

2015 Constitution



Australian Association of Graduate Employers Limited
(ACN 003 547 680)

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Contents

NAME	1
OBJECTS AND POWERS	1
Objects and Powers	1
Application of income and property	2
MEMBERS' LIABILITY	2
Liability of Members	2
Member's liability on winding up	3
RULES	3
DEFINITIONS AND INTERPRETATION	3
Definitions	3
Interpretation	5
MEMBERSHIP	5
Membership	5
Full Members	5
Associate Members	6
Additional Members	6
Application for membership	6
Organisation to have Representative	7
Transitional Provision	7
Payment of Fees	7
Registered address	8
CESSATION OF MEMBERSHIP	8
Cessation of membership	8
Consequences of cessation of membership	9
GENERAL MEETINGS	9
Annual General Meeting	9
Requisition for General Meeting	9
Notice of General Meeting	9
Quorum	9
Chair	10
General conduct of meeting	10
Adjournment	10
Voting	11
Declaration of vote on a show of hands; when poll demanded	11
Taking a poll	11
Continuation of business	12
VOTES OF MEMBERS	12
Voting rights	12
Appointment of proxies	12
Form and execution of instrument of proxy	12

Constitution

Attorneys of Members	13
Validity of vote	13
Rights of Member indebted to Company	14
THE BOARD (INCLUDING OFFICE BEARERS)	14
The Board	14
Election and Appointment of the Directors	14
Term of appointment	15
Chair	15
Remuneration and expenses	15
Directors may contract with Company	16
Director may hold other office	16
Exercise of voting power in other corporations	16
FILLING OF VACANCIES ON THE BOARD	17
VACATION OF OFFICE OF DIRECTOR	17
PROCEEDINGS OF THE BOARD	18
Procedures relating to Board meetings	18
Meetings by telephone or other means of communication	18
Votes at meetings	18
Convening of meetings	18
Chair	18
Powers of meetings	18
Delegation of powers to sub-committees	19
Advisory boards	19
The Committee	19
Proceedings of the Committee, sub-committees and advisory boards	19
Validity of Acts	20
Resolution in writing	20
POWERS OF THE BOARD	20
General powers of the Board	20
Conferment of Powers	20
Power to borrow and guarantee	20
Power to give security	21
Cheques, negotiable instruments and receipts	21
Personal liability of officer	21
SECRETARY	21
ACCOUNTS	21
Financial year	21
Accounting records	21
Location	21
Inspection by Members	22
Notice to Members	22
Annual General Meeting	22
AUDIT	22

Constitution

MINUTES	22
NOTICES	22
PROFITS AND WINDING UP	23
INDEMNITY	23
DISPUTE RESOLUTION	24

**CORPORATIONS LAW
COMPANY LIMITED BY GUARANTEE
CONSTITUTION
OF
AUSTRALIAN ASSOCIATION OF GRADUATE EMPLOYERS LIMITED
ACN 003 547 680**

NAME

1. The name of the Company is Australian Association of Graduate Employers Limited.

OBJECTS AND POWERS

Objects and Powers

2. (1) The objects for which the Company is established are to:
 - (a) provide Members with resources, tools and events that further their ability to attract, select and develop Graduates, including by:
 - (i) promoting and fostering the exchange of knowledge amongst Members;
 - (ii) forecasting broad trends in demand for Graduates and specific disciplines;
 - (iii) maintaining a database of quality information on Graduate Recruitment and Development practices in Australian organisations;
 - (iv) providing Members with opportunities to meet, learn and share best practice including by holding conferences, meetings and other events;
 - (b) represent the views of Members on key Graduate Recruitment and development issues.
 - (c) improve knowledge-sharing opportunities and advance the interests of Members by:
 - (i) engaging with, and fostering relationships with others having an interest in Graduate Recruitment and Development Practices, including with employers, higher education bodies, professional associations, service providers, governments and other organisations that operate within the Australian Graduate Recruitment and Development market; and
 - (ii) pursuing opportunities for developing an international network of associations that have similar objects to the Company; and

- (d) support registered charities having objects similar to the objects of the Company by making annual payments in accordance with clause 3(3);
 - (e) to do such other things as are ancillary to the Objects referred to in **clauses 2(1)(a) to 2(1)(c)**.
- (2) The Company can only exercise the powers in section 124(1) of the Law to:
 - (a) carry out the Objects of the Company; and
 - (b) do all things incidental or convenient in relation to the exercise of power under **clause 2(2)(a)**
- (3) The Company has the legal capacity and powers of an individual and also has all the powers of a Body Corporate under the Law.

Application of income and property

- 3. The profits (if any) or other income and the property of the Company, however derived:
 - (1) must be applied solely towards the promotion of the Objects of the Company; and
 - (2) may not be paid or transferred to the Members, in whole or in part, either directly or indirectly by way of dividend, bonus or otherwise; and
 - (3) may be paid to a registered charity providing that such payments:
 - (a) are made to an organisation which is a registered charity in Australia, has objects similar to the objects of the Company and has been approved by the Board;
 - (b) are paid out of the profit of the Company and there is a surplus of funds available for it at the time of payment; and
 - (c) are in amounts approved by the Board having regard to applicable law (including solvency requirements) and the prudent financial requirements of the company (including expenditure requirements in the approved annual budget);
 - (d) do not exceed the amount of \$10,000 in aggregate in any financial year.
- 4. The above does not prevent payment in good faith to a Member:
 - (1) of remuneration for services to the Company;
 - (2) for goods supplied in the ordinary course of business;
 - (3) of interest on money borrowed from a Member at a rate not exceeding that fixed for the purposes of this **clause 3** by the Company in a General Meeting; or
 - (4) of a reasonable rent for premises let by a Member.

