

Constitution of CPA Australia Ltd

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Constitution

Preliminary

1. Definitions

In this Constitution:

Allocated Membership Status means, in relation to a Member, the Membership Status that a Member is designated as holding.

Amending Date means 1 July 2009.

Applicable Regulations means collectively any pronouncement, regulation, code, professional schedule, risk management statement and joint statement made, adopted or issued by the Board or its delegate by authority of:

- (a) Article 52(d) of this Constitution; or
- (b) clause 26 or clause 81(a) of the constitution of the Company in force immediately before the Amending Date,

whether acting alone or in conjunction with any body approved by the Board.

Board means the Directors of the Company from time to time.

Branch means a branch of the Company which is established by the Board in accordance with this Constitution and which is not attached to a Division.

Business Day means a day except a Saturday, Sunday or public holiday in the state or territory in which the Company is taken to be registered for the purposes of the Corporations Act.

By-Laws means:

- (a) when used in Articles 32(b)(i)B, 39 and 65(c)(ii)B of this Constitution or the definition of Certificate in Article 1 of this Constitution, the laws made under:
 - (i) Article 52(d) of this Constitution; or
 - (ii) clause 26 or clause 81(a) of the constitution of the Company in force immediately before the Amending Date); or
- (b) when used elsewhere in this Constitution, the laws made under Article 52(d),

as made and/or amended from time to time.

Certificate means the membership certificate issued to a Member in accordance with the By-Laws.

Chief Executive Officer means a person appointed pursuant to Article 48.

Code of Professional Conduct means the Code of Ethics for Professional Accountants adopted by the Board by authority of:

- (a) Article 52(e) of this Constitution; or

- (b) clause 26 or clause 81(a) of the constitution of the Company in force immediately before the Amending Date.

Company means CPA Australia Ltd ACN 008 392 452.

Complaint means any allegation, howsoever or by whomsoever made, that a Member has done any of the acts, or been the subject of any of the circumstances or events, referred to in Article 39(a) of this Constitution.

Continuing Professional Development means the program for structured continuing professional development required to be undertaken by Members in the manner from time to time prescribed by the Board.

Control means:

- (a) in relation to any body corporate (including a body corporate in the capacity as trustee of any trust property), the ability of any person to exercise control over the body corporate by virtue of the holding of voting shares in that body corporate, or by any other means including the ability to directly or indirectly remove or appoint all or a majority of the directors of the body corporate; and
- (b) in relation to a person that is not a body corporate (including a natural person), the ability of any person to direct that person to act in accordance with their instructions whether by operation of any law, agreement, arrangement or understanding, custom or any other means.

Corporations Act means the Corporations Act 2001 (Commonwealth).

Court means, in any jurisdiction, any court of law of competent jurisdiction or other judicial or quasi-judicial body, commission, authority, panel or tribunal.

Deputy President means a person elected to that role pursuant to Article 67.

Determination means:

- (a) any decision of the Board or its delegate adjudicating upon a Complaint; or
- (b) an automatic forfeiture of membership arising pursuant to:
- (i) Article 39(d) of this Constitution; or
- (ii) clause 27(4) of the constitution of the Company in force immediately before the Amending Date.

Director means a person who is, for the time being, a director of the Company.

Director Year means:

- (a) the Transitional Director Year; and
- (b) each 12 month period commencing on 1 October in each calendar year from 2010 and onwards, and ending on 30 September in the next calendar year.

Division means a division of the Company established by the Board in accordance with this Constitution.

Divisional Branch means a branch of a Division established in accordance with this Constitution and/or the By-Laws.

Divisional Council means the council of a Division.

Divisional Councillor means a member of a Divisional Council.

Divisional Deputy President means a deputy president of a Division, elected in accordance with the By-Laws.

Divisional President means a president of a Division, elected in accordance with the By-Laws.

External Director means a Director who is not a Member or an employee of the Company.

Fee means:

- (a) when used in Article 40, a fee, annual subscription or levy referred to in:
 - (i) this Constitution; or
 - (ii) the constitution of the Company in force immediately before the Amending Date, or
- (b) when used elsewhere in this Constitution, a fee, annual subscription or levy referred to in this Constitution,

as being payable to the Company.

Fine means a fine imposed under Article 39 (or clause 27 of the constitution of the Company in force immediately before the Amending Date) and includes any costs or expenses that the Board requires a Member to pay pursuant to Article 39(d) (or clause 27(4) of the constitution of the Company in force immediately before the Amending Date).

