



# NOTICE OF ANNUAL GENERAL MEETING AND EXPLANATORY NOTES

SPINE SOCIETY OF AUSTRALIA INCORPORATED (SSA)  
ORGANISATION NO. 100982741

Date: [12 April 2014]  
Time: [insert]  
Place: [Brisbane Convention and Exhibition Centre, Merivale Street, South Bank, Brisbane Queensland Australia]

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# NOTICE OF ANNUAL GENERAL MEETING

The annual general meeting of the members of the Spine Society of Australia Incorporated (**SSA**) Organisation No. 100982741 will be held at Brisbane Convention and Exhibition Centre at [insert time] on [Saturday, 12 April 2014].

## Business

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### 1 Consideration of the Accounts and Reports

To receive and consider the accounts and reports of the executive and other committees.

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### 2 Appointment of Committee Members

If required, to appoint committee members.

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### 3 Appointment of Solicitor and Auditor

To appoint a solicitor and auditor for SSA.

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### 4 Consider transferring from an incorporated association to a company limited by guarantee

To receive and consider:

- (a) SSA to apply to the Commissioner of Consumer and Business Services of South Australia to have the activities and undertakings of SSA transferred to a public company limited by guarantee under the Corporations Act 2001 (Cth);
  - (b) the Executive Committee of SSA to take all steps necessary for the transfer authorised by paragraph (a) to occur, including to incorporate a company limited by guarantee with the Australian Securities and Investments Commission;
  - (c) once the consent of the Commissioner is received, the Executive Committee to take all steps necessary to transfer the activities and undertakings of SSA to a company limited by guarantee under the Corporations Act 2001 (Cth);
  - (d) that the name under which the Association is to apply to become registered will be [Spine Society of Australia Limited] (**Company**); and
  - (e) to adopt the constitution of the Company that is attached to Annexure A to this notice of meeting.
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### 5 Other business

To transact any other business which may legally be brought before the meeting.



**By order of the committee**

.....  
Signed

.....  
Dated

.....  
Association Secretary

Draft



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## Voting and proxies

### Voting

In accordance with Rule 11.01 of the Rules of SSA.

### Proxies

- 1 A member who is entitled to attend and vote at the meeting may appoint a proxy to attend and vote on behalf of that member.
- 2 A proxy must be a member of SSA.
- 3 To be effective, SSA must receive the completed proxy form and, if the form is signed by the member's attorney, the authority under which the proxy form is signed (or a certified copy of the authority) by no later than [5:00pm on Thursday, 10 April 2014.]
- 4 Proxies may be lodged with SSA:
  - (a) by mail, or delivery to the Secretariat, c/o The Australian Orthopaedic Association, Level 12, 45 Clarence Street, Sydney NSW 2000; or
  - (b) by facsimile to the fax number at the company's registered office, +61 2 8071 8002
- 5 A proxy may decide whether to vote on any motion, except where the proxy is required by law or the Rules to vote, or abstain from voting, in their capacity as proxy. If a proxy is directed how to vote on an item of business, the proxy may vote on that item only in accordance with the direction. If a proxy is not directed how to vote on an item of business, the proxy may vote as he or she thinks fit.
- 6 If a member appoints the chairperson of the meeting as the member's proxy and does not specify how the chairperson is to vote on an item of business, the chairperson will vote, as proxy for that member, in favour of that item on a poll.



## Explanatory notes

### Transfer of Association to public company limited by guarantee

SSA is an educational organisation dedicated to the exchange of ideas and the dissemination of scientific and clinical knowledge concerning spinal disease and disorder throughout Australia and New Zealand. While originally based in South Australia, SSA wishes to have the flexibility to carry on its business throughout Australia.

Currently, SSA is registered as an incorporated association under South Australian legislation. This means that it is not recognised as a legal entity outside South Australia. Consequently if SSA incurs any liability outside of South Australia (for example entering into a contract for services in connection with an event outside SA) the members of the Management Committee will be personally liable. This risk is removed if the organisation is a company limited by guarantee.

After careful consideration, and after taking legal advice, the executive committee has decided that the Association should incorporate as a company limited by guarantee under the *Corporations Act 2001*, so that it is recognised as a legal entity Australia wide.

If member approval is not given, the ability of SSA to operate effectively outside of South Australia will be constrained significantly.

It is common for not-for-profit organisations (especially those that operate in more than one State or Territory) to be registered as public companies that are limited by guarantee. This company has members (in the same way an incorporated association has members), and the liability of each member is limited under the company's constitution to an amount that each member undertakes to contribute to the property of the company if the company is would up. This is the same as an incorporated association.

Companies are registered under the *Corporations Act 2001* (**Corporations Act**), which is legislation administered by the Australian Securities and Investment Commission (**ASIC**). A company's registration is recognised Australia wide. Registration of a company creates a legal entity separate from its members. The company can hold property and can sue and be sued.

### Transfer process

An association incorporated under the *Associations Incorporation Act 1985* (**the Act**) that wishes to transfer its activities and undertakings to a company must make an application to the Commissioner of Consumer and Business Services under section 42 of the Act.

This requires a general meeting of SSA members at which the necessary resolutions must be passed. This notice of meeting is to call that meeting and consider the necessary resolutions.

Once approved by the members, a new company is incorporated through ASIC, and SSA makes the application to the Commissioner of Consumer and Business Services.

Once the Commissioner has issued approval for the transfer, the Commission may order that the undertaking and activities of SSA be transferred to the newly established company.