MEMBERS' LIABILITY

Liability of Members

- 5. The liability of the Members is limited.

Member's liability on winding up

6. Each Member undertakes to contribute to the property of the Company in the event of it being wound up while he or she is a Member or within one year after he or she ceases to be a Member for payment of the debts and liabilities of the Company contracted before he or she ceases to be a Member, and of the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories amongst themselves, such amounts as may be required not exceeding one hundred dollars.

RULES

7. The replaceable rules in the Corporations Law do not apply to the Company to the extent that they are contradicted by this Constitution. Instead, the following clauses represent the Constitution of the Company.

DEFINITIONS AND INTERPRETATION

Definitions

8. In this Constitution (including **clauses 1 to 7** above), unless it is inconsistent with the subject or context in which it is used:

Administrator means a person contracted by the Company from time to time to perform various administrative duties and functions.

Additional Member means an individual, partnership, corporation or other organisation admitted to membership under **clause 14** who is nominated to the position of Additional Member by a current Full Member or Associate Member.

Annual General Meeting means a general meeting of the Members of the Company held pursuant to **clause 28**.

Associate Member means an individual, partnership, corporation or other organisation admitted to membership under **clause 12** who is not eligible to be admitted to membership of the Company as a Full Member. Associate Members are individuals, partnerships, corporations or other organisations whose main role in the Graduate Recruitment market is **not** the employment of Graduates.

Board means the board of Directors of the Company.

Chair means the Chair of the Board of the Company or any other person presiding at a meeting of the Board or Committee or at a General Meeting.

Co-opted Director means a Director appointed in accordance with **clause 53**.

Committee means all those persons comprising the Committee of the Company, including members of the Board of Directors.

Company means Australian Association of Graduate Employers Limited, a public company limited by guarantee and bearing the ACN 003 547 680.

Constitution means this Constitution as altered or added to from time to time.

Committee Member means a person appointed or elected from time to time to the Committee of the Company in accordance with **clause 78** of this Constitution

Director means a person elected to the Board of the Company and includes Elected Directors and Co-opted Directors.

Elected Director means a Director elected in accordance with **clause 52**.

Full Member means an individual, partnership, corporation or other organisation admitted to membership under **clause 11** whose policy it is to employ Graduates and who is admitted to membership of the Company in accordance with this Constitution. Full Members are individuals, partnerships, corporations or other organisations whose main role in the Graduate Recruitment market is the employment of Graduates.

General Meeting means a general meeting of the Members of the Company and includes an Annual General Meeting.

Graduate means school-leavers, undergraduates, graduates and post-graduates.

Graduate Recruitment (or **Graduate Recruitment and Development**) means all activities surrounding the attraction, assessment, recruitment, induction, training, development and retention of Graduates.

Law means the *Corporations Act 2001* (Commonwealth) and includes any Regulations under that Act.

Member refers to both or one of a Full Member, an Associate Member or an Additional Member.

Members present means those Full Members present at a General Meeting of the Company in person or by their Representative, proxy or attorney.

Objects means the objects of the Company as set out in **clause 2(1)**.

Office means the Company's registered office from time to time.

Office-Bearer means the Chair, Secretary, Directors, Administrators and such other office holders as the Board may determine from time to time.

Register means the Company's register of Full Members, Associate Members and Additional Members.

Registered address means the address notified by a Member or Representative to the Company or otherwise determined in accordance with **clause 23**.

Representative means the Representative of a Member as nominated or appointed under **clause 20**.

Secretary means the person appointed as the secretary of the Company and includes any assistant or acting secretary.

Securities includes shares, rights to shares, options to acquire shares and other securities with rights of conversion to equity.

Interpretation

9. (1) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (2) A reference to a person includes partnerships, associations and corporations, unincorporated bodies and bodies incorporated by Ordinance or Act of Parliament, as well as individuals.
- (3) A reference to writing or written includes printing, typing, lithography and other modes of reproducing words in a visible form.
- (4) A reference to a meeting includes a meeting by technology where all persons attending the meeting are able to appropriately participate in the meeting.
- (5) Words and phrases which are given a special meaning by the Law have the same meaning in this Constitution.
- (6) A reference to conduct includes, without limitation, an omission, statement or undertaking, whether or not in writing.
- (7) Words in the singular include the plural and vice versa.
- (8) Words importing a gender include each other gender.
- (9) A reference to the Law or any other statute or regulations or the provisions of any of them is to be read as though the words "as modified or substituted from time to time" were added to the reference.
- (10) Headings do not affect the construction of this Constitution.

MEMBERSHIP

Membership

10. The Members of the Company will comprise all Full Members, Associate Members and Additional Members admitted to membership in accordance with this Constitution.

Full Members

11. An individual, partnership, corporation or other organisation may be admitted as a Full Member of the Company where such person:
- (1) is not an employee of the Company;
- (2) is an organisation whose policy is to employ Graduates and whose main role in the Graduate Recruitment market, in the opinion of the Directors of the Company, is the employment of such persons; and
- (3) consents in writing to become a member of the Company.

Associate Members

12. An individual, partnership, corporation or other organisation may be admitted as an Associate Member of the Company where such person:
 - (1) is not an employee of the Company;
 - (2) is an organisation which, in the opinion of the Directors of the Company, is not eligible to be admitted as a Full Member of the Company as its main role in the Graduate Recruitment market is **not** the employment of Graduates; and
 - (3) consents in writing to become a member of the Company.
13. Associate Members have all the rights and privileges of Full Members, except that:
 - (1) they may not vote in General Meeting; and
 - (2) they may not be elected as Directors, Office-Bearers or Committee Members.

