

Constitution

Australian Restructuring Insolvency and Turnaround Association

ACN 002 472 362

A company limited by guarantee and not having share capital

This is annexure A of 60 pages referred to in form 205(J)

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CONSTITUTION

Australian Restructuring Insolvency and Turnaround Association (**Company or ARITA, as required**)

1 Interpretation

1.1 Definitions

The following words have the following meanings in this constitution, unless the context requires otherwise.

Academic Member means a person who is a member of the Company in accordance with clause 6.3(a)(ii)(A) and the Regulations.

ACN means Australian Company Number.

Act means the Corporations Act 2001 (Cth)

ASIC means the Australian Securities and Investments Commission.

Associate Member means a person who is a member of the Company in accordance with clause 6.3(a)(ii)(B) and the Regulations.

Board means the board of Directors.

Business Day has the meaning given in the Act.

CAANZ means Chartered Accountants Australia and New Zealand.

CEO means a person appointed as the Chief Executive Officer, appointed by the Board.

Code of Professional Practice means the code of professional practice issued by the Company in accordance with clause 22.4.

Company Disciplinary Proceedings means the process leading to a decision made by the Company in relation to any Member in accordance with clause 8 and as amended by the Regulations from time to time.

Company Liquidator means a person who is registered or taken to be registered as a liquidator pursuant to the Act.

Company Secretary means any person appointed to perform the duties of secretary of the Company.

CPA means CPA Australia.

Deputy President means any person elected to act in that capacity by the Board in accordance with clause 21.1(a).

Director means a person appointed as a director of the Company or who is appointed to the position of an alternate director and is acting in that capacity.

Disciplinary or Legal Proceedings means proceedings taken in a court or in a tribunal or board or statutory committee whether under state or federal law in relation to the professional conduct of the member as a practitioner, including proceedings taken by a Regulator or a Foundation Organisation.

Division means a Division described in clause 17.1.

Divisional Annual Meeting means the annual meeting of all members of a Division.

Divisional Chair means any person appointed to act in that capacity by the Divisional Committee in accordance with clause 17.4(a).

Divisional Committee means a Divisional Committee in terms of clause 17.3.

Divisional Office Bearer means a Professional Member or Life Member elected as an office bearer of a Division under clause 17.4.

Divisional Secretary means any person appointed to act in that capacity by the Divisional Committee in accordance with clause 17.4(c).

Divisional Vice Chair means any person appointed to act in that capacity by the Divisional Committee in accordance with clause 17.4(b).

Eligibility Criteria means the criteria for Membership determined by the Board pursuant to clause 6.4, and set out in the Regulations from time to time.

Executive means the Executive described in clause 21.

Financial Year means the period commencing on 1 January and ending on 31 December.

Foundation Organisation means any one of the following professional bodies:

- (a) CAANZ;
- (b) CPA;
- (c) professional bodies eligible to be members of INSOL or the International Federation of Accountants (IFAC) which have ethical standards and Sanctions which the Board in its absolute discretion considers suitable; or
- (d) any other professional body in Australia or elsewhere in the world which has been approved by the Board as a Foundation Organisation in its absolute discretion.

Graduate Member means a person who is a member of the Company in accordance with clause 6.3(a)(ii)(C) and the Regulations.

Honorary Member means a person who is a member of the Company in accordance with clause 6.3(a)(ii)(D) and the Regulations.

INSOL means INSOL International being the International Federation of Insolvency Practitioners.

Insolvency Practice means practising as an Insolvency Practitioner or working under the supervision of an Insolvency Practitioner.

Insolvency Practitioner means any Company Liquidator, Registered Trustee or any other person deemed to be an insolvency practitioner by any Laws as amended from time to time.

Law or Laws means all legislation, regulations, common law, regulatory codes, standards, industry requirements, by-laws, ordinances and other laws.

Legal Practitioner means a person who:

- (a) holds a certificate or licence to practice law whether as a solicitor, attorney, legal practitioner or lawyer:
 - (i) issued in an Australian state or territory; or
 - (ii) issued in any international jurisdiction approved by the Board from time to time in its absolute discretion;
- (b) is on the roll of barristers in an Australian jurisdiction or any international jurisdiction approved by the Board from time to time in its absolute discretion; or
- (c) is a lawyer employed by the Australian government and, by virtue of the Judiciary Act 1903, is not required to hold a practising certificate.

Lender & Investor Member means a person who is a member of the Company in accordance with clause 6.3(a)(ii)(E) and the Regulations.

Life Member means a person who is a member of the Company in accordance with clause 6.3(b)(a)(i)(B) and the Regulations.

Member means a member of the Company in accordance with clause 6.2.

Member's Firm means the firm, partnership, corporation or organisation through which the Member conducts his or her participation in the Profession.

Membership means the state of being a Member of the Company.

Non-voting Member means a Member as set out under clause 6.3(a)(ii).

Office means the Company's registered office.

Office Bearer means a Professional Member or Life Member elected as an office bearer of the Company under clause 21.1.

PCC means the Professional Conduct Committee established under clause 8.2.

Personal Representative means, in respect of a Member, a person who becomes entitled to exercise the rights attaching to Membership in the Company held by the Member by reason of the death, mental ill health or bankruptcy of the Member.

President means any person elected to act in that capacity by the Board in accordance with clause 21.1(a).

Profession means practitioners (including Insolvency Practitioners), individuals and organisations who adhere to ethical standards and who provide restructuring, insolvency or turnaround services or directly related services and who are accepted by the public as possessing special knowledge and skills and who are prepared to apply this knowledge and exercise these skills in the interest of others.

Professional Member means a member of the Company who becomes a member by virtue of them satisfying the provisions of the Regulations that relate to Members of that type.

Regulations means the regulations made from time to time in accordance with clause 22.3.

Regulator means any relevant authorised licence regulator relating to the registration as a solicitor, barrister, auditor, liquidator, liquidator of a specified body corporate or trustee in bankruptcy including, without limitation, ASIC, the Companies Auditors and Liquidators Disciplinary Board, the Australian Financial Security Authority and their successors from time to time.

Replaceable Rules has the meaning given in the Act.

Register means the register of Members to be kept pursuant to the Act.

Registered Trustee means a person who is registered as a trustee under the Bankruptcy Act 1966 (Cth) (or any statute in substitution thereof).

Sanction includes, without limitation, any undertaking or commitment, or any legal requirement, not to carry on an activity for a specified period or indefinitely, whether or not of a penal nature, and whether or not given voluntarily by a person or otherwise.

Special Resolution has the meaning given in the Act.

Student Member means a person who is a student member in accordance with clause 6.3(a)(ii)(F) and the Regulations.

Vice President means any person elected to act in that capacity by the Board in accordance with clause 21.1(a).

Voting Member means a Member set out under clause 6.3(a)(i).

Website means the Company's website as amended from time to time.

1.2 Interpretation

The following apply in the interpretation of this constitution, unless the context requires otherwise.

- (a) A word or an expression which is defined in the Act has the same meaning in this constitution
- (b) A reference to the singular includes the plural number and vice versa.
- (c) A reference to a gender includes a reference to each gender.
- (d) **Person** includes a firm, corporation, body corporate, unincorporated association and a governmental authority.
- (e) Where a word or expression has a defined meaning, its other grammatical forms have a corresponding meaning.
- (f) A reference to a clause is a reference to a clause of this constitution.
- (g) A reference to any statute, regulation, rule or similar instrument includes any consolidations, amendments or re-enactments of it, any replacements of it and any regulation or other statutory instrument issued under it.
- (h) A reference to a party or a person includes that party's or person's executors, legal personal representatives, successors, liquidators, administrators, trustees in bankruptcy and similar officers and, where permitted under this document, their substitutes and assigns.
- (i) Headings are for ease of reference only and do not affect the construction of this constitution.
- (j) **Includes** means includes but without limitation.

1.3 Replaceable Rules

The Replaceable Rules do not apply in respect of the Company except when they are expressly stated to apply.

1.4 Previous constitution superseded

This constitution replaces any memorandum or articles of association or constitution which was or were taken to be the Company's constitution in force before the adoption of this constitution.

1.5 Schedules, Regulations and other materials

All Schedules, Regulations and other materials referred to in this constitution form part of it. To the extent that there is any inconsistency between this constitution and the Schedules, Regulations or other materials referred to in this constitution, the provisions of this constitution will prevail.

1.6 Determining percentage of votes

Where this constitution requires the percentage of votes a Member has to be worked out, that percentage must be worked out as at midnight before the relevant event.

1.7 Representatives

A representative appointed by a Member that is a corporation may, unless otherwise specified in the appointment, exercise on that corporation's behalf all of the powers that the corporation could exercise at a meeting or in voting on a resolution.

2 Public company limited by guarantee

The Company is a public company limited by guarantee and does not have share capital.

3 Objects of the company

The objects for which the Company is established are:

- (a) to support insolvency, restructuring and turnaround professionals in their quest to restore the economic value of underperforming businesses and to assist financially challenged individuals;
- (b) to promote, uphold and enhance world class ethical and professional standards and to promote the ideals of the profession to the public at large;
- (c) to influence and partner with government on all matters of corporate and personal insolvency, restructuring and turnaround practice and law, and related issues;
- (d) to provide innovative training and education and to promote the study of corporate and personal insolvency, restructuring and turnaround practice and law; and
- (e) to disseminate knowledge of the principles and practice relating to corporate and personal insolvency, restructuring and turnaround to professionals and the public at large.

4 Powers of the Company

4.1 Legal capacity and powers of the Company

The Company has the legal capacity and powers of an individual anywhere in the world. The Company also has all the powers of a body corporate, including the power to:

- (a) issue debentures whether irredeemable or redeemable;
- (b) grant a security interest over the Company's property;
- (c) arrange for the Company to be registered or recognised as a body corporate in any place outside the jurisdiction in which the Company is registered; and
- (d) do anything that it is authorised to do under any Law (including a law of a foreign country).

4.2 Agent exercising the Company's power to make contracts

Subject to the operation of a Law that requires a particular procedure to be complied with in relation to the contract, the Company's power to make, vary, ratify or discharge a contract may be exercised by an individual acting with the Company's express or implied authority and on behalf of the Company.

4.3 Execution of documents by the Company

The Company may execute a document if the document is signed by:

- (a) 2 Directors; or
- (b) a Director and Company Secretary.

5 Income and property of the Company

5.1 Income and property to be applied towards objects

All income and property of the Company must be solely applied towards the promotion of the objects of the Company.

5.2 No payments to Members

Subject to clause 5.3, no part of the income or property of the Company may be paid by way of dividend, bonus or otherwise to the Members.

5.3 Payments in good faith

Nothing in this constitution prevents the Company from making payment in good faith:

- (a) of reasonable and proper remuneration to any employees of the Company;
- (b) to any Member in relation to any contract, right or claim in which that Member is interested or which arises other than by virtue of the Member's Membership;
- (c) of reasonable interest on any money lent to the Company by any Member;
or
- (d) of reasonable or proper rent for premises let to the Company by any Member.

5.4 **Rate of interest**

The rate of interest payable in accordance with clause 5.3(c), in respect of money lent by Members to the Company will not exceed the current bank overdraft rates of interest for moneys lent by the Company's bankers to the Company.

6 Membership

6.1 **Number of Members**

The Company may have an unlimited number of Members.

