membership applications

To apply for Membership of the Association, an application may be completed online at www.masterlocksmiths.com.au. Alternatively, an application form may be downloaded, completed and returned to the Association's nominated address.

- (a) Applications for **Business Membership** must be supported by the information and copies of relevant documents specified in Clause 2.2 (a).
- (b) Applications for **Individual Membership** must be supported by the information and copies of relevant documents specified in Clause 2.2 (b).
- (c) Applications for **Trade Membership** must be supported by the information and copies of relevant documents specified in Clause 2.2 (c).

3 FEES

3.1 Fees

- (a) The Association may require the payment of fees or levies by Members in the amounts and at the times as the Board resolves.
- (b) The Association may make fees payable for one or more Members, or categories of Members, for different amounts and at different times.
- (c) The Board may, in cases of hardship, reduce or waive the fee payable by a Member.
- (d) Pursuant to Rule 3.1(a), the Board may, from time to time, give notice to Members:
 - i. Revoking or postponing fees;
 - ii. Extending the time for payment of fees; or
 - iii. Stipulating the amount, the time, the method and the place of payment of fees.

3.2 Interest

- (a) A Member must pay to the Association:
 - i. Interest at the rate reasonably determined by the Board, on any fees which are not paid on, or before, the time appointed for payment, from the time appointed for payment to the time of the actual payment;
 - ii. Expenses incurred by the Association because of the failure to pay, or late payment of, that amount;
 - iii. The Board may waive payment of all or any part of an amount payable under By-Law 3.2(a).

4 BOARD CHARTER

Rule 34 of the Constitution specifies the role and powers of the Board. Further to that Rule, the roles and responsibilities of the National President and the Chief Executive Officer shall be as specified below.

4.1 Role of National President

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In accordance with the Association's Objects, the National President is responsible for the overall leadership and direction of the Association, specifically:

- (a) Acting as the Association's spokesperson on relevant issue in the public domain and in the media;
- (b) Representing the Association at key internal and external events and/or functions, including meetings with government;
- (c) Chairing meetings of the Board and general meetings of Members;
- (d) Ensuring that the Board's tasks are effectively co-ordinated;
- (e) Ensuring that the diverse views of the Association are represented at Board meetings; and
- (f) Ensuring that the views and decisions of the Board are communicated to management, Regions, and Special Interest Groups.

4.2 Role of Chief Executive Officer

The Chief Executive Officer is accountable to the Board for managing the operations and productivity of the Association's National Office, including:

- (a) Developing strategic plans, business plans, annual budgets and periodic financial forecasts;
- (b) Implementing, monitoring and achieving the Association's approved annual business plan and budget;
- (c) Planning, managing, promoting and managing all aspects of the annual conference and trade exhibition, the Annual General Meeting and other Member events;
- (d) Ensuring that the Association's policies are implemented and monitored;
- (e) Ensuring full compliance with financial reporting and legal requirements;
- (f) Acting as Company Secretary of the Association;
- (g) Evaluating exposure to financial risk and making recommendations to the Board, to ensure best practice in managing identified risks;
- (h) Developing policy and operational papers as required by the Board;
- (i) Developing, implementing and monitoring initiatives to retain and increase membership in accordance with the Strategic Plan objectives;
- (j) Developing, implementing and monitoring initiatives to generate relevant income streams;
- (k) Reporting to the Board on progress in relation to the Strategic Plan, budget and other major objectives;
- (l) Ensuring that the Association's National Office is staffed and managed appropriately and within budget;
- (m) Ensure that the annual audit is completed on time and within budget;

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- (n) Providing appropriate administrative, financial and marketing support to Regions, Special Interest Groups and Committees of the Association;
- (o) Dealing with charges made against Members alleging misconduct or breaches of the Code of Ethics and determining and enforcing penalties;
- (p) appointing an Ethics Committee to oversee the Code of Ethics and deal with those charges made against Members alleging misconduct or breaches of the Code of Ethics which have been unable to be resolved by the Chief Executive Officer;
- (q) Maintenance of the Association's website, publication of newsletters, eNews and other publications ensuring that the quality and content thereof is in keeping with Board guidelines;
- (r) Ensuring that the Association is presented to Members and the public in a manner consistent with Board policies and directives;
- (s) Developing, implementing and monitoring an appropriate Public Relations process that measures the standing and reputation of the Association, and
- (t) Developing and maintaining effective working relationships with regulatory authorities in each State and Territory of the Commonwealth and in New Zealand.

5 REGIONS AND SPECIAL INTEREST GROUPS (SIGs)

5.1 Regions

- (a) Members of the Association may be organised into six Regions, one representing each of the following geographic areas:
 - i. Queensland and the Asia/Pacific Region
 - ii. NSW and ACT
 - iii. Victoria and Tasmania
 - iv. South Australia and NT
 - v. Western Australia
 - vi. New Zealand
- (b) Any existing Region may be disbanded or amalgamated with another Region if two-thirds of the financial Members of that Region, voting on the issue by postal ballot, resolve to do so.
- (c) Each Region may use its best endeavours to identify and nominate candidates for Board elections.
- (d) Each Region will, at an annual meeting, elect a Regional President and committee, including a Secretary, to lead the Region and to be accountable to the Board for furthering the Association's Objects within that Region.
- (e) The Regional President shall provide leadership and guidance to Members within the Region and shall represent the Region on relevant issues.
- (f) In the event of the office of Regional President becoming vacant through any cause, the Regional Committee may elect a successor to the vacant position for the unexpired term of the office vacated.

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- (g) In the event of a casual vacancy occurring on a Regional Committee, the Committee may elect a successor to the vacant position for the unexpired term of the office vacated.
- (h) Regions can propose to the Board any additional structure, if so required, to adequately meet the needs of Members in their jurisdiction.
- (i) Regions report to their respective elected Regional Director.

5.2 Special Interest Groups (SIGs)

- (a) Special Interest Groups (SIGs) may be formed by the Board from time to time within the Association, either under a national or Regional focus.
- (b) Members of SIGs must be financial Members of the Association or be non-Members with particular expertise invited by the Association to participate.
- (c) SIGs may be formed for the purposes of:
 - i. Providing networking opportunities for Members with similar interests or technical specialities; and
 - ii. Assisting and advising the Board on matters of strategic importance to the Association and/or industry
- (d) Each SIG will be convened by a Board-appointed leader and will be accountable to the Board via the National Office for furthering the Association's strategic outcomes as determined by the Board from time to time.
- (e) SIGs will be self-managed primarily by electronic means.
- (f) Members of SIGs must keep confidential all matters dealt with by the SIG.
- (g) The Chief Executive Officer will be an ex-officio member of SIGs and will report to the Board on progress made.