Once the transfer has been effected, the Commission will dissolve SSA, the property of SSA will become the property of the company, the rights and liabilities of SSA will become the rights and liabilities of the company, and the assets of SSA are vested in the company without attracting stamp duty.

### Regulatory obligations

By transferring from an incorporated association to a company limited by guarantee the cost of maintaining regulatory obligations in each state and territory is removed and reduced to one regulator for incorporation obligations.



### **Name of the company**

The name of the company on transfer will be [Spine Society of Australia Limited].

### **Constitution**

Attached to this notice is a copy of the proposed constitution that will govern SSA on transfer to a company limited by guarantee. This is also an opportunity to update the governing documents (current SSA documents date from 1999) to meet best practice governance standards and the changes in the law.

Primarily the draft constitution reflects the same rights and obligations as the current Rules, however there are some changes. These changes are as follows:

- Disciplining members: the previous Rule 7 has been made a simpler process, which now appears as clause 10.2.
- Directors: the process of constituting the board has been simplified and brought into line with best practice. Members still retain the right to elect and dismiss directors (committee members under the Rules). There will still be a chairperson, secretary and public officer/treasurer. These roles appear at clause 12.12 (Chairperson of directors), clause 13.1 (Executive director) and clause 13.2 (Secretaries). However, we have dispensed with the roles of "President", "Vice President", "Editorial Secretary", and "Education Secretary". These roles can exist if the Board considers them necessary, but are not mandated by the governing documents.

There are no other substantial changes to the rights and obligations of members within the powers of the draft constitution.

### **Committee endorsement**

The Committee endorses the proposed resolution to make SSA a truly federal organisation and to reduce significant regulatory oversight, cost and exposure. The Committee members, as members of SSA, intend to vote in favour of the resolution at the AGM.



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## Proxy Form for General Meeting

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Date: [12 April 2014]  
Time: [insert]  
Place: [Brisbane Convention and Exhibition Centre, Merivale Street,  
South Bank, Brisbane Queensland Australia]

**The Secretary  
The Spine Society of Australia Incorporated**

I/We .....  
(please print)

of .....  
(please print)

being a member(s) of The Spine Society of Australia Incorporated appoint:

Name of Proxy: .....

Address of Proxy:.....

or, in his/her absence:

Name of Proxy: .....

Address of Proxy:.....

For this single meeting or, if I/we have not nominated a proxy or if the nominee is absent from the meeting, the Chairperson of the meeting as my/our proxy to vote on my/our behalf in accordance with the following instructions (or if no instructions are given, as the proxy sees fit) at the extraordinary general meeting of The Spine Society of Australia Incorporated to be held on [12 April 2014] and at any adjournment of that meeting.



## Directing your Proxy

To instruct your proxy how to vote, insert 'X' in the appropriate column against each item of business set out below. If you do not instruct your proxy how to vote on a resolution, your proxy may vote as he/she thinks fit or abstain from voting.

I/We instruct my/our proxy to vote as follows:

	<b>For</b>	<b>Against</b>	<b>Abstain</b>
To receive and consider:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(a) SSA to apply to the Commissioner of Consumer and Business Services of South Australia to have the activities and undertakings of SSA transferred to a public company limited by guarantee under the Corporations Act 2001 (Cth);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) the Executive Committee of SSA to take all steps necessary for the transfer authorised by paragraph (a) to occur, including to incorporate a company limited by guarantee with the Australian Securities and Investments Commission;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) once the consent of the Commissioner is received, the Executive Committee to take all steps necessary to transfer the activities and undertakings of SSA to a company limited by guarantee under the Corporations Act 2001 (Cth);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(d) that the name under which the Association is to apply to become registered will be [Spine Society of Australia Limited] (Company); and	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(e) to adopt the constitution of the Company that is attached to Annexure A to this notice of meeting.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>





**Chairperson’s voting intentions**

The Chairperson’s voting intentions in relation to undirected proxies are:

	<b>For</b>	<b>Against</b>	<b>Abstain</b>
To receive and consider:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(a) SSA to apply to the Commissioner of Consumer and Business Services of South Australia to have the activities and undertakings of SSA transferred to a public company limited by guarantee under the Corporations Act 2001 (Cth);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) the Executive Committee of SSA to take all steps necessary for the transfer authorised by paragraph (a) to occur, including to incorporate a company limited by guarantee with the Australian Securities and Investments Commission;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) once the consent of the Commissioner is received, the Executive Committee to take all steps necessary to transfer the activities and undertakings of SSA to a company limited by guarantee under the Corporations Act 2001 (Cth);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(d) that the name under which the Association is to apply to become registered will be [Spine Society of Australia Limited] (Company); and	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(e) to adopt the constitution of the Company that is attached to Annexure A to this notice of meeting.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If you do not wish to direct your proxy how to vote, please place a mark in the box.

*By marking this box, you acknowledge that the Chairperson (if he or she is your proxy) may exercise your proxy even if he or she has an interest in the outcome of the resolution and votes cast by him other than as proxy holder will be disregarded because of that interest.*

*This proxy must be signed by each appointing member (or the member’s attorney).*

Dated: .....



The proxy form and the power of attorney or other authority (if any) under which it is signed (or a certified copy) must be received by the company by 5:00pm on Thursday 10 April 2014, at:

- (a) by mail, or delivery to the Secretariat, c/o The Australian Orthopaedic Association, Level 12, 45 Clarence Street, Sydney NSW 2000; or
- (b) by facsimile to the fax number at the company's registered office, +61 2 8071 8002

A proxy **must** be a member of SSA.

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