6.2 **Entry as a Member**

- (a) A person shall not be admitted to Membership of the Company except as provided by this constitution.
- (b) The following persons will be Members of the Company:
 - (i) each person who is a Member of the Company as at the date on which this constitution becomes binding on the Company (and in the category that the Member was in as at the date on which the constitution becomes binding); and
 - (ii) each person who is admitted as a Member in accordance with this constitution, complies with this constitution and falls under one of the categories of Membership set out under clause 6.3.
- (c) Any ambiguity arising under clause 6.2(b)(i) in respect of a Member's category of Membership will be resolved by the Board in good faith.

6.3 **Categories of Membership**

- (a) The Membership of the Company is divided into the following classes and sub-classes:
 - (i) Voting Members, which include:
 - (A) Professional Members;

(B) Life Members,

and such additional or alternate sub-class of Voting Members as prescribed in the Regulations from time to time.

(ii) Non-voting Members, which include:

(A) Academic Members;

(B) Associate Members;

(C) Graduate Members;

(D) Honorary Members;

(E) Lender & Investor Members; and

(F) Student Members,

and such additional or alternate sub-class of Non-voting Members as prescribed in the Regulations from time to time.

(b) The Board may, in its absolute discretion, determine the obligations of and rights and privileges of such categories and sub-categories of Membership from time to time (provided that such obligations and rights and privileges are not inconsistent with this constitution or the Regulations) and may differentiate between such categories and sub-categories of Membership.

6.4 **Membership eligibility**

(a) A person is eligible to be a Voting Member if the person complies with the constitution and falls within the Eligibility Criteria for one of the sub-categories set out under clause 6.3(a)(i), prescribed in the Regulations from time to time.

(b) A person is eligible to be a Non-voting Member if the person complies with the constitution and falls within the Eligibility Criteria for one of the sub-categories set out under clause 6.3(a)(ii), prescribed in the Regulations from time to time.

(c) The Board may in its absolute discretion determine the Eligibility Criteria and where there are categories and sub-categories of Membership, may differentiate between eligibility requirements for such categories and sub-categories.

(d) Any person who, notwithstanding their failure to meet the requirements of the Eligibility Criteria is, in the opinion of the Board of sufficient seniority and standing in the profession to justify an exemption from those requirements, may be granted an exemption. An exemption will only be considered if the proposed Member has demonstrated their standing in the profession by way of senior professional and substantial exemplary experience, publications, research, judicial or regulatory position held, or other such objective measure.

6.5 Application for Membership

- (a) Subject to this clause 6.5, to become a Member, a person must submit to the CEO at the Office, a completed and signed written application in the approved form.
- (b) The Regulations may amend or prescribe additional procedures for the admission of Members from time to time.
- (c) Honorary Members and Life Members are not required to make an application under this clause unless otherwise prescribed in the Regulations.
- (d) When an application is made, the Board (or, if determined by the Board to be appropriate, a delegate under clause 22.6) will consider the application at the earliest practicable meeting of the Board (or meeting of the delegate). The Board (or the delegate) may accept or reject the applicant for Membership, in its absolute discretion.
- (e) If an application for Membership is successful, the successful applicant will be promptly notified by the CEO by written notice.
- (f) If an application for Membership is rejected, the CEO will give written notice to the applicant that he or she has not been admitted. The Board (or the delegate under clause 22.6) is not required to provide reasons for rejecting an application.
- (g) A successful applicant becomes a Member upon completion of the required declarations prescribed by ARITA from time to time and payment of the fees in accordance with clause 6.6, or if the Member is not required to pay an annual membership fee under clause 6.6, at the time at which the applicant's application is accepted by the Board or the Delegate under clause 22.6.

6.6 Fees

- (a) A Member will be required to pay an annual membership fee, entrance fee and/or any other fee as prescribed in the Regulations from time to time.
- (b) The sum and manner of payment of the annual membership fee, entrance fee or any other fee is prescribed in the Regulations.
- (c) Life Members and Honorary Members are not required to pay an annual membership fee unless otherwise determined by the Board and prescribed by the Regulations.
- (d) If a Member fails to pay the annual membership fee within 45 Business Days after it becomes due, the Company:
 - (i) will give that Member notice of that fact; and

- (ii) if the Member is a Voting Member, suspend that Voting Member's right to vote at a general meeting in accordance with clause 15.4.
- (e) If the annual membership fee remains unpaid 15 Business Days from the date of any notice given in accordance with clause 6.6(d), then the Company may declare that that Member's Membership is forfeited.
- (f) A Member may be required to pay an additional fee if the Member is late in making payment of any other fee.
- (g) If the Member's Membership is forfeited under clause 6.6(e) and the Member thereafter pays all annual membership fees in arrears, the Board, if it thinks fit, may by resolution reinstate his or her Membership.
- (h) The Board may at any time or times suspend the payment of annual membership fees, entrance fees or any other fees either generally or in respect of an individual Member and has the discretionary power to fix and determine or waive the annual membership fee, entrance fee or any other fee chargeable to any Member under any special circumstances that may arise.

6.7 Voting Member's rights

- (a) Subject to this constitution and the Act, Voting Members are entitled to:
 - (i) attend and speak at general meetings of the Company and at general meetings of the Division in which he or she ordinarily resides;
 - (ii) vote at general meetings of the Company and at general meetings of the Division in which he or she ordinarily resides;
 - (iii) be eligible for appointment to the Board;
 - (iv) be eligible for appointment to the Executive;
 - (v) be eligible for election as a member of the Divisional Committee of the Division in which he or she ordinarily resides;
 - (vi) be eligible for election as a Divisional Office Bearer in the Division in which he or she ordinarily resides;
 - (vii) use any applicable post-nominal designations as prescribed by the Regulations.
- (b) The rights and privileges of a Voting Member are personal and non-transferable and cease on the death of a Voting Member or on the cessation of a Voting Member's Membership.

6.8 Non-voting Member rights

- (a) Subject to this constitution and the Act, Non-voting Members are entitled to:

- (i) attend and speak at general meetings of the Company and at general meetings of the Division in which the Non-voting Member ordinarily resides; and
 - (ii) use any applicable post-nominal designations as prescribed by the Regulations.
- (b) The rights and privileges of a Non-voting Member are personal and non-transferable and cease on the death of a Non-voting Member or on the cessation of a Non-voting Member's Membership.

6.9 Continuing obligations

- (a) Members must comply with any continuing obligations placed upon them, as determined by the Board or prescribed in the Regulations, Code of Professional Practice, Website, Laws or otherwise, from time to time.
- (b) If a continuing obligation prescribed under clause 6.9(a) conflicts with any other clause in this constitution, the provisions of this constitution will prevail unless otherwise determined by the Board.

6.10 Quality assurance reviews and reports

- (a) The Company may conduct a quality assurance review from time to time and each Member must cooperate with such a review.
- (b) The Company may provide, and each Member consents to the provision of, information about a Member to a Foundation Organisation for the purpose of the conduct of quality assurance reviews or to facilitate the provision of information to the Company by a Foundation Organisation.
- (c) The Company may obtain or provide quality assurance reports and other information from or to a relevant Foundation Organisation in relation to the Member's files the subject of the quality assurance review.
- (d) A Member must provide to the Company copies of any quality assurance reports prepared by or at the direction of a Foundation Organisation within 15 Business Days of receipt of such reports by the Member.
- (e) A Member must co-operate with quality assurance review processes whether they are conducted by or at the direction of the Company or a Foundation Organisation.
- (f) The Regulations may prescribe the process and procedure for the conduct of quality assurance reviews and the preparation of reports by the Company or its representatives.
- (g) In this clause, 'quality assurance' means a process of review of a Member's files by or on behalf of the Company or a Foundation Organisation and conducted in accordance with the Regulations.

- (h) A quality assurance report may be referred to the CEO and/or Board for investigation in accordance with clause 8.

7 Termination or suspension of Membership

7.1 Automatic termination or suspension of Membership

- (a) A Member's Membership of the Company will automatically cease:
 - (i) if the Member gives the CEO written notice of resignation, from the date of acceptance of that notice by the Board, subject to the Board's power to decline to accept the resignation of a Member while his or her professional conduct is the subject of investigation, Company Disciplinary Proceedings or Disciplinary or Legal Proceedings under clause 8, in which event the resignation shall take effect from a later date as may be determined by the Board from time to time;
 - (ii) if Membership is forfeited under clause 6.6(e);
 - (iii) if the Member:
 - (A) dies;
 - (B) becomes mentally incapacitated or if the Member or his or her estate is liable to be dealt with in any way under the Laws relating to mental health; or
 - (C) is or becomes an 'insolvent under administration' as defined in the Act or the Member has a trustee in bankruptcy appointed or has executed a debt agreement or a personal insolvency agreement as defined in the Bankruptcy Act 1966 (Cth).
 - (D) is found guilty of any crime resulting in a jail sentence
- (b) If, as a consequence of Company Disciplinary Proceedings or Disciplinary or Legal Proceedings taken against a Member, a Sanction is imposed on the Member which:
 - (i) has the effect of suspending the Member's entitlement to remain a member of a Foundation Organisation or to continue to practise as an Insolvency Practitioner or legal practitioner for a period, then the Member's Membership is automatically suspended for the same period; or
 - (ii) has the effect of terminating the Member's entitlement to remain a member of a Foundation Organisation or to continue to practise as an Insolvency Practitioner or legal practitioner, then the Member's Membership is automatically terminated; or

- (iii) results in him or her becoming disqualified from managing corporations under s 206B of the Act, then the Member's Membership is automatically suspended for the period of the disqualification or
- (iv) results in a serious criminal conviction which for the purposes of this clause includes a conviction of the Member for fraud, then the Member's Membership is automatically terminated.

7.2 Other termination or revocation of Membership

- (a) If any Member wilfully refuses or neglects to comply with the provisions of this constitution or has conducted himself or herself in a way which has brought disrepute upon the Company or the Profession or both, then the Board may, by resolution passed by not less than 75% of the votes of the Directors present and entitled to vote, expel that Member from the Company and (if applicable) remove that Member's name from the Register.
- (b) The Member in respect of which a resolution under clause 7.2(a) is proposed, must be given at least 10 Business Days notice of the Board meeting at which the resolution is to be considered and must be given an opportunity to:
 - (i) attend the meeting; and
 - (ii) give a written explanation or defence in relation to the resolution proposed under clause 7.2(a).
- (c) The Board may revoke the Membership of an Honorary Member without notice and without being required to give reasons.
- (d) The Board may terminate a Member's Membership as prescribed in the Regulations from time to time.

8 Member Conduct

8.1 Company investigation and Company Disciplinary Proceedings

- (a) The Company may investigate any complaint or concern about the professional conduct of a Member, or about any conduct that may bring the reputation or standing of the Company or the Profession into disrepute, notwithstanding any other disciplinary or legal proceedings which may be under way.
- (b) Such investigation shall be conducted as soon as reasonably practicable in accordance with procedures approved by the Board and available on request by Members.

- (c) Following the investigation the matter may be resolved, and the Member, and where relevant the complainant, will be so informed as soon as reasonably practicable.
- (d) If following the investigation the matter appears to the CEO to warrant it, then:
 - (i) Company Disciplinary Proceedings may be commenced; and/or
 - (ii) the complaint or concern may be referred to a Regulator or Foundation Organisation or appropriate law enforcement body in accordance with the Regulations,in any order.
- (e) If other Disciplinary or Legal Proceedings are commenced against a Member and brought to the attention of the CEO, Company Disciplinary Proceedings may be commenced, at the discretion of the CEO.
- (f) A Member must be informed of the commencement of Company Disciplinary Proceedings.