5.3 Variation of Regions and SIGs

The Board may, from time to time:

- (a) Vary (by increase or reduction) the areas represented by the existing Regions;
- (b) Establish additional Regions to represent other areas, within or outside Australia, including any area no longer represented following a variation under By-Law 5.3(a);
- (c) Vary existing SIGs or establish new SIGs.

5.4 Responsibilities of Regions and Special Interest Groups (SIGs)

Regions shall be responsible for:

- (a) Ensuring that Regions comply with the Association's Constitution and By-Laws;
- (b) Implementing and monitoring strategies consistent with the Association's Strategic and Operational Plan to retain and increase membership within Regions;
- (c) Supporting Members in Regions by developing and implementing networking activities and professional development opportunities;
- (d) Seeking sponsorship for activities and events held within Regions;

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- (e) Reporting to the Regional Director.

SIGs shall be responsible for:

- (a) Developing policy and positions on issues of national significance to the Association, for Board consideration and approval;
- (b) Assisting in defining key messages for public advocacy by the Association spokesperson;
- (c) Assisting with implementing communication strategies on issues, under Board direction;
- (d) Reporting to the Board regularly.

5.5 Operation of Regions

- (a) Regions shall operate under the Association's Constitution and By-Laws.
- (b) Annual meetings of Regions shall be conducted in accordance with the Association's Constitution and By-Laws.
- (c) Regional annual meetings and election of Regional Directors shall be held before the Association's AGM.
- (d) Regional committees will hold office for the period between their respective annual meetings. There is no limit to the number of terms that committees may serve.

5.6 Operation of Special Interest Groups (SIGs)

- (a) SIGs shall operate under the Association's Constitution and By-Laws.
- (b) Meetings of SIGs are held as required in accordance with By-Law 5.2
- (c) SIGs may have to prepare a budget, if required, and this needs to be approved by the Board.

6 ASSOCIATION AWARDS

6.1 The A.L. Chantry Award for the Pursuit of Excellence

- (a) The Association shall periodically recognise those members who have:
 - i. served as Directors of the Association in an honourable and dedicated manner; or
 - ii. made significant contributions and/or given consistent and worthy service to the achievement of the Association's aims and objectives.
- (b) Nominations for this Award may be made by any Business or Life Member.
- (c) Nominations will be judged by the Association's Board.
- (d) Nominees require the approval of not less than a 75% majority of the Board.
- (e) This Award may be presented at the Association's Annual Conference and Trade Exhibition or at another Industry function as determined by the Board.
- (f) The nature of this Award may vary from time to time at the discretion of the Board.

6.2 The S.D. Mills Award

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- (a) The Association may periodically acknowledge outstanding practical examples of Locksmithing, e.g. the design of a new lock, Locksmithing tool or procedure in areas ranging from the cutting of ornate keys to the development of computer software concepts or programs.
- (b) All nominees for this Award must be a Business Member or an employee of a Business Member.
- (c) Nominations for this Award may be made in the prescribed manner by any Business or Life Member.
- (d) Whilst the initiative may have been developed by a group working independently or with supervision, only one person can be the recipient of the Award.
- (e) Judging for this Award will be undertaken by the Board, having regard to:
 - (i) originality of the initiative;
 - (ii) its usefulness within the industry; and
 - (iii) the quality of the work undertaken.
- (f) This Award may be presented at the Association's Annual Conference and Trade Exhibition or at any other Industry function as determined by the Board.
- (g) The nature of this Award may vary from time to time at the discretion of the Board.

6.3 The John Andrew Apprentice of the Year Award

- (a) This annual Award recognises the apprentice who achieves the highest score in a specific test developed and administered by the Association.
- (b) The Award is open to employees of Business Members who have completed their apprenticeships during the calendar year in which the Award is judged, or within 12 months of the year in which the award is judged.
- (c) Mature age apprentices with more than five years' experience in the Locksmithing industry, or who hold another Trade Certificate are ineligible for this Award.
- (d) Nominations for this Award may be made in the prescribed manner by any Business. Member.
- (e) Applicants for the Award must not have previously participated in the competition.
- (f) This Award may be presented at the Association's Annual Conference and Trade Exhibition or at any other Industry function as determined by the Board.
- (g) The nature of this Award may vary from time to time at the discretion of the Board.
- (h) External sponsorship may be approved at the Board's discretion.

6.4 Alan Axford Memorial Award

This annual award:

- (a) Recognises the apprentice who achieves the highest pass in Locksmithing studies at the Sydney Institute of Technology;
- (b) Will be presented by the NSW Regional Director or his/her proxy, and

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- (c) May be varied in nature from time to time at the discretion of the Board.

7 Code of Ethics

7.1 Introduction

This Code of Ethics sets out standards of conduct to be observed by Members who carry on a locksmithing and/or an associated security business including, but not limited to, automotive locksmithing; safes & vaults; electronic access control and CCTV as defined in Clause 12. Its purpose is to commit members to uphold and enhance the honour, integrity and reputation of their profession.

In accordance with Rule 20 of the Constitution, the Association has the power to adopt, maintain and enforce a Code of Ethics to guide and influence Members in their relationships with clients, other Members and the wider community.

The Code of Ethics sets out the expected conduct and behaviour of Members. The Code of Ethics does not govern or apply to resolution of contractual disputes and other legal issues. Members should obtain their own legal advice about their business practices and contracts in order to protect their interests.

Its aim is to ensure that Members act appropriately in such situations so as to reduce the risk of misunderstanding and/or disputation arising from their actions or those of their employees.

Provisions contained within the Code of Ethics are not designed to restrict competition in any way. The Association is committed to promoting vigorous competition within the industry.

7.2 Power to Regulate

Subject to the provisions in Rule 20 of the Constitution, the Board shall have the power from time to time to:

- (a) Amend the Code of Ethics and By-Laws governing the proper conduct of Members of the Association;
- (b) To empower the Chief Executive Officer to appoint a Committee responsible for administering the Code of Ethics and dealing with all charges of misconduct or infringements of the Code of Ethics referred to the Committee by the Chief Executive Officer;
- (c) Publish the Code of Ethics and bring it to the notice of Members by such means as determined by the Board.

7.3 Guiding Principles of the Code of Ethics

- (a) **“In conducting their professional activities, the welfare and security of the community shall come before Members’ responsibility to the Association, the profession or to other members.”**

The principle here is that the interests of the community have priority over the interests of others. It follows that Members shall:

- i. Avoid assignments that may create a conflict between the interests of their client or employer and the public interest;
- ii. Work in conformity with accepted technological standards and not in such a manner as to jeopardise public welfare, health or safety;

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- iii. Maintain confidentiality of locksmithing and security knowledge and skills;
- iv. Maintain confidentiality and security of clients' security systems;
- v. Maintain security and storage of restricted security products;
- vi. Endeavour at all times to maintain technological services essential to public welfare;
- vii. In the course of their professional activities, endeavour to promote the well-being of the community. If their judgement is over-ruled in such matters, they should inform their client or employer of the possible consequences and, if appropriate, notify the proper authority of the situation.