Additional Members

14. An individual, partnership, corporation or other organisation may be admitted as an Additional Member of the Company where such person:
 - (1) is employed by, or is in some way related to, a current Full Member or Associate Member and is nominated in writing for Additional Membership by that Full Member or Associate Member;
 - (2) is not an employee of the Company; and
 - (3) consents in writing to become a member of the Company.
15. Additional Members have all the rights and privileges of Full Members, except that:
 - (1) they may not vote in General Meeting; and
 - (2) they may not be elected as Directors, Office-Bearers or Committee Members.

Application for membership

16. Every applicant for admission as a Member must be made using the Company's membership application form or in such format as the Board from time to time prescribes.
17. Subject to **clause 19**, the Board will consider each application for membership and must determine whether to accept or reject it.
18. Subject to **clause 19**, the decision about each application will be at the sole discretion of the Board and it is not required to give any reason for rejection of an application.
19. The Board may delegate the power to approve or reject an application to the Secretary or an employee of the Company.

Organisation to have Representative

20. (1) A Member which is a partnership, corporation or other organisation must nominate one individual to be its Representative to attend meetings and, in the case of a Representative for a Full Member, vote and for other purposes of the Company.
- (2) Such nomination can be made at the time of joining the Company or at a later date and may be changed at any time by notifying the Secretary in writing.
- (3) In the event that a Member who is a partnership, corporation or other organisation has not nominated a Representative, the Representative can be determined by the Company.
- (4) The Member may also nominate an alternate or substitute individual to be its Representative from time to time by notifying the Secretary in writing.
- (5) The Representative (or the alternate or substitute) has all the powers, rights and obligations of the Member, unless this Constitution provides otherwise.

Transitional Provision

21. Any person who was an Additional Representative (as defined by the previous version of this Constitution) at the time that this Constitution is adopted, shall be deemed:
- (1) to have been nominated for Additional Membership by the Full Member or Associate Member for whom that person was an Additional Representative; and
- (2) to have been accepted for Additional Membership by the Board.

Payment of Fees

22. (1) The Board will send written notice of the acceptance of an application for membership and a request for payment of the applicant's first annual subscription. Upon payment of the first annual subscription, the applicant becomes a Member. If the payment is not made within two months after the date of the notice, the Board may in its discretion cancel acceptance of the application for membership.
- (2) The annual subscription payable by Members will be determined by the Board from time to time and may be determined on the basis of any criteria the Board determines.
- (3) The Board may in its discretion determine that no annual subscription is payable by a Member or Members (in whole or in part) in a given year.
- (4) All annual subscriptions will become due and payable on the 12 month anniversary of the date when the Member originally joined the Company.
- (5) Within one (1) month of the annual subscription becoming due, the Board will send written notice to the Member notifying them of the same. If payment is not made within two (2) months after the date on which the annual subscription becomes due, the Board may in its discretion cancel the membership.

Registered address

23. (1) Every Member or Representative must notify the Company of a postal address and e-mail address in Australia for service or delivery of notices. These addresses will be entered in the Register.
- (2) A Member or Representative must notify the Company within fourteen days of any change in their Registered address.
- (3) If a Member or Representative does not have an address in Australia or has not notified the Company of an address in Australia, that Member or Representative's Registered address will be deemed to be at the Office.

CESSATION OF MEMBERSHIP

Cessation of membership

24. A Member ceases to be a Member if:
- (1) the annual subscription has been unpaid for a period of two months after the due date;
 - (2) the Member resigns by written notice to the Company;
 - (3) in the case of individuals, the Member dies;
 - (4) in the case of individuals, the Member becomes of unsound mind or a person who is a patient under laws relating to mental health or whose estate is administered under laws relating to mental health;
 - (5) in the case of partnerships, corporations or other organisations which are Members, if the partnership is dissolved, or an order is made or resolution is passed that the corporation be wound up or the corporation is dissolved; or the organisation ceases to exist for any reason;
 - (6) in the case of Additional Members, the Full Member or Associate Member who nominated that Additional Member, ceases to be a Member;
 - (7) the Member is convicted of any indictable offence;
 - (8) the Member becomes an insolvent under administration, has a controller appointed (within the meaning of the Law), suspends payment generally to creditors, compounds with or assigns the Member's estate for the benefit of creditors or enters into an arrangement with creditors providing for the composition of the Member's debts; or
 - (9) the Board resolves to remove the Member from Membership pursuant to **clause 25.**
25. The Board may resolve to remove a Member from Membership where:
- (1) in the opinion of the Board, the Member has wilfully refused or neglected to comply with the provisions of this Constitution; or

- (2) in the opinion of the Board, the Member is guilty of any conduct which is unbecoming of a Member or is prejudicial to the interests of the Company or its Members; or
 - (3) the Board resolves for any other reason that the Member should cease to be a Member.
- 26. The removal of a member under **clause 25** requires the Board to follow the dispute resolution procedure laid out in **clause 106**.

Consequences of cessation of membership

- 27. Any person who ceases to be a Member (or in the case of a deceased or bankrupt Member, the Member's estate) remains liable for all money owing to the Company at the time their membership ceases. No person who ceases to be a Member nor the Member's estate (in the case of a deceased or bankrupt Member) is entitled to a claim on any portion of the property or assets of the Company or to the return of any money paid to the Company, unless the Committee decides otherwise in its absolute discretion.

GENERAL MEETINGS

Annual General Meeting

- 28. The Company will hold an Annual General Meeting at least once in every year and within five months after the end of its financial year. The Company's financial statements will be tabled at each Annual General Meeting.

Requisition for General Meeting

- 29. Any three or more Directors and any 5% or more of all Full Members may require the Company (by written requisition) to convene a General Meeting of the Company. The Company must convene the General Meeting in accordance with the Law.