Honorary Member means a person who is entered on the Register as having been conferred the distinction of honorary membership of the Company.

Insolvent means in relation to a person, where the person:

- (a) is *insolvent* within the meaning of that term in the Corporations Act;
- (b) being a natural person:
 - (i) is an *insolvent under administration* within the meaning of that term in the Corporations Act; or
 - (ii) commits or suffers an act of bankruptcy;
- (c) being a body corporate:
 - (i) is the subject of an event described in sections 459C(2)(a) to (f) of the Corporations Act (or the person makes a statement from which it may be reasonably deduced the person is so subject); or
 - (i) suffers the appointment of a *controller, administrator, liquidator* or *provisional liquidator* within the meaning of those terms in the Corporations Act; or
 - (ii) is dissolved,
other than to carry out an amalgamation, dissolution or reconstruction whilst solvent; or
- (d) is otherwise unable to pay its debts as and when they become due and payable; or

- (e) takes or suffers a similar consequence in debt to those in paragraphs (a) to (d) under the law of any jurisdiction.

Intellectual Property means patents and registered designs, unregistered design rights, copyright, rights and trade marks and service marks (whether registered or not), goodwill and rights in confidential information and trade secrets, source codes, know-how and any associated or similar rights (including, in all cases, applications and rights to apply for them, and licences or other rights to apply for them, and licences or other rights of use of such property) and all other property as defined in Article 2 of the Convention Establishing the World Intellectual Property Organisation of July 1967.

Legal Costs of a person means legal costs calculated on a solicitor-and-client basis incurred by that person in defending or resisting any proceedings (whether criminal, civil, administrative or judicial), appearing before or responding to actions taken by any court, tribunal, government authority or agency, other body or commission, a liquidator, an administrator, a trustee in bankruptcy or other authorised official, where that proceeding, appearance or response relates to a Liability of that person.

Liability of a person means any liability including negligence (except a liability for legal costs) incurred by that person in or arising out of the discharge of duties as an officer of the Company or in or arising out of the conduct of the business of the Company, including as a result of appointment or nomination by the Company (or a subsidiary of the Company) as a trustee of a trust or as a director, officer or employee of another body corporate.

Life Member means a Member who is entered on the Register as having been conferred the distinction of life membership.

Maximum Costs means, for the purposes of Article 39(d), amounts from time to time so prescribed by the Board.

Maximum Fine means, for the purposes of Article 39(b), amounts from time to time so prescribed by the Board.

Meeting Member means, in relation to a meeting of Members, the Member present at the place of the meeting, in person or by proxy or by attorney.

Member means a natural person whose name is entered in the Register as a member of the Company. For the avoidance of doubt, Honorary Members are Members.

Member Director means a Director who was a Member at the time of their appointment as a Director.

Membership Statuses means each of the membership statuses referred to in Article 7(a).

Notice means a notice given pursuant to, or for the purposes of, this Constitution, or the Corporations Act.

Personal Representative means the legal personal representative, executor or administrator of the estate of a deceased person.

Practice Entity means any entity recognised by law through or by which a Member provides Public Accounting Services otherwise than in the capacity of a sole trader.

President means a person elected to that role pursuant to Article 67.

Public Accounting Services has the meaning given in the By-Laws.

Publication means any publication adopted by the Board as the official publication of the Company whether published in printed or electronic form, or otherwise.

Quality Assurance has the meaning given in the By-Laws.

Readmission means the readmission as a Member, of a person who was previously a member of the Company but who has ceased to be a Member.

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

Reinstatement means the reinstatement:

- (a) to active membership of a Member who has been suspended from active membership; or
- (b) of a Member's Allocated Membership Status to the level that applied prior to any previous lowering of the Member's Allocated Membership Status.

Relevant Officer means a person who is, or has been, a Director or Secretary.

Representative Council means the Representative Councillors.

Representative Councillor means a person appointed under, or a representative referred to in Article 62, who continues to hold office for the time being.

Secretary means a person appointed as, or to perform the duties of, secretary of the Company for the time being.

Transitional Director Year means the 18 month period commencing on 1 April 2009 and ending on 30 September 2010.

