

# Fund Executives Association Limited

ACN 086 016 131

## Constitution

A company limited by guarantee

Adopted on: 18<sup>th</sup> November 2015

**King & Wood Mallesons**

Level 61

Governor Phillip Tower

1 Farrer Place

Sydney NSW 2000

Australia

T +61 2 9296 2000

F +61 2 9296 3999

DX 113 Sydney

[www.kwm.com](http://www.kwm.com)

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# Constitution

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## 1 Interpretation

### 1.1 Definitions

In this Constitution unless the contrary intention appears:

**Alternate Director** means a person appointed as an alternate director under article 9.9.

**Annual Membership Fee** means any amount determined in accordance with article 4.11.

**Application Fee** means any amount determined in accordance with article 4.9.

**Approved Institution** means a fund, authority or institution which falls within the description of an item in any of the tables in Subdivision 30-B of the Tax Act, which has been established for charitable purposes, and which is endorsed as a deductible gift recipient under or for the purposes of the Tax Act.

**Chief Executive Officer** means a person appointed as an executive director under Part 11.

**Committee** means a committee of Directors constituted under article 8.6.

**Company** means Fund Executives Association Limited ACN 086 013 131.

**Constitution** means this constitution and a reference to an article is a reference to an article of this constitution.

**Corporate Member** means an organisation (or an individual executive employed by that organisation) that applies for and is granted membership as a Corporate Member of the Company as provided in articles 4.5 and 4.6 or article 4.8.

**Corporations Act** means the Corporations Act 2001 (Cwlth).

**Director** means a person holding office as a director, and where appropriate includes an Alternate Director.

**Directors** means all or some of the Directors acting as a board.

**Fund** means any not-for-profit superannuation fund.

**Fund Executive** means a person who is involved in or responsible for the management, operation or administration of a Fund and who:

- (a) is a senior employee of:
  - (i) the Fund,
  - (ii) the organisation which promotes the Fund, and
- (b) is a natural person.

**Individual Member** means a person who applies for and is granted membership as an Individual Member of the Company as provided in articles 4.3 and 4.4 or article 4.8.

**Life Member** means a person who is granted membership as a Life Member as provided in article 4.7.

**Member** means a person entered in the Register of Members as a member of the Company and who has not ceased to be a member in accordance with this Constitution.

**Objects** means the objects specified in article 2.

**Register** means the register of Members of the Company and, if appropriate, includes a branch register.

**Registered Office** means the registered office of the Company.

**Representative** means a person appointed to represent a corporate Member at a general meeting of the Company in accordance with the Corporations Act.

**Secretary** means a person appointed under article 10 as a secretary of the Company, and where appropriate, includes an acting secretary and a person appointed by the Directors to perform all or any of the duties of a secretary of the Company.

**Tax Act** means the Income Tax Assessment Act 1936 (Cwlth) or the Income Tax Assessment Act 1997 (Cwlth), as the context requires.

## 1.2 Interpretation

In this Constitution unless the contrary intention appears:

- (a) words importing any gender include all other genders;
- (b) the word person includes a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association or an authority;
- (c) a reference to a particular person includes the person's executors, administrators, successors, substitutes and permitted assigns;
- (d) the singular includes the plural and vice versa;
- (e) a reference to a document (including this Constitution) includes any variation or replacement of it;
- (f) the meaning of general words is not limited by specific examples introduced by "including", "for example" or "such as" or similar expressions;
- (g) a reference to legislation includes regulations and other instruments under it and any variation or replacement of any of them;
- (h) a power, an authority or a discretion given to a Director, the Directors, the Company in general meeting or a Member may be exercised at any time and from time to time;
- (i) "writing" and "written" includes printing, typing and other modes of reproducing words in a visible form including any representation of words in a physical document or in an electronic communication or form or otherwise;
- (j) the word "present" in the context of a person being present at a meeting includes participating using technology approved by the Directors in accordance with this Constitution;

- (k) a reference to dollars or \$ is a reference to Australian dollars;
- (l) the word “law” includes common law, principles of equity and legislation, and a reference to legislation includes regulations and other instruments under it and any variation or replacement of any of them;
- (m) the meaning of general words is not limited by specific examples introduced by “including”, “for example” or “such as” or similar expressions;
- (n) a chairman appointed under this Constitution may be referred to as a chairperson, chairwoman or as chair , as appropriate.

### **1.3 Corporations Act**

In this Constitution unless the contrary intention appears:

- (a) a word or expression defined or used in the Corporations Act has the same meaning when used in this Constitution in a similar context; and
- (b) “section” means a section of the Corporations Act.

### **1.4 Replaceable rules not to apply**

The provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution and do not apply to the Company.

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## **2 Objects of the Company**

The Company is established to:

- (a) To advance the public knowledge and understanding of all matters affecting or relating to Funds or Fund Executives in that capacity, generally.
- (b) To advance the professional development of Fund Executives through granting scholarships and awards.
- (c) To establish and promote best practice standards for the operation of Funds and education standards for Fund Executives.
- (d) To promote, organise and hold meetings, conferences, seminars and lectures for the purpose of providing a public forum for the consideration and discussion of matters affecting or relating to Funds or any object of the company or Fund Executives in that capacity, and for the dissemination of relevant information.
- (e) To establish and maintain a secretariat to collect, collate and disseminate information on matters affecting Funds or Fund Executives in that capacity and to answer questions submitted by Members of the company.
- (f) To affiliate with associations, societies, corporations and institutes having similar objects to those of the company whether in Australia or elsewhere, to establish and maintain close relations with such other bodies and to exchange information with them.
- (g) To provide such specialised services to Funds and Fund Executives as are of assistance to Members of the company or any particular group of Members of the company.