Notice of General Meeting

- 30.
 - (1) Every Member and Representative entitled to receive notice will be given at least 21 days' notice of a General Meeting, unless shorter notice is given in accordance with the requirements of the Law.
 - (2) The notice of a General Meeting must specify the place and time of the meeting and state the general nature of the business to be transacted at the meeting.
 - (3) Non-receipt of a notice of any General Meeting by, or accidental omission to give notice to, any Member or Representative entitled to notice does not invalidate any resolution passed at the meeting.

Quorum

- 31.
 - (1) The quorum for a General Meeting is five Full Members attending in person or by proxy or Representative. No business may be transacted at any General Meeting

except the election of a Chair and the adjournment of the meeting unless a quorum is present for the duration of the meeting.

- (2) If a quorum is not present within 30 minutes after the notified time for the start of a General Meeting:
 - (a) the meeting is dissolved, if convened on a requisition of Full Members; or
 - (b) in any other case, it is adjourned to the same day in the next week at the same time and place.
- (3) If a quorum is not present at the adjourned meeting within 30 minutes after the time specified for the start of the meeting, it is dissolved.

Chair

- 32. Subject to **clause 33**, the Chair will preside as chair at every General Meeting.
- 33.
 - (1) The Chair may nominate a Director in writing to chair the General Meeting on their behalf.
 - (2) If the Chair (or the Chair's nominee) is not present within 30 minutes after the notified time for the start of a General Meeting, or the Chair (or the Chair's nominee) is unwilling to act as chair of the meeting then a Director chosen by the Full Members present is entitled to take the Chair at the meeting.

General conduct of meeting

- 34.
 - (1) The Chair will determine the general conduct of each General Meeting and the procedures to be adopted at the meeting.
 - (2) The Chair may stop the debate or discussion of any item of business, question, motion or resolution and require that it be put to a vote of the Members present and entitled to vote, if the Chair considers it necessary for the proper and orderly conduct of a meeting.
 - (3) The Chair may require the adoption of any procedures which he or she considers necessary for the proper and orderly casting or recording of votes at any General Meeting, whether on a show of hands or on a poll.

Adjournment

- 35.
 - (1) The Chair may at any time during the course of a General Meeting:
 - (a) adjourn it from time to time and place to place; or
 - (b) adjourn any item of business, motion, question or resolution being considered or remaining to be considered by a meeting or any debate or discussion either to a later time at the same meeting or to an adjourned meeting.
 - (2) If the Chair exercises a right of adjournment under this **clause 35**, the Chair has the sole discretion to decide whether to seek the approval of the Members present and entitled to vote to the adjournment. Unless the Chair exercises that discretion,

no vote may be taken by the Members present and entitled to vote in respect of the adjournment.

- (3) No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (4) It is not necessary to give notice of an adjournment; however, when a meeting is adjourned for thirty days or more, notice must be given.

Voting

- 36. At any general meeting a resolution to be considered at the meeting shall be decided on a show of hands of the Full Members, Representatives and proxies present and entitled to vote unless a poll is demanded by:
 - (1) the Chair of the meeting; or
 - (2) at least three (3) Members Present.
- 37. In the case of an equality of votes, the Chair has no casting vote and consequently the resolution fails.
- 38. Each Full Member only has **one** vote.
- 39. Associate Members and Additional Members do not have any entitlement to vote.

Declaration of vote on a show of hands; when poll demanded

- 40.
 - (1) Unless a poll is demanded, a declaration by the Chair at any meeting that a resolution has been passed or lost, having regard to the majority required, and an entry to that effect in the book to be kept of the proceedings of the Company, is conclusive evidence of the fact (when the declaration is signed by the Chair of that or the next succeeding meeting), without proof of the number or proportion of the votes recorded in favour of or against the resolution.
 - (2) A poll may be demanded either immediately before or immediately after any question is put to a show of hands either by at least three Full Members or by the Chair.
 - (3) No poll may be demanded on the election of a Chair of a meeting or on the question of adjournment.
 - (4) The demand for a poll may be withdrawn.

Taking a poll

- 41.
 - (1) If a poll is demanded, it is to be taken in the manner and at the time and place directed by the Chair. The result of the poll is deemed to be the resolution of the meeting at which the poll is demanded.
 - (2) If there is a dispute as to the admission or rejection of a vote, the Chair's determination in respect of the dispute is final.

Continuation of business

42. A demand for a poll does not prevent the continuation of a meeting for the transaction of any business or the consideration of any motion, question or resolution, apart from the business, motion, question or resolution on which the poll has been demanded.

VOTES OF MEMBERS

Voting rights

43. (1) On a show of hands, each Full Member has one vote but if:
- (a) a Full Member has appointed more than one person as its Representative or proxy, only one proxy or Representative is entitled to vote for that Full Member; and
 - (b) a Full Member is entitled to vote in more than one capacity, that Member may only vote once on a show of hands.
- (2) On a poll, each Full Member is entitled to one vote for each Full Member for whom the Full Member is present as a proxy, Representative or attorney in addition to the vote to which the Full Member may be entitled as a Full Member.

Appointment of proxies

44. (1) Any Full Member or Representative of a Full Member may appoint a proxy to vote at a General Meeting on that Full Member's behalf and may direct the proxy to vote either for or against each or any resolution. A proxy need not be a Full Member.
- (2) The instrument appointing a proxy (and the power of attorney, if any, under which it is signed or proof of the power of attorney to the satisfaction of the Secretary) must be deposited at the Office, or any other place the Board may determine from time to time, not less than 48 hours (or any lesser period determined by the Board and stipulated in the notice of meeting) before the time for holding the meeting or adjourned meeting or poll at which the person named in the instrument proposes to vote.
- (3) Any Full Member who is or who intends to be absent or resident abroad may deposit at the Office a properly stamped instrument appointing a proxy and the appointment is valid for all meetings during the Full Member's absence or residence abroad and until revocation. Otherwise, no instrument appointing a proxy is valid for more than 12 months after it is executed.

