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# Constitution

## Institute of Civil Infrastructure (Aus) Ltd

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# 1 Definitions and interpretation

## 1.1 Definitions

In this Constitution, unless the context otherwise requires:

- a. **ABN** means Australian Business Number.
- b. **Act** means the *Corporations Act* 2001 (Cth) and includes any statutory modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it.
- c. **Affiliate Members** means Members admitted under clause 7.1d. **Affiliate Membership** has a corresponding meaning.
- d. **AGM** means an annual General Meeting of the Company held in accordance with section 250N of the Act.
- e. **ASIC** means the Australian Securities and Investments Commission.
- f. **Auditor** means the auditor of the Company (if any).
- g. **Board** means the board of Directors of the Company as constituted from time to time.
- h. **Board Charter** means any board charter including rules, policies and codes of conduct made by the directors from time to time in accordance with clause 18.3.
- i. **Business Day** means a day other than a Saturday, Sunday or public holiday.
- j. **Chairperson** means the person appointed as chairperson of a meeting as set out in clauses 10.4 or 17.5. Reference to 'the Chair' in this Constitution is a reference to the Chairperson.
- k. **Chief Executive Officer** means any chief executive officer of the Company appointed by the Board under clause 14.4 from time to time.
- l. **CIM** means Civil Infrastructure Manager.
- m. **CIM Members** means Members admitted under clause 7.1b. **CIM Membership** has a corresponding meaning.
- n. **Code of Conduct** means any policy adopted by the Board, as amended from time to time, which governs the manner in which the Directors, Members and employees of the Company are required to conduct themselves in the discharge of their duties.
- o. **Committee** means a committee to which powers have been delegated by the Board pursuant to clause 17.7.
- p. **Company** means Institute of Civil Infrastructure (Aus) Ltd ACN 629 165 082.
- q. **Company Information** means all communications, correspondence, reports, minutes and other papers and documents relating to any of the affairs or business of the Company.
- r. **Constitution** means this Constitution and any supplementary, substituted or amended Constitution in force from time to time.
- s. **Director** means a director of the Company from time to time.
- t. **Financial Year** means a period of 12 consecutive calendar months ending on 30 June or on another day decided by the Board.
- u. **General Meeting** means a General Meeting of the Members.
- v. **Guarantee** means the maximum amount each Member agrees to pay the Company in accordance with clause 5.
- w. **Industry** means the civil infrastructure industry.

- x. **ITAA 97** means the *Income Tax Assessment Act 1997* (Cth).
- y. **Member** means any person who becomes a member of the company in accordance with the Act, this Constitution and whose name is entered on the Register of Members.
- z. **Members Present** means Members present at a General Meeting of the Company in person or, if applicable, by duly appointed proxy or attorney.
- aa. **Not-for-profit Organisation** means an organisation not acting for the profit or gain of its Members as defined by the Australian Taxation Office, Australian Charities and Not-for-profits Commission or other applicable regulatory authority within Australia.
- bb. **Officer** means an officer of the Company within the meaning of section 9 of the Act and includes a Director or Secretary of the Company.
- cc. **President** means the person appointed as such under clause 14.2a.
- dd. **Principal Purposes** means the purposes of the Company as described in clause 6.
- ee. **Register** means the register of Members of the Company to be kept pursuant to the Act.
- ff. **Registered Address** means the address of a Member specified in the Register or any other address of which the Member notifies the Company as a place at which the Member will accept service of notices.
- gg. **Registered Office** means the registered office from time to time of the Company.
- hh. **Replaceable Rules** means all or any of the replaceable rules contained in the Act from time to time and includes any replaceable rule that was or may become a provision of the Act.
- ii. **Review** means a review of a financial report of the Company conducted for the purposes of the Act.
- jj. **Reviewer** means an individual or entity who undertakes a Review.
- kk. **Seal** means the common seal, if any, from time to time of the Company.
- ll. **Secretary** means any person appointed by the Board to perform the duties of a secretary of the Company as set out in clause 14.3.
- mm. **Securities** include shares, rights to shares, options to acquire shares and other securities with rights of conversion to equity.
- nn. **Special Resolution** means a resolution at a General Meeting of the Company, of which 21 days' notice of the proposed resolution has been given, and being a resolution passed by a majority of 75% of the votes cast by Members entitled to vote on the resolution.
- oo. **Student Members** means Members admitted under clause 7.1c.
- pp. **Treasurer** means the person appointed as Treasurer of the Company by the Board as set out in clause 14.
- qq. **Vice President** means the person appointed as such under clause 14.2a.
- rr. **Voting Member** is a Member who under this Constitution is entitled to vote at any General Meeting.

## 1.2 Interpretation

In this Constitution, unless the context indicates a contrary intention:

- a. **(corresponding meanings)** a word that is derived from a defined word has a corresponding meaning;

- b. (**documents**) a reference to this Constitution or another document includes any document which varies, supplements, replaces, assigns or novates this Constitution or that other document;
- c. (**gender**) words importing one gender include all other genders;
- d. (**headings**) headings and the table of contents are inserted for convenience only and do not affect interpretation of this Constitution;
- e. (**including**) **including** and **includes** are not words of limitation;
- f. (**legislation**) a reference to any legislation or provision of legislation includes all amendments, consolidations or replacements and all regulations or instruments issued under it;
- g. (**month**) a reference to a month is a reference to a calendar month;
- h. (**person**) a reference to a person includes a natural person, corporation, statutory corporation, partnership, the Crown and any other organisation or legal entity, and a reference to a person includes their personal representatives, successors and permitted assigns;
- i. (**references**) a reference to the background, a party, clause, paragraph, schedule or annexure is a reference to the background, a party, clause, paragraph, schedule or annexure to or of this Constitution;
- j. (**replacement bodies**) a reference to a body (including an institute, association or authority) which ceases to exist or whose powers or functions are transferred to another body is a reference to the body which replaces it or which substantially succeeds to its power or functions;
- k. (**requirements**) a requirement to do any thing includes a requirement to cause that thing to be done, and a requirement not to do any thing includes a requirement to prevent that thing being done;
- l. (**singular**) the singular includes the plural and vice-versa;
- m. (**writing**) a reference to a notice, consent, request, approval or other communication under this Constitution or an agreement between the parties means a written notice, request, consent, approval or agreement; and
- n. (**year**) a reference to a year is a reference to twelve consecutive calendar months;

## 2 General

### 2.1 Name of Company

The name of the Company is "Institute of Civil Infrastructure (Aus) Ltd".

### 2.2 Replaceable Rules

The Replaceable Rules are displaced by this Constitution and do not apply to the Company.

### 2.3 Constitution

- a. This Constitution contains provisions setting out the manner in which the Members have agreed to conduct the internal administration of the Company.
- b. This Constitution shall have effect as a contract:
  - i. between the Company and each Member;
  - ii. between the Company and each Officer;
  - iii. between the Company and each Member who performs an executive position of the Company; and



- iv. between a Member and each other Member,  
pursuant to which each Member agrees to accept the provisions of this Constitution, and  
comply with those provisions, so far as they apply to that Member.
- c. A Special Resolution is required to alter this Constitution in accordance with section  
136(2) of the Act and the Company must lodge with ASIC a copy of the Special  
Resolution within 14 days of the resolution being passed.