8.2 Professional Conduct Committee

- (a) The Board will establish a standing PCC to exercise investigative powers under clause 8.1 and to conduct Company Disciplinary Proceedings.
- (b) The PCC will consist of no less than 3 members. At least 2 members will be Directors of the Board, subject to any limitations resulting from conflict of interest.
- (c) In the event that a member of the PCC is unable to participate in any Company Disciplinary Proceedings then the CEO will nominate a substitute PCC member from the Board or a Divisional Committee.
- (d) The operation of the PCC is prescribed in the Regulations.

8.3 Discretionary termination or suspension of Membership

- (a) If:
 - (i) Disciplinary or Legal Proceedings are commenced against a Member; or
 - (ii) Company Disciplinary Proceedings are commenced against a Member,

the Board may in its discretion suspend the Membership of the Member, on such conditions as it may determine, pending the outcome of Company Disciplinary Proceedings or the disciplinary or legal proceedings, or impose a penalty as prescribed in the Regulations.

- (b) If:

- (i) Disciplinary or Legal Proceedings against a Member are determined in a manner which is adverse to the Member, but do not have the effect of suspending or terminating the Member's right to practise; or
- (ii) Company Disciplinary Proceedings are determined against a Member by the Company,

the Board may in its discretion and having regard to the Regulations suspend or terminate the Membership of the Member, impose a penalty as prescribed in the Regulations, or attach one or more conditions to the Member's Membership.

8.4 Annual membership fees on cessation of Membership

- (a) Any Member who ceases to be a Member for any reason in accordance with clause 7 or clause 8:
 - (i) will not be entitled to any refund (or part refund) of the annual membership fee;
 - (ii) will remain liable for and will pay to the Company the annual membership fee (and any other monies owing) which is due at the date of ceasing to be a Member; and
 - (iii) will continue to be liable for any sum not exceeding \$100.00 for which they are liable pursuant to clause 33.1 of this constitution.

8.5 Notification and publication

- (a) Notification of any penalties or Sanctions imposed must be provided to the Member within 15 Business Days of determination of any Company Disciplinary Proceedings.
- (b) Notification of the decision of the Company in relation to any Company Disciplinary Proceedings and any penalty or Sanction imposed may also be given to a Regulator, a Foundation Organisation, Member's Firm and other bodies as determined by the Board, and may also be published in the official publication of the Company and on the Website, or otherwise in such manner and form as may be authorised by the Board. It is a condition of Membership that a Member is taken to have automatically consented to such publication.
- (c) Factors to be taken into account by the Board in deciding whether and in what manner or form to report Company Disciplinary Proceedings include:
 - (i) the seriousness of the issue;
 - (ii) the potential educative effect of publication;
 - (iii) the effect of publication for the Company, the Profession, and the community, and

- (iv) the effect of publication for the Member and the Member's Firm.
- (d) In the event of the name of a Member being removed from the Register, the certificate of membership held by the Member must be delivered up to the CEO to be cancelled.

8.6 Re-admission to Membership and remission of penalty

- (a) The Board may, in its absolute discretion:
 - (i) agree to re-admit any former Member who re-applies for Membership;
 - (ii) require the re-applying former Member to provide such information or satisfy such other requirements for re-admission as it determines; and
 - (iii) remit any penalty imposed on a former Member.

8.7 Member obligations

- (a) If the Board or the PCC makes a reasonable inquiry of a Member about a complaint or concern about that Member, then the Member must provide a reasonable response to the Board or the PCC within the time requested by the Board, or such further time as is agreed.
- (b) The failure of a Member to comply with a reasonable inquiry of the Board or the PCC is a factor to be considered by the Board or the PCC in determining the nature of any penalty which may be imposed upon the Member.

9 Members' powers of attorney

- (a) If a Member executes or proposes to execute any document or do any act by or through an attorney which affects the Company or the Member's Membership in the Company, that Member must deliver the instrument appointing the attorney to the Company for notation.
- (b) The Company may ask for whatever evidence it thinks appropriate that the power of attorney is effective and continues to be in force.
- (c) If the Company asks the Member to file with it a certified copy of the instrument for the Company to retain, the Member will promptly comply with that request.

10 Circulating resolutions of Members

10.1 Circulating resolutions when more than 1 Voting Member

- (a) Except in the case of a resolution under section 329 of the Act to remove an auditor, or any other resolution which the Act or this constitution requires to be passed at a general meeting, the Company may pass a resolution without a general meeting being held if all the Voting Members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of a document may be used for signing by Voting Members if the wording of the resolution and statement is identical in each copy.
- (c) If the Company passes a resolution under this clause, a requirement under the Act:
 - (i) to give Voting Members information or a document relating to the resolution is satisfied by giving the Voting Members that information or document with the document to be signed; and
 - (ii) to lodge with ASIC a copy of a notice of meeting to consider the resolution, or of a document which accompanied the notice, is satisfied by lodging a copy of the document to be signed by Voting Members or a copy of the information or documents referred to in clause 10.1(c)(i), respectively.
- (d) The passage of the resolution satisfies any requirement in the Act or this constitution that the resolution be passed at a general meeting.
- (e) The resolution is passed when the last Voting Member signs the document.
- (f) This clause does not affect any rule of law relating to the assent of Voting Members not given at a general meeting.

10.2 Resolutions of Company when 1 Voting Member

If the Company has only 1 Voting Member, that Voting Member may pass a resolution by the Voting Member recording it and signing the record.

11 Calling meetings of Voting Members

11.1 Calling meetings of Voting Members by Directors

Any 4 Directors may, whenever they think fit, call and arrange to hold a meeting of the Voting Members.

11.2 Calling of general meeting by Directors when requested by Voting Members

- (a) The Directors of the Company must call and arrange to hold a general meeting on the request of:
 - (i) Voting Members with at least 5% of the votes that may be cast at the general meeting; or
 - (ii) at least 100 Voting Members (or such different number as may be prescribed by the Regulations) who are entitled to vote at the general meeting.
- (b) The request must:
 - (i) be in writing;
 - (ii) state any resolution to be proposed at the meeting;
 - (iii) be signed by the Voting Members making the request; and
 - (iv) be given to the Company.
- (c) Separate copies of a document setting out the request may be used for signing by the Voting Members if the wording of the request is identical in each copy.
- (d) The Directors must call the meeting within 15 Business Days after the request is given to the Company. The meeting is to be held not later than 2 months after the request is given to the Company.

11.3 Failure of Directors to call a general meeting

- (a) Members with more than 50% of the votes of all of the Voting Members who make a request under clause 11.2 may call and arrange to hold a general meeting if the Directors do not do so within 15 Business Days after the request is given to the Company.
- (b) The meeting must be called in the same way, so far as is possible, in which general meetings of the Company may be called. The meeting must be held not later than 3 months after the request is given to the Company.
- (c) To call the meeting, the Voting Members requesting the meeting may ask the Company for a copy of the Register. The Company must give the Voting Members the copy of the Register within 5 Business Days after the request without charge.
- (d) The Company must pay the reasonable expenses the Voting Members incurred because the Directors failed to call and arrange the meeting.
- (e) The Company may recover the amount of the expenses under clause 11.3(d) from the Directors. However, a Director is not liable for the amount if that Director proves that all reasonable steps to cause the Directors to

comply with clause 11.2 have been taken. The Directors who are liable are jointly and individually liable for the amount.

11.4 Calling of general meeting by Voting Members

- (a) Voting Members with at least 5% of the votes that may be cast at a general meeting of the Company may call, and arrange to hold, a general meeting. The Voting Members calling the meeting must pay the expenses of calling and holding the meeting.
- (b) The meeting must be called in the same way, so far as is possible, in which general meetings of the Company may be called.

11.5 Amount of notice of meetings

- (a) Subject to clause 11.5(b), at least 15 Business Days notice must be given of a meeting of the Company's Voting Members.
- (b) The Company may call on shorter notice:
 - (i) an annual general meeting, if all the Voting Members entitled to attend and vote at the annual general meeting agree beforehand; and
 - (ii) any other general meeting, if Voting Members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- (c) The Company cannot call an annual general meeting or other general meeting on shorter notice if it is a meeting of the kind referred to in clause 11.5(d).
- (d) At least 15 Business Days notice must be given of a meeting of the Company at which a resolution will be moved to:
 - (i) remove an auditor under section 329 of the Act; or
 - (ii) remove a Director under clause 23.2(g) or appoint a Director in place of a Director removed under that clause.

11.6 Notice of meetings of Voting Members

- (a) Written notice of a meeting of the Company's Voting Members must be given individually to:
 - (i) each Voting Member entitled to vote at the meeting;
 - (ii) each Non-voting Member;
 - (iii) each Director and alternate director; and
 - (iv) any auditor.

- (b) The Company may give the notice of a meeting to the persons specified under clause 11.6(a):
 - (i) personally;
 - (ii) by sending it by post to the address in the Register or the alternative address (if any) nominated by the person;
 - (iii) by posting it on a notice board at the Office if the person does not have a registered address;
 - (iv) by sending it to the fax number or electronic address (if any) nominated by the person;
 - (v) by sending it to the person by other electronic means (if any) nominated by the person; or
 - (vi) by notifying the person in accordance with clause 11.6(c).
- (c) If the person entitled to receive notice under clause 11.6(a) nominates:
 - (i) an electronic means (**nominated notification means**) by which the person may be notified that notices of meeting are available; and
 - (ii) an electronic means (**nominated access means**) the person may use to access notices of meeting,

the Company may give the person notice of the meeting by notifying the person (using the nominated notification means) that the notice of meeting is available and how the person may use the nominated access means to access the notice of meeting.
- (d) A notice of meeting is taken to be given at the times specified under clause 31.8.

11.7 Contents of notice of meetings of Voting Members

- (a) A notice of a meeting of the Company's Voting Members must:
 - (i) set out the place, date and time for the meeting and, if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this;
 - (ii) state the general nature of the meeting's business, including the form of any proposed resolution;
 - (iii) in the case of an election of Directors, set out the names of the candidates for election;
 - (iv) if a Special Resolution is to be proposed at the meeting, set out an intention to propose the Special Resolution and state the resolution; and

- (v) if a Voting Member is entitled to appoint a proxy, contain a statement setting out the following information:
 - (A) that the Voting Member has a right to appoint a proxy;
 - (B) whether or not the proxy needs to be a Voting Member;
 - (C) that a Voting Member who is entitled to cast 2 or more votes may appoint 2 proxies and may specify the proportion or number of votes each proxy is appointed to exercise; and
 - (D) the information included in the notice of meeting must be worded and presented in a clear, concise and effective manner.

11.8 Notice of adjourned meetings

When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for 1 month or more.

11.9 Postponed or cancelled general meetings

When a notice of a meeting has been given, the Board may, by notice given to all persons entitled to be given notice of the meeting, postpone or cancel the meeting. Notice under this clause 11.9 can be given in the same manner as set out in clause 11.6.

11.10 Accidental omission or non-receipt of notice

The accidental omission to give notice of a meeting to any person or the non-receipt by any person of notice of the meeting does not invalidate any proceeding at that meeting unless the court, on the application of the person concerned, a person entitled to attend the meeting or ASIC, declares proceedings at the meeting to be void.