Form and execution of instrument of proxy

45. (1) An instrument appointing a proxy must be in writing signed by the appointer or the appointer's attorney
- (2) The instrument is required to be in the following form or in a form which the Board may from time to time prescribe or accept:

AUSTRALIAN ASSOCIATION OF GRADUATE EMPLOYERS LIMITED,

[insert name of Member]..... of [insert address of Member]..... being a Full Member/Representative of a Full Member of the Australian Association of Graduate Employers Limited hereby appoint [insert name of proxy]..... of [insert address of proxy]..... or failing him/her of as my proxy to vote on my behalf at the annual general meeting/general meeting of the Company, to be held on the/...../..... and at any adjournment thereof. The proxy is authorised to vote +in favour of/+against the following resolutions.

Signed by

Dated:/...../.....

.....

- (3) An instrument of proxy includes the right to demand or join in demanding a poll and the power to act generally at the meeting for the Full Member giving the proxy (except to the extent to which the proxy is specifically directed to vote for or against any proposal). An instrument appointing a proxy, unless the contrary is stated, is valid for any adjournment of the meeting as well as for the meeting to which it relates.
46. Forms of proxy for use by Full Members will be issued with any notice of General Meeting. The form which is sent to Full Members may include the name of any Full Member or of any other person as suggested proxies. If the form when received by the Company does not contain the name of a proxy, it is not invalid for that reason and is to be taken to be given in favour of the Chair of the meeting. The form may be worded so that a proxy is directed to vote either for or against each or any of the resolutions to be proposed at the meeting.

Attorneys of Members

47. (1) Any Member may appoint an attorney by properly executed power of attorney to act on the Member's behalf at all or certain specified meetings of the Company.
- (2) Before the attorney is entitled to act under the power of attorney, the instrument or proof of the power of attorney to the Secretary's satisfaction must be produced for inspection at the Office or any other place the Board may determine from time to time, together with evidence of the proper execution of the power of attorney as required by the Board.
- (3) The attorney may be authorised to appoint a proxy for the Member granting the power of attorney.

Validity of vote

48. (1) A vote given in accordance with the terms of an instrument of proxy or power of attorney is valid notwithstanding the previous death or unsoundness of mind of the principal or revocation of the instrument of proxy or power of attorney, if a notice in

writing of the death, unsoundness of mind or revocation has not been received at the Office before the meeting or any adjourned meeting.

- (2) 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.

Rights of Member indebted to Company

49. No Full Member is entitled to vote at any General Meeting either personally or by Representative, proxy or attorney (or as Representative, proxy or attorney for another Member) or to exercise any privilege as a Full Member if their annual subscription is more than one month in arrears at the date of the meeting, unless the Board decides otherwise.

THE BOARD (INCLUDING OFFICE BEARERS)

The Board

50.
 - (1) The Board shall consist of not less than three (3) and not more than seven (7) Directors or such other number as determined by the Full Members in General meeting under **clause 50(2)**.
 - (2) The Full Members in General Meeting may vote to increase or reduce the number of Directors.
51. The Board shall consist of:
 - (1) up to five (5) Elected Directors; and
 - (2) up to two (2) Co-Opted Directors.

Election and Appointment of the Directors

52. Elected Directors

- (1) To be eligible for election as an Elected Director, a person must:
 - (a) be a Full Member or a Representative of a Full Member;
 - (b) be nominated by the Board to serve as a Director; and
 - (c) provide written consent to the nomination to the Secretary (or other person authorised by the Board for the purpose) not later than close of business twenty eight (28) business days before the day fixed for the holding of the Annual General Meeting at which the election is to take place.
- (2) For each person eligible for election as an Elected Director pursuant to **clause 52(1)**, a vote shall be held at the Annual General Meeting to determine whether that person will be elected as an Elected Director. Subject to **clause 52(3)**, if the outcome of the vote is:
 - (a) 51% of votes or greater, that person shall be elected as an Elected Director; or

- (b) fewer than 51% of votes, that person shall not be elected as an Elected Director.
 - (3) In the event that the outcome of all elections held in any one year pursuant to **clause 52(2)** is that the number of people who obtained 51% of votes or greater exceeds the number of vacant positions on the Board, a ballot shall be held to determine which of the people who obtained 51% of votes or greater shall be elected as Elected Directors.
- 53. If an insufficient number of people are elected pursuant to **clause 52(2)**, any unfilled positions remaining on the Board shall be deemed to be casual vacancies and may be filled pursuant to **clause 65**.
- 54. **Co-opted Directors**

The Board may at any time appoint any person, whom the Board determines will bring required skills and experience to the Board to enable the Board to advance the Objects, to be a Co-opted Director to fill the positions provided for in **clause 51(2)**.

Term of appointment

- 55. An Elected Director shall hold office for a term of three (3) years, but shall be eligible for re-election for a further term of three (3) years. An Elected Director shall generally hold office from the conclusion of the Annual General Meeting at which the Director was elected until the conclusion of the Annual General Meeting approximately three (3) years thereafter.
- 56. A Co-opted Director shall hold office for such term as the Board shall determine of up to three (3) years, but shall be eligible for reappointment for a further term of up to three (3) years.
- 57. Subject to **clauses 58** and **67(2)**, Directors shall not hold office for more than six (6) consecutive years.
- 58. After holding office for six (6) consecutive years, a person shall again be eligible for nomination or appointment as a Director after an absence from the Board of at least two (2) years.