### 3 The Company

#### 3.1 *Public company limited by Guarantee*

The Company is a public company limited by guarantee.

#### 3.2 *Restriction on shares*

The Company does not have the power to issue or allot shares of any kind.

#### 3.3 *Powers of the Company*

Subject to the provisions of this Constitution and provided that its capacities and powers are exercised, directly or indirectly, in the furtherance of its purposes, the Company has the legal capacity and powers set out in section 124 of the Act.

### 4 Income and property

#### 4.1 *Not-for-profit*

- a. The Company is a Not-for-profit Organisation.
- b. The income, property, profits and financial surplus of the Company, whenever derived,  
must be applied solely towards the promotion of the purposes of the Company as set out  
in this Constitution.
- c. The Company must not carry on business for the purpose of profit or gain to its  
Members.
- d. No portion of the Company's income, property or profits may be paid, distributed or  
transferred, directly or indirectly, by way of dividend, bonus, fee or otherwise, to any of  
the Members, Directors, or their relatives, except as provided by this Constitution.
- e. Nothing in this Constitution prevents:
  - i. the payment, in good faith, of reasonable and proper remuneration to any Officer  
or employee of the Company, or to any Member or Director, in return for any  
services actually rendered to the Company or for goods supplied in the ordinary  
and usual course of business; or
  - ii. payment of costs pursuant to clause 19.

#### 4.2 *No distribution of profits to Members on winding up*

- a. If the Company is wound up or dissolved, the assets and property available for  
distribution after satisfaction of all debts and liabilities are to be given or transferred to  
some other institution or institutions:
  - i. having objects similar to the purposes of the Company;
  - ii. whose Constitution prohibits the distribution of its income and property to an extent  
at least as great as that imposed by this Constitution; and
  - iii. which are charitable at law and exempt from income tax under the ITAA 97.
- b. The Board may determine the identity of the institution or institutions for the purpose of  
clause 4.2a at the time of dissolution.

- c. If the Board fail to determine the identity of the institution or institutions under clause 4.2b, the Supreme Court of New South Wales may make that determination.

## 5 Guarantee of Members

- a. In the event that the Company is wound up, each Member undertakes to contribute a maximum of \$10.00 to the Company for payment of:
  - i. the debts and liabilities of the Company;
  - ii. the costs, charges and expenses of any winding up; and
  - iii. the adjustment of the rights of Members among themselves,while the Member is a Member or within one year after the Member ceases to be a Member.
- b. The guarantee of each Member under clause 5a is in addition to the Member's liability for any outstanding fees or subscriptions payable under this Constitution.

## 6 Purposes of the Company

The principal purpose of the Company is to promote, in the national and public interest, the growth of a strong and sustainable Industry resource of supervisors and managers through setting, providing and continually improving;

- a. Industry standards for civil infrastructure managers;
- b. educational services including continuing professional development that builds attributes, identity and recognition for those managing in the Industry;
- c. attraction and retention of students to the Industry and the inclusion and support of current students aspiring to work in the Industry; and
- d. the attraction, support and retention of a diverse workforce in Industry.

## 7 Membership

### 7.1 Admission to membership

- a. The Board may from time to time, in its absolute discretion, make rules to govern the admission to membership of the Company.
- b. **CIM Membership** is only available to natural persons more than 18 years of age:
  - i. directly involved in the Industry and civil construction and maintenance activities and are, or likely will, manage key aspects of civil construction and maintenance industry people or projects including foremen, leading hands, supervisors, engineers, and managers, as determined from time to time by the Board, and
  - ii. wishing to make use of the Company's services.
- c. **Student Membership** is open to natural persons more than 18 years of age who are undertaking study in a course approved by the Chief Executive Officer.
- d. **Affiliate Membership** is open to other natural persons more than 18 years of age and who wish to support the Company and are not eligible to join the Company as a CIM Members, but are wishing to make use of the Company's services.
- e. The Board may fix the entrance fee (if any) and the subscription payable by an applicant for any class of membership established pursuant to clauses 7.2 or 7.3 of this Constitution.

## **7.2 Applications for membership**

- a. Applications for membership must be in the form determined by the Board from time-to-time, including online applications.
- b. An application for membership must state the applicant's:
  - i. full name;
  - ii. residential address; and
  - iii. email address.
- c. The Board may in its absolute discretion admit or reject any application for membership.

## **7.3 Amount of fees and subscriptions payable**

Entrance fees and annual subscription fees for the various classes of membership, from Members of the Company will be in such amounts and due at such times as the Board determines. Other fees will be set by the Chief Executive Officer.

## **7.4 CIM Membership**

- a. CIM Members will be divided into the following subclasses:
  - i. Master;
  - ii. Expert;
  - iii. Advanced;
  - iv. Practitioner;
  - v. Entrant; or
  - vi. such other subclasses as the Board may determine.
- b. All CIM Members are entitled to vote at Meetings of the Company.

## **7.5 Student Membership**

- a. Student Members are not entitled vote at Meetings of the Company.
- b. Student Members are not entitled to nominate candidates for the Board (including self-nomination).

## **7.6 Affiliate Membership**

- a. Affiliate Members are not entitled vote at Meetings of the Company.
- b. Affiliate Members are not entitled to nominate candidates for the Board (including self-nomination).

## **7.7 Class Rights and Further Classes of Membership**

- a. The Board may at any time:
  - i. establish a new class of membership;
  - ii. establish a new subclass of membership;
  - iii. remove an existing class or subclass of membership, including a subclass of membership listed in clause 7.4.
  - iv. determine or change the existing classes of membership including any entitlements except for voting rights;
  - v. prescribe or change qualifications, rights and privileges of persons to become a Member of a class; or
  - vi. set and amend the membership fees for each class of membership (or any category of ordinary membership).

- b. The Members in General Meetings are not entitled to amend or revoke a decision or determination of the Board made pursuant to this clause.

#### **7.8 Register of Members**

- a. A register of members of the Company must be kept in accordance with the Act.
- b. The following must be entered in the register of members in respect of each member:
  - i. the full name of the Member;
  - ii. the residential address and email address of the Member;
  - iii. the category of membership;
  - iv. the date of admission to and cessation of membership;
  - v. the date of last payment of the Member's annual subscription; and
  - vi. such other information as the Board requires.
- c. Each Member must notify the Secretary in writing of any change in that person's name, address, or email address within 1 month after the change.

#### **7.9 Cessation of membership**

A Member ceases to be a Member if they:

- a. die;
- b. resign in accordance with clause 7.10;
- c. become a bankrupt under the Bankruptcy Act;
- d. become of unsound mind or are liable to be dealt with in any way under the law relating to mental health;
- e. are convicted of an indictable offence; or
- f. are expelled by the Board in accordance with clauses 7.12 or 7.14.

#### **7.10 Resignation**

- a. A Member is not entitled to resign their membership except in accordance with this clause 7.10.
- b. A Member who has paid all amounts payable by the Member to the Company in respect of their Membership may resign by first giving at least one month's written notice to the Secretary of the Company (or such other period of notice as the Board may determine).