12 Voting Members' rights to put resolutions at general meetings

12.1 Voting Members' resolutions

- (a) The following Voting Members may give the Company notice of a resolution that they propose to move at a general meeting:
 - (i) Voting Members with at least 5% of the votes that may be cast on the resolution; or
 - (ii) at least 100 Voting Members (or some different number as may be prescribed by the Regulations) who are entitled to vote at a general meeting.
- (b) The notice must:

- (i) be in writing;
 - (ii) set out the wording of the proposed resolution; and
 - (iii) be signed by the Voting Members proposing to move the resolution.
- (c) Separate copies of a document setting out the notice may be used for signing by the Voting Members if the wording of the notice is identical in each copy.

12.2 Company giving notice of Voting Members' resolutions

- (a) If the Company has been given notice of a resolution under clause 12.1, the resolution is to be considered at the next general meeting that occurs more than 2 months after the notice is given.
- (b) The Company must give all of its Voting Members notice of the resolution at the same time, or as soon as practicable afterwards, and in the same way, as it gives notice of a meeting.
- (c) The Company is responsible for the cost of giving Voting Members notice of the resolution if the Company receives the notice in time to send it out to Voting Members with the notice of meeting.
- (d) The Voting Members requesting the meeting are jointly and individually liable for the expenses reasonably incurred by the Company in giving Voting Members' notice of the resolution if the Company does not receive the Voting Members' notice in time to send it out with the notice of meeting. At a general meeting, the Company may resolve to meet the expenses itself.
- (e) The Company need not give notice of the resolution if:
 - (i) it is more than 1,000 words long or defamatory; or
 - (ii) the Voting Members making the request are to bear the expenses of sending the notice out, unless the Voting Members give the Company a sum reasonably sufficient to meet the expenses that it will reasonably incur in giving the notice.

13 Voting Members' statements to be distributed

13.1 Grounds for statement

Voting Members may request the Company to give to all of its Voting Members a statement provided by the Voting Members making the request about:

- (a) a resolution that is proposed to be moved at a general meeting; or
- (b) any other matter that may be properly considered at a general meeting.

13.2 Who may request

The request must be made by:

- (a) Voting Members with at least 5% of the vote that may be cast on the resolution; or
- (b) at least 100 Voting Members (or a different number as may be prescribed by the Regulations) who are entitled to vote at the meeting.

13.3 How request is to be made

The request must be:

- (a) in writing;
- (b) signed by the Voting Members making the request; and
- (c) given to the Company.

13.4 Copies for signing

Separate copies of a document setting out the request may be used for signing by Voting Members if the wording of the request is identical in each copy.

13.5 Distribution of statement

After receiving the request, the Company must distribute to all of the Company's Voting Members a copy of the statement at the same time, or as soon as practicable afterwards, and in the same way as it gives notice of a general meeting.

13.6 When Company bears cost

The Company is responsible for the cost of making the distribution if the Company receives the statement in time to send it out to Voting Members with the notice of meeting.

13.7 When Voting Members bear cost

The Voting Members making the request are jointly and individually liable for the expenses reasonably incurred by the Company in making the distribution if the Company does not receive the statement in time to send it out with the notice of meeting. At a general meeting, the Company may resolve to meet the expenses itself.

13.8 When company need not comply with request

The Company need not comply with the request if:

- (a) the statement is more than 1,000 words long or defamatory; or
- (b) the Voting Members making the request are responsible for the expenses of the distribution, unless the Voting Members give the Company a sum

reasonably sufficient to meet the expenses that it will reasonably incur in making the distribution.

14 Holding meetings of Voting Members

14.1 Purpose

A meeting of Voting Members must be held for a proper purpose.

14.2 Time and place for meetings of Voting Members

A meeting of Voting Members must be held at a reasonable time and place.

14.3 Technology

The Company may hold a meeting of its Voting Members at 2 or more venues using any technology that gives the Voting Members as a whole a reasonable opportunity to participate.

14.4 Representation of Voting Member

A Voting Member may be present and vote in person at any Voting Members' meeting or may be represented by:

- (a) proxy; or
- (b) an attorney.

14.5 Quorum

- (a) No business may be transacted at any general meeting unless a quorum of Voting Members entitled to vote is present at the time when the meeting proceeds to business. A quorum is constituted by:
 - (i) if there are less than 10 Voting Members, those Voting Members; and
 - (ii) otherwise, 10 Voting Members.
- (b) If within 30 minutes from the time appointed for the meeting, a quorum of Voting Members is not present, the meeting
 - (i) is dissolved if convened on the requisition of Voting Members; or
 - (ii) otherwise, is adjourned to another Business Day, time and place as the Directors decide, and if at the adjourned meeting a quorum of Members is not present within 30 minutes after the time appointed for the meeting:
 - (A) if at least 3 Voting Members are present, those Voting Members will be a quorum; or

- (B) if at least 3 Voting Members are not present, the meeting is dissolved.
- (c) If a person has appointed more than 1 proxy, attorney or representative, only 1 of those proxies, attorneys or representatives is to be counted in deciding whether a quorum of Voting Members is constituted.

14.6 Chairing meetings of Members

- (a) The President will preside as chair at every general meeting. If the President is not present within 15 minutes after the time appointed for the meeting or is unwilling to act, the Deputy President will be chairperson.
- (b) If:
 - (i) neither the President or Deputy President is present within 15 minutes after the time appointed for holding the meeting; or
 - (ii) the President or Deputy President is unwilling to act as chair of the meeting,

the Vice President will be chair.
- (c) If:
 - (i) a Vice President is not present; or
 - (ii) a Vice President is unwilling to act as chair of the meeting,

the Voting Members present may elect a chair.
- (d) The chair must adjourn a meeting of the Voting Members if the Voting Members present with a majority of votes at the meeting agree or direct that the chair do so.
- (e) If there is a dispute at a general meeting about a question of procedure, the chair may determine the question.

14.7 Auditor's right to be heard at Voting Members' meetings

- (a) The Company's auditor is entitled to attend any Voting Members' meeting.
- (b) The auditor is entitled to be heard at the meeting on any part of the business of the meeting that concerns the auditor in their capacity as auditor.
- (c) The auditor is entitled to be heard even if:
 - (i) the auditor retires at the meeting; or
 - (ii) the meeting passes a resolution to remove the auditor from office.

- (d) The auditor may authorise a person in writing as their representative for the purpose of attending and speaking at any Voting Members' meeting.

14.8 Adjourned meetings

- (a) A resolution passed at a Voting Members' meeting resumed after an adjournment is passed on the day it was passed.
- (b) Only unfinished business is to be transacted at a Voting Members' meeting resumed after an adjournment.

14.9 Annual general meetings

- (a) Holding of annual general meetings

The Company must, if required by the Act, hold an annual general meeting.

- (b) Business of annual general meeting

The business of an annual general meeting may include any of the following, even if not referred to in the notice of meeting;

- (i) the consideration of the annual financial report, Directors' report and auditor's report;
 - (ii) the election of Directors;
 - (iii) the appointment of the auditor; or
 - (iv) the fixing of the auditor's remuneration.
- (c) Questions at annual general meetings
 - (i) The chair of an annual general meeting must allow a reasonable opportunity for Voting Members as a whole at the meeting to ask questions about or make comments on the management of the Company.
 - (ii) If the Company's auditor or their representative is at the meeting, the chair of the annual general meeting must allow a reasonable opportunity for the Voting Members as a whole at the meeting to ask the auditor or their representative questions relevant to the conduct of the audit and the preparation and content of the auditor's report.

14.10 Offensive material

A person may be refused admission to, or required to leave and not return to, a general meeting or annual general meeting if the person:

- (a) refuses to permit examination of any article in the person's possession; or
- (b) is in possession of any:

- (i) electronic or recording device;
- (ii) placard or banner; or
- (iii) other article,

which the chair considers to be dangerous, offensive or liable to cause disruption.

15 Voting at Voting Members' meetings

15.1 Simple resolutions

Subject to this constitution and the Act, resolutions of Voting Members are to be decided by a simple majority of votes cast in respect of the relevant resolution.

15.2 How many votes a Voting Member has

At a Voting Members' meeting:

- (a) on a show of hands, each Voting Member has 1 vote;
- (b) on a poll, each Voting Member has 1 vote; and
- (c) the chair of the meeting has a casting vote in addition to any vote the chair has as a Voting Member, proxy, attorney or representative.

15.3 Objections to right to vote at a meeting of the Voting Members

- (a) A challenge to a right to vote at a Voting Members' meeting:
 - (i) may only be made at the meeting or an adjourned meeting; and
 - (ii) must be determined by the chair, whose decision is final.
- (b) A vote which the chair does not disallow because of an objection is valid for all purposes.

15.4 Suspension of voting rights

A Voting Member is not entitled to vote at a general meeting if the Voting Member's annual membership fee is more than 45 Business Days in arrears as at the date of the meeting.

15.5 How voting is carried out

- (a) A resolution put to the vote at a Voting Members' meeting must be decided on a show of hands unless a poll is demanded.
- (b) On a show of hands, a declaration by the chair that a resolution has been passed and an entry in the minutes of the meeting to that effect, is conclusive evidence of the result. Neither the chair nor the minutes need to

state the number or proportion of the votes recorded in favour or against the resolution.

15.6 Matters on which a poll may be demanded

- (a) A poll may be demanded on any resolution.
- (b) Without limiting clause 15.6(a), a poll can be demanded on any resolution concerning:
 - (i) the election of the chair of a meeting, so long as the poll is in accordance with clause 14.6; or
 - (ii) the adjournment of a meeting.
- (c) A demand for a poll may be withdrawn.

15.7 When a poll is effectively demanded

- (a) At a Voting Members' meeting a poll may be demanded by:
 - (i) at least 5 Voting Members entitled to vote on the resolution;
 - (ii) Voting Members with at least 5% of the votes that may be cast on the resolution on a poll; or
 - (iii) the chair.
- (b) The poll may be demanded:
 - (i) before a vote is taken;
 - (ii) before the voting results on a show of hands are declared; or
 - (iii) immediately after the voting results are declared.

15.8 When and how polls must be taken

- (a) A poll demanded on a matter other than the election of a chair or the question of an adjournment must be taken when and in the manner the chair directs.
- (b) A poll on the election of a chair or on the question of an adjournment must be taken immediately.
- (c) The result of the poll will be the resolution of the meeting at which the poll was demanded.
- (d) The chair may determine any dispute about the admission or rejection of a vote.
- (e) The chair's determination, if made in good faith, will be final and conclusive.

- (f) After a poll has been demanded at a meeting, the general meeting may continue for the transaction of business other than the question on which the poll was demanded.

15.9 Personal Representative's right to vote

A Personal Representative of a Voting Member may vote at any Voting Members' meeting in the same manner as if the Personal Representative was the Voting Member if:

- (a) at least 48 hours before the time of holding the meeting (or adjourned meeting), at which the Personal Representative proposes to vote, the Personal Representative has satisfied the Directors of the Personal Representative's entitlement; or
- (b) the Directors have previously admitted the Personal Representative's right to vote at such meeting.

16 Proxies

16.1 Who can appoint a proxy

Each Voting Member who is entitled to attend and vote at a meeting of Voting Members may appoint a person as the Voting Member's proxy to attend and vote for the Voting Member at the meeting.