(b) **“Members shall act in an ethical manner so as to uphold the honesty, honour, integrity and reputation of the profession.”**

The principle here is that the profession should endeavour by its behaviour to merit the highest esteem of the community. It follows that Members:

- i. Shall not be involved with any business or professional practice of a fraudulent, dishonest, deceptive or questionable nature;
- ii. Shall, if approached to take control of another Member's restricted keying system, comply at all times with the Association's relevant policies and procedures as established from time to time;
- iii. Shall ensure that proper authority is obtained before gaining entry to safes, premises or vehicles and before carrying out any services relating to eviction or taking possession of property;
- iv. Shall not associate with other persons, partnerships or corporations to conceal unethical acts;
- v. Shall not continue in partnership with, nor act in professional matters with any person who has been removed from membership of the Association because of unethical conduct.

(c) **“Members shall comply with both the spirit and the letter of or relevant laws and regulations of the Commonwealth, States and Territories, New Zealand and other jurisdictions in which they conduct business.”**

The principle here is that:

- i. Members and their employees engaged in locksmithing or other security activities, shall maintain a Security Industry Licence in all jurisdictions in which they carry on business.
- ii. Members and their employees shall at all times comply with relevant legislation and regulations, including inter alia: Fair Work Australia; OHS/WHS; Building Codes; Consumer Affairs; Fair Trading, *inter alia*.

(d) **“Members and their employees shall only perform work in their areas of competence.”**

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The principle here is that Members should inform their client or employer if an assignment requires qualifications and experience outside of their own field of competence.

(e) **“Members shall build their reputation on merit and shall not compete unfairly.”**

The principle here is that members shall not act improperly in a professional sense to gain a benefit. It follows that members:

- i. Shall only approach prospective clients or employers with due regard to their professional independence and to this Code of Ethics;
- ii. Shall promote the principle of engagement upon the basis of merit;
- iii. Shall neither falsify nor misrepresent their own, their associate’s or their employee’s qualifications, skills and experience;
- iv. Shall neither maliciously nor carelessly do anything to injure, directly or indirectly, the reputation, business or prospects of others;
- v. Shall not use the advantage of a privileged position to compete unfairly with others;
- vi. Shall exercise due restraint in explaining their own work and shall refrain from unjustified criticism of the work of others;
- vii. Shall give proper credit for professional work to those to whom credit is due and acknowledge the contribution of subordinates and others.

(f) **“Members shall apply their skill and knowledge in the interests of their clients or employers for whom they act in professional matters.”**

The principle here is that Members shall at all times avoid all known or potential conflicts of interest. It follows that members:

- i. Shall keep their employer or client fully informed on all matters, including financial interests, which could lead to such a conflict. In no circumstances should members participate in any decision which would involve them in conflicts of interest;
- ii. Shall not accept compensation, financial or otherwise, from more than one party for services on the same project, unless the circumstances are fully disclosed to, and agreed to by all interested parties;
- iii. Shall neither disclose nor use confidential information gained in the course of their employment without express permission.

(g) **“Members shall give advice, express opinions or make statements in an objective and truthful manner and on the basis of adequate knowledge.”**

The principle here is that:

- i. Members’ professional reports, statements or testimony before any tribunal shall be objective and accurate. They shall express an opinion only on the basis of adequate

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knowledge and technical competence in the area but this shall not preclude a considered speculation based intuitively on experience and wider relevant knowledge, and

- ii. Members shall reveal the existence of any interest, pecuniary or otherwise, that could be taken to affect their judgement in a technical matter about which they are making a statement or giving evidence.

7.4 Breaches of the Code of Ethics

Alleged behaviours which could be deemed to breach the Code of Ethics include (without limitation):

- (a) Any breach of clauses of the Code of Ethics. Breaches which occur without dishonesty, intent, repetition or reckless incompetence maybe deemed as “non-compliance” and may result in personal counselling and/or admonition, but not suspension. More serious breaches may be deemed as “unethical behaviour” and may result in penalties, suspension or expulsion;
- (b) Any breach of any Rule or Code of the Association which is characterised by dishonesty, deception, intent or reckless incompetence;
- (c) Gross professional incompetence;
- (d) Professional defamation, and
- (e) Criminal conduct.

7.5 The Ethics Committee

The Chief Executive Officer shall appoint an Ethics Committee (hereafter called the “Committee”) which shall from time to time comprise:

- (a) A Chair appointed by the Board from amongst the Business and Life Members;
- (b) Two other Business or Life Members nominated by the Board, and
- (c) Ex officio, the Chief Executive Officer who may contribute, but not vote, at meetings of the Committee, and who will act as Secretary to the Committee.

7.6 Appointment to the Ethics Committee

Members of the Committee:

- (a) Shall be appointed for a term of two years commencing from the date of the Board meeting which approved the appointment;
- (b) Shall, upon completing their term of office, be eligible for reappointment for a further term; and
- (c) May serve for no more than three consecutive terms.

If through any cause, a vacancy occurs on the Committee, the Board shall appoint a successor to the vacant position to serve the unexpired term of office.

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7.7 Responsibilities of the Ethics Committee

Subject to the provisions of the Constitution, the Ethics Committee shall be responsible for:

- (a) Dealing with all charges of misconduct or infringement of the Code of Ethics referred to it by the Chief Executive Officer in accordance with the procedures specified in the Constitution and these By-Laws and to determine penalties, if any;
- (b) Meeting at least once each year to review the Code of Ethics and By-Laws relating thereto; and
- (c) Drafting and recommending to the Board any proposed changes to the Code of Ethics and By-Laws relating thereto.

Three members of the Committee present in person shall constitute a quorum at any meeting thereof.

7.8 The Appeals Tribunal

The Chief Executive Officer shall appoint an Appeals Tribunal (hereafter called the "Tribunal") which shall comprise:

- (a) A Chair appointed by the Chief Executive Officer from amongst the Life Members;
- (b) Two other Life Members nominated by the Board, and
- (c) Ex officio, the Chief Executive Officer who may contribute, but not vote, at meetings of the Tribunal, and who will act as Secretary to the Committee.

7.9 Appointment to the Appeals Tribunal

Members of the Tribunal:

- (a) Shall be appointed to hear a specific Appeal only;
- (b) Shall, upon hearing a specific appeal, be eligible for reappointment for another specific Appeal; and
- (c) May hear no more than three consecutive Appeals.