- (h) To subscribe to or otherwise aid benevolent, charitable, national or other institutions or objects of a public character which relate in any way to the objects of the company and which in the opinion of the company warrant support.
- (i) To make available to any persons, firm or companies, not being Members of the company such of the services and facilities of the company for such times, to such extent, and upon such terms and conditions as the Directors shall think fit.
- (j) To protect, promote and advance the interests of Funds and Fund Executives in that capacity.
- (k) To establish committees for the benefit of Members of the company and to promote the objects of the company.
- (l) To erect, construct, alter or maintain or cause to be erected, constructed, altered or maintained, any buildings, works, improvements, plant or machinery which may be deemed necessary or convenient for any of the purposes of the company.
- (m) To sign and execute deeds, documents and other instruments of every nature and kind.
- (n) To accept, undertake or execute any trust or gift and act as trustee of any trust which relates in any way to the objects of the company.
- (o) To invest or otherwise deal with the moneys of the company not immediately required in such manner as the Directors may from time to time determine and to hold, sell or otherwise deal with such investments or moneys in such manner as the Directors may from time to time determine.
- (p) To raise funds by means of subscriptions of Members and levies on Members for all or any of the objects of the company of such amounts and in such manner as provided for in this Constitution.
- (q) To enter into sponsorship arrangements on any terms that the Directors consider fit.
- (r) To employ and remunerate staff and to provide such benefits on retirement from or leaving or death whilst in service on such terms and conditions and in such manner as the Directors may from time to time determine.
- (s) To establish and support or aid in the establishment and support of and act as trustee of or hold any other equivalent office in, associations, institutions, funds, trusts and conveniences calculated to benefit employees or past employees of the company or the dependants or connections of any such persons and to make superannuation payments and grant allowances and to make payments towards insurance and assurance in respect of any such persons.
- (t) To purchase or otherwise acquire and undertake all or part of the property, assets, liabilities and engagements of any one or more of the persons, corporations, associations, societies, organisations or institutes with which the company is authorised to amalgamate.
- (u) To amalgamate or enter into partnership or enter into any arrangement for sharing of profits, union of interest, corporation, joint venture, reciprocal concession or otherwise with any person, corporation,

association, society, organisation or institution carrying on, engaged in or about to carry on or engage in any business or transaction which the company is authorised to carry on or engage in or carry on any business or transaction capable of being conducted so as to directly or indirectly benefit the company.

- (v) To do all such other things as are incidental or conducive to the attainment of the objects of the company or any of them.

Except as provided in paragraph (a), the powers set out in sub-section 124(1) of the Corporations Act shall not apply to the Company

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## **3 Income and property of the Company**

### **3.1 Application of income and property**

All income, property and profits of the Company must be applied towards the promotion of the Objects.

### **3.2 No dividend, bonus or profit paid to Members**

No part of the profits, income or property of the Company may be paid or transferred to a Member, either directly or indirectly by way of dividend, bonus or otherwise, other than in accordance with article 3.3.

### **3.3 Permitted payments by the Company**

Subject to articles 7.6 and 7.8, article 3.2 does not prevent payment in good faith to an officer of the Company or a Member, or to a firm of which an officer of the Company or a Member is a partner or employee:

- (a) of remuneration for services provided by, or reimbursement of expenses incurred by, that person (other than as a Director) or firm, including in accordance with articles 7.7 and 7.8;
- (b) for goods supplied in the ordinary course of business;
- (c) for repayment of any money borrowed from an officer of the Company or a Member;
- (d) of interest at a rate fixed by the Directors (but not exceeding the sum of the National Australia Bank's published overdraft rate from time to time for its corporate customers and 5% per annum) on money borrowed from an officer of the Company or a Member; or
- (e) of reasonable rent for premises let by an officer of the Company or a Member.

### **3.4 Provision of Services**

Article 3.2 does not prevent an officer of the Company or a Member being the recipient of services from the Company in accordance with the Company's Objects.

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## **4 Membership**

### **4.1 Becoming a Member**

Except for a person who agreed in writing to the terms of this Constitution before its adoption, a person may only become a Member under this Part 4.

### **4.2 Categories of Membership**

- (a) The categories of Members of the Company shall consist of Individual Members, Corporate Members and Life Members.
- (b) Individual Members shall consist of all persons who apply for and are accepted as Individual Members in accordance with articles 4.3 and 4.4 or article 4.8.
- (c) Corporate Members shall consist of all organisations and/or persons who apply for and are accepted as Corporate Members in accordance with articles 4.5 and 4.6 or article 4.8.

Life Members shall consist of all persons who are granted Life Membership in accordance with article 4.7.

### **4.3 Application for Individual Membership**

Any person who is:

- (a) a Fund Executive, or
- (b) a person who maintains an active role in the management, operation or administration of a Fund,

may apply to become a Member by submitting to the Company a properly completed application in the form prescribed by the Directors.

By completing an application form, if accepted, the applicant agrees to be bound by this Constitution and any other rules, by-laws, policies or other standards prescribed by the Directors from time to time.

### **4.4 Admission as an Individual Member**

An application for membership is deemed to be accepted upon entry of the applicant's details in the Register of Members, subject to article 4.10.

The Directors may in their absolute discretion resolve to reject any application for membership and not enter an applicant's details in the Register of Members. The Directors are not required to give reasons for rejection of an application for membership of the Company.

### **4.5 Application for Corporate Membership**

Any Fund may apply to become a Member by submitting to the Company a properly completed application in the form prescribed by the Directors.

By completing an application form, if accepted, the applicant agrees to be bound by this Constitution and any other rules, by-laws, policies or other standards prescribed by the Directors from time to time.

#### **4.6 Admission as Corporate Member**

An application for membership is deemed to be accepted upon entry of the applicant's details in the Register of Members, subject to article 4.10.