2. Interpretation

- (a) Headings are for convenience only and do not affect interpretation. Unless the context indicates a contrary intention, in this Constitution:
 - (i) a word importing the singular includes the plural (and vice versa);
 - (ii) a word indicating a gender includes every other gender;
 - (iii) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
 - (iv) the word "includes" in any form is not a word of limitation;
 - (v) a reference to something being "written" or "in writing" includes that thing being represented or reproduced in any mode in a visible form;
 - (vi) a notice or document required by this Constitution to be signed may be authenticated by any other manner permitted by the Corporations Act or any other law;
 - (vii) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
 - (viii) a reference to:
 - A. the holding of an office in relation to the Company which is defined in this Constitution (for example, Director, or President) immediately before the Amending Date is a

reference to a person appointed to the equivalent office under the constitution of the Company in force immediately before the Amending Date;

- B. a body which is defined in this Constitution existing immediately before the Amending Date (for example, a Division or the Representative Council) is a reference to the equivalent body under the terms of the constitution of the Company in force immediately before the Amending Date;
- C. the doing of an act provided for in this Constitution (for example, the making of a determination or the recognition of a body) before the Amending Date is a reference to the doing of an act under the provisions of the constitution of the Company in force immediately before the Amending Date; and
- D. the holding of a membership status by a Member immediately before the Amending Date is a reference to the holding of a membership status under the terms of the constitution of the Company in force immediately before the Amending Date.

(b) For the purposes of this Constitution, a Member will be **Closely Associated** with a Practice Entity:

- (i) where the Practice Entity is a body corporate, if the Member is:
 - A. a director of the Practice Entity;
 - B. a member of the Practice Entity holding more than 15% of the issued share capital of the Practice Entity; or
 - C. an officer (within the meaning given to that term in the Corporations Act) of the Practice Entity;
- (ii) where the Practice Entity is a trust, if the Member is:
 - A. the trustee or one of the trustees of the Practice Entity;
 - B. if any trustee of the Practice Entity is a body corporate:
 - 1) a director of such trustee; or
 - 2) an officer (within the meaning given to that term in the Corporations Act) of such trustee;
 - C. able to exercise or control the exercise of the right of appointment pursuant to which the trustee(s) of the Practice Entity is/are appointed or removed;
 - D. if the Practice Entity is a unit trust, in a position to control:
 - 1) the casting of more than 15% of the maximum number of votes that might be cast at a meeting of holders of units in the Practice Entity; or
 - 2) the disposal of more than one half of the issued units of the Practice Entity; and/or

- (iii) where the Practice Entity is not a natural person, the Member is able to Control the Practice Entity.
- (c) Nothing whether contained in this Constitution or otherwise shall be construed as implying or creating any privilege, priority or right in favour of any Member so as to limit the power of the Company at any time to amend, rescind or repeal this Constitution.

3. Application of Corporations Act

- (a) Unless the context indicates a contrary intention, in this Constitution:
 - (i) a reference to the Corporations Act is to the Corporations Act in force in relation to the Company after taking into account any waiver, modification or exemption which is in force either generally or in relation to the Company; and
 - (ii) a word or phrase given a meaning in the Corporations Act has the same meaning in this Constitution where it relates to the same matter as the matter for which it is defined in the Corporations Act, unless that word or phrase is otherwise defined in this Constitution; and
- (b) The replaceable rules in the Corporations Act do not apply to the Company.

4. Enforcement

- (a) Each Member submits to the non-exclusive jurisdiction of the courts of Victoria, the Federal Court of Australia and the courts competent to determine appeals from those courts with respect to any proceedings that may be brought at any time relating to this Constitution.
- (b) If at any time any provision of this Constitution is or becomes illegal, invalid or unenforceable in any respect pursuant to the law of any jurisdiction, then that does not affect or impair:
 - (i) the legality, validity or enforceability in that jurisdiction of any other provision of this Constitution; or
 - (ii) the legality, validity or enforceability pursuant to the law of any other jurisdiction of that or any other provision of this Constitution.

Objects

5. Objects of the Company

The objects of the Company are to promote excellence, enterprise and integrity amongst Members and the financial, accounting and business advisory professions generally, to educate Members with respect to their duties and responsibilities as members of the financial, accounting and business advisory professions, and to prescribe the highest standards of ethics and professional conduct for Members. In fulfilling these objects, the Company will:

- (a) take an interest in legislative, economic and social matters affecting the Company's objects;
- (b) affiliate with organisations with similar objects; and

- (c) do all such other things incidental or conducive to the attainment of the Company's objects.