16.2 Adjourned meeting

A proxy's appointment is also valid at an adjourned general meeting.

16.3 Rights of proxies

A proxy appointed to attend and vote for a Voting Member has the same rights as the Voting Member:

- (a) to speak at the meeting;
- (b) to vote (but only to the extent allowed by the appointment); and
- (c) to join in a demand for a poll.

16.4 Company sending appointment forms or lists of proxies must send to all Voting Members

If the Company sends a Voting Member a proxy appointment form for a meeting or a list of persons willing to act as proxies at a meeting:

- (a) if the Voting Member requested the form or list, the Company must send the form or list to all Voting Members who ask for it and who are entitled to appoint a proxy to attend and vote at the meeting; or

- (b) otherwise, the Company must send the form or list to all its Voting Members entitled to appoint a proxy to attend and vote at the meeting.

16.5 Form of proxy

The instrument appointing a proxy must be in a common or usual form in accordance with the Act.

16.6 Appointing a proxy

- (a) An appointment of a proxy is valid if it is signed, or otherwise authenticated in a manner prescribed by the Corporations Regulations 2001, by the Voting Member making the appointment and contains the following information:
 - (i) the Voting Member's name and address;
 - (ii) the Company's name;
 - (iii) the proxy's name or the name of the office held by the proxy; and
 - (iv) the meetings at which the appointment may be used.

An appointment may be a standing one.

- (b) The chair of the Board may determine in the chair's absolute discretion that a proxy is valid even if it does not contain all of the information referred to in clause 16.6(a).
- (c) An undated appointment is taken to have been dated on the day it is given to the Company.
- (d) An appointment may specify the way the proxy is to vote on a particular resolution. If it does:
 - (i) the proxy need not vote on a show of hands, but if the proxy does so, the proxy must vote that way;
 - (ii) if the proxy has 2 or more appointments that specify different ways to vote on the resolution, the proxy must not vote on a show of hands;
 - (iii) if the proxy is the chair, the proxy must vote on a poll, and must vote that way; and
 - (iv) if the proxy is not the chair, the proxy need not vote on a poll, but if the proxy does so, the proxy must vote that way.
- (e) If a proxy is also a Voting Member, this clause does not affect the way that the person can cast any votes held as a Voting Member.
- (f) An appointment does not have to be witnessed.

- (g) A later appointment revokes an earlier one if both appointments could not be validly exercised at the meeting.

16.7 Proxy documents

- (a) For an appointment of a proxy for a meeting of Voting Members to be effective, the following documents must be received by the Company at least 48 hours before the meeting or taking of the poll (whichever is applicable):
 - (i) the proxy's appointment; and
 - (ii) if the appointment is signed, or otherwise authenticated in a manner prescribed in the Corporations Regulations 2001, by the appointor's attorney, the authority under which the appointment was signed or a certified copy of the authority.
- (b) If a meeting of Members has been adjourned, an appointment and any authority received by the Company at least 48 hours before the resumption of the meeting are effective for the resumed part of the meeting.
- (c) The Company receives a document referred to in clause 16.7(a) when it is received at any of the following:
 - (i) the Office;
 - (ii) a place, a fax number, an electronic address or other electronic means specified for the purpose in the notice of meeting.
- (d) The Company may specify a shorter period than the 48 hours referred to in this clause in the notice of meeting.

16.8 Failure to name proxy

If a proxy appointment is signed by the Voting Member but does not name the proxy or proxies in whose favour it is given, the chair may either cast as proxy or complete the appointment by inserting the name or names of one or more Directors.

16.9 Validity of proxy vote

- (a) A proxy who is not entitled to vote on a resolution as a Voting Member may vote as a proxy for another Voting Member who can vote if the proxy's appointment specifies the way the proxy can vote on the resolution and the proxy votes that way.
- (b) Unless the Company has received written notice of the matter before the start or resumption of the meeting at which a proxy votes, a vote cast by the proxy will be valid even if, before the proxy votes:
 - (i) the appointing Voting Member dies;
 - (ii) the Voting Member is mentally incapacitated;

- (iii) the Voting Member revokes the proxy's appointment; or
- (iv) the Voting Member revokes the authority under which the proxy was appointed by a third party.

17 Divisions

17.1 Divisions

For the purposes of this constitution there will be Divisions which will be:

- (a) the Division of the State of New South Wales and the Australian Capital Territory;
- (b) the Division of the State of Victoria and the State of Tasmania;
- (c) the Division of the State of South Australia and the Northern Territory;
- (d) the Division of the State of Western Australia;
- (e) the Division of the State of Queensland; and
- (f) any other Division as may be prescribed by the Regulations.

17.2 Business of each Division

Subject to the Board's delegation of power under clause 22.6, the business of each Division will be managed by, and vested in its Divisional Committee.

17.3 Divisional Committee

- (a) At all times there will be for each Division referred to in clause 17.1, a Divisional Committee, the members of which will be Voting Members who are ordinarily resident within that Division.
- (b) There must be no less than 5 but not more than 14 members in each Divisional Committee, with the precise number to be determined by the Divisional Committee in its absolute discretion.
- (c) The number of members in each Divisional Committee must include the 3 Divisional Office Bearers.

17.4 Divisional Office Bearers

Each Division will have the following 3 Divisional Office Bearers:

- (a) Divisional Chair;
- (b) Divisional Vice Chair; and
- (c) Divisional Secretary,

appointed from the members of the Divisional Committee at the Divisional Annual Meeting.

17.5 Election of members of the Divisional Committee

- (a) Each year the members of the Divisional Committee will be elected at the Divisional Annual Meeting in the following manner:
 - (i) any 2 Voting Members ordinarily resident within the Division will nominate any other Voting Member ordinarily resident within the Division to serve as a member of the Divisional Committee;
 - (ii) each nomination must be:
 - (A) in writing;
 - (B) signed by the Voting Member nominated;
 - (C) signed by the Voting Member who proposed and the Voting Member who seconded the nomination; and
 - (D) lodged with the Divisional Secretary at least 6 Business Days before the Divisional Annual Meeting in which the election is to take place;
 - (iii) a list of the nominees' names in alphabetical order, with their proposer's and seconder's names, must be made available to the CEO at least 5 Business Days immediately preceding the Divisional Annual Meeting;
 - (iv) balloting lists must be prepared (if necessary) containing the names of the nominees only, in alphabetical order, and each Voting Member ordinarily resident within the Division and present at the Divisional Annual Meeting will be entitled to vote for any number of such nominees, but not exceeding the number of vacancies;
 - (v) if there is an insufficient number of nominees nominated, the Divisional Committee for the Division may fill any vacancy or vacancies by appointing a Voting Member ordinarily resident within the Division.
- (b) Each elected member of the Divisional Committee will hold office until the next Divisional Annual Meeting, but will be eligible for re-election.
- (c) To maintain standards of fitness and propriety to hold office, members of Divisional Committees must:
 - (i) have not been found guilty by any regulatory body or court of misconduct or negligence in the conduct of his/her professional activities;
 - (ii) have not in the last 10 years been the subject of an order by any regulatory body disqualifying him/her from acting in the accounting

profession or an equivalent occupation under the jurisdiction of the regulatory body;

- (iii) have not in the last 10 years been declared bankrupt or had his/her estate assigned for the benefit of creditors;
- (iv) not have, nor can envisage having in the near future, a conflict of interest with the activities of ARITA or any of the its foundation bodies;
- (v) not within the last 10 years been convicted of or had proven against him or her any offence involving fraud, dishonesty, sexual assault or violence which was punishable by imprisonment for 3 months or more.

17.6 Filling of casual vacancies

- (a) A Divisional Committee will have power from time to time to appoint any Voting Member ordinarily resident within the Division to the Divisional Committee for that Division to fill a casual vacancy amongst members of the Divisional Committee or in Divisional Office Bearers.
- (b) Any Divisional Office Bearer of the Division or member of that Divisional Committee so appointed will hold office until the next Divisional Annual Meeting.

17.7 Vacation of office by Divisional Office Bearer or member of the Divisional Committee

The office of a Divisional Office Bearer or of a member of a Divisional Committee will become vacant if the member:

- (a) becomes bankrupt or has signed an authority authorising a Registered Trustee to call a meeting of the member's creditors and to take over the control of the member's property, or authorising the member's solicitors to call a meeting of creditors, or the member has executed a debt agreement or personal insolvency agreement in accordance with the Bankruptcy Act 1966 (Cth);
- (b) becomes prohibited from being a director of a company by reason of any order made under the Act;
- (c) under legislation relating to mental health, is certified, declared or found to be mentally ill or in need of treatment or care and control or incapable of managing their own affairs or is admitted to, and remains in, a hospital or other institution for the treatment of mental illness or a guardian is appointed to the member or a trustee or administrator is appointed to the member's estate;
- (d) resigns from his or her office by notice in writing to the Divisional Secretary;
- (e) is removed by resolution of the Company;

- (f) for more than 6 months, is absent without permission of the Divisional Committee from meetings of the Divisional Committee held during that period;
- (g) holds any office of profit under the Company except a Divisional Secretary appointed under Clause 17.4;
- (h) ceases to be a Member;
- (i) ceases to be ordinarily resident in the Division; or
- (j) is directly or indirectly interested in any contract, or proposed contract with the Company, except where the member makes a declaration of interest to the Company.

17.8 Removal or suspension of Divisional Committee member or Divisional Office Bearer

- (a) If the conduct or position of any member of the Divisional Committee is such that continuance in office appears to the majority of the members of the Divisional Committee to be prejudicial to the interests of the Company, a majority of the members of the Divisional Committee at a meeting of the members of the Divisional Committee specifically called for that purpose may remove or suspend that member of the Divisional Committee.
- (b) If a member of the Divisional Committee has his or her membership suspended or cancelled, his or her appointment to the Divisional Committee will be automatically suspended for the same period, or he or she will be automatically removed from the Divisional Committee, as the case may be.
- (c) A vacancy created by a member of the Divisional Committee's removal will be deemed to be a casual vacancy and will be filled in accordance with this constitution.

17.9 Powers, duties and functions of the Divisional Committee

In addition to the powers, duties and functions imposed upon each Divisional Committee by this constitution, each Divisional Committee will have the following powers and duties:

- (a) to appoint:
 - (i) the Divisional Office Bearers; and
 - (ii) a Director or Directors of the Board as required under clause 20, each of whom will be a member of the Divisional Committee,and to remove such appointees at its discretion;
- (b) to cause minutes to be made of all general meetings of the Division and meetings of the Divisional Committee;

- (c) to supply to the Board, or to such other persons as the Board may nominate, such information and reports concerning the affairs of the Division as the Board may require from time to time;
- (d) to ensure at all times that the activities of the Division are consistent with the constitution of the Company;
- (e) to vest in the Divisional Chair such powers and authorities as it may from time to time determine and the Divisional Secretary must exercise all such powers and authorities subject at all times to the control of the Divisional Committee; and
- (f) to meet regularly and at such times and places as may be determined from time to time by it, or, in the absence of any such determination, at such times and places as the Divisional Secretary, on the instructions of the Divisional Chair, or on the requisition of 3 members of the Divisional Committee, will notify to members.