Chair

- 59. The Board shall, at the first meeting of the Board held after a Chair has retired or been removed, appoint a Chair from amongst the Directors sitting on the Board at the time of the Board meeting.
- 60. The Chair shall hold office for a term of one (1) year but shall be eligible for reappointment for two (2) further terms of one (1) year each. A Chair shall not hold office beyond their retirement or removal from the Board as a Director.

Remuneration and expenses

- 61. A Director will not be entitled to any remuneration from, or reimbursement of expenses by, the Company unless such remuneration or reimbursement is:
 - (1) at market rate; and

- (2) approved in any particular case by the Board.

Directors may contract with Company

62. (1) A Director is not disqualified from contracting or entering into any arrangement with the Company either as vendor, purchaser or otherwise. No contract or arrangement entered into by or on behalf of the Company in which a Director is in any way interested may be avoided for that reason, if:
- (a) prior to entering into the contract or arrangement, the Director declares the conflict of interest to the Board in accordance with the Law and the Secretary records all declarations in a separate book which is kept for that purpose;
 - (b) the contract or arrangement is on reasonable commercial terms;
 - (c) the contract or arrangement has received the prior approval of the Board; and
 - (d) the amount payable under such contract or arrangement has been approved by the Board.
- (2) As long as a Director declares the nature of any interest in any contract or arrangement (in accordance with the Law), the Director is not liable to account to the Company for any profit derived from the contract or arrangement by reason only of membership of the Board or any fiduciary relationship it entails.
- (3) A Director who has a material personal interest in a contract or arrangement may not vote on the matter and must not be present while the matter is being considered by the Board, unless the Board has passed a resolution under section 232A(3) of the Law.

Director may hold other office

63. A Director may be or become a director of or hold any other office or position in any corporation promoted by the Company, or in which it may be interested, whether as a vendor or member or otherwise, or with any other corporation or organisation. The Director is not accountable for any benefits received in that capacity.

Exercise of voting power in other corporations

64. The Board may exercise the voting power conferred by securities 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 Board or any of them directors of that corporation or voting or providing for the payment of remuneration to the directors of that corporation). A Director may vote in favour of the exercise of those voting rights even though the Director is, or is about to be appointed, a director of that other corporation and may be interested in the exercise of those voting rights.

FILLING OF VACANCIES ON THE BOARD

65. Subject to **clause 66**, in the event of a casual vacancy occurring on the Board, the Board shall:
- (1) in relation to an Elected Director vacancy, appoint any Full Member or Representative of a Full Member.
 - (2) in relation to a Co-opted Director vacancy, appoint any person in accordance with **clause 54**.
66. The Board shall not appoint any person as an Elected Director who received fewer than 51% of votes in a vote held at the preceding Annual General Meeting pursuant to **clause 52(2)** which was held for the purpose of electing that person.
- 67.
- (1) Any person appointed under **clause 65(1)** holds office only until the next following Annual General Meeting but shall be eligible for election for two (2) further terms of three (3) years each.
 - (2) Any person appointed under **clause 65(2)** holds office for the term determined by the Board in accordance with **clause 56**.
 - (3) Any time spent as a Director following appointment pursuant to **clause 65(1)** and until the following Annual General Meeting shall not count towards the maximum time a Director may hold office.

VACATION OF OFFICE OF DIRECTOR

68. A Director vacates office if the person:
- (1) becomes an insolvent under administration, suspends payment generally to creditors or compounds with or assigns his or her estate for the benefit of creditors;
 - (2) becomes of unsound mind or a patient under laws relating to mental health or whose estate is administered under laws relating to mental health;
 - (3) is absent from meetings of the Directors for a period of not less than six consecutive months without leave of absence from the Board;
 - (4) resigns office by written notice to the Company;
 - (5) in the case of an Elected Director:
 - (a) ceases to be a Full Member of the Company;
 - (b) ceases to be a Representative of a Full Member of the Company; or
 - (c) the Full Member for whom the Elected Director is a Representative, ceases to be a Full Member;
 - (6) is removed from office under the Law;
 - (7) becomes prohibited from being a Director by reason of this Constitution or by the operation of the Law; or

- (8) is directly or indirectly interested in any contract, proposed contract, arrangement or proposed arrangement with the Company which has not been disclosed in accordance with this Constitution or the Law.

PROCEEDINGS OF THE BOARD

Procedures relating to Board meetings

69. (1) The Board may meet together for the despatch of business, adjourn and otherwise regulate its meetings as it thinks fit.
- (2) The quorum for meetings of the Board is three unless otherwise determined by the Board.
- (3) Notice of a Board meeting is treated as having been given to a Director if it is sent by electronic mail, ordinary mail, personal delivery or facsimile transmission to the Director's usual place of residence or to any other address given to the Secretary from time to time.

Meetings by telephone or other means of communication

70. A Board meeting may be convened or held using any technology consented to by all Directors. The consent may be a standing one. A Director may withdraw consent to the use of a particular technology within a reasonable time period before a Board meeting.

Votes at meetings

71. Questions arising at any meeting of the Board are decided by a majority of votes. In the case of an equality of votes, the Chair has no second or casting vote and consequently the resolution fails.

Convening of meetings

72. The Board will determine when its meetings are to be convened. If a Director requests the Secretary to do so, the Secretary will convene a meeting of the Board as soon as practicable.

Chair

73. The Chair will be the Chair of every Board meeting. If there is no Chair, or if the Chair is not present within 30 minutes after the notified time for the start of the meeting, then the Directors may choose one of their number to be Chair of that meeting.