The Directors may in their absolute discretion resolve to reject any application for membership and not enter an applicant's details in the Register of Members. The Directors are not required to give reasons for rejection of an application for membership of the Company.

#### **4.7 Invitation for an acceptance of Life Membership**

- (a) The Directors may at any time invite a person to become a Life Member of the Company.
- (b) Each person who is invited to become a Life Member of the Company must accept such invitation by submitting to the Company a properly completed acceptance in the form prescribed by the Directors.

#### **4.8 Directors discretion to accept Members**

Any other person or organisation who does not satisfy the criteria set out in articles 4.3 and 4.5 may apply to become an Individual Member or a Corporate Member by submitting to the Company a properly completed application in the form prescribed by the Directors.

By completing an application form, if accepted, the applicant agrees to be bound by this Constitution and any other rules, by-laws, policies or other standards prescribed by the Directors from time to time.

The Directors must resolve whether to accept or reject any such application for membership. The Directors are not required to give reasons for rejection of an application for membership of the Company.

#### **4.9 Application fee**

The Directors may resolve from time to time that any person applying to become a Member must pay an application fee and, if so, how much and when and how it is to be paid.

#### **4.10 Register of Members**

Upon acceptance of an invitation to become a Member (if applicable) and payment of the applicable Annual Membership Fee, the applicant will become a Member of the Company and the Member's details will be recorded in the Register by the Company.

A Member must promptly notify the Company of any change in the Member's details which are recorded in the Register.

#### **4.11 Annual Membership Fee**

The Directors may, in their absolute discretion, determine whether there will be an Annual Membership Fee and, if so, the annual amount for each Member or class of Members.

The Directors or Secretary may notify Members of the date and manner for payment. Otherwise, each Member must pay any applicable Annual Membership Fee in advance by 1 July each year.

The Directors may waive the payment of all or any part of an Annual Membership Fee for a Member or any class of Members.

If a person or organisation has accepted an invitation to become a Member after 1 January in any year, the Directors may determine that the Member shall pay a membership fee calculated on a pro rata basis from the date of admission to the next 31 December, and payment of that amount shall meet the requirement for such Member to pay the Annual Membership Fee for the first year of their membership.

If a person or organisation ceases to be a Member during a period and that person or organisation has fully paid their Annual Membership Fee for that period, the Directors may determine to refund the Annual Membership Fee in full or any part of the Annual Membership Fee to the person or organisation, but are not obliged to refund any part of the Annual Membership Fee.

#### **4.12 Directors may create and vary classes and class rights**

The Directors may, subject to this Constitution and the Corporations Act:

- (a) prescribe, revoke and amend the criteria for membership and any classes of membership (but are not obliged to accept persons fulfilling those criteria as Members or Members of a class);
- (b) establish any new class of Members and define the rights, restrictions and obligations of Members in that class; and
- (c) vary or cancel the rights, restrictions and obligations of Members in any new or existing class, if:
  - (i) at least 50% of the Members of that class give their written consent; or
  - (ii) an ordinary resolution to that effect is passed at a separate meeting of those Members.

The articles on general meetings apply to meetings of a class of Members so far as they are capable of application and with the necessary changes to every separate meeting.

#### **4.13 No transfer of Membership**

A Member must not sell, transfer or dispose of their interests in the Company to another Member or a third party.

#### **4.14 Ceasing to be a Member**

A person ceases to be a Member on:

- (a) resignation;
- (b) the termination of the person's membership by the Directors or by the Company in general meeting in accordance with this Constitution;
- (c) in the case of a natural person:
  - (i) death;
  - (ii) becoming bankrupt or insolvent or making an arrangement or composition with creditors of the person's joint or separate estate generally; or

- (iii) becoming of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health; or
- (d) in the case of a body corporate:
  - (i) being dissolved or otherwise ceasing to exist;
  - (ii) having a liquidator or provisional liquidator appointed to it; or
  - (iii) being insolvent.

#### **4.15 Resignation**

A Member may by written notice to the Company resign from membership of the Company. The resignation shall be effective from the date of receipt of the notice by the Company. The Member shall be removed from the relevant Register of the Company

A Member remains liable after resignation for all money due by the Member to the Company at the date of resignation, in addition to any sum for which the Member is liable as a Member under article 16.1.

#### **4.16 Non-payment of Annual Membership Fee**

If an Annual Membership Fee for a Member remains unpaid for 12 months after it becomes due, the Member's membership automatically terminates and the Member ceases to be a Member. The Directors may, but need not, reinstate a Member whose membership is terminated if the Member pays all overdue Annual Membership Fee amounts.

#### **4.17 Censuring, suspension or expulsion of a Member**

If a Member wilfully refuses or neglects to comply with the provisions of this Constitution, by-laws, policies or other standards prescribed by the Directors, or acts in a manner which in the opinion of the Directors is prejudicial to the interests of the Company, the Directors may by resolution censure, suspend or expel the Member from the Company, provided that the following procedure is observed:

- (a) the Directors or Secretary must give written notice to the Member setting out what is alleged against the Member and the Member must be given the opportunity to rectify the matter;
- (b) at least one week before the Directors' meeting at which the resolution is to be considered, the Member must be given notice of the meeting setting out:
  - (i) what is alleged against the Member; and
  - (ii) the intended resolution;
- (c) at the Directors' meeting, and before voting on the resolution, the Member must be given an opportunity to give a written or verbal explanation as the Member thinks fit;
- (d) the Member may elect to have the question dealt with by the Company in general meeting. If so, the Member must give written notice to the Company at least 24 hours before the proposed time for the Directors' meeting to consider the resolution;
- (e) if the Member gives this notice, then:

- (i) no resolution of the Directors on the matter is effective;
  - (ii) a general meeting of the Company must be called to consider the resolution set out in the notice originally given to the Member under this article; and
  - (iii) if a resolution is passed on a poll at the general meeting by a majority of 75% of those entitled to vote, the Member must be dealt with in accordance with the resolution; and
- (f) if a resolution for the Member's expulsion is passed in accordance with this article, the Member's membership automatically terminates and the Member ceases to be a Member.