17.10 Payments to members of the Divisional Committee

No payment will be made to any member of the Divisional Committee other than payment:

- (a) of out of pocket expenses incurred by the member of the Divisional Committee in the performance of any duty as a Divisional Committee member where the amount payable is approved by the CEO;
- (b) for any service rendered to the Company by the Divisional Committee member in a professional or technical capacity, other than in the capacity as Divisional Committee member, where the provision of the service has the prior approval of the CEO and where the amount payable is approved by the CEO and is not more than an amount which commercially would be reasonable payment for the service, such payments to be ratified by the Board;
- (c) of any salary or wage due to the Divisional Committee member as an employee or contractor of the Company where the terms of employment have been approved by the CEO.

17.11 Contracts, agreements and expenses

No Divisional Committee or member of a Divisional Committee may:

- (a) incur a liability or enter into a contract or agreement on behalf of the Company or Division; or
- (b) commit to an expenditure on behalf of the Company or Division.

18 General meetings of Divisions

- (a) Each member ordinarily resident in the Division will have 1 vote.
- (b) The provisions of clauses 14.1 to 14.10 inclusive, as well as clauses 11 and 15, will apply to each meeting of each Divisional Committee with such necessary adaptation as the circumstances require and it will be the duty of each Division to comply so far as is practicable with the provisions of those clauses as adopted. Those necessary adaptations will include provisions that:
 - (i) any 4 members of the Divisional Committee may, whenever they think fit, call and arrange to be held a general meeting of the Division; and
 - (ii) the quorum for a general meeting of a Division will be 5 members ordinarily resident in the Division present in person.
- (c) Each Division must hold a Divisional Annual Meeting not more than 50 Business Days and not less than 20 Business Days before the Company's annual general meeting.

19 Divisional Committee meetings

19.1 Right to vote

- (a) Each member of a Divisional Committee will have one vote.
- (b) The Divisional Chair, in the event of there being an equality of votes, will also have a casting vote.
- (c) If a Divisional Chair is not presiding at a meeting or is absent and there is an equality of votes, the person presiding will also have a casting vote.

19.2 Notice of Divisional Committee meetings

- (a) Members of the Divisional Committee must be given 10 Business Days notice of any meeting specifying the time, place and general nature of the business of such meeting.
- (b) Where the Divisional Chair considers that an emergency exists, the Divisional Chair may take such steps as the Divisional Chair considers necessary to notify members of the Divisional Committee of the proposed meeting notwithstanding that 10 Business Days notice may not have been given.

19.3 Quorum

A quorum at a meeting of a Divisional Committee will be 4 members of such Divisional Committee, unless the Divisional Committee's total membership is less than 6 members, in which case a quorum at a meeting shall be no less than 50%.

19.4 Chair of Divisional Committee meetings

- (a) At a meeting of a Divisional Committee, the Divisional Chair will preside as chair unless unwilling to act or is absent.
- (b) If the Divisional Chair is unwilling to act or is absent, the Divisional Vice Chair will preside.
- (c) If both are unwilling to act or are absent, then, after 15 minutes have elapsed after the time appointed for the meeting, the members of the Divisional Committee present, provided that constitute a quorum, may elect one of their number as chair of the meeting.

20 The Board

20.1 The Board of Directors

Subject to clauses 20.2 and to maintaining at all times the standards outlined in clause 17.5(c), the Board will consist of the following:

- (a) the CEO;
- (b) 3 Directors nominated by the Divisional Committee of the State of New South Wales and the Australian Capital Territory;
- (c) 2 Directors nominated by the Divisional Committee of the State of Victoria and the State of Tasmania;
- (d) 1 Director nominated by the Divisional Committee of the State of Queensland;
- (e) 1 Director nominated by the Divisional Committee of the State of South Australia and the Northern Territory;
- (f) 1 Director nominated by the Divisional Committee of the State of Western Australia;
- (g) 1 Director nominated by CAANZ who is a member of CAANZ and approved by the Board; and
- (h) 1 Director nominated by CPA who is a member of CPA and approved by the Board.

of which at least 2 must be ordinarily resident in Australia and all of whom, other than CEO, must be a Voting Member.

20.2 Appointment of additional Director by the Board

- (a) At any time the Board may, in its absolute discretion, appoint a person or persons (who may or may not be Members) to be a Director as long as that Director maintains the standards outlined in clause 17.5(c).
- (b) A Director appointed under clause 20.2(a) will hold office during the period from the time of the Director's appointment until the conclusion of the next annual general meeting after the Director's appointment.
- (c) A Director who is appointed under clause 20.2(a) and who ceases to hold office under clause 20.2(b) at an annual general meeting may be reappointed by the Board under clause 20.2(a) immediately after the annual general meeting.

20.3 Term of office

A Director will only hold office during the period from the time of the annual general meeting immediately following their appointment until the next annual general meeting.

20.4 Vacancy

- (a) Casual vacancy of Directors appointed by any Division

If, at any time, there is a casual vacancy on the Board in respect of the Director or Directors of the Board appointed for any Division, the Divisional Committee for that Division will:

- (i) appoint a Voting Member who is ordinarily resident in that Division to fill the casual vacancy; and
- (ii) give written notice to the CEO of the name of the Voting Member appointed.

The Voting Member so appointed will hold office as a member of the Board until the next annual general meeting.

- (b) Casual vacancy of Directors nominated by CAANZ or CPA

If, at any time, there is a casual vacancy on the Board in respect of the Directors of the Board nominated by CAANZ or CPA, CAANZ or CPA as the case requires may:

- (i) nominate a member of CAANZ or CPA respectively to fill the casual vacancy; and
- (ii) give written notice to the CEO of the name of the member so nominated.

The member of CAANZ or CPA so nominated and subsequently accepted by the Board will hold office as a member of the Board until the next annual general meeting.

21 The Executive

21.1 Composition of the Executive and appointment of Office Bearers

- (a) The Board must, from amongst its own members appoint by ordinary resolution the following Office Bearers to form the Executive of the Company:
 - (i) President;
 - (ii) Deputy President;
 - (iii) no more than 2 Vice Presidents; and
 - (iv) the CEO.
- (b) Each Office Bearer will hold office during the period from the time of the annual general meeting at which the Office Bearer was appointed until the next annual general meeting
- (c) If at any time, there is a vacancy in any of the offices of President, Deputy President or Vice President, then the Board must act as soon as practicable to elect a replacement.

21.2 Powers of the Executive

- (a) The Executive may exercise all of the powers (not being duties imposed on the Board by the Act or the general law) which the Board has, from time to time, delegated to it.
- (b) The exercise by the Executive of the powers delegated to it will be subject always to the control and regulation of the Board.

21.3 Executive meetings

- (a) The Executive may meet and adjourn as it thinks fit and it may conduct meetings by telephone conference.
- (b) Questions at any meeting will be determined by a majority of the votes of the members of the Executive who participate in such meeting.
- (c) In the case of an equality of votes, the chair of the meeting will have a second or casting vote.

21.4 Past President

For a period of two years after his or her retirement under clause 23.3, a President will become a Non-voting Member and will act as an advisor to the Board and the Executive and will, subject to an invitation from the President, be entitled to attend Board and Executive meetings and receive all information that Directors receive but will not have any right to vote on decisions of the Board.

22 Powers of the Board

22.1 General powers and Business of the Company

The business of the Company is to be managed by or under the direction of the Directors, who may exercise all the powers of the Company except any powers that are required by this constitution or by the Act to be exercised by the Company in general meeting. No resolution made by the Company in a general meeting invalidates any prior act of the Directors which would have been valid if the resolution had not been made.

22.2 Specific powers

Without limiting the generality of clause 22.1, the Board may:

- (a) borrow money;
- (b) mortgage or charge any property or business of the Company;
- (c) issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person; and
- (d) guarantee or to become liable for the payment of money or the performance of any obligation by or of any other person.

22.3 Power to make Regulations

- (a) A majority of not less than 75% of Directors may prescribe, amend or repeal Regulations of the Company, pursuant to this constitution.
- (b) Any Regulations made by the Board must not be inconsistent with the constitution or the Act.
- (c) Any Regulation may be disallowed by a majority of not less than 50% of the Voting Members of the Company in a general meeting.
- (d) A Regulation cannot invalidate any prior act of the Board which would have been valid if that Regulation had not been passed or made.
- (e) Any act or omission undertaken pursuant to a Regulation made by the Board from time to time shall not be invalid by virtue of the Regulation subsequently being disallowed pursuant to clause 22.3(c).

22.4 Power to make Code of Professional Practice

The Board will from time to time:

- (a) issue a Code of Professional Practice which will form part of the Regulations; and
- (b) issue such other practice guidance as may be decided which will form part of the Regulations.

22.5 Power to establish committees and working parties

- (a) The Board may authorise the appointment of one or more committees or working parties as the Board from time to time determines.
- (b) Each committee or working party will comprise such persons (who may or may not be Members) as the Board determines, but at all times must include a Director.

22.6 Delegation of Board powers

- (a) The Board may delegate any of its powers to the CEO, a committee or working party established under clause 22.5 (not being duties imposed on the Board by the Act or the general law) other than powers relating to the financial affairs of the Company.
- (b) The delegate must exercise the powers delegated in accordance with any directions of the Board.
- (c) The exercise of the power by the delegate is as effective as if the Board had exercised it.
- (d) The meetings and proceedings of a committee or working party must be carried out in accordance with the provisions in this constitution relating to the meetings and proceedings of the Board, subject to any necessary changes and any directions made by the Board.
- (e) If the Board delegates a power under clause 22.6(a), a Director is responsible for the exercise of the power by the delegate as if the power had been exercised by the Board itself unless exonerated under section 190(2) of the Act.
- (f) The Board may at any time revoke or vary any delegation under this clause 22.6.

23 Directors

23.1 Number of Directors

The Company must have at least 3 Directors (not counting alternate Directors) of which at least 2 must be ordinarily resident in Australia.

23.2 Appointment and removal of Directors

- (a) Each year, the Divisional Committee for each Division will appoint the number of Directors provided for in clause 20.1 and will give written notice to the CEO of the name or names of the Directors not less than 10 Business Days before the annual general meeting at which the Directors are to be appointed.

- (b) Each year CAANZ and CPA will nominate for approval by the Board the Directors provided for in clause 20.1 and will give written notice to the CEO of the names of the Directors not less than 10 Business Days before the annual general meeting at which the Directors are to be appointed.
- (c) Under clause 20.2 and subject to clause 17.5(c), the Board may appoint any additional Directors in its absolute discretion.
- (d) If the conduct or position of any Director is such that continuance in office appears to the majority of the Directors to be prejudicial to the interests of the Company, a majority of Directors at a meeting of the Board specifically called for that purpose may remove or suspend that Director.
- (e) If a Director who is also a Member of the Company has his or her Membership suspended or cancelled, his or her appointment to the Board will automatically be suspended for the same period, or he or she will be automatically removed from the Board, as the case may be.
- (f) Unless a director is appointed under clause 23.2 (c), a vacancy created by a Director's removal will be deemed to be a casual vacancy and will be filled in accordance with this constitution.
- (g) The Company may by resolution remove a Director from office despite anything in this constitution, any agreement between the Company and the Director or any agreement between any or all Members and the Director.
- (h) A resolution passed by the Company in a general meeting appointing or confirming the appointment of 2 or more Directors is void unless:
 - (i) a resolution is passed that the appointment or confirmation may be voted on together; and
 - (ii) no votes are cast against the resolution.