7.10 Responsibilities of the Appeals Tribunal

Subject to the provisions of the Constitution, the Appeals Tribunal shall be responsible for hearing an Appeal lodged by either a Complainant or Respondent against a ruling made by either the Chief Executive Officer or Ethics Committee in relation to charges of misconduct or infringement of the Code of Ethics;

Three members of the Tribunal present in person shall constitute a quorum at any meeting thereof.

7.11 Complaints Handling Procedure

Definitions

Appeals means appeals made by the Complainant and/or Respondent against any determination of the Ethics Committee in relation to a Complaint.

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Appeals Tribunal means a Tribunal appointed by the CEO under Clause 7.8 to consider appeals against determinations of the Ethics Committee.

By-Laws means the By-Laws established by the Board, which includes the Code of Ethics, in accordance with Clause 3 of the Constitution, relating to the control, administration and management of the Association.

Both Parties means both the Complainant and the Defendant.

CEO means the Association's Chief Executive Officer.

Chair means, within Rule 7 of the By-Laws, the Chair of the Ethics Committee.

Charge means a charge made against any Member/Members in relation to specific breaches of the Code of Ethics.

Code of Practice means the principles and procedures set out to guide Members in their dealings with clients, employees, other Members and regulatory bodies. In particular, it provides guidance on how to deal with certain, sensitive situations which are likely to arise in the course of their business activities and which could pose a risk to their reputations and the security of the community.

Complaint means a Complaint made against any Member/Members alleging breach of the Code of Ethics.

Complainant means any person making a complaint against a Member in relation to the Code of Ethics.

Committee means the Ethics Committee appointed by the Board as defined in By-Law 7.5.

Hearing means, within Rule 7, a duly convened meeting of the Ethics Committee to hear and determine Complaints alleging any breach of the Code of Ethics.

Respondent means a Member against whom allegations of breaching the Code of Ethics have been made.

7.12 Making Complaints

- (a) Complaints alleging misconduct or breaches of the Code of Ethics shall be made in writing to the Association's CEO.
- (b) Such complaints may be made by any client of a Member; any other Member of the Association; a member of the public; a security industry professional; a commercial entity and/or any government agency or body of the Australian Commonwealth, States or Territories and New Zealand
- (c) Such complaints shall be brought to the attention of the Association without delay.
- (d) Disputes over contractual or technical matters are not within the ambit of this Code of Ethics. Such legal matters should be dealt with under the relevant contracts through the Courts or arbitration. However, this does not prevent a complaint being made in relation to the conduct of a matter which gave rise to the dispute and which is alleged to be a breach of the Code of Ethics

7.13 Handling Complaints

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- (a) The CEO shall, upon receiving a Complaint, immediately notify the President and the relevant Regional Director and provide them with copies of the Complaint;
- (b) Within 3 business days of receiving a Complaint, the CEO shall make contact with the Complainant and the Respondent and encourage them to meet and to endeavour to mutually resolve the matter; If, after any informal discussion pursuant to 7.13 (b) or otherwise within 14 days of receipt of the Complaint, the Complaint is not withdrawn or otherwise settled to the satisfaction of all parties to the Complaint, the CEO shall immediately notify the President and the relevant Regional Director;
- (c) The President and relevant Regional Director may informally discuss the Complaint with the Complainant and the Respondent
- (d) If a Complaint is then not withdrawn or otherwise settled by agreement between the parties, the President and relevant Regional Director will instruct the CEO to hear the Complaint.

7.14 Considering Complaints – Chief Executive Officer Stage

- (a) The CEO, pursuant to 7.13 (e), shall consider the complaint within 7 business days of being instructed to so by the President and the relevant Regional Director.
- (b) If the CEO determines that the Complaint is not sustainable as a Charge in relation to any breach of the Code of Ethics, the CEO shall within 3 business days of this determination, notify the Complainant.
- (c) The Complainant shall decide within 7 business days of any notification under Clause 7.13 (b) whether to withdraw, or proceed with, the Complaint;
- (d) If the CEO decides the Complaint is sustainable, or if the Complainant elects not to withdraw a Complaint which the CEO determined was unsustainable, the CEO shall, within 7 business days of its determination, specify the Charges and convene a Hearing to consider the Complaint.
- (e) The CEO shall have the right to proceed with any Complaint regardless of whether the Complainant withdraws the Complaint.
- (f) The CEO shall have the right to hear the Complaint personally, or refer it to the Ethics Committee.
- (g) If the CEO has a conflict of interest in the matter, the Complaint must be referred to the Ethics Committee

7.15 Considering Complaints – Ethics Committee Stage

- (a) The Committee shall meet, in person or by any other means, within 10 business days of being notified of a Complaint, to consider such Complaint.
- (b) If the Committee determines that the Complaint is not sustainable as a Charge in relation to any breach of the Code of Ethics, the CEO shall within 3 business days of the Committee's determination, notify the Complainant.
- (c) The Complainant shall decide within 7 business days of any notification under Clause 7.15 (b) whether to withdraw, or proceed with, the Complaint;

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- (d) If the Committee decides the Complaint is sustainable, or if the Complainant elects not to withdraw a Complaint which the Committee determined was unsustainable, the Committee shall, within 10 business days of its determination, specify the Charges and convene a Hearing to consider the Complaint.
- (e) The Committee shall have the right to proceed with any Complaint regardless of whether the Complainant withdraws the Complaint.

7.16 Complaints Hearing – Chief Executive Officer

- (a) The CEO, within 5 business days of being instructed to hear the complaint pursuant to Rule 7.13 (e), shall:
 - i. Notify the Respondent of the Complaint, the Hearing time and place, his/her right to defend the Complaint and appear at the Hearing and the procedures to be adopted at the Hearing, and
 - ii. Notify the Complainant of the of Hearing time and place and his/her right to appear at the Hearing and the procedures to be adopted at the Hearing.
- (b) The Respondent shall be advised to be fully prepared and to provide considered responses including all relevant data, witness statements and any other appropriate evidence.
- (c) The Respondent shall, within 5 business days of receiving notice of a Complaint under Rule 7.16 (a) (i), notify the CEO in writing of the intention to defend or concede the Complaint.
- (d) The CEO shall, within 2 business days after receiving the Respondents decision under 7.16 (c), notify the Complainant of the Respondent's decision;
- (e) The CEO has the right to second others persons to assist during the hearing.