#### **4.18 Termination of membership**

Without limiting article 4.16, the Directors may by written notice to the Member terminate the Member's membership with immediate effect or with effect from a specified date occurring not more than three months after service of the notice.

#### **4.19 Representative Members**

If a person is admitted as a Corporate Member as a representative of an organisation, unincorporated association or body, the name of the Member, the name of the organisation, unincorporated association or body and the fact that the member is its representative must be entered in the Register.

Subject to the Directors' right to decline to accept any person as a Member, the organisation, unincorporated association or body may replace the Member who is its representative with another person. It must give written notice to the Company setting out the details of the new representative and be signed by an officer of the association or body. It is not necessary for the outgoing Member to resign or the incoming Member to apply to become a Member.

#### **4.20 Honorary members**

The Directors may admit any persons to, and remove any persons from, honorary membership of the Company. The Directors may not give an honorary member the right to vote on a matter concerning the Company, but may otherwise determine the rights and obligations of an honorary member. An honorary member is not a Member for the purposes of this Constitution or the Corporations Act.

#### **4.21 Patrons**

The Directors may appoint and remove any persons as a patron or any other honorary title-holder of the Company on any terms the Directors think fit. A patron (or other honorary title-holder) may, in the discretion of the Directors, be given the right to:

- (a) attend and speak (but not vote) at any general meeting of the Company and be given notice of the meeting as if a Member; and
- (b) receive accounts of the Company when available to Members.

#### **4.22 Limited liability**

A Member has no liability as a Member except as set out in this Part 4 and article 16.1.

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## **5 General meetings**

### **5.1 Annual general meeting**

Annual general meetings of the Company are to be held in accordance with the Corporations Act.

### **5.2 Convening a general meeting**

The Directors may convene and arrange to hold a general meeting of the Company when they think fit and must do so if required to do so under the Corporations Act.

### **5.3 Members have power to convene general meeting**

If there are not sufficient Directors for a quorum, a Director or any two or more Members may convene a general meeting of the Company at the cost of the Company.

### **5.4 Use of technology at general meetings**

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

### **5.5 Notice of general meeting**

Notice of a general meeting must be given in accordance with Part 14 and the Corporations Act.

### **5.6 Calculation of period of notice**

In computing the period of notice for a general meeting, both the day on which the notice is given or taken to be given and the day of the meeting convened by it are to be disregarded.

### **5.7 Cancellation or postponement of general meeting**

Where a general meeting (including an annual general meeting) is convened by the Directors, they may by notice, whenever they think fit, cancel the meeting or postpone the holding of the meeting to a date and time determined by them or change the place for the meeting.

This article does not apply to a meeting convened in accordance with the Corporations Act by a single Director, by Members, by the Directors on the request of Members, or to a meeting convened by a court.

### **5.8 Notice of cancellation, postponement or change of place of general meeting**

Written notice of cancellation or postponement or change of place of a general meeting must be given to all persons entitled to receive notices of general meetings from the Company. A notice of a change of place of a general meeting must specify the different place for the holding of the meeting.

### **5.9 Contents of notice postponing general meeting**

A notice postponing the holding of a general meeting must specify:



- (a) a date and time for the holding of the meeting;
- (b) a place for the holding of the meeting, which may be either the same as or different from the place specified in the notice convening the meeting; and
- (c) if the meeting is to be held in two or more places, the technology that will be used to facilitate the holding of the meeting in that manner.

#### **5.10 Number of clear days for postponement of general meeting**

The number of clear days from the giving of a notice postponing the holding of a general meeting to the date specified in that notice for the holding of the postponed meeting must not be less than the number of clear days notice of the general meeting required to be given by this Constitution or the Corporations Act.

#### **5.11 Business at postponed general meeting**

The only business that may be transacted at a postponed general meeting is the business specified in the original notice convening the meeting.

#### **5.12 Non-receipt of notice**

The non-receipt of, or accidental omission to give, a notice of a general meeting or cancellation, postponement or change of details for a general meeting to a person entitled to receive notice does not invalidate any resolution passed at the general meeting or at a postponed meeting or the cancellation or postponement of a meeting.

#### **5.13 Proxy, attorney or Representative at postponed general meeting**

Where by the terms of an instrument appointing a proxy or attorney or of an appointment of a Representative:

- (a) the appointed person is authorised to attend and vote at a general meeting or general meetings to be held on or before a specified date; and
- (b) the date for holding the meeting is postponed to a date later than the date specified in the instrument of proxy, power of attorney or appointment of Representative,

then that later date is substituted for and applies to the exclusion of the date specified in the instrument of proxy, power of attorney or appointment of Representative unless the Member appointing the proxy, attorney or Representative gives to the Company, at its Registered Office, written notice to the contrary not less than 48 hours before the time to which the holding of the meeting has been postponed.

#### **5.14 Director entitled to notice of meeting**

A Director is entitled to receive notice of and to attend all general meetings and all separate meetings of any class of Members of the Company and is entitled to speak at those meetings.

#### **5.15 Circulating resolutions**

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.

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

The resolution is passed when the last Member signs.

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## **6 Proceedings at general meetings**

### **6.1 Number for a quorum**

Subject to article 6.3, 5% of Members present in person or by proxy, attorney or Representative are a quorum at a general meeting of the Company. In determining whether a quorum is present, each individual attending as a proxy, attorney or Representative is to be counted, except that:

- (a) where a Member has appointed more than one proxy, attorney or Representative, only one is to be counted; and
- (b) where an individual is attending both as a Member and as a proxy, attorney or Representative, that individual is to be counted once for that Member and once for each Member for whom that individual is attending as proxy, attorney or representative.