#### **7.11 Non-payment of subscription**

- a. If any subscription or other membership fee of a Member remains unpaid, the Member may, at the discretion of the Chief Executive Officer, be disqualified from all privileges of membership. The Board may, if it thinks fit, reinstate the Member on payment of all arrears.
- b. The Chief Executive Officer may, if he or she thinks fit, expel a Member whose subscription or other membership fee remains unpaid for a period of one (1) month after the date on which it became due.

#### **7.12 Effect of cessation**

A Member who ceases to be a Member continues to be liable for:

- a. any subscription and all arrears due and unpaid at the date of cessation;
- b. all other moneys due by them to the Company; and
- c. the Guarantee, subject to the provisions of clause 5.

#### **7.13 No joint membership**

There must be no joint membership.

#### **7.14 *Power of a Board in respect of a Member's conduct***

If any Member:

- a. wilfully refuses or neglects to comply with the provisions of this Constitution or the Member's Code of Conduct; or
- b. is guilty of any conduct which, in the opinion of the Board, is unbecoming of a Member or prejudicial to the interests of the Company,

the Board may in its absolute discretion create policies and procedures to downgrade, discipline, suspend or expel the Member from the Company subject to this Constitution and any Code of Conduct.

### **8 Accounts**

#### **8.1 *Records***

- a. The Board must cause the Company to keep accounting and other financial and business records in accordance with the requirements of the Act.
- b. The Board will make available, before each AGM, a balance sheet and profit and loss account made up to a date not more than five months before the date of the AGM.

#### **8.2 *Annual Review and audit***

The Company will arrange a Review and audit of its accounts annually.

#### **8.3 *Appointment of Reviewer or Auditor***

The Board must cause the Company to appoint and retain a properly qualified Reviewer or Auditor to Review or audit the Company's financial statements and whose duties will be regulated in accordance with the Act.

#### **8.4 *Inspection***

- a. The Board will, subject to any requirements of the Act, regulate the manner and extent to which the financial records and other documents of the Company will be open to public inspection or the inspection by Members other than Directors.
- b. No Member, other than a Director, has the right to inspect any document of the Company except as provided by the Act (or other applicable laws) or as authorised by the Board.

### **9 General Meetings**

#### **9.1 *Calling of meetings of Members by a Board***

Any Director may call a meeting of Members in accordance with Part 2G.2 of the Act.

#### **9.2 *Calling of meetings by Members***

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 in accordance with section 249F of the Act.

#### **9.3 *Calling of General Meetings by a Board when requested by Members***

The Board must call and arrange to hold a General Meeting which has been properly requisitioned in accordance with the Act.

#### **9.4 *Failure of a Board to call General Meeting***

Members with more than 50% of the votes of all Members who make a request under the Act, may call and arrange to hold a General Meeting where the Board does not do so within 21 days after the request is given to the Company.

#### **9.5 *Amount of notice of meetings***

- a. Subject to the Act, at least 21 days' notice must be given of a meeting of Members.

- b. Subject to clause 9.5c, the Company may call on shorter notice:
  - i. an AGM, if all of the Members entitled to attend and vote at the AGM agree beforehand; and
  - ii. any other General Meeting, if Members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- c. At least 21 days' notice must be given of a meeting of Members at which a resolution will be moved to remove or appoint Board Directors or remove a Reviewer or Auditor.

#### **9.6 Notice of meetings of Members**

- a. Written notice of the meeting of Members must be given individually to each Member entitled to vote at the meeting and to each Director, Secretary and Reviewer or Auditor.
- b. The Company may give the notice of meeting to a Member:
  - i. personally to the Member, and is deemed to have been served when delivered;
  - ii. by sending it by post to the address of the Member in the register of Members or the alternative address (if any) nominated by the Member, and is deemed to have been served 3 days after the date of posting;
  - iii. by sending it to the email address (if any) nominated by the Member, and is deemed to have been served the day after it is sent; or
  - iv. by any other means authorised by the Act.

#### **9.7 Contents of notice of meeting**

The notice of meeting must conform to the requirements of section 249L of the Act.

#### **9.8 Meetings may be cancelled or postponed**

The Directors may at any time after notice of a General Meeting has been given, postpone or cancel the General Meeting by giving notice to all persons entitled to receive notice of that General Meeting except that a meeting convened on the requisition of a Member or Members can only be cancelled with the consent of that Member or those Members.

#### **9.9 Notice of adjourned meetings**

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

#### **9.10 Members' rights to put resolutions at a General Meeting**

- a. The Members may propose a resolution to be moved at a General Meeting only in accordance with the provisions of Division 4 of Part 2G.2 of the Act.
- b. Only a Voting Member may seek to place an item of business or resolution (**Matter**) before a General Meeting. Any Voting Member who wishes to place a Matter before a General Meeting, must, at least 35 days before the next General Meeting, give the Board written notice of the Matter. The Board may determine in its absolute discretion whether to include the Matter as part of the business of the General Meeting.

#### **9.11 Time and place for meetings of Members**

A meeting of Members must be held at a reasonable time and place determined by the Board.

#### **9.12 Technology**

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

## 10 Proceedings of meetings

### 10.1 Business of General Meetings

- a. The accidental omission to give notice of a meeting to, or the non-receipt of Notice of a meeting by, any Member will not invalidate the proceedings at any meeting.
- b. The Chairperson of a General Meeting may refuse admission to, or require to leave and remain out of, the meeting any person:
  - i. in possession of any image or sound-recording or sound-recording device;
  - ii. in possession of an object considered by the Chairperson to be dangerous, offensive or liable to cause disruption;
  - iii. who refuses to produce or to permit examination of any object, or the contents of any object or container, in the person's possession;
  - iv. who behaves or threatens to behave in a dangerous, offensive or disruptive manner; or
  - v. who is not:
    - A. a Member or a proxy, or an attorney of a Member;
    - B. a Director; or
    - C. the Reviewer or Auditor of the Company.
- c. Except with the approval of the Board, with the permission of the Chairperson or pursuant to the Act, no person may move at any meeting either:
  - i. in regard to any special business of which notice has not been given under clause 9.6, any resolution or any amendment of a resolution; or
  - ii. any other resolution which does not constitute part of special business of which notice has been given under clause 9.6.
- d. The Reviewer or Auditor or their representative are entitled to attend and be heard on any part of the business of a meeting concerning a Review or audit in their capacity as Reviewer or Auditor. The Reviewer or Auditor or their representative, if present at the meeting, may be questioned by the Members, as a whole, about the Review or audit.