7.17 Complaints Hearing – Ethics Committee

- (a) The CEO, within 5 business days of a Hearing being convened by the Committee pursuant to Rule 7.15 (d):
 - i. Shall notify the Respondent of the Complaint, the Hearing time and place, his/her right to defend the Complaint and appear at the Hearing and the procedures to be adopted at the Hearing, and
 - ii. Shall notify the Complainant of the of Hearing time and place and his/her right to appear at the Hearing and the procedures to be adopted at the Hearing.
- (b) The Respondent shall be advised to be fully prepared and to provide considered responses including all relevant data, witness statements and any other appropriate evidence.
- (c) The Respondent shall, within 5 business days of receiving notice of a Complaint under Rule 7.17 (a), notify the CEO in writing of the intention to defend or concede the Complaint.
- (d) The CEO shall, within 2 business days after receiving the Respondents decision under 7.17 (c), notify the Complainant of the Respondent's decision;

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- (e) Except as provided under 7.5, the Chair of the Ethics Committee shall act as Chair of the Hearing.
- (f) Members of the Committee shall declare any conflicts of interest.
- (g) If, as a result of members of the Committee declaring conflicts of interest, the Committee's numbers are less than the required Quorum, the Board shall, subject to By-Law 7.5, fill any vacancies from amongst Life or Business Members.

7.18 Discovery Process – if Chief Executive Officer is Hearing the Complaint

- (a) The Complainant and Respondent shall, within 14 business days after receiving notice of a Complaints Hearing, provide to the CEO all relevant evidence, documents and supporting statements.
- (b) The CEO shall, within 5 business days of receiving evidence referred to in 7.18 (a), circulate copies thereof to both Parties.
- (c) Both parties shall have 7 business days to lodge responses with the CEO.
- (d) The CEO shall within 5 business days circulate copies of any responses to both Parties.
- (e) The CEO may extend or withdraw any or all of the charges at any time during the Discovery and Hearing process.

7.19 Discovery Process – if Ethics Committee is Hearing the Complaint

- (a) The Complainant and Respondent shall, within 14 days after receiving notice of a Complaints Hearing, provide to the CEO all relevant evidence, documents and supporting statements.
- (b) The CEO shall, within 5 business days of receiving evidence referred to in 7.19 (a), circulate copies thereof to the Committee and to both Parties.
- (c) Both parties shall have 7 business days to lodge responses with the CEO.
- (d) The CEO shall within 5 business days circulate copies of any responses to the Committee and to both Parties.
- (e) The Committee may extend or withdraw any or all of the charges at any time during the Discovery and Hearing process.

7.20 Hearing Process – Chief Executive Officer

- (a) The Hearing will comprise the Complainant, Respondent, CEO and, at the discretion of the CEO, other persons.
- (b) The CEO reserves the right not to consider any evidence or hear any witnesses not nominated, or whose statements were not submitted during the Discovery Process.
- (c) The CEO may agree to conduct some sessions of the Hearing in camera with the Complainant and Respondent respectively.

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- (d) The Hearing proceedings shall be recorded and, at the discretion of the Chair, may be conducted according to the following order of proceedings:
- i. opening remarks and statement of the Complaint and Charges from the Chair;
 - ii. opening address by the Complainant;
 - iii. opening response by the Defendant;
 - iv. questioning of the Complainant and any witnesses called by the Complainant;
 - v. questioning of the Respondent and any witnesses called by the Respondent;
 - vi. concluding statement by the Complainant;
 - vii. concluding statement by the Respondent.
- At the conclusion of the Hearing, the CEO shall reserve his/her decision.
- (e) Questions shall be directed through the CEO, to the Parties and witnesses.
- (f) Cross questioning shall be permitted after the initial responses are given. All questions shall be directed through the CEO and shall be posed in an orderly manner.
- (g) The Complainant and Respondent shall have the right to question any witness.
- (h) The CEO shall maintain the appropriate decorum of the Hearing and may take whatever actions are required, including expulsion from the Hearing, to maintain an appropriate environment that is conducive to the Hearing.
- (i) The CEO shall be the arbiter on all matters concerning the Hearing process including the format and timing.
- (j) Since the Hearing is an internal process of the Association, and as matters of law are not in question, legal advisers shall not normally be permitted to attend. This clause may be varied by the CEO if it is felt that the principles of procedural fairness, in a particular case, require such attendance.
- (k) The decisions of the CEO are final regarding process and admission to the Hearing of any attendee or witness.
- (l) The CEO may seek legal and/or technical advice at any time regarding any aspect of the Hearing process or the laws of procedural fairness. Such advisers shall be permitted to attend the Hearing as experts and may be questioned by the CEO, and other persons assisting the CEO, in camera.
- (m) The Association shall not be responsible for any costs other than the provision of a suitable venue, and travel, accommodation and sitting costs of the CEO and other persons assisting the CEO. All other costs, including costs associated with attending the Hearing, shall be borne by the relevant parties.
- (n) The CEO shall, within 7 business days after the Hearing, hand down his/her findings and penalty, if any.
- (o) If the Complaint is dismissed, the CEO shall, without delay, notify the Complainant who shall decide, within 7 business days of such notification, whether to appeal the CEO's decision.

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- (p) If the Complaint is upheld, the CEO shall, without delay, notify the Respondent of this decision and penalty, if any. The Respondent shall decide, within 7 business days of such notification, whether to appeal the CEO's decision.

7.21 Hearing Process - Ethics Committee

- (a) The Hearing will comprise the Committee, Complainant, Respondent, CEO and, at the discretion of the Chair, other persons.
- (b) The Chair reserves the right not to consider any evidence or hear any witnesses not nominated, or whose statements were not submitted during the Discovery Process.
- (c) The Committee may agree to conduct some sessions of the Hearing in camera with the Complainant and Respondent respectively.
- (d) The Hearing proceedings shall be recorded and, at the discretion of the Chair, may be conducted according to the following order of proceedings:
- i. opening remarks and statement of the Complaint and Charges from the Chair;
 - ii. opening address by the Complainant;
 - iii. opening response by the Defendant;
 - iv. questioning of the Complainant and any witnesses called by the Complainant;
 - v. questioning of the Respondent and any witnesses called by the Respondent;
 - vi. concluding statement by the Complainant;
 - vii. concluding statement by the Respondent.
- (e) Questions shall be directed directly by members of the Committee and by the Parties, through the Chair, to the Parties and witnesses.
- (f) Cross questioning shall be permitted after the initial responses are given. All questions shall be directed through the Chair and shall be posed in an orderly manner.
- (g) The Complainant and Respondent shall have the right to question any witness.
- (h) The Chair shall maintain the appropriate decorum of the Hearing and may take whatever actions are required, including expulsion from the Hearing, to maintain an appropriate environment that is conducive to the Hearing.
- (i) The Chair shall be the arbiter on all matters concerning the Hearing process including the format and timing.
- (j) the Hearing is an internal process of the Association, and as matters of law are not in question, legal advisers shall not normally be permitted to attend. This clause may be varied by the Chair if it is felt that the principles of procedural fairness, in a particular case, require such attendance.
- (k) The decisions of the Chair are final regarding process and admission to the Hearing of any attendee or witness.