### **6.2 Requirement for a quorum**

An item of business may not be transacted at a general meeting unless a quorum is present when the meeting proceeds to consider it. If a quorum is present at the time the first item of business is transacted, it is taken to be present when the meeting proceeds to consider each subsequent item of business unless the chairman of the meeting (on the chairman's own motion or at the request of a Member, proxy, attorney or Representative who is present) declares otherwise.

### **6.3 If quorum not present**

If within 15 minutes after the time appointed for a general meeting a quorum is not present, the meeting:

- (a) if convened by a Director, or at the request of Members, is dissolved; and
- (b) in any other case, stands adjourned to the same day in the next week and the same time and place, or to such other day, time and place as the Directors appoint by notice to the Members and others entitled to notice of the meeting.

### **6.4 Appointment of chairman of general meeting**

If the Directors have elected one of their number as chairman of their meetings, that person is entitled to preside as chairman at a general meeting of the Company.

### **6.5 Absence of chairman at general meeting**

If a general meeting is held and:

- (a) a chairman has not been elected by the Directors; or
- (b) the elected chairman is not present within 15 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the following may preside as chairman of the meeting (in order of precedence):

- (c) the deputy chairman (if any);
- (d) a Director chosen by a majority of the Directors present;
- (e) the only Director present; or
- (f) a Member chosen by a majority of the Members present in person or by proxy, attorney or Representative.

## **6.6 Conduct of general meetings**

The chairman of a general meeting:

- (a) has charge of the general conduct of the meeting and of the procedures to be adopted at the meeting;
- (b) may require the adoption of any procedure which is in the chairman's opinion necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the general meeting; and
- (c) having regard where necessary to the Corporations Act, may terminate discussion or debate on any matter whenever the chairman considers it necessary or desirable for the proper conduct of the meeting,

and a decision by the chairman under this article is final.

## **6.7 Adjournment of general meeting**

The chairman of a general meeting may at any time during the meeting adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting at any time and any place, but:

- (a) in exercising this discretion, the chairman may, but need not, seek the approval of the Members present in person or by proxy, attorney or Representative; and
- (b) only unfinished business is to be transacted at a meeting resumed after an adjournment.

Unless required by the chairman, a vote may not be taken or demanded by the Members present in person or by proxy, attorney or Representative in respect of any adjournment.

## **6.8 Notice of adjourned meeting**

It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for one month or more. In that case, notice of the adjourned meeting must be given as in the case of an original meeting.

## **6.9 Questions decided by majority**

Subject to the requirements of the Corporations Act, a resolution is taken to be carried if a simple majority of the votes cast on the resolution are in favour of it.

### **6.10 Casting vote for the chairman**

If there is an equality of votes, whether on a show of hands or on a poll, the chairman of the general meeting is entitled to a casting vote in addition to any votes to which the chairman is entitled as a Member or proxy, attorney or Representative of a Member.

### **6.11 Voting on show of hands**

- (a) At any general meeting a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is effectively demanded and the demand is not withdrawn.
- (b) A declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact. Neither the chairman nor the minutes need state, and it is not necessary to prove, the number or proportion of the votes recorded in favour of or against the resolution.

### **6.12 Demanding a poll**

At a general meeting of the Company, a poll may be demanded by:

- (a) at least 5% of Members present and entitled to vote on the resolution;
- (b) Members with at least 5% of the votes that may be cast on the resolution on a poll; or
- (c) the chairman of the meeting.

### **6.13 Poll**

If a poll is effectively demanded in accordance with article 6.12:

- (a) it must be taken in the manner and at the date and time directed by the chairman and the result of the poll is a resolution of the meeting at which the poll was demanded;
- (b) on the election of a chairman or on a question of adjournment, it must be taken immediately;
- (c) the demand may be withdrawn; and
- (d) the demand does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.

### **6.14 Entitlement to vote**

Subject to this Constitution and to any rights and any restrictions attached to any class of Members:

- (a) on a show of hands, each Member present in person and each other person present as proxy, attorney or Representative of a Member has one vote; and
- (b) on a poll, each Member present in person has one vote and each person present as proxy, attorney or Representative of a Member has one vote for each Member that the person represents.

## **6.15 Validity of vote in certain circumstances**

Unless the Company has received written notice of the matter before the start or resumption of the meeting at which a person votes as a proxy, attorney or Representative, a vote cast by that person is valid even if, before the person votes:

- (a) the appointing Member dies;
- (b) the appointing Member is mentally incapacitated; or
- (c) the Member revokes the appointment or authority.

## **6.16 Objection to voting qualification**

An objection to the right of a person to attend or vote at a general meeting or adjourned general meeting:

- (a) may not be raised except at that meeting or adjourned meeting; and
- (b) must be referred to the chairman of the meeting, whose decision is final.

A vote not disallowed under the objection is valid for all purposes.

## **6.17 Right to appoint attorney**

A Member may by power of attorney appoint an attorney to act on the Member's behalf at all or any meetings of the Company or of any class of Members.

To be effective, an instrument appointing an attorney under this article, together with any evidence of non-revocation the Directors require, must be received by the Company at least 48 hours before the meeting.

## **6.18 Suspension or if any Annual Membership Fee not paid**

In addition to any other rights of the Company, if:

- (a) any Annual Membership Fee is due and payable by a Member and is not paid; or
- (b) a Member is suspended,

the Member has no right to be present at, be counted among the quorum for, or vote, whether in person or by proxy, attorney or Representative, at a general meeting of the Company.