Income and property

6. Application of income and property

- (a) Subject to Article 6(b), the Company must apply the surpluses (if any) or other income and property of the Company solely towards the promotion of the objects of the Company set out in Article 5 and no portion of the Company's surpluses (if any) or other income and property may be paid or transferred, directly or indirectly, to any Member or any person who has been a Member, whether by way of dividend, bonus or otherwise.
- (b) Nothing in Article 6(a) prevents the Company making any payment in good faith of:
 - (i) reasonable and proper remuneration to any Member or any other person for any services actually rendered or goods supplied to the Company in the ordinary and usual course of business of the Company;
 - (ii) the payment or reimbursement of out-of-pocket expenses properly incurred by a Member on behalf of the Company;
 - (iii) reasonable and proper rent or fees to a Member or any other person for premises leased or licensed to the Company;
 - (iv) money to any Member, being a solicitor, accountant or other person engaged in any profession, for all usual professional or other charges for work done by that person or that person's firm or employer, where the provision of the service has the prior approval of the Board and the amount payable is approved by the Board and is not more than an amount which commercially would be reasonable payment for the service;
 - (v) an amount to any person who at the time of payment is not a Member, in repayment of an amount previously lent by that person to the Company;
 - (vi) interest to any person who at the time of payment is not a Member, on money borrowed by the Company from that person; or
 - (vii) an amount to a Director pursuant to Article 45.

Membership

7. Allocated Membership Status and distinctions

- (a) Members shall be designated by the Board as holding one of the following membership statuses:
 - (i) Associate (ASA);
 - (ii) Certified Practising Accountant (CPA);
 - (iii) Fellow Certified Practising Accountant (FCPA); or
 - (iv) such other status as the Board determines.

- (b) The Members of the Company at the Amending Date shall be designated as holding the Membership Status corresponding to the membership status that they held immediately before the Amending Date, subject to any designation into a different Membership Status pursuant to this Constitution occurring after the Amending Date.
- (c) The Board may determine the criteria and requirements for designation of Members into Membership Statuses and may from time to time vary the criteria and requirements set out in the By-Laws for the designation of Members into each Membership Status (in both general and specific instances).
- (d) Subject to Article 17(c), the Allocated Membership Status of a Member wishing to change his or her Allocated Membership Status shall be changed upon the Member satisfying the criteria and requirements for designation into the Membership Status which they wish to be designated as holding.
- (e) The Board may confer upon any person the distinction of honorary membership of the Company by entering the name of that person in the Register as an Honorary Member. An Honorary Member shall be:
 - (i) entitled to:
 - A. all the privileges of membership (except for the right to vote on resolutions at meetings of Members, and to hold office as a Director, Representative Councillor or a Divisional Councillor); and
 - B. use the designation FCPA; and
 - (ii) unless provided to the contrary in the By-Laws, subject to all of the obligations of membership, save that an Honorary Member shall not be required to pay any annual subscriptions.
- (f) The Board may confer upon any Member the distinction of life membership by entering the name of that Member in the Register as a Life Member. A Life Member shall be:
 - (i) entitled to all the privileges of membership; and
 - (ii) unless provided to the contrary in the By-Laws, subject to all of the obligations of membership, save that a Life Member shall not be required to pay any annual subscriptions.
- (g) A Member may use after the Member's name the words or letters specified in this Constitution and/or the By-Laws for his or her Allocated Membership Status or distinction.
- (h) The rights of being a Member are not transferable whether by operation of law or otherwise.

8. Admission to membership

- (a) A person is eligible to apply to become a Member if they satisfy the criteria and requirements for designation into a Membership Status.
- (b) Each applicant to become a Member must sign and deliver to the Company an application in the form and pay any initial fee, in both cases as set out in the By-Laws or as otherwise determined by the Board.

- (c) The Board determines in their absolute discretion whether an applicant may become a Member. The Board is not required to give any reason for the rejection of any application to become a Member. No appeal shall lie from a decision of the Board in respect of an application under Article 8.
- (d) If an application to become a Member is:
 - (i) accepted by the Board, the Company must give written notice of the acceptance to the applicant and enter the applicant's name in the Register and designate the applicant as a Member holding a Membership Status; or
 - (ii) rejected by the Board, the Company must give written notice of the rejection to the applicant. Any fees paid by the applicant are not refundable.
- (e) Failure by the Company to comply with any notice requirement in Article 8(d) does not invalidate the decision regarding an application.