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- (l) The Committee may seek legal and/or technical advice at any time regarding any aspect of the Hearing process or the laws of procedural fairness. Such advisers shall be permitted to attend the Hearing as experts and may be questioned by the Committee in camera.
- (m) The Association shall not be responsible for any costs other than the provision of a suitable venue, and travel, accommodation and sitting costs of Committee members. All other costs, including costs associated with attending the Hearing, shall be borne by the relevant parties
- (n) The Committee shall, within 7 business days after the Hearing, hand down its findings and penalty, if any.
- (o) If the Complaint is dismissed by the Committee, the CEO shall, without delay, notify the Complainant who shall decide, within 7 business days of such notification, whether to appeal the Committee's decision.
- (p) If the Complaint is upheld by the Committee, the CEO shall, without delay, notify the Respondent of the Committee's decision and penalty, if any. The Respondent shall decide, within 7 business days of such notification, whether to appeal the Committee's decision.

7.22 Appeals Process

- a) Both Parties shall be entitled, within 28 days after receiving the CEO's or the Ethics Committee's determination, give notice in writing to the CEO, of any intention to appeal against the determination or penalty imposed. If this option is not exercised within the stated time period, the penalties determined shall stand.
- b) Any Appeal, in respect of which notice is given under 7.22 (a), shall be lodged, in writing, with the CEO, within 14 days after giving such notice.
- c) The grounds for Appeal can only relate to a denial of principles of procedural fairness which underlie administrative hearings.
- d) Within 21 days after receiving an Appeal under 7.22 (a), the Appeal shall be considered by an Appeals Tribunal appointed by the CEO.
- e) The Appeals Tribunal shall be chaired by a Life Member appointed by the CEO.
- f) Any member of the Appeals Tribunal who declares a conflict of interest to the Chair shall withdraw from consideration of the Appeal.
- g) If a member of the Tribunal withdraws pursuant to 7.22 (f), the CEO shall appoint another Life Member to fill the vacancy.
- h) The Chair of the Tribunal may invite the CEO or members of the Committee to attend and provide information to the Tribunal, but not to participate in the Appeal's process.
- i) The Chair of the Tribunal may seek legal and/or technical advice at any time as regards any aspect of the process or the laws of procedural fairness.
- j) The CEO shall, within 5 business days of the Tribunal's determination advise both parties accordingly.

The determination of the Tribunal shall be deemed as final.

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7.23 Confidentiality and Publicity

- (a) The Committee and the Tribunal are internal committees of the Association. All proceedings under these By-Laws shall be confidential and, other than to the extent provided for under these By-Laws, shall be confined to the individuals directly concerned. However, the Committee or the Tribunal may decide that some or all aspects of a particular case warrant communication to some or all Association Members.
- (b) The Committee or the Tribunal shall seek legal advice as to the desirable form or content of any communication described in 7.23 (a).
- (c) The transcript of any Hearing shall be retained in recorded form and transcriptions may be requested by either Party or the Board, if required.
- (d) At the expiration of the specified time for lodgement of Appeals, or at the conclusion of any Appeals process, the recorded transcriptions will be retained by the Association.

8 Code of Practice

8.1 Introduction & Rationale

This Code of Practice forms part of the Association's Code of Ethics and is governed by the Rules thereof. It establishes a set of principles and procedures to guide Members in their dealings with clients, employees, other Members, regulatory bodies and the general public. In particular, it provides guidance on how to deal with certain, sensitive situations which are likely to arise in the course of their business activities and which could pose a risk to their reputations and the security of the community

Its aim is to ensure that Members act appropriately in such situations so as to reduce the risk of misunderstanding and/or disputation arising from their actions or those of their employees.

8.2 Professional Advice and Service

Members must, when providing professional advice and services:

- (a) Ensure that professional levels of industry and regulatory knowledge are maintained;
- (b) Ensure that advice and services provided to clients effectively meet the client's requirements and expectations and reflect the professional locksmithing standards required by the Association;
- (c) Ensure that they and their employees or sub-contractors act with integrity and in a courteous and professional manner;
- (d) Recognise that improper methods of soliciting business are unacceptable and that they must decline to accept any business that is incompatible with the Association Rules or is unlawful;
- (e) Refrain from close association with, or allowing their name to be used by, any person or business of questionable character;
- (f) Not act in a manner that results or is likely to result in the Association or the Locksmithing industry being brought into disrepute.

8.3 Compliance with Legislation and MLA Rules

Members are required to ensure:

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- (a) That they, their employees and sub-contractors observe and comply with all laws, regulations and codes of the Commonwealth, States and Territories and New Zealand;
- (b) That they and their employees comply with the Association's Constitution, By-Laws, Code of Ethics, Code of Practice and policies as adopted by the Board from time to time.

8.4 Confidentiality and Security

To protect and preserve the reputation and integrity of the industry, Members must ensure:

- (a) That specialist locksmithing knowledge and skills are kept in strict confidence except when passing such knowledge and skills onto other professional locksmiths or training organisations approved by the Association, for the benefit of the industry;
- (b) That records relating to a client's security systems, key systems and other relevant matters are kept confidential and retained in such a manner as to prevent access by unauthorised employees or other persons;
- (c) That records referred to in 8.4 (b) and maintained electronically are regularly backed up;
- (d) That tools, technical manuals or any other documentation that could pose a threat to the security of the community must be retained in a secure area.

8.5 Storage of MLA and other Restricted Keying Products

Members must ensure:

- (a) That MLA and other restricted key blanks are retained in a safe or secure container separate from plugs, cylinders and other products and under independent lock and key;
- (b) That plugs, cylinders and other products for MLA and other restricted systems are retained under the maximum possible degree of security;
- (c) That supplies of key blanks, plugs, cylinders and/or other products for MLA and other restricted systems are only ordered for the purpose of fulfilling firm orders from clients or maintaining minimum quantities of stocks reasonably required for the efficient and effective conduct of business;
- (d) That they comply with all relevant contracts with the MLA, other suppliers and other manufacturers.