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# **7 Directors**

## **7.1 Number of Directors**

The Directors of the Company shall comprise:

- (a) a minimum of six and a maximum of eight Members, to be known as Member Directors; and
- (b) not more than one non-Member who is appointed by the Directors, to be known as Independent Director.

## **7.2 Change of number of Directors**

Subject to article 7.1, the Company in general meeting may by resolution increase or reduce the number of Directors and may also amend the provisions for the rotation or retirement of Directors.

## **7.3 Director election and term of office**

At each annual general meeting of the Company, one-third of the Member Directors, or if their number is not divisible by three, then one-third of the number which is immediately less than the number of Member Directors and divisible by three, shall retire from office.

The Member Directors who are to retire from office at any annual general meeting of the Company in accordance with this article are those who have been longest in office as a Director since their last election but, as among persons who became Directors on the same day, those to retire shall, unless otherwise agreed, be determined by lot.

A retiring Member Director shall be eligible for re-election as a Director of the Company.

The Independent Director shall retire from office either at such time as may be determined by the Directors (either generally or in a particular case) or, in the absence of such determination, shall retire from office at the expiry of two years from his or her last appointment as a Director.

A retiring Independent Director shall be eligible for re-appointment as the Independent Director unless he or she has been an Independent Director for three terms.

## **7.4 Eligibility for election as Director**

Except for:

- (a) a person who is eligible for election under article 7.5; or
- (b) a person recommended for election by the Directors,

a person is not eligible for election as a Director at a general meeting of the Company unless a consent to nomination signed by the person has been lodged at the Registered Office at least 30 business days before the general meeting or any other period permitted under the Corporations Act but no more than 90 business days before the meeting.

## **7.5 Casual vacancy or additional Director**

The Directors may at any time appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors.

Apart from a Chief Executive Officer who is appointed as a Director, a Director appointed under this article holds office until the conclusion of the next annual general meeting of the Company but is eligible for election at that meeting.

## **7.6 Remuneration for services as a Director**

The Directors shall be paid such remuneration as is from time to time decided by the Company in general meeting. That remuneration shall be taken to accrue from day to day.

## **7.7 Reimbursement of expenses**

A Director is entitled to be reimbursed out of the funds of the Company for their reasonable travelling, accommodation and other expenses incurred when travelling to or from meetings of the Directors, a Committee or the Company or when otherwise engaged on the business of the Company.

## **7.8 Payments to a Director**

Any payment to a Director which is not prohibited under article 7.6 (including a payment permitted under article 7.7) must be approved by the Directors.

## **7.9 Director's interests**

Subject to the provisions of this Constitution and to complying with the Corporations Act regarding disclosure of and voting on matters involving material personal interests, a Director may:

- (a) hold any office or place of profit in the Company, except that of auditor;
- (b) hold any office or place of profit in any other company, body corporate, trust or entity promoted by the Company or in which it has an interest of any kind;
- (c) enter into a contract or arrangement with the Company;
- (d) participate in any association, institution, fund, trust or scheme for past or present employees or directors of the Company or persons dependent on or connected with them;
- (e) act in a professional capacity (or be a member of a firm which acts in a professional capacity) for the Company, except as auditor;
- (f) despite having an interest in a matter that is being considered at a meeting of Directors, be present at, participate in, vote on and be counted in a quorum at the meeting;
- (g) despite having an interest in a document, sign or participate in the execution of a document by or on behalf of the Company; and
- (h) do any of the above despite the fiduciary relationship of the Director's office:
  - (i) without any liability to account to the Company for any benefit accruing to the Director; and
  - (ii) without affecting the validity of any contract or arrangement.

A reference to the Company in this article is also a reference to any related body corporate of the Company.

## **7.10 Vacation of office**

- (a) In addition to the circumstances in which the office of a Director becomes vacant under the Corporations Act, the office of a Director becomes vacant if the Director:
  - (i) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health;

- (ii) resigns office by notice in writing to the Company; or
- (iii) is not present personally or by Alternate Director at meetings of the Directors for a continuous period of six months without leave of absence from the Directors; or
- (iv) is removed from office by resolution of the Company.

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## **8 Powers and duties of Directors**

### **8.1 Directors to manage the Company**

The Directors are to manage the business of the Company and may exercise all the powers of the Company that are not, by the Corporations Act or by this Constitution, required to be exercised by the Company in general meeting.

### **8.2 Specific powers of Directors**

Without limiting the generality of article 8.1, the Directors may exercise all the powers of the Company to create by-laws, to borrow or raise money, to charge any property or business of the Company or all or any of its uncalled capital and to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.

### **8.3 Appointment of attorney**

The Directors may, by power of attorney, appoint any person or persons to be the attorney or attorneys of the Company for the purposes and with the powers, authorities and discretions vested in or exercisable by the Directors for the period and subject to the conditions they think fit.

### **8.4 Provisions in power of attorney**

A power of attorney granted under article 8.3 may contain any provisions for the protection and convenience of persons dealing with the attorney that the Directors think fit and may also authorise the attorney to delegate (including by way of appointment of a substitute attorney) all or any of the powers, authorities and discretions vested in the attorney.

### **8.5 Signing of cheques**

The Directors may determine the manner in which and persons by whom cheques, promissory notes, bankers' drafts, bills of exchange and other negotiable instruments, and receipts for money paid to the Company, may be signed, drawn, accepted, endorsed or otherwise executed.

### **8.6 Committees**

The Directors may delegate, and revoke the delegation of, any of their powers, other than powers required by law to be dealt with by Directors as a board, to a Committee or Committees consisting of one or more of their number as they think fit.

### **8.7 Powers delegated to Committees**

A Committee to which any powers have been delegated under article 8.6 must exercise those powers in accordance with any directions of the Directors.