### 10.2 Quorum and decision-making

- a. A quorum for a meeting is constituted by at least 8 Members being present except if the Company at any time has only one Member or where a class of Members is constituted by one Member. No business may be transacted at any meeting except the election of a Chairperson and the adjournment of the meeting unless the requisite quorum is present at the commencement of the business. The quorum must be present at all times during the meeting.
- b. In determining whether a quorum is present, individuals attending as proxies are to be counted. If a Member has appointed more than one proxy or representative, only one of them is to be counted. If an individual is attending both as a Member and as a proxy or representative, they are to be counted only once.
- c. Except where the Act requires a resolution to have a special majority, questions arising at a General Meeting must be decided by a majority of votes cast by the Members present at the meeting. Such a decision is for all purposes a decision of the Members.
- d. Where the votes on a proposed resolution are equal:
  - i. The Chairperson of the meeting has a casting vote in addition to any original vote he or she has had in relation to the proposed resolution;

- ii. The Chairperson has discretion both as to whether or not to use the casting vote and as to the way in which it is used.

### *10.3 Adjournment in absence of quorum*

- a. A meeting that does not have a quorum present within 30 minutes after the time for the meeting set out in the notice of meeting is to be adjourned to a date, time and place as the Board specify unless the meeting was convened upon the requisition of Members, in which case the meeting is dissolved.
- b. If the Board does not specify one or more of those requirements, the meeting is to be adjourned to the same day in the next week, at the same time and same place.
- c. If no quorum is present at the adjourned meeting within 30 minutes after the time for the meeting, the meeting is dissolved.

### *10.4 Chairing meetings of Members*

- a. The President is entitled to take the chair at every General Meeting.
- b. If at any General Meeting the President is absent, the Vice President will act as Chair.
- c. If at any General Meeting:
  - i. there is no President or Vice President; or
  - ii. the President or Vice President is not present within 15 minutes of the specified time for holding the meeting; or
  - iii. the President or Vice President is unwilling to act as Chairperson of the meeting, the Directors present may choose another Director as Chairperson of the meeting and if no Director is present or if each of the Directors present are unwilling to act as Chairperson of the meeting, a Member chosen by the Members present is entitled to take the chair at the meeting.

### *10.5 General conduct of meeting*

- a. Subject to the requirements of the Act, the conduct of each General Meeting of the Company and the procedures to be adopted at the meeting are to be determined by the Chairperson.
- b. The Chairperson may, as considered necessary for the proper conduct of the meeting, demand the cessation of debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the Members present.
- c. The Chairperson may require the adoption of any procedure that, in the Chairperson's opinion, is necessary or desirable for the proper and orderly casting or recording of votes at any General Meeting of the Company, whether on a show of hands or on a poll.

### *10.6 Adjournment*

- a. Subject to the provisions of clause 10.6c, the Chairperson may, with the consent of the meeting, at any time during the course of the meeting adjourn any business, motion, question, resolution, debate or discussion either to a later time at the same meeting or to an adjourned meeting.
- b. No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- c. The Chairperson must adjourn the meeting if the Members present with a majority of votes at the meeting agree or direct that the Chairperson must do so.
- d. When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.



- e. Except as provided by 10.6d, it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

#### **10.7 Voting**

- a. Subject to any rights or restrictions attached to any class of Member, at a meeting of Members:
  - i. on a show of hands each Voting Member has one vote; and
  - ii. on a poll, each Voting Member has one vote.
- b. A challenge to a right to vote at a meeting of Members:
  - i. may only be made at the meeting; and
  - ii. must be determined by the Chairperson whose decision is final.
- c. Each question submitted to a General Meeting is to be decided in the first instance by a show of hands of the Voting Members present and entitled to vote. Subject to paragraph 10.7b, in the case of equal votes, the Chairperson has, both on a show of hands and at a poll, a casting vote in addition to the vote or votes to which the Chairperson may be entitled as:
  - i. a Voting Member;
  - ii. a proxy; or
  - iii. an attorney of a Voting Member.
- d. On a show of hands, where the Chairperson has 2 or more appointments that specify different ways to vote on a resolution, the Chairperson cannot vote but has a casting vote in the case of an equality of votes cast by Voting Members.

#### **10.8 Declaration of vote on a show of hands; when poll demanded**

- a. At any meeting, unless a poll is demanded, a declaration by the Chairperson that a resolution has been passed or lost, having regard to the majority required, and an entry to that effect in the minute book signed by the Chairperson for that or the next succeeding meeting, is conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- b. A 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 on a show of hands are declared.
- c. A poll may be demanded by:
  - i. the Chairperson;
  - ii. at least 5 Voting Members entitled to vote on the resolution.
- d. No poll may be demanded on the election of a Chairperson of a meeting or the adjournment of a meeting.

#### **10.9 Taking a poll**

If a poll is demanded as provided in clause 10.8b, it is to be taken in the manner and at the time and place as the Chairperson directs, and the result of the poll is deemed to be the resolution of the meeting at which the poll was demanded. The demand for a poll may be withdrawn. In the case of any dispute as to the admission or rejection of a vote, the Chairperson's determination in respect of the dispute made in good faith is final.

### *10.10 Continuation of business*

A demand for a poll does not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded. A poll demanded on any question of adjournment is to be taken at the meeting immediately and without adjournment.

### *10.11 Circular resolutions of Members*

Subject to the Act, and except in the case of a resolution to remove a Reviewer or Auditor, the Company may pass a resolution without a general meeting being held if all the 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.

### *10.12 Circular resolutions on separate documents*

Separate copies of a document referred to in clause 10.11 may be used for signing by Members if the wording of the resolution and statement is identical in each copy.

### *10.13 Special meetings*

All the provisions of these clauses as to General Meetings apply to any special meeting of any class of Members that may be held pursuant to the operation of this Constitution or the Act.

## **11 Votes of Members**

### *11.1 Voting rights*

- a. The Board may determine the entitlement of Members of each class to vote on a show of hands.
- b. A Member whose annual subscription is in arrears or not paid in accordance with a schedule approved by the Chief Executive Officer, at the date of the General Meeting, is not entitled to vote at that meeting.
- c. Subject to clause 11.1d, where a person is entitled to vote in more than one capacity, that person is entitled only to one vote on a show of hands.
- d. If the person appointed as 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.

### *11.2 Appointment of proxies*

- a. Any Voting Member entitled to attend and cast a vote at a General Meeting may appoint a proxy to attend and cast a vote at that meeting.
- b. A proxy or representative appointed under this clause 11.2 must be appointed in the manner set out in, and has the rights set out in, Division 6 of Part 2G.2 of the Act.
- c. The appointment may specify the proportion or number of votes that the proxy may exercise.
- d. If a Member is entitled to cast 2 or more votes at the meeting, he or she may appoint 2 proxies. If the Member appoints 2 proxies and the appointment does not specify the proportion or number of the Member's votes each proxy may exercise half of the Member's votes.
- e. Disregard any fractions resulting from the application of paragraph c or d.

### *11.3 Validity of vote*

A proxy is not revoked by the principal attending and taking part in the meeting, unless the principal actually votes at the meeting on the resolution for which the proxy is proposed to be used.