8.6 Issue of MLA and other Restricted Keying Products

When issuing restricted keying products, Members must ensure that the following records are maintained:

- (a) Records detailing the number and type of MLA and other restricted key blanks received, issued or otherwise disposed of.
- (b) Records detailing:
 - i. The client's name and address;
 - ii. The location of each system; the number of keys supplied and their coding and stamping details;
 - iii. The date upon which each and every key is supplied and to whom it is supplied

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- iv. Written signed authorities showing the persons authorised to obtain keys; specimen signatures of such persons together with the client's signed authorisation for the issue of keys, plugs, cylinders and/or other products.
- (c) In order to protect the security of the community, Members may only cut keys and produce cylinders and/or other products:
- i. For restricted systems that they control and for which they have the necessary records;
 - ii. Where the signature on the order form matches the signature authority record as required under Clause 8.5 (b) (iv), and
 - iii. Where the order is received by the transfer of authenticated electronic order data using key management software that meets the minimum security requirements specified below in Clause 8.6 (d).
- d) In order to ensure that orders to issue restricted keying products have the proper authority, Members must ensure that:
- i. Each signatory enters a private password to authenticate that signatory's authority to place the order; and
 - ii. The order must not be altered after being authenticated; and
 - iii. The authenticated order must be transferred to the locksmith in a form that is not plain-text and that incorporates protection against tampering; and
 - iv. The system validates that the appropriate combination of signatories have authenticated the order for the selection of restricted keying products that have been ordered.
 - v. They have the specific detailed written authority of the originating locksmith. If not, the originating locksmith must first be provided with all necessary information to ensure that the order is bona fide.
 - vi. All restricted keys must be stamped with the system code, if a master key the type of master key and, unless requested to the contrary by the client, be serially numbered.
 - vii. Restricted keys that are stamped as detailed in 8.6 (d) (i) cannot be re-stamped
 - viii. Restricted keys that are produced by one locksmith and on-sold to another locksmith under contract cannot be re-branded.
 - ix. Restricted key blanks are not to be sold or otherwise transferred.
 - x. Compliance with all provisions contained in contracts with the MLA and/or other suppliers and/or manufacturers is mandatory.

Sub-clauses (a) to (d) above establish the Association's requirements for the issue of MLA and other restricted keying products. However, in situations where Members have a different control process that appropriately manages the security risk and potential loss to the system owner, client, person or other entity, and where that process produces the same outcomes as intended by the Association's process, then that system can be considered and approved, if appropriate, by the Association as being equivalent to its own process.

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8.7 Performing emergency work on other Restricted Keying System

Members must, when approached to take control of another Member's MLA restricted keying system, ensure that they comply with the procedures detailed hereunder. Originating Locksmiths may own the copyright to such system so Members must proceed with caution to avoid breaching copyright laws, the Association's Code of Ethics and any legal disputation that could arise therefrom.

- (a) When a Member receives a request to perform "emergency" work on a cylinder that is part of another Member's system and the originating Member cannot be contacted, the cylinder can be removed and replaced with a temporary cylinder. The originating Member must be advised at the earliest opportunity but no later than the first business day thereafter.

In order to further protect the security of the community, existing master key systems cannot be expanded by other than the originating locksmith unless the system is transferred in accordance with the policies of the MLA and/or supplier. If such a transfer cannot be implemented the entire system must be rekeyed.

8.8 Reasons for Transfer or Sale of MLA Keying Systems

MLA keying systems are generally not transferable, however an MLA keying system may be transferred from one Member to another in the following circumstances:

- (a) If a client of an originating Member requests a transfer of a restricted keying system to another Member and agreement thereto is reached between the parties as stipulated in Clause 8.9;
- (b) If the originating Member is in breach or default of any agreements, duties or obligations contained in contracts entered into with the Association and fails to rectify that breach or default within ten (10) business days after being requested to do so by notice in writing from the Association;
- (c) If the originating Member ceases to be a Member of the Association for any reason;
- (d) If the originating Member, being a Company, Partnership or Sole Trader:
 - i. Has a liquidator or provisional liquidator appointed to it;
 - ii. Resolves to wind up or is subject to an order to wind up;
 - iii. Has an administrator appointed to it under Part 5.3A of the Corporations Law;
 - iv. Has a receiver, receiver and manager or official manager appointed to any of its assets or undertakings;
 - v. Enters into a scheme of arrangement with its creditors or otherwise compromises or compounds with its creditors;
 - vi. Has a petition brought to wind it up which petition is not dismissed, withdrawn or stayed within twenty (20) Business Days after being so brought; or
 - vii. Had judgement given against it in an amount exceeding twenty-five thousand dollars (\$25,000) (or the equivalent in another currency) and that judgement is not satisfied, quashed or stayed within ninety (90) Business Days after being given.
- (e) If the originating Member being a natural person:
 - i. Becomes bankrupt or commits an act of bankruptcy or suspends payment of his/her debts or compounds with or assigns his/her estate for the benefit of his/her creditors;

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- ii. dies or becomes permanently disabled or incapacitated or insane;
- iii. is convicted of an indictable criminal offence carrying a maximum penalty of not less than twelve (12) months' imprisonment; or
- iv. commits any act involving fraud, deceit or dishonesty (whether in relation to the Association or otherwise).

8.9 Procedures for Transferring MLA Keying Systems

Where the customer requests an MLA keying system to be transferred to a new locksmith:

- (a) The customer must reach an agreement with the originating locksmith for the payment of an appropriate amount for the assignment of the copyright/intellectual property and for the costs associated with the management of the system;
- (b) If the customer and the originating locksmith cannot reach agreement within 14 days of the transfer request, the originating locksmith may request that the customer write to the office of the Association setting out the position;
- (c) Pursuant to 8.9 (b), the new locksmith may negotiate a payment to the originating locksmith and/or negotiate with the customer as to how the customer may pay the originating locksmith to offset this payment;
- (d) If the new locksmith and the originating locksmith cannot reach agreement, either the new locksmith or the originating locksmith may write to the office of the Association setting out the position;
- (e) Upon receipt of the customer's letter the Chief Executive will informally attempt to facilitate an agreement that satisfies all parties;
- (f) If the Chief Executive has a conflict of interest in the matter, he/she can refer the matter to one of the Directors;
- (g) If the informal attempt by either the Chief Executive or the nominated Director to facilitate agreement is unsuccessful the Chief Executive (or in the event of a conflict of interest, a Director nominated by the chief Executive) will arrange and chair a formal meeting between the customer and both locksmiths to negotiate in good faith regarding the transfer of the system or some other arrangement that may be acceptable. Negotiations will include the payment of consideration to the originating locksmith for the transfer of the system. Any costs associated with travelling to or from this formal meeting are the responsibility of the individual parties. The determination of the Chief Executive or nominated Director will be deemed binding on both the originating locksmith and the new locksmith;
- (h) Pursuant to 8.9 (g), the formal meeting can be conducted either in person, or via another communication method agreeable to all parties, including a conference call, Skype or a video link.