## **8.8 Powers of delegation**

The Directors may delegate any of their powers to any persons they select for any period, to be exercised for any objects and purposes on any terms and subject to any conditions and restrictions as they think fit, and may revoke, withdraw, alter or vary the delegation of any of those powers.

The powers of delegation expressly or impliedly conferred by this Constitution on the Directors are conferred in substitution for, and to the exclusion of, the power conferred by section 198D of the Corporations Act.

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## **9 Proceedings of Directors**

### **9.1 Directors' meetings**

The Directors may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit.

### **9.2 Director may convene a meeting**

A Director may at any time, and the Secretary must on the written request of a Director, convene a meeting of the Directors.

### **9.3 Use of technology for Directors' meetings**

A Directors' meeting may be called or held using 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.

### **9.4 Questions decided by majority**

A question arising at a meeting of Directors is to be decided by a majority of votes of Directors present and entitled to vote and that decision is for all purposes a decision of the Directors.

### **9.5 Alternate Director or proxy and voting**

A person who is present at a meeting of Directors as an Alternate Director or as a proxy for another Director has one vote for each absent Director who would be entitled to vote if present at the meeting and for whom that person is an Alternate Director or proxy. If that person is also a Director, they have one vote as a Director in that capacity.

### **9.6 Chairman of Directors' meetings**

The Directors may elect one of their number as chairman of their meetings.

The Director may also determine the period for which the person remains as chairman, or in the absence of such determination, the period will be two years from the date of his or her last appointment as Chairman. A retiring Chairman may be re-elected unless he or she has been the Chairman for three terms.

The Chairman shall be paid such remuneration as is from time to time decided by the Directors. That remuneration shall be taken to accrue from day to day.

### **9.7 Absence of chairman at a Directors' meeting**

If a Directors' meeting is held and:

- (a) a chairman has not been elected under article 9.6; or
- (b) the chairman is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the Directors present must elect one of their number to be a chairman of the meeting.

### **9.8 Chairman's casting vote at Directors' meetings**

If there is an equality of votes cast for and against a question, the chairman of a Directors' meeting has a casting vote, unless only two Directors are present and entitled to vote at the meeting on the question.

### **9.9 Appointment of Alternate Director**

Subject to the Corporations Act, a Director may appoint a person approved by a majority of the other Directors, to be an Alternate Director in the Director's place for such period as the Director thinks fit.

### **9.10 Alternate Director and meetings**

An Alternate Director is entitled to notice of all meetings of the Directors and, if the appointor does not participate in a meeting, the Alternate Director is entitled to participate and vote in the appointor's place.

### **9.11 Alternate Director's powers**

An Alternate Director may exercise all the powers of the appointor except the power to appoint an Alternate Director and, subject to the Corporations Act, may perform all the duties of the appointor except to the extent that the appointor has exercised or performed them.

### **9.12 Alternate Director responsible for own acts and defaults**

Whilst acting as a Director, an Alternate Director:

- (a) is an officer of the Company and not the agent of the appointor; and
- (b) is responsible to the exclusion of the appointor for the Alternate Director's own acts and defaults.

### **9.13 Alternate Director - expenses and remuneration**

Articles 3.3, 7.6, 7.7 and 7.8 apply to an Alternate Director as if they were a Director.

### **9.14 Termination of appointment of Alternate Director**

The appointment of an Alternate Director may be terminated at any time by the appointor even if the period of the appointment of the Alternate Director has not expired, and terminates in any event if the appointor ceases to be a Director.

### **9.15 Appointment or termination**

An appointment, or the termination of an appointment, of an Alternate Director must be effected by a notice signed by the Director who makes or made the appointment and delivered to the Company.

### **9.16 Alternate Director and number of Directors**

An Alternate Director is not to be taken into account separately from the appointor in determining the number of Directors.

### **9.17 Director attending and voting by proxy**

A Director may participate in and vote by proxy at a meeting of the Directors if the proxy:

- (a) is another Director; and
- (b) the appointment is signed by the appointor.

The appointment may be general or for one or more particular meetings. A Director present as proxy of another Director who would be entitled to vote if present at the meeting has one vote for the appointor and one vote in his or her own capacity as a Director.

### **9.18 Quorum for Directors' meeting**

At a meeting of Directors, the number of Directors whose presence in person or by proxy or by telephone, video or other electronic means of audio or audio-visual communication, is necessary to constitute a quorum is as determined by the Directors and, unless so determined, is four.

### **9.19 Continuing Directors may act**

The continuing Directors may act despite a vacancy in their number. If their number is reduced below the requirements of article 7.1, the continuing Directors may, except in an emergency, act only for the purpose of filling vacancies to the extent necessary to bring their number up to that minimum or to convene a general meeting.

### **9.20 Chairman of Committee**

The members of a Committee may elect one of their number as chairman of their meetings. If a meeting of a Committee is held and:

- (a) a chairman has not been elected; or
- (b) the chairman is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the members involved may elect one of their number to be chairman of the meeting.

### **9.21 Meetings of Committee**

A Committee may meet and adjourn as it thinks proper.

### **9.22 Determination of questions**

Questions arising at a meeting of a Committee are to be determined by a majority of votes of the members of the Committee entitled to vote.

If there is an equality of votes the chairman of the meeting has a casting vote, unless only two members of the Committee are present and entitled to vote at the meeting on the question.

### **9.23 Circulating resolutions**

The Directors may pass a resolution without a Directors' meeting being held if a majority of 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. 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. The resolution is passed when the last Director signs.

### **9.24 Validity of acts of Directors**

All acts done at a meeting of the Directors or of a Committee, or by a person acting as a Director are, even if it is afterwards discovered that:

- (a) there was a defect in the appointment or continuance in office of a person as a Director or of the person so acting; or
- (b) a person acting as a Director was disqualified or was not entitled to vote,

as valid as if the relevant person had been duly appointed or had duly continued in office and was qualified and entitled to vote.