Powers of meetings

74. A meeting of the Board 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.

Delegation of powers to sub-committees

75. The Board may delegate any of its powers to one or more committees or sub-committees consisting of such Full Members, Associate Members and other persons as the Board thinks fit. Each committee, sub-committee and the persons appointed to the sub-committee must conform to any regulations that may from time to time be imposed by the Board in the exercise of the delegated powers. A delegate of the Board may be authorised to sub-delegate any of the powers for the time being vested in the delegate. The members of each sub-committee will have one vote.

Advisory boards

76. The Board may appoint one or more advisory boards comprising such Directors, Members and others as the Board thinks fit. Each advisory board will:
- (1) act in an advisory capacity only, conforming to any regulations that may be imposed by the Board; and
 - (2) have power to co-opt any Member.
77. Each member of an advisory board will have one vote.

The Committee

78. The Committee is an advisory board. The purpose of the Committee is to represent the views of the Full Members. The Committee is determined as follows:
- (1) The Committee consists of the Directors plus up to ten (10) other Committee Members.
 - (2) Committee Members must be either:
 - (a) a Full Member, where the Full Member is an individual; or
 - (b) a Representatives of a Full Member; or
 - (c) an Additional Member who was nominated for Membership as an Additional Member by a Full Member...
 - (3) Nominations for Committee Membership may be provided to the Chair at the Annual General Meeting or provided in writing to the Chair at any other time.
 - (4) The Board, in its discretion, may appoint Committee Members from those nominated, taking into account the need for Committee Members to represent a cross section of the Full Members by size, geography and industry.
 - (5) Non-Director Committee Members shall be appointed for a term of one (1) year but shall be re-appointed for further terms of one (1) year each.
 - (6) The Board may reject nominations for appointment as Committee Members and is not required to provide to the Members any reason for such rejection.

Proceedings of the Committee, sub-committees and advisory boards

79. The meetings and proceedings of any Committee, sub-committee or advisory board are to be governed by the provisions of this Constitution for regulating the meetings and

proceedings of the Board, so far as they are applicable, and which are not superseded by any regulations made by the Board under **clauses 75 or 76**.

Validity of Acts

80. (1) All acts done at any meeting of the Board or by the Committee, or a sub-committee or an advisory board (or by any person acting as a member of any such body) are valid even if it is discovered afterwards that there was some defect in the appointment of any person or that any of them were disqualified.
- (2) The Directors may act notwithstanding any vacancy in the Board. Where the number of the Board drops below the quorum in **clause 69(2)**, the Board may meet only for the purposes of filling a casual vacancy on the Board.

Resolution in writing

81. A resolution in writing signed by all the Directors entitled to vote on the resolution (not being less than the number required for a quorum) is as valid and effective as if it had been passed at a properly convened and constituted meeting of the Board. The resolution may consist of several documents in the same form each signed by one or more of the Directors. A facsimile transmission or other document produced by mechanical or electronic means under the name of a Director is valid for this purpose.

POWERS OF THE BOARD

General powers of the Board

82. (1) Management and control of the business and affairs of the Company are vested in the Board.
- (2) In addition to the powers and authorities conferred on it by this Constitution, the Board may exercise all powers and do all things as are within the power of the Company if this Constitution or the Law does not direct or require a power to be exercised or done by the Company in General Meeting.

Conferment of Powers

83. The Board may delegate to any person any of the powers exercisable under this Constitution by the Board as it thinks fit on terms and conditions prescribed by the Board other than:
- (1) the power of delegation; and
- (2) a function which is duly imposed on the Board by the Law.
84. Despite any delegation under this Constitution, the Board may continue to exercise any function delegated.

Power to borrow and guarantee

85. Without limiting **clause 82**, the Board may exercise all the powers of the Company to raise or borrow money, and may resolve that the Company should guarantee the debts or

obligations of any person or enter into any other financing arrangement, in each case in the manner and on the terms the Committee thinks fit.

Power to give security

86. Without limiting **clause 82**, the Board may resolve that the Company should charge any of its property or business and should issue debentures or give any other security for a debt, liability or obligation, in each case in the manner and on the terms the Board thinks fit.

Cheques, negotiable instruments and receipts

87. All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments must be signed, drawn, accepted, endorsed or otherwise executed (as the case may be) by an Office-Bearer and any Director or in such other manner as the Board from time to time determines. Receipts for money paid to the Company may be issued by the Administrator.

Personal liability of officer

88. Subject to the Law, if any Director or officer of the Company is or may become personally liable for the payment of any sum which is or may become primarily due from the Company, the Board may resolve that the Company should charge the whole or any part of its assets by way of indemnity to secure the Director or officer from any loss in respect of the liability.

SECRETARY

89. There must be at least one Secretary appointed by the Board for a term and on conditions determined by the Board.
90. The Board may remove any Secretary so appointed.

ACCOUNTS

Financial year

91. Until the Company in general meeting decides otherwise, the Company's financial year will end on 31 July in each year.

Accounting records

92. The Company must keep such accounting records as correctly record and explain its transactions and the financial position of the Company. The accounting records are to be kept in a manner which enables the preparation of true and fair accounts of the Company from time to time and for the accounts to be conveniently and properly audited.

Location

93. The accounting records must be kept at the Office, or at such other place or places as the Board thinks fit, and will always be open to the inspection of any Director.

Inspection by Members

94. No Member or Representative will have any right to inspect any account, book or document of the Company, except as conferred by statute or authorised by the Board or by a resolution of the Company in General Meeting.

Notice to Members

95. The Company will send a copy of its financial statements to all persons entitled to receive notice of General Meetings of the Company, in accordance with the requirements of the Law.

Annual General Meeting

96. The Board must ensure that a copy of the Company's financial statements in respect of the last completed financial year are tabled at each Annual General Meeting. For the purposes of this Constitution, the financial statements comprise the balance sheet as at, and the profit and loss account for the period ending on, the last day of each financial year together with the auditor's report (if any) and such other reports and statements the Company is required to produce by the Law.