8.10 Gaining Entry to Premises or Vehicles

Before attempting to gain entry to premises or vehicles, Members must ensure that:

- (a) A completed MLA lockout authorisation form or equivalent is completed and signed by the client. Such forms are to be retained for a minimum of five years;

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- (b) Evidence confirming the client's right to entry must be sighted and noted on the authorisation form or equivalent before entry is attempted, and
- (c) Evidence, preferably photographic, confirming the client's identity must be sighted and noted on the authorisation form or equivalent before entry is attempted.
- (d) If there is any uncertainty about the authority to enter and/or the identification of the client, the client must be advised to contact Police to obtain verification of the right to enter. If the client refuses to do so, Members must not attempt entry.

8.11 Eviction and Taking Possession

Services involving eviction and taking possession of property in accordance with the order of a court or tribunal require the production of appropriate authority before they are commenced.

- (a) Where a Sheriff's Officer, Police Officer or Officer of the Court requests the service the court order is to be sighted and details recorded and the officer's name and identification are to be recorded.
- (b) Where the person requesting the service is other than a Sheriff's Officer, Police Officer or Officer of the Court, the court order is to be sighted and details recorded and relevant identification and authority to act upon the court order are to be sighted and recorded.

8.12 Building Codes

- (a) Compliance with the provisions of the Building Codes of Australia and other legislation or codes relevant to their business (in particular those relating to the fire and escape doors) is mandatory.
- (b) Where a Member becomes aware of any contravention of the Building Codes of Australia and/or other relevant legislation or codes, the client is to be advised accordingly.

8.13 Safe and Vault Opening and Servicing

- (a) Unless circumstances necessitate otherwise, the Member is only to unlock the mechanism leaving the opening of the door and removal of any contents to the client. If necessary, further work may then be performed.
- (b) Any remedial work that may reduce the level of security previously provided must not be performed unless the client is made fully aware of the circumstances and agrees to such work.
- (c) Suitable steps, including where necessary screening, are to be taken to ensure that unauthorised persons do not witness the opening, servicing or any other work.
- (d) In the event that a safe needs to be drilled and/or cut open on site, it should not be left in an attacked state and all attempts must be made by the technician to conceal the points of entry with and least a basic repair and must avoid leaving the safe and/or safe door in an exposed environment.

8.14 The Australian Consumer Law and passing off

Members shall comply with the provisions of the *Competition and Consumer Act 2010* (previously known as the Trade Practices Act) and common law such passing off in their dealings with each other and the public.

The tort of passing off applies where there is a representation that a person's goods or services are those of someone else. To establish passing off, the plaintiff must prove a misrepresentation made by a trader

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in the course of trade to prospective customers or consumers that is intended to injure the plaintiff's business or goodwill and that caused actual damage to the plaintiff. The misrepresentation can be about the name of the product or the image that is presented by the product. The misrepresentation can also be about the name of a business. The tort of passing off is not confined to the traditional concepts of trade names and trademarks. It includes such things as slogans and visual images where they have become part of the goodwill or reputation of a business.

The *Competition and Consumer Act 2010* creates a statutory tort that can be used in addition to, or in substitution for, the common law tort of passing off. The Act prohibits deceptive or misleading conduct by a corporation. It is only necessary to prove that the conduct occurred in the course of trade or commerce, and that it is misleading or deceptive, or likely to mislead or deceive.

8.15 Breach of the Code of Practice

Breaches of this Code of Practice will be dealt with under the Association's Code of Ethics.

9 STRATEGIC ALLIANCES

The Board may form strategic alliances with other associations or corporations for the benefit of the Association and the Members.

10 TRANSITIONAL PROVISIONS

- (a) At the time of adoption of the Constitution and the By-Laws, any Member who is classified in a class of Membership under the Former Constitution will be re-classified as a Member of a category under these By-Laws.
- (b) If a Member objects to the re-classification of that Member under By-Law (9) then the Member may notify the Board in writing as to the reasons for his or her objection and ask the Board to reconsider its decision.
- (c) Re-classification of a Member as a Member of a particular category is subject to the discretion of the Board.
- (d) Each person holding office as a Director (including as a casual appointment) immediately prior to the Constitution and these By-Laws coming into effect will continue to hold office as a Director on and from the date that the Constitution and these By-Laws come into effect and subject to the transitional provisions set out in the Constitution.

11 AMENDMENTS TO BY-LAWS

The By-Laws may be amended, varied, modified or waived at any time by resolution of the Board.

12 DEFINITIONS

In these By-Laws—

Act means the Corporations Act 2001 (Commonwealth) and includes any regulations made thereunder;

Association means the Master Locksmiths Association of Australasia Limited;

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AGM means the annual general meeting of Members.

Board means the Board of Directors elected to exercise management of the Association;

Associated Security Industry means those sectors of the industry including, but not limited to, auto locksmithing; safes and vaults; electronic access control and CCTV.

By-Laws mean the By-Laws made in accordance with this Constitution;

Chair, of a general meeting or committee meeting, means the person chairing the meeting as required under Rule 38;

Chief Executive Officer means the person appointed by the Board to manage the affairs of the Association;

Code of Ethics means the principles adopted by the Association to guide and influence Members in their dealings with clients, other Members and the wider community;

Ethics Committee means the committee appointed by the CEO to oversee the Code of Ethics and deal with those charges made against Members alleging misconduct or breaches of the Code of Ethics which have been unable to be resolved by the CEO;

Fee means the Membership fee, subscription or levy payable by Members as determined from time to time under the By-Laws;

Financial Year means the 12 months' period specified in rule 3;

General Meeting means a general meeting of the Members of the Association convened in accordance with Part 4 and includes an annual general meeting, a special general meeting and;

Life Member means any Member who has been awarded life Membership of the Association for services to the Association and/or the locksmithing and Associated Security Industry;

Member means a Member of the Association;

Member entitled to vote means a Member who under Rule 15(2) is entitled to vote at a general meeting;

President means the Regional Director elected by the Board under Rule 42 to be responsible for the overall leadership and direction of the Association;

Region means a grouping of Members in a State or Territory of the Commonwealth; in New Zealand and the Asia/Pacific Region, as defined in the By-Laws of the Association;

Regional Director means a Business or Life Member elected by Regional Members to represent the Region on the Board;

Registrar means the Registrar of Companies;

Secretary means the person appointed by the Board to act as Company Secretary of the Association;

Special Interest Group (SIG) means a group of Members with common interests as formed by the Board from time to time under the Association's By-Laws;

Special Resolution means a resolution that requires not less than three-quarters of the Members voting at a general meeting, whether in person or by proxy, to vote in favour of the resolution;

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Term means the term of office of each Director, committee member or Regional officers.

Master Locksmiths Association of Australasia Ltd.

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**MASTER
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