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## **10 Secretary**

### **10.1 Appointment of Secretary**

The Directors may appoint a Secretary.

### **10.2 Suspension and removal of Secretary**

The Directors may suspend or remove a Secretary from that office.

### **10.3 Powers, duties and authorities of Secretary**

A Secretary holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, as determined by the Directors.

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## **11 Chief Executive Officer**

- (a) The Directors may:
  - (i) appoint a Chief Executive Officer for any period;
  - (ii) delegate to the Chief Executive Officer any of the powers conferred on the Directors; and
  - (iii) withdraw or vary any of those powers,on any terms and conditions and with any restrictions as they think fit. The Directors may fix the remuneration of the Chief Executive Officer which may be by way of salary drawn from the Company.
- (b) The Directors may appoint the Chief Executive Officer to hold office as a Director for a period not to exceed the term of employment.
- (c) Subject to the terms of any employment contract between the Company and the Chief Executive Officer:

- (i) the Directors may at any time remove or dismiss the Chief Executive Officer from employment with the Company, in which event any appointment of the Chief Executive Officer as a Director will automatically cease; and alternatively
- (ii) if the Chief Executive Officer ceases to be a Director, the Directors may revoke or vary the appointment as Chief Executive Officer.

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## **12 Seals**

### **12.1 Safe custody of common seals**

The Directors must provide for the safe custody of any seal of the Company.

### **12.2 Use of common seal**

If the Company has a common seal or duplicate common seal:

- (a) it may be used only by the authority of the Directors, or of a Committee authorised by the Directors to authorise its use; and
- (b) every document to which it is affixed must be signed by a Director and be countersigned by another Director, a Secretary or another person appointed by the Directors to countersign that document or a class of documents.

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## **13 Inspection of records**

### **13.1 Inspection by Members**

Subject to the Corporations Act, the Directors may determine whether and to what extent, and at what times and places and under what conditions, the accounting records and other documents of the Company or any of them will be open to the inspection of Members (other than Directors).

### **13.2 Right of a Member to inspect**

A Member (other than a Director) does not have the right to inspect any document of the Company except as provided by law or authorised by the Directors or by the Company in general meeting.

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## **14 Service of documents**

### **14.1 Document includes notice**

In this Part 14, a reference to a document includes a notice and a notification by electronic means.

### **14.2 Form of document**

Unless expressly stated otherwise in this Constitution, all notices, certificates, statements, demands, appointments, directions and other documents referred to in this Constitution must be in writing.

### **14.3 Methods of service**

The Company may give a document to a Member:

- (a) personally;
- (b) by delivering it or sending it by post to the address for the Member in the Register or an alternative address nominated by the Member;
- (c) by sending it to a fax number or electronic address nominated by the Member; or
- (d) by notifying the Member by an electronic means nominated by the Member that:
  - (i) the document is available; and
  - (ii) how the Member may use the nominated access means to access the document.

### **14.4 Post**

A document sent by post:

- (a) if sent to an address in Australia, may be sent by ordinary post; and
- (b) if sent to an address outside Australia, must be sent by airmail,

and in either case is taken to have been received on the day after the date of its posting.

### **14.5 Fax or electronic transmission**

A document sent or given by fax or to an electronic address:

- (a) is taken to be effected by properly addressing and transmitting the fax or electronic transmission; and
- (b) is taken to have been delivered on the day following its transmission.

### **14.6 Electronic notification**

A document made available by electronic means is taken to have been given and received on the day after the date of transmission of the notification specifying that the document is available and how it can be accessed.

### **14.7 Evidence of service**

A certificate signed by a Director or a Secretary stating that a document was sent, delivered or given to a Member by post, fax or other electronic means on a particular date is evidence that the document was sent, delivered or given on that date and by that means.

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## **15 Indemnity and insurance**

### **15.1 Indemnity**

To the maximum extent permitted by law, the Company indemnifies any current or former Director or other officer of the Company out of the assets of the Company against:

- (a) any liability incurred by the person in that capacity (except a liability for legal costs);
- (b) reasonable legal costs incurred in defending or resisting or otherwise in connection with proceedings, whether civil or criminal or of an administrative or investigatory nature against the person or in which the person becomes involved because of that capacity; and
- (c) reasonable legal costs incurred in good faith in obtaining legal advice on issues relevant to the performance of their functions and discharge of their duties as an officer of the Company.

### **15.2 Insurance**

To the maximum extent permitted by law, the Company may pay a premium for a contract insuring a person who is or has been a Director or other officer of the Company against liability incurred by the person in that capacity, including a liability for legal costs.

### **15.3 Contract**

The Company may enter into an agreement with a Director or other officer of the Company with respect to the matters referred to in articles 14.1 and 14.2 and including provisions relating to rights of access to the books of the Company.

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## **16 Winding up and revocation of DGR endorsement**

### **16.1 Contributions on winding up**

Each Member undertakes to contribute to the Company's property an amount not exceeding \$100.00 if the Company is wound up during, or within one year after the cessation of, the Member's membership.

### **16.2 Application of property on winding up**

If any property or funds remain on the winding-up or dissolution of the Company and after satisfaction of all its debts and liabilities, the property or funds may not be paid to or distributed among the Members but must be given or transferred to one or more funds or institutions:

- (a) having a public charitable status;
- (b) whose constitution or rules prohibit the distribution of its property and funds among its members to an extent at least as great as is imposed on the Company under this Constitution; and
- (c) which is an Approved Institution.

The fund or institution is to be determined by the Directors at or before the time of dissolution and in default by application to the court.

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## **17 Accounts**

The Directors must cause the accounts and records of the Company to be maintained and, if required, audited in accordance with the requirements of the Corporations Act.