23.3 Term and Retirement

- (a) All Directors and Office Bearers must retire from office at the conclusion of the first annual general meeting after the date upon which the Director or Office Bearer was last elected.
- (b) A retiring Director will be eligible for re-election.
- (c) An Office Bearer will be eligible for re-election provided that:
 - (i) the maximum number of terms which the President may hold office is 2 terms (and provided further that such period of office does not extend beyond 2 years in total);
 - (ii) the maximum number of terms which the Deputy President may hold office is 2 terms (and provided further that such period of office does not extend beyond 2 years in total);

- (d) Upon retirement of the President, the Board may resolve to nominate the Deputy President for appointment to the office of President or, if the Deputy President declines the role, one of the Vice Presidents.
- (e) The Board may resolve to vary the commencement or expiry of the term of an Office Bearer provided that any variation does not exceed the maximum length of the term as otherwise prescribed by this constitution.
- (f) When a Director of the Board retires at a general meeting, the Division which appointed the retiring member may nominate a person to fill the vacated office subject to the Board's approval.

23.4 Interests of Directors

- (a) Subject to clause 23.5, a Director may not hold any office or position of profit under the Company or under any company promoted by the Company or in which the Company is a shareholder or otherwise interested.
- (b) Notwithstanding any rule of law or equity to the contrary, a Director may contract, transact or enter into an arrangement with the Company and no such contract, transaction or arrangement entered into by or on behalf of the Company or any other contract, transaction or arrangement in which a Director is in any way interested, is avoided or rendered voidable because of that person being a Director.
- (c) A Director who has a material personal interest in a matter that relates to the affairs of the Company must give the other Directors notice of the interest unless section 191(2) of the Act says otherwise.
- (d) A Director who has a material personal interest in a matter that is being considered at a Directors' meeting must not:
 - (i) be present while the matter is being considered at the meeting; or
 - (ii) vote on the matter,unless,
 - (iii) subclauses 23.4(e), 23.4(f) or 23.4(g) allow the Director to be present; or
 - (iv) the interest does not need to be disclosed under section 192 of the Act.
- (e) The Director may be present and vote if Directors who do not have a material personal interest in the matter have passed a resolution that:
 - (i) identifies the Director, the nature and extent of the Director's interest in the matter and its relation to the affairs of the Company; and
 - (ii) states that those Directors are satisfied that the interest should not disqualify the Director from voting or being present.

- (f) The Director may be present and vote if so entitled under a declaration or order made by ASIC under section 196 of the Act.
- (g) If there are not enough Directors to form a quorum for a Directors' meeting because of subclauses 23.4(i)23.4(c) or 23.4(d), two or more of the Directors (including those who have a material personal interest in that matter) may call a general meeting and the general meeting may pass a resolution to deal with the matter.

23.5 Remuneration of Directors

No payment will be made to any Director of the Company other than payment:

- (a) of out of pocket expenses incurred by the Director in the performance of any duty as Director of the Company where the amount payable does not exceed an amount previously approved by the Directors of the Company;
- (b) for any service rendered to the Company by the Director in a professional or technical capacity, other than in the capacity as Director, where:
 - (i) the provision of the service has the prior approval of the Directors of the Company; and
 - (ii) the amount payable is approved by the Directors of the Company and is not more than an amount which commercially would be reasonable payment for the service;
- (c) of any salary or wage due to the Director as an employee of the Company where the terms of employment have been approved by the Directors of the Company; and
- (d) relating to an indemnity in favour of the Director and permitted by section 199A of the Act or a contract of insurance permitted by section 199B.

23.6 Payment of honorarium to the President

Subject to the Board's discretion and approval, the President may receive a special honorarium, provided that:

- (i) such an honorarium shall not exceed \$10,000 per annum, as adjusted for inflation from time to time by resolution of the Board; and
- (ii) if, as a condition of the President's employment, or as a condition of a practice entity agreement to which the President is a signatory, the President is not permitted to receive fees from the Company personally, an honorarium may be paid by the Company to the President's employer, Member's Firm or to a practice entity with which the President is closely associated.

23.7 Vacation of office of Director

The office of a Director automatically becomes vacant if the Director:

- (a) resigns by giving written notice to the Company at its Office;
- (b) is removed pursuant to the provisions of section 203D of the Act;
- (c) is removed from office in accordance with this constitution or the Act;
- (d) is disqualified from managing corporations under Part 2D.6 of the Act;
- (e) under any legislation relating to mental health, is certified, declared or found to be mentally ill or in need of treatment or care and control or incapable of managing his or her own affairs or is admitted to, and remains in a hospital or other institute for the treatment of mental illness, or a guardian is appointed to the member or a trustee or administrator is appointed to his or her estate;
- (f) is or becomes an 'insolvent under administration' as defined in the Act or the Member has a trustee in bankruptcy appointed or has executed a debt agreement or a personal insolvency agreement as defined in the Bankruptcy Act 1966 (Cth);
- (g) for more than 6 months, is absent without permission of the Board from meetings of the Directors held during that period;
- (h) ceases to be a Member, save that this provision will not apply to the CEO or
- (i) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of the interest as required by the Act.

23.8 Financial benefits

The Company must not provide financial benefits to a Director except as permitted by, and in accordance with, the provisions of the Act and this constitution.

23.9 Defect in appointment

Notwithstanding that it is afterwards discovered that there was some defect in the appointment of a person to be a Director, or a member of a committee, or to act as a Director, or that a person so appointed was disqualified, all acts done by any meeting of the Directors or of a committee of Directors or by any person acting as a Director are valid as if the person had been duly appointed and was qualified to be a Director or to be a member of the committee.

23.10 Appointing Division

Each Director is expressly authorised to act in the best interests of its appointing Division.

24 Powers and discretions of Directors

24.1 Appointment of attorneys

- (a) The Directors may by power of attorney appoint any company, firm, person or body of persons, whether nominated directly or indirectly by the Directors, to be the attorney or attorneys of the Company for such purposes, with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors), for the period and subject to the conditions the Directors think fit.
- (b) An attorney appointed under this clause 24.1 may be authorised by the Board to delegate all or any of the powers, authorities and discretions for the time being vested in it.

24.2 Directors may execute security over the assets of the Company

If the Directors or any of them or any other person becomes personally liable for the payment of any sum primarily due from the Company, the Directors may execute or cause to be executed any mortgage, charge or security over or affecting the whole or any part of the assets of the Company by way of indemnity to secure the Directors or persons so becoming liable from any loss in respect of such liability.

24.3 Negotiable instruments

All cheques, bills of exchange, promissory notes and other negotiable instruments will be signed, drawn, accepted, made or endorsed as the case may be for and on behalf of the Company in such manner as the Directors may from time to time determine.

24.4 Directors' discretion

Unless otherwise provided, if the Directors are given a power or discretion under this constitution, then subject to law they may exercise the power or discretion in any manner that they, in their absolute discretion, decide.

24.5 Delegation of Directors' powers

- (a) The Directors may delegate any of their powers to:
 - (i) a committee of Directors;
 - (ii) a Director;
 - (iii) an employee of the Company; or
 - (iv) any other person.
- (b) The delegate must exercise the powers delegated in accordance with any directions of the Directors.
- (c) The exercise of the power by the delegate is as effective as if the Directors had exercised it.

- (d) The meetings and proceedings of a committee must be carried out in accordance with the provisions in this constitution relating to the meetings and proceedings of Directors, subject to any necessary changes and any directions made by the Directors.
- (e) If the Directors delegate a power under clause 24.5(a), the Directors are responsible for the exercise of the power by the delegate as if the power had been exercised by the Directors themselves unless exonerated under section 190(2) of the Act.

25 Directors' resolutions and meetings of the Board

25.1 Circulating resolutions

- (a) The Directors may pass a resolution without a meeting of the Board being held if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- (c) The resolution is passed when the last Director signs.

25.2 Calling Directors' meetings

- (a) Any 4 Directors may at any time, and the Company Secretary must on the request of any 4 Directors, call a meeting of the Board.
- (b) Subject to clause 25.2(c), notice of the meeting must be given individually to each Director at least 48 hours before the meeting, unless the meeting is being called to consider a matter requiring the approval of not less than 75% of the Board in which case 21 Business Days written notice is required.
- (c) It is not necessary to give notice of a meeting of the Board to a Director whom the Company Secretary reasonably believes to be outside Australia.

25.3 Use of technology

A Directors' meeting may be called or held by any technology consented to by all the Directors. The consent may be a standing one. A Director may only withdraw their consent within a reasonable period before the meeting.

25.4 Chairing Directors' meetings

- (a) The President must preside as chair at every Board meeting.
- (b) If there is no President, or if at any meeting the President is not present within 10 minutes after the time appointed for holding the meeting, the Deputy President will be chair.

- (c) If the Deputy President is not present the Vice President will be chair, or if the Vice President is not present at the meeting then the Directors may choose one of their number to be chair of the meeting.

25.5 Quorum at Directors' meetings

- (a) A quorum for a meeting of the Board is constituted by 5 Directors or such other number determined by the Board.
- (b) The quorum must be present at all times during the meeting.
- (c) Where a quorum cannot be established, the Board may:
 - (i) appoint a Director to the Board who will hold office until the Divisional Committee or Division in which he or she resides fills the casual vacancy from its Division; or
 - (ii) call a general meeting of the Voting Members to deal with the matter.

25.6 Passing of Directors' resolutions

- (a) Resolutions of the Directors must be passed by a majority of votes cast by Directors entitled to vote on the resolution.
- (b) Each Director present at a Board meeting has 1 vote on each resolution of the Board upon which it is entitled to vote.
- (c) Subject to clause 25.6(a), in the case of an equality of votes, the chair has a second or casting vote.
- (d) If the chairperson is the President by virtue of clause 25.4 and an additional Director has been appointed under clause 20.2(a), the President and any alternate for the President will cease to have a second or casting vote in the case of equality of votes, for the duration of that Director's appointment.

26 Alternate directors

26.1 Appointment

The Divisional Committee which appointed a Director under clause 23.2 may, at a meeting of the Divisional Committee, appoint an alternate director to exercise some or all of the Director's powers for a specified period.

26.2 Notice of Directors' meetings

If the appointing Divisional Committee requests the Company to give the alternate director notice of Directors' meetings, the Company must give reasonable notice to the alternate director.

26.3 Exercise of powers by alternate director

The exercise of a Director's power by an alternate director has the same effect as would the exercise of the power by the Director.

26.4 Termination of appointment

The appointing Director may terminate the alternate director's appointment at any time.

26.5 Procedures for appointment and termination

An appointment or termination of the alternate director must be in writing. A copy must be given to the Company Secretary at the Office.

26.6 Automatic vacation of office

The appointment of an alternate director terminates:

- (a) if the appointing Divisional Committee terminates it; or
- (b) automatically if the appointing Director ceases to be a Director.

26.7 Entitlements

An alternate director is entitled to be paid the expenses payable to a Director for acting as a Director provided for in this constitution but is not entitled to receive Directors' fees.

27 Company Secretary

27.1 Requirement for Company Secretary

The Company must have at least 1 Company Secretary. At least 1 of them must ordinarily reside in Australia.

27.2 Appointment of Company Secretary

The Company Secretary must be appointed by the Directors.

27.3 Natural person not a minor as Company Secretary

Only an individual who is at least 18 may be appointed as a Company Secretary.

27.4 Defect in appointment

Notwithstanding that it is afterwards discovered that there was some defect in the appointment of a person as a Company Secretary, an act done by the person as Company Secretary is valid as if the person had been duly appointed and was qualified to be a Company Secretary.