#### *11.4 Form and execution of instrument of proxy*

Unless the Company otherwise determines, an instrument appointing a proxy:

- a. must be in writing signed by the appointor or the attorney of the appointor or, if the appointor is a corporation, under its Seal or signed by a duly authorised officer.
- b. is deemed to include the right to demand or join in demanding a poll and (except to the extent to which the proxy is specifically directed to vote for or against any proposal) the power to act generally at the meeting for the person giving the proxy.
- c. may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy is not entitled to vote on the resolution except as specified in the instrument.
- d. is valid for any adjournment of the meeting, as well as for the meeting to which it relates. Any signed proxy that is incomplete may be completed by the Secretary on authority from the Board and as permitted by the Act. The Board may authorise completion of the proxy by the insertion of the Director's name as the person in whose favour the proxy is given provided that the Director is also entitled to vote at the General Meeting as required by clause 11.2b.
- e. is not valid after the expiration of 12 months after the date of its execution, except where a Member may deposit at the Office an instrument duly stamped (if necessary) appointing a proxy and the appointment is valid for all or any stipulated meetings of the Company until revocation.

#### *11.5 Validity of proxy*

- a. An instrument appointing a proxy is not valid unless the instrument, and the power of attorney or other authority (if any) under which the instrument is signed, or a notarially certified copy of that power or authority, is or are received not less than 48 hours before the time of holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll, at the registered office of the Company, a fax number at the Company's Registered Office or at such other place, fax number or email address as is specified for that purpose in the notice convening the meeting.
- b. A vote given in accordance with the terms of an instrument of proxy or of a power of attorney is valid notwithstanding the previous death or unsoundness of mind of the appointor, the revocation of the instrument (or the authority under which the instrument was executed) or of the power, or the transfer of the share in respect of which the instrument or power is given, if no intimation in writing of the death, unsoundness of mind, revocation or transfer has been received by the Company at the registered office before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

#### *11.6 Attorneys of Members*

Any Member may, by duly executed power of attorney, appoint an attorney to act on the Member's behalf at all or certain specified meetings of the Company. Before the attorney is entitled to act under the power of attorney, the power of attorney or proof of the power of attorney to the satisfaction of the Board must be produced for inspection at the Office or any other place the Board may determine from time to time together, in each case, with evidence of the due execution of the power of attorney as required by the Board. The attorney may be authorised to appoint a proxy for the Member granting the power of attorney.

### **11.7 Incapacity of Members**

If any Member is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, his committee or trustee or such other person as properly has the management of his estate may exercise any rights of the Member in relation to a general meeting as if the committee, trustee or other person were the Member.

## **12 AGMs**

### **12.1 Holding of AGM**

- a. The Board must cause the Company to hold an AGM within 18 months after its registration.
- b. The Board must cause the Company to hold an AGM at least once in each calendar year and within five months after the end of its financial year.
- c. An AGM is to be held in addition to any other meetings held by the Company in a year.

### **12.2 Extension of time for AGM**

The Company may lodge an application with ASIC to extend the period within which it is required to hold the AGM in accordance with section 250P of the Act.

### **12.3 Consideration of reports at AGM**

The Board must make available before an AGM:

- a. the financial report;
- b. the Board's report; and
- c. the Reviewer or Auditor's report,

for the last financial year that ended before the AGM completed in accordance with the requirements of Part 2M.3 of Chapter 2M of the Act.

### **12.4 Business of the AGM**

The business of the AGM may include any of the following, even if not referred to in the notice of meeting:

- a. the consideration of the annual financial report, Board's report and Reviewer or Auditor's report (if any);
- b. the election of Directors;
- c. the appointment of the Reviewer or Auditor; and
- d. the fixing of the Reviewer or Auditor's remuneration.

### **12.5 Questions by Members of the Company**

The Chairperson of the AGM must allow a reasonable opportunity for the Members as a whole at the meeting to ask questions about or make comments on the management of the Company.

### **12.6 Questions by Members of the Reviewer or Auditor**

If the Reviewer or Auditor or their representative is at the AGM, the Chairperson must allow a reasonable opportunity for the Members as a whole at the meeting to ask the Reviewer or Auditor or their representative questions relevant to the conduct of the Review or audit and the preparation and content of the Reviewer or Auditor's report.

### **12.7 Reviewer or Auditor's right to be heard at meetings of Members**

- a. This clause 12.7 applies if a Reviewer or Auditor has been appointed to the Company.
- b. The Reviewer or Auditor is entitled to attend and be heard at meetings of Members.

- c. The Reviewer or Auditor is entitled to be heard at the meeting on any part of the business of the meeting that concerns the Reviewer or Auditor in their capacity as Reviewer or Auditor.
- d. The Reviewer or Auditor is entitled to be heard even if:
  - i. the Reviewer or Auditor retires at the meetings; or
  - ii. the meeting passes a resolution to remove the Reviewer or Auditor from office.
- e. The Reviewer or Auditor may authorise a person in writing as their representative for the purpose of attending and speaking at any General Meeting.

## 13 Board of Directors

### 13.1 *Members of the Board*

- a. The names of the first Board members are those persons named as Directors as specified in the application for registration of the Company lodged with ASIC.
- b. The Board must comprise a minimum of three (3) Directors.
- c. The Board must consist of no more than fourteen (14) directors or such other number (greater than 3) as the Board may from time to time determine.

### 13.2 *Obligations and duties of Directors*

Each Director (including the Chairperson and the Treasurer) is subject to, and must comply with, the requirements, obligations and duties imposed on Boards under the Act, this Constitution, the Board Charter (if any), the Company's Code of Conduct (as amended) and at common law.

### 13.3 *Term and tenure of Directors*

- a. The first Board will stand until 30 June 2021.
- b. At the first AGM to be held after 30 June 2021, as part of a general Board refresh, half the Board will resign and a corresponding number of replacement Board positions will be voted on. If agreement cannot be reached on which Directors are to resign, the oldest by age will resign.
- c. Subsequently, as part of an ongoing Board refresh, elections for Directors are to take place at every second AGM. Half the Board, being the Directors who did not resign at the AGM held 2 years previously, will resign and a corresponding number of replacement Board positions will be voted on. Any disputes or uncertainties in relation to which Directors are to resign are to be resolved by the President, and in the absence of the President, the Vice President, whose decision will be binding on the Directors.
- d. Subject to clause 13.3e, at the conclusion of their term in office a Director may seek re-appointment to the Board.
- e. A Director may not serve more than three (3) consecutive terms.

### 13.4 *Appointment to the Board*

Subject to the timing matters noted in clause 13.3:

- a. The Board must call for nominations from CIM Members to the Board within the three months prior to the relevant AGM. Such call for nominations from CIM Members must specify the range of skills and experience which the Board expects nominees to have (**Qualification Requirements**). The period for nominations (**Nomination Period**) must remain open for such reasonable period as the Board shall determine.
- b. After the close of the Nomination Period but before the relevant AGM, the Board must meet to review the nominations and produce a list of those nominees who, in the Board's

reasonable opinion, meet the Qualification Requirements (**Qualifying Nominees**). The Board will provide reasons to non-Qualifying Nominees.

- c. If the number of Qualifying Nominees is less than or equal to the number of Board vacancies to be filled, then each Qualifying Nominee will be deemed to be elected to the Board.
- d. If there is a greater number of Qualifying Nominees than Board vacancies, then the appointment of directors will be determined by Member's ballot. The Member's ballot may be conducted in any usual and proper manner as the Board may from time to time determine, including by postal ballot.
- e. Where there are an insufficient number of Qualifying Nominees, the Board must fill the remaining vacancy or vacancies as casual vacancies under clause 13.6.