AUDIT

97. The Company will observe the provisions of the Law in relation to the appointment of an auditor.

MINUTES

98. (1) The Board must ensure that minutes are recorded in any manner it thinks fit and must include details of:
- (a) the names of Directors and others present at each meeting of the Board, Committee and of any sub-committee or advisory board; and
 - (b) all resolutions and proceedings of General Meetings of the Company and of meetings of the Board, Committee and any sub-committee or advisory board.
- (2) The minutes of any meeting of the Board, Committee, any sub-committee or advisory board or of the Company are prima facie evidence of the matters stated in the minutes if purporting to be signed by the Chair of the meeting or by the Chair of the next succeeding meeting.

NOTICES

99. A notice may be given by the Company to any Member or Representative:
- (1) personally, by leaving it at the Member or Representative's registered address; or
 - (2) by sending it by prepaid post, facsimile transmission or electronic mail to the Member or Representative's registered address.

100. Any notice sent by post will be treated as served 24 hours after the envelope containing the notice is posted. When proving service, it is sufficient to prove that the envelope containing the notice was properly addressed and posted. Any notice served on a Member or Representative personally or left at the Member or Representative's registered address will be treated as served when delivered. Any notice served on a Member or Representative by facsimile transmission or electronic mail will be treated as served when the transmission is sent.
101. The signature to any notice given by the Company may be written or printed.
102. Where a given number of days' notice is required to be given, the day of service is not to be reckoned in calculating the number of days.
103. If a Member has deceased (and irrespective of whether the Company has notice of the Member's death), a notice or document delivered or sent by post to the Member's registered address will be treated for all purposes as sufficient service on the Member's heirs, executors or administrators.

PROFITS AND WINDING UP

104. (1) If on the winding up or dissolution of the Company any property whatever remains after satisfaction of all debts and liabilities the property will be given or transferred to some other institution or institutions having objects similar to the objects of the Company and with a constitution which prohibits the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Company under or by virtue of **clause 3**.
- (2) The institution or institutions will be determined by the Full Members at or before the time of the dissolution. In default of the Full Members doing so, the institution or institutions will be decided by application to the Supreme Court of New South Wales for determination.

INDEMNITY

105. (1) The Company is to indemnify each officer of the Company out of the assets of the Company to the relevant extent against any liability incurred by the officer in or arising out of the conduct of the business of the Company or in or arising out of the discharge of the duties of the officer unless the liability was incurred by the officer through his or her own dishonesty, negligence, lack of good faith or breach of duty.
- (2) In addition to **clause 105(1)**, an officer of the Company may be indemnified to the relevant extent out of the assets of the Company against any liability incurred by the officer in or arising out of the conduct of the business of the Company or in or arising out of the discharge of the duties of the officer, if the Board considers it appropriate to do so.
- (3) In a case where the Board considers it appropriate to do so, the Company may pay amounts by way of premium in respect of any contract effecting insurance on behalf or in respect of an officer of the Company against liability incurred by the

officer in or arising out of the conduct of the business of the Company or in or arising out of the discharge of the duties of the officer.

(4) In this **clause 105**,:

officer means:

- (a) a Director; or
- (b) a Committee Member; or
- (c) an Office-Bearer; or
- (d) an auditor, the Secretary and any other officer of the Company (whether in an executive or non-executive capacity);
- (e) any other individual, partnership or corporation who has been appointed by the Board to represent the Company or carry out the Company's business;

and includes a former officer.

duties of the officer includes, in any particular case where the Board considers it appropriate, duties arising by reason of the appointment or nomination of an officer by the Company.

to the relevant extent means:

- (a) to the extent the Company is not precluded by law from doing so;
- (b) to the extent and for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including, in particular, an insurer under any insurance policy); and
- (c) where the liability is incurred in or arising out of the conduct of the business of another corporation or in the discharge of the duties of the officer in relation to another corporation, to the extent and for the amount that the officer is not entitled to be indemnified and is not actually indemnified out of the assets of that corporation.

liability means all costs, charges, losses, damages, expenses, penalties and liabilities of any kind including, in particular, legal costs incurred in defending any proceedings (whether criminal, civil, administrative or judicial) or appearing before any court, tribunal, government authority or otherwise.

DISPUTE RESOLUTION

106. Where there is a dispute, grievance or other disagreement between a Member and the Company, whether arising out of the application of these rules or otherwise (**Dispute**), then either must, prior to the commencement of any proceedings in a Court or Tribunal or before any authority or board, notify the other in writing of the nature of the Dispute, and the following must occur:

- (1) The Member and the Company must in the period fourteen days from the service of the notice of the Dispute (**Initial Period**) use their best endeavours to resolve the Dispute.
- (2) If the Company and the Member are unable to resolve the Dispute within the Initial Period, then the Dispute must be referred for mediation to a mediator agreed by the Member and the Company.
- (3) If the disputants are unable to agree on a mediator within seven days of the Initial Period, the Member or the Company may request the President of the Association of Dispute Resolvers (LEADR) to nominate a mediator to whom the dispute will be referred.
- (4) The costs of the mediation will be shared equally between the Member and the Company.
- (5) Where:
 - (a) the party receiving the notice of the Dispute fails to attend the mediation required by (2), or
 - (b) the mediation has not occurred within six weeks of the date of the notice of the Dispute, or
 - (c) the mediation fails to resolve the Dispute,then the party serving the notice of Dispute will be entitled to commence any proceedings in a Court or Tribunal or before any authority or board in respect of the Dispute.
- (6) The procedure in this **clause 106** will not apply in respect of proceedings for urgent or interlocutory relief.