27.5 Acting Company Secretary

- (a) If there is no Company Secretary, or no Company Secretary is capable of acting, any act or thing required or authorised to be done by or in relation to the Company Secretary may be done by or in relation to any assistant or deputy Company Secretary.
- (b) If there is no assistant or deputy Company Secretary, or no assistant or deputy Company Secretary is capable of acting, by or in relation to any act or thing required or authorised to be done by, or in relation to, the Company Secretary, an officer of the Company may be authorised by the Directors to act as Company Secretary, either generally or in relation to the doing of that act or thing.

27.6 Terms and conditions of office of Company Secretary

- (a) A Company Secretary holds office on the terms and conditions (including as to remuneration) that the Directors determine.
- (b) The Directors may vary, terminate or suspend any appointment of a person as a Company Secretary.
- (c) The Company Secretary is not required to be a Member of the Company.
- (d) Nothing in this constitution shall be taken to prevent the Board from appointing the Company Secretary to act also as a Director of the Company.

27.7 Right to attend meetings

The Company Secretary is entitled to attend and be heard on any matter at all meetings of the Board, general meetings and Divisional Committee meetings, but will not have any right to vote at meetings of the Board or to perform any of the functions of a Director of the Company unless he or she is also appointed as a Director of the Company in accordance with this constitution.

28 Accounts & audit

28.1 Company's accounts

- (a) The Directors must appoint an auditor of the Company if an auditor has not been appointed by the Company in general meeting within 1 month after the day on which the Company was incorporated.
- (b) The appointment, removal, remuneration, functions, rights, duties and liabilities of the auditor are to be regulated by and be subject to the provisions of the Act.

- (c) The Board must cause the Company to keep written financial records in relation to the Company, and must cause the financial records to be audited.
- (d) The Board must cause to be prepared and laid before each annual general meeting a balance sheet and profit and loss statement relating to a period ending not more than 5 months before the date of the meeting.
- (e) The Board may determine whether and to what extent, and at what times and places, and under what conditions or regulations, the financial records of the Company, or any of them, are to be opened to the inspection of Voting Members not being Directors, and no Voting Member (not being a Director) has any right to inspect any financial record of the Company, except as conferred by statute or authorised by the Directors.

29 Minutes

29.1 Company must keep minute books

The Company must keep minute books in which it records within 1 month:

- (a) proceedings and resolutions of meetings of the Voting Members;
- (b) proceedings and resolutions of Directors' meetings (including meetings of a sub-committee);
- (c) resolutions passed by Voting Members without a meeting;
- (d) resolutions passed by Directors without a meeting; and
- (e) disclosures of interests made under this constitution.

29.2 Minutes to be signed

The Company must ensure that minutes of a meeting are signed within a reasonable time after the meeting by either:

- (a) the chair of the meeting; or
- (b) the chair of the next meeting.

29.3 Resolution without meeting

The Company must ensure that minutes of the passing of a resolution without a meeting are signed by a Director within a reasonable time after the resolution is passed.

29.4 Location of minute books

The Company must keep the minute books of the Company at:

- (a) the Office;
- (b) the Company's principal place of business in Australia; or
- (c) another place approved by ASIC.

29.5 Inspection by Members

The Company must ensure that the minute books for the meetings of its Voting Members and for resolutions of Voting Members passed without meetings are open for inspection by Voting Members free of charge.

29.6 Requests by Members

- (a) A Member may ask the Company in writing for a copy of:
 - (i) any minutes of a meeting of the Members or an extract of the minutes; or
 - (ii) any minutes of a resolution passed by Members without a meeting.
- (b) If the Company does not require the Member to pay for the copy, the Company must send it within:
 - (i) 10 Business Days after the Member asks for it; or
 - (ii) any longer period that ASIC approves.
- (c) If the Company requires payment for the copy, the Company must send it within:
 - (i) 10 Business Days after the Company receives the payment; or
 - (ii) any longer period that ASIC approves.

30 Inspection of books

The Directors may but are not required to authorise a Member to inspect books of the Company.

31 Notices

31.1 Requirements

Any notice or other communication required to be given by this constitution must be in writing.

31.2 Notice to Personal Representative

Any notice given to a Member in accordance with this constitution is to be treated as validly given to each Personal Representative entitled to be registered in respect of the Membership, and to all persons who claim through such person, notwithstanding that the Membership in respect of which the notice is given is then subject to any clause relating to Personal Representatives.

31.3 When notice is given

Where a specified period (including a particular number of days) must elapse or expire from or after the giving of a notice before an action may be taken, neither the day on which the notice is given nor the day on which the action is to be taken may be counted in calculating the period.

31.4 Notice by Members of address for service

Each Member must notify the Company in writing of as many as possible of the following addresses for the purpose of notices:

- (a) postal address;
- (b) email address; and
- (c) fax number.

These addresses and details must be recorded in the Register.

31.5 How notices are given to Members

Subject to the Act and this constitution, the Company may give notice to a Member:

- (a) by serving it on the Member personally;
- (b) by post or delivery to the postal address of the Member as recorded in the Register;
- (c) by sending it to the fax or email address of the Member as recorded in the Register; or
- (d) by any other means consented to by the Member.

31.6 How notices are given to the Company

Notices are to be given to the Company by post or delivery to the registered office of the Company.

31.7 When notices are taken to be given

- (a) A notice sent by post is taken to be given 2 Business Days after it is posted.

- (b) A notice sent by fax is taken to be given on the day on which the sender obtains machine acknowledgment of successful transmission.
- (c) A notice sent by email is taken to be given when the email is sent, unless the sender has been notified, by a system or person involved in the delivery of the email to the addressee, that the email has not been successfully delivered.

31.8 Notice to Members' attorney

A Member may, by written notice to the Company, request that all notices to be given by the Company or the Directors to the Member be served on the Member's attorney at an address specified in the notice.

32 Liability of Members

- (a) The liability of the Members of the Company is limited to the amount agreed as the guarantee.
- (b) The guarantee is \$100.00 for each Member.

33 Winding up

33.1 Member contribution to assets

If the Company is wound up during the time of a Member's membership or within 1 year afterwards, each Member undertakes to contribute to the assets of the Company for payment of:

- (a) debts and liabilities of the Company contracted before the Member's membership ceases;
- (b) costs, charges and expenses of the winding up of the Company; and
- (c) adjustment of the rights of the contributories amongst themselves,

such amount as may be required but not exceeding \$100.00.

33.2 No distribution of remaining property

If upon the winding up or dissolution of the Company, there remains after the satisfaction of all its debts and liabilities any property whatsoever, that property must not be paid or distributed among the Members of the Company.

33.3 Remaining property to be applied to particular institutions

All remaining property of the Company under clause 33.2 must be paid and applied by the Company to any entity or organisation which, by its constitution:

- (a) has objects similar to the objects of the Company;
- (b) is required to apply its profits or other income in promoting its objects; and
- (c) is prohibited from making any distribution to its members or paying fees to its directors.

33.4 Voting Members to select institution

The Voting Members must before or at the time of dissolution or winding up of the Company select the institution or institutions to which property will be transferred under clause 33.3.

33.5 Institution chosen by independent third person

If after the dissolution or winding up of the Company the Members of the Company have not made a selection under clause 33.4, the selection will be determined by the Chief Judge of the Equity Division of the Supreme Court of New South Wales or such other judge of that court as may handle or acquire jurisdiction in the matter.

33.6 Remaining property for charitable purpose

If effect cannot be given to clauses 33.3 to 33.5 the property under clause 33.2 must be given to a charitable purpose.

34 Indemnity

34.1 Interpretation

For the avoidance of doubt, this clause 34 relates to:

- (a) a Director;
- (b) a Company Secretary;
- (c) an executive director;
- (d) an executive officer;
- (e) a Divisional Committee member; and
- (f) a Divisional Secretary,

of the Company or its related bodies corporate.

34.2 Indemnity against proceedings

Subject to clause 34.6, any person referred to under clause 34.1 is indemnified, to the maximum extent permitted by Law, out of the property of the Company against any liabilities for costs and expenses incurred by that person:

- (a) in defending any proceedings relating to that person's position with the Company, whether civil or criminal, in which judgment is given in that person's favour or in which that person is acquitted or which are withdrawn before judgment; or
- (b) in connection with any application in relation to any proceedings relating to that person's position with the Company, whether civil or criminal, in which relief is granted to that person under the Act by the court.

34.3 Indemnity against liabilities

Subject to clause 34.6, every person who is or has ever been an officer under clause 34.1 is indemnified, to the maximum extent permitted by Law, out of the property of the Company against any liability incurred by the person whilst operating in that capacity unless the liability arises out of conduct involving a lack of good faith.

34.4 Insuring officers of the company

The Company may pay a premium for a contract insuring a person who is or has been an officer under clause 34.1 against:

- (a) any liability incurred by that person in that capacity which does not arise out of conduct involving a wilful breach of duty in relation to the Company or a contravention of section 182 or 183 of the Act; and
- (b) any liability for costs and expenses incurred by that person in defending proceedings relating to that person's position with the Company, whether civil or criminal and whatever the outcome.

34.5 Company may make separate contracts and bring separate actions

- (a) The Company may confirm the indemnities in clauses 34.2 and 34.3 by separate contract with, or on behalf of, 1 or more of the persons indemnified.
- (b) The indemnities given by the Company in clauses 34.2 and 34.3 do not affect the right of the Company to bring any demand or action against any person specified in clause 34.1, including any demand or action arising out of the negligence of that person.

34.6 Directors may resolve to not indemnify

The Directors may resolve that the indemnities in clauses 34.2 and 34.3:

- (a) are not to apply to a specified person or class of persons; or
- (b) will not apply unless the Company has confirmed the indemnity under clause 34.5(a) by a contract which is in force.

34.7 Interpretation

Nothing in clauses 34.1 to 34.6 is to be taken to limit the power of the Company, as permitted by the Act, to indemnify or pay a premium for a contract insuring a person who is, or has been, an officer of the Company or its related bodies corporate.

34.8 Payments not remuneration

Any payment made by the Company under clauses 34.1 to 34.4 does not constitute remuneration for the purposes of this constitution.

35 Branch Registers

35.1 Keeping of branch Registers

- (a) The Company may keep a branch register of Members at a place outside Australia.
- (b) If the Company keeps an overseas branch register under clause 35.1(a):
 - (i) the Company must keep the branch register in the same manner as this Act requires the Company to keep the register under section 169 of the Act (Principal Register); and
 - (ii) the Company must enter in the Principal Register the details contained in the branch register.

35.2 Directors to determine manner in which branch Registers are kept

Subject to the provisions of the Act and this constitution, any branch Register must be established and kept in the manner the Directors determine.

35.3 Delegation

The Directors may empower any officer of the Company or any other person to establish and keep any branch Register in a manner that the Directors determine and may delegate the following duties:

- (a) examining, passing or refusing transfers;
- (b) approving or refusing to approve transferees of shares; and
- (c) giving certificates of shares.

36 Amending this constitution

36.1 By Special Resolution

Subject to the Act, the Company may modify or repeal this constitution or a provision of this constitution by Special Resolution.

36.2 Date effective

A Special Resolution modifying or repealing this constitution takes effect:

- (a) if no later date is specified in the resolution, the date on which the resolution is passed; or
- (b) on a later date specified in or determined in accordance with the resolution.