### **13.5 Eligibility for membership of the Board**

- a. All Directors are required to be:
  - i. CIM Members; and
  - ii. at least 18 years of age.
- b. The Reviewer or Auditor is ineligible to be elected or appointed as a Director (if any).
- c. An employee of the Company is ineligible to be elected or appointed as a Director.

### **13.6 Casual vacancies**

- a. The Board has the power at any time and from time to time to appoint a CIM Member as a Director either to fill a casual vacancy among the Board or as an addition to the existing Members. However, the total number of Directors may not at any time exceed the number fixed in accordance with this Constitution.
- b. Any person appointed under this clause 13.6 holds office until:
  - i. the Board has completed its first term under clause 13.3a; and
  - ii. after completion of the Board's first term, the next General Meeting when an election will be held to fill the vacancy. However, such person is not to be taken into account in determining the number of Directors who are to retire by rotation at the meeting. Any person appointed under this clause is eligible for election at that General Meeting.
- c. The Members in a General Meeting may by ordinary resolution elect a qualified CIM Member as a Director. However, the total number of Directors may not at any time exceed the number fixed in accordance with this Constitution.

### **13.7 Conflict of Interest**

- a. A Director must declare any conflict of interest which may arise.
- b. A Director is not entitled to participate in or vote at any meeting of the Board in respect of any of the following matters:
  - i. entering into, extending, renewing, varying or enforcing any agreement or arrangement (whether oral or in writing) between the Company and that Director; or
  - ii. any other matter in which the Director has a material personal interest.
- c. The Board will disregard any votes cast, or purported to have been cast, at any meeting of the Board by a Director in the circumstances contemplated in paragraph 13.7b above.

## 14 Officers

### 14.1 Officers' duties

The following officers of the Company and their duties (if any) prescribed in this Constitution include:

Officers	Duties
a. President	Chair meetings of Members and the Board (clauses 10.4a and 17.5a respectively). Resolve disputes or uncertainties in relation to which Directors are to resign under clause 13.3c. Receive Director resignations (clause 15.1a).
b. Vice President	In the absence of the President: i. chair meetings of Members and the Board (clauses 10.4b and 17.5b respectively); and ii. resolve disputes or uncertainties in relation to which Directors are to resign under clause 13.3c.
c. Treasurer	No duties prescribed in this Constitution.
d. Secretary	Receive notice of change to Member details (clause 7.8c). Convene Board meetings (clause 17.4).
e. Chief Executive Officer	Approve eligible courses for Student Membership (clause 7.1c). Determine other fees payable by Members (clause 7.3). Determine to expel a Member (clause 7.11b). Implement the decisions of the Board (clause 14.4). Make decisions relating to the day-to-day operations of the Company (clause 14.4).

This is not an exhaustive list of officers or duties.

### 14.2 Appointment of President, Vice President and Treasurer

- a. Subject to clause 14.2b, the President, Vice President and Treasurer:
  - i. will be appointed by resolution of the Board at the first Board meeting after the AGM; and
  - ii. subject to this Constitution, will have functions and duties as may be determined by the Board from time to time.
- b. The President, Vice President and Treasurer continue to hold office until the earlier of:
  - i. the completion of the Board's first term under clause 13.3a, and after such time, the conclusion of every second AGM;
  - ii. their resignation from that office in accordance with clause 15.1;
  - iii. their removal from that office in accordance with clause 15.2; and
  - iv. their office as Director becoming vacant in accordance with this Constitution.
- c. The Board has the sole power at any time to appoint any Director as President, Vice President and Treasurer and to remove any Director appointed under this Constitution from any of those offices, but not from the office of Director.

### *14.3 Appointment of Secretary*

The Board must appoint a Secretary in accordance with Part 2D.4 the Act. The Secretary holds office on such terms and conditions in relation to remuneration and otherwise as the Board determines.

### *14.4 Appointment and authority of Chief Executive Officer*

- a. The Board may appoint and/or employ a Chief Executive Officer subject to the following:
  - i. He or she may not be a Member of the Company.
  - ii. He or she may be permitted to attend Board meetings by resolution of the Board and at the Board's invitation.
  - iii. Subject to sub-clause d, the terms governing the appointment, remuneration, powers and duties of the Chief Executive Officer will be determined from time to time by the Board. They may also impose any limitations on the exercise of those powers, and may withdraw or alter the powers they have conferred.
  - iv. The Board may not give to the Chief Executive Officer the following powers: to borrow, to divest assets of the Company, delegate functions of the Company to another company, or enter into joint ventures or other similar business associations.
  - v. The Chief Executive Officer should be absent from any meeting of the Board during such time as any vote is taken concerning the remuneration, powers or duties of the Chief Executive Officer, and may be required (at the direction of the Chairperson of the meeting or by resolution of the meeting) to leave any meeting of the Board during such time as the remuneration or duties of the Executive Officer is discussed.
  - vi. No power or authority delegated to the Chief Executive Officer will relieve the Board or the Company of its obligations under the Act or any other applicable laws or regulations.
- b. The Chief Executive Officer is authorised to:
  - i. implement the decisions of the Board;
  - ii. make decisions relating to the day-to-day operations of the Company;
  - iii. enter into, vary or terminate an agreement or arrangement:
    - A. with respect to the appointment, removal or conditions of employment of an employee or contractor;
    - B. to achieve Board approved strategic objectives; and
  - iv. undertake any other action permitted by this Constitution.

### *14.5 Appointment of other salaried officers*

The Board has the power to appoint officers and employees at any time on such terms as it thinks fit and may, subject to conditions of the employment of such officers and employees, dispense with their services and appoint other officers and employees.

## **15 Resignation and removal of Officers**

### *15.1 Resignation*

- a. Any Director may resign from the Board by notice in writing delivered to the President.
- b. The President may resign from office by notice in writing delivered to the Vice President.



- c. Resignation takes effect at the time when such notice is received by the President unless some later time and date is specified in the notice as the effective time and date.

## 15.2 Removal

- a. A Director may be removed from office by ordinary resolution of the Members at a General Meeting of the Company convened for that purpose. At any such General Meeting the Director concerned must be given the opportunity to fully present their case as to why they should not be removed either orally or in writing or partly by either or both of these means.
- b. A Director who ceases to be a Director under clause 15.2a of this clause retains office until the dissolution or adjournment of the General Meeting at which the Director is removed.

## 15.3 Disqualification

In addition to the circumstances in which the office of a Director becomes vacant by virtue of the Act, the office becomes vacant if that Member:

- a. becomes an employee of the Company;
- b. becomes of unsound mind or a person whose estate is liable to be dealt with in any way under the law relating to mental health;
- c. becomes insolvent or under any form of insolvent administration;
- d. becomes a bankrupt under the Bankruptcy Act;
- e. ceases to be a CIM Member of the Company;
- f. dies; or
- g. fails to attend 3 consecutive meetings of the Board without the prior approval of the Board.

A Director who vacates office pursuant to this clause is not to be taken into account in determining the number of Directors who are to retire by rotation at any AGM.

# 16 Exercise of voting power

## 16.1 Exercise of voting power in other corporations

- a. The Board may exercise the voting power conferred by the shares in any corporation held or owned by the Company as the Board thinks fit (including the exercise of the voting power in favour of any resolution appointing the Directors or any of them directors of that corporation).
- b. A Director may vote in favour of the exercise of voting rights in a company notwithstanding that the Director may be about to be appointed a Board member of that other company and may be interested in the exercise of those voting rights.

# 17 Board proceedings

## 17.1 Procedures relating to Board meetings, including quorum

- a. The Board may meet together, upon each Director being given reasonable notice, for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit.
- b. Until otherwise determined by the Board, 8 Directors form a quorum. The quorum must be present at all times during the meeting.
- c. Notice is required to be provided to Directors in accordance with clause 22.

### *17.2 Meetings by telephone or other means of communication*

The Board may meet either in person or by telephone or by other means of communication consented to by all Directors subject to the right of a Director to withdraw their consent within a reasonable period before a meeting. A meeting conducted by telephone or other means of communication is deemed to be held at the place agreed upon by the Directors attending the meeting, provided that at least one of the members present at the meeting is at that place for the duration of the meeting.

### *17.3 Votes at meetings*

Questions raised at any Board meeting are decided by a majority of votes. In the event of an equality of votes, the matter is to be resolved in the negative.

### *17.4 Convening of meetings*

The Board may at any time, and the Secretary, upon the request of any one Director, must convene a Board meeting upon reasonable notice individually to each other Director.

### *17.5 Chair*

- a. The President is entitled to take the chair at every Board meeting.
- b. If at any Board Meeting the President is absent, the Vice President will act as Chair.
- c. The Chairperson must be willing and able to preside as chair at all meetings of the Board and if:
  - i. there is no Chairperson appointed;
  - ii. the Chairperson is not present within 15 minutes after the time appointed for the meeting; or
  - iii. the Chairperson is unable or unwilling to preside,then a Director, appointed by the meeting, must act as Chairperson of the meeting.

### *17.6 Powers of meetings*

A Board meeting or any adjournment of a meeting at which a quorum is present is competent to exercise any of the authorities, powers and discretions for the time being vested in or exercisable by the Board.

### *17.7 Delegation of powers to Committees*

The Board may, subject to the constraints imposed by law, delegate any of its powers to Committees consisting of one or more Directors or any other person or persons as the Board thinks fit. Any Committee formed or person or persons appointed to the Committee must, in the exercise of the powers delegated, conform to any regulations that may from time to time be imposed by the Board and any Board Charter. A delegate of the Board may be authorised by the Board to sub delegate any of the powers it has vested in the delegate.

### *17.8 Proceedings of Committees*

- a. The meetings and proceedings of any Committee are to be governed by the provisions of these clauses for regulating the meetings and proceedings of the Board so far as they are applicable and are not superseded by any regulations made by the Board under clause 17.7.
- b. A Committee in the exercise of the duties delegated or assigned to it must conform to any regulations, directions or instructions that may be imposed or given by the Board.
- c. A Committee appointed by the Board is under the control and direction of the Board and has no direct part or power in the management of the Company.

### *17.9 Validity of acts*

- a. All acts done at any Board meeting or by a Committee or by any person acting as a Director are, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any of the members or the Committee or the person acting as a Director or that any of them were disqualified, as valid as if every person had been duly appointed and was qualified and continued to be a Director or a Committee member.
- b. If the number of Directors is reduced below the minimum number fixed pursuant to this Constitution, the continuing Directors may act for the purpose of increasing the number of Directors to that number or of calling a General Meeting of the Company but for no other purpose.

### *17.10 Written resolutions*

- a. A written resolution executed by all Directors is as valid and effectual as if it was a resolution passed at a Board meeting. The written resolution may consist of several documents in the same form.
- b. A facsimile or email transmission or other document produced by mechanical or electronic means under the name of a Director with the Director's authority is deemed to be a document in writing signed by that Director. Any resolution made pursuant to this clause is passed when a majority of the Director's respond.

## **18 Powers of the Board**

### *18.1 General powers of the Board*

- a. The management and control of the business and affairs of the Company are vested in the Board, which (in addition to the powers and authorities conferred upon them by this Constitution) may exercise all powers and do all things as are within the power of the Company.
- b. The Board may make, amend or rescind such regulations consistent with the Constitution, as considered by the Board to be necessary for:
  - i. the proper control, administration and management of the Company's finances, affairs and property; or
  - ii. the convenience, comfort and well-being of the Members (including the terms of entry of Members to the Company's premises and any event or function sponsored, promoted, facilitated or conducted by the Company).
- c. Regulations made by the Board may be disallowed by the Company in a later General Meeting.
- d. A resolution or regulation made by the Company in a General Meeting cannot invalidate prior acts of the Board which would have been valid if that resolution or regulation had not been passed or made.
- e. The Board may, by power of attorney, appoint any person or persons to be the attorney or attorneys of the Company for such purposes, with such powers, authorities and discretions (being powers authorities and discretions vested in or exercisable by the Directors), for such period and subject to such conditions as they think fit.
- f. Any such power of attorney referred to in paragraph 18.1e may contain such provisions for the protection and convenience of persons dealing with the attorney as the Directors think fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in him.

- g. All cheques, promissory notes, bankers drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Company, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any two Directors or in any such manner as the Directors determine.

### **18.2 Director contracting with the Company**

- a. Irrespective of whether a person holds office as a Director or has a fiduciary relationship as a result of holding office, the Director may:
  - i. hold any office or place of profit (other than that of Reviewer or Auditor) in the Company; or
  - ii. enter into any arrangement, contract or dealing with the Company in any capacity, and any existing arrangement, contract or dealing entered into by or on behalf of the Company in which a Director is any way interested is not avoided or vitiated.
- b. Neither the holding of office nor the fiduciary responsibility which arises from it, renders any Director or any corporation of which a Director is an officer or member or in any way interested or any partnership of which a Director is a member or in any way interested liable to account for any profit arising out of the holding of any such office or place of profit or any such arrangement, contract or dealing.
- c. The Director must disclose the nature of any interest, direct or indirect, at the Board meeting at which the arrangement, contract or dealing is determined by the Board, or, in any other case, at the Board meeting next following the acquisition of the relevant interest.
- d. Subject to the Act, a Director who has an existing or future interest in any arrangement, contract or dealing referred to in this clause 18.2 may vote in respect of the matter at a Board meeting and may be counted in a quorum present at such meeting.
- e. If the Company has a Seal, a Director may affix or attest the affixing of the Seal to any instrument or sign or execute any document irrespective of any interest that the Director has in the subject matter of that instrument or document, or any other office or place of profit held by such Director.
- f. All acts done by members at Board or Committee meetings will be valid as if every such person had been duly appointed and was qualified to be a Director or subcommittee, irrespective of any defect in the appointment of such member or disqualification.

### **18.3 Board Charter**

The Board may establish, implement, vary and replace a Board Charter including policies, codes of conduct, and procedures being not inconsistent with this Constitution and binding upon the Directors and the Company as the Board deem necessary and desirable for the efficient management of the Company and to enable the Company to best achieve its objects.

## **19 Payment of costs**

The Board may, out of the funds of the Company, pay all reasonable costs and expenses which any Officer incurs or will incur under any contract or agreement properly and fairly entered into with the Company, or as a result of an act or thing done by them within the scope of their role as an Officer, which was reasonably necessary for them to undertake or discharge their duties.

## **20 Execution of documents**

### **20.1 Affixing the Seal**

- a. The Company may have a Seal.

- b. If the Company has a Seal, the Board is to provide for its safe custody and it should only be used with the Board's authority.
- c. Every instrument to which the Seal is affixed is to be signed by a Director and countersigned by the Secretary, a second Director, or another person appointed by the Board for the purpose.
- d. The Board may determine either generally or in any particular case that a signature may be affixed by a mechanical means specified in the determination.

#### **20.2 *Execution of documents by Directors/ Secretary***

The Company may execute a document, including a deed, by having the document signed by:

- a. 2 Directors; or
- b. a Director and the Secretary.

#### **20.3 *Execution of documents by Chief Executive Officer***

The Chief Executive Officer is authorised to execute any document in accordance with clause 14.4b.

## **21 Minutes and Access**

### **21.1 *Company must maintain minute books***

- a. The Board must cause the Company to keep minute books in which it records within one month:
  - i. proceedings and resolutions of Members' meetings;
  - ii. proceedings and resolutions of Board meetings (together with the names of the Directors present at each meeting of the Company and Board);
  - iii. resolutions passed by Members without a meeting; and
  - iv. resolutions passed by Board without a meeting.
- b. The Company must ensure that the minutes of a meeting are signed by the Chairperson of the meeting or the Chairperson of the next meeting within a reasonable time after the meeting. The minutes of any Board meeting of the Company, if purporting to be signed by the Chairperson of the meeting or by the Chairperson of the next succeeding meeting are prima facie evidence of the matters stated in the minutes.

### **21.2 *Access to minutes***

Members are entitled to gain access to the minute book of meetings of Members in accordance with the Act.

### **21.3 *Access to Board meetings***

Members who are not Directors are not entitled to attend Board meetings.

## **22 Notices**

### **22.1 *Service of notices***

A notice may be given by the Company to a Member in any of the formats described in clause 9.6b.

### **22.2 *Provision of period of notice***

The deemed date of service for notice is as set out in clause 9.6b. Where a given number of days' notice is required to be provided, the day of service is not included in the calculation of the number of days.

### 22.3 *Service on deceased Members*

A notice delivered to the Registered Address of a Member pursuant to this Constitution is deemed to have been duly served and the service is for all purposes deemed to be sufficient service of the notice or document on the Member's heirs, executors or administrators (notwithstanding that the Member is then dead and whether or not the Company has notice of the Member's death).

## 23 Indemnity

### 23.1 *Extent of indemnity*

- a. Subject to Part 2D.2 of the Act, a person who is or has been an Officer, Reviewer or Auditor of the Company is indemnified by the Company against any liability to another person (other than the Company or a related body corporate of the Company as defined in the Act) incurred in that person's capacity as an Officer unless the liability:
  - i. arises out of conduct involving a lack of good faith; or
  - ii. is for a pecuniary penalty order or compensation order under Part 9.4B of the Act.
- b. The Company is required to indemnify an Officer, Reviewer or Auditor against a liability for costs and expenses (including, without limitation, legal expenses on a full indemnity basis) incurred by the Officer:
  - i. in defending proceedings, whether civil or criminal, in which:
    - A. judgment is given in favour of the Officer; or
    - B. the Officer is acquitted; or
  - ii. in connection with an application, in relation to proceedings under clause 23.1b.i, in which a court grants relief to the Officer under the Act,subject to an obligation that the Officer repays to the Company the expenses advanced by the Company if:
  - iii. judgment is not given in the Officer's favour;
  - iv. the Officer is not acquitted;
  - v. a court subsequently determines that the indemnification is not permitted; or
  - vi. the indemnification is not permitted by the Act.
- c. For the purposes of this clause, the Company has the burden of proving that the Officer to be indemnified is not entitled to the requested indemnification.
- d. The indemnification rights in this clause constitute a contract between the relevant parties seeking indemnification and the Company and continue to have effect following the rescission or restrictive modification of the clause with respect to events occurring prior to the rescission or modification of the clause.

### 23.2 *Limit of indemnity*

Subject to the provisions of the Act, an Officer of the Company is not liable for:

- a. the acts, receipts, neglect or defaults of any other Officer;
- b. joining in any receipt or other act of conformity or for any loss or expense happening to the Company through:
  - i. the insufficiency or deficiency of title to any property acquired by order of the Officers for or on behalf of the Company; or
  - ii. the insufficiency or deficiency of any security in or upon which any of the moneys of the Company are invested;

- c. any loss or damage arising from the bankruptcy, insolvency or tortious act of any person with whom any moneys, Securities or effects are deposited;
- d. any loss occasioned by any error of judgment or oversight on the Officer's part (except in the case of the Officer's own fraud or dishonesty); or
- e. any other loss, damage or misfortune which occurs in the execution of the Officer's duties unless the loss, damage or misfortune occurred through the Officer's own dishonesty.

### 23.3 *Contract of insurance*

- a. Subject to law, the Company may purchase and maintain a contract of Insurance for any person who is or has been an Officer, Reviewer or Auditor, against:
  - i. any liability incurred by the Officer which does not arise out of conduct involving a wilful breach of duty in relation to the Company or a contravention of sections 182 or 183 of the Act; or
  - ii. 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 their outcome.
- b. The Company may purchase and maintain a contract of Insurance for the benefit an employee of the Company who is not an Officer, Reviewer or Auditor concerned in the management of the Company.

### 23.4 *Personal liability of Officers*

If the Board, a Director, or any Officer of the Company becomes personally liable for the payment of any sum primarily due from the Company, the Board may execute a charge or security over all or part of the Company assets as an indemnity for any loss incurred by the person as a result of the liability.

## 24 Confidentiality

### 24.1 *Maintain confidentiality*

All Directors and Members must maintain the confidentiality of Company Information and must not disclose any Company Information to any person except:

- a. with the prior written consent of the Board or the Chief Executive Officer;
- b. to the Board, the Company's employees and the professional advisors of the Company; and
- c. if applicable, as required by law, after first consulting the Board about the form and content of the disclosure.

## 25 Media authorisation and conduct

- a. No individual Director of the Company or any individual Member of the Company may make media comment, issue media releases, participate in media interviews, or correspond with the media on behalf of the Company without the authorisation of the Board. This clause does not apply to the Chief Executive Officer.
- b. Without approval, as specified in clause 25a of this Constitution, an individual Director, or individual Member of the Company, may not hold out his or her views to be reflective of the views of the Company.
- c. The Board may issue directions, regulations, rules or codes in relation to media authorisation and conduct.

## 26 Disputes and mediation

The Board will, at its absolute discretion, establish complaint and appeals procedures. These procedures will cover all aspects of the services of the Company.