9. Class rights

- (a) Subject to the Corporations Act and the rights of a particular class of Members, the Company may vary or cancel the rights of Members in that class:
 - (i) by a special resolution passed at a meeting of the Members included in that class; or
 - (ii) with the written consent of Members who are entitled to at least 75% of the votes that may be cast by Members included in that class.
- (b) Article 38 applies to a meeting held pursuant to Article 9(a)(i).
- (c) A Member attached to a Division shall have, in addition to the Member's rights, privileges and obligations as a member of the Company, the rights, privileges and obligations of a Member attached to that Division.

10. Agreements and consents

- (a) Each Member agrees to be bound by this Constitution, the By-Laws and the Applicable Regulations, in each case as amended from time to time.
- (b) Each Member agrees to furnish the Company with all information necessary to enable the Company to compile a record of the qualifications and experience of the Members, or any information relevant to membership of the Company.
- (c) Each Member consents to the Company disclosing the fact of membership, his or her Allocated Membership Status and current employer to any other person (whether upon request or by publication) notwithstanding that such information may comprise personal information or sensitive information within the meaning of those terms in the Privacy Act 1988 (Cth).
- (d) Each Member agrees to notify the Company of any change in their principal place of residence or employer within 1 month of such change taking place, and to provide such other information as may reasonably be requested by the Company.

Cessation of membership

11. Resignation of a Member

- (a) Subject to Articles 11(b) and 11(c), a Member may at any time resign as a member of the Company by giving the Company notice in writing. Unless the notice provides otherwise, a resignation by a Member takes effect immediately on the giving of that notice to the Company.
- (b) Unless the Board resolves to the contrary, if a Complaint has been lodged against a Member in accordance with the By-Laws, that Member may not resign until any regulatory procedure has been completed.
- (c) If there is only one Member and the Member gives proper notice of resignation or on the same day all of the Members give proper notice of resignation, the notice or notices will be ineffective and the Member or Members cannot resign until either another person is appointed as a Member or the Company is wound up.
- (d) If a Member resigns, the Company must record the Member's resignation in the Register.
- (e) A person who has resigned as a member of the Company may be declared by the Board to have forfeited (on such terms as the Board may specify) the person's membership if after the resignation the person fails to deliver their Certificate to the Company in accordance with Article 13(a)(ii).

12. Other cessation events

If a Member dies, becomes of unsound mind or a person whose property is liable to be dealt with pursuant to a law about mental health the Member ceases to be a member of the Company and the Company must remove the Member's name from the Register.

13. Effect of cessation

- (a) A person who ceases to be a Member (including as a consequence of forfeiture of membership):
 - (i) remains liable to pay, and must immediately pay, to the Company all amounts that at date of cessation were payable by the person to the Company as a Member;
 - (ii) must deliver their Certificate to the Company; and
 - (iii) must pay to the Company interest at the rate the Board resolves on those amounts from the date of cessation until and including the date of payment of those amounts.
- (b) The Company may by resolution of the Board waive any or all of its rights pursuant to this Article 13.

14. Readmission to membership

- (a) A person:
 - (i) who has resigned as a member of the Company;
 - (ii) whose membership of the Company has been forfeited; or

- (iii) who has otherwise ceased to be a member of the Company,
may:
- (iv) in the case of a person whose membership has been forfeited, subject to any terms and conditions imposed by the Board when that person's membership was forfeited; and
- (v) provided (unless the Board determines to the contrary) that all amounts owing by that person to the Company (including any interest referred to in Article 13(a)(iii) or Article 18) have been paid to the Company,
apply to the Board for Readmission.

- (b) An applicant seeking Readmission pursuant to Article 14(a) may (subject to the remainder of this Article 14(b)), upon (unless the Board determines to the contrary) meeting the admission requirements in force at the time of application for Readmission, be Readmitted upon such terms and conditions and upon giving such information and explanation as the Board may determine. If an applicant seeking Readmission pursuant to Article 14(a) is a person whose membership of the Company was previously forfeited, then that applicant may only be Readmitted subject to any terms and conditions imposed by the Board when that applicant's membership was forfeited.
- (c) The Board shall give notice of its decision regarding Readmission to the applicant, but the Board is not required to give any reason for its decision. No appeal shall lie from a decision of the Board in respect of an application for Readmission pursuant to Article 14(a).

Fees and other payments

15. Setting of Fees

- (a) The Company may by resolution of the Board require the payment of fees (including annual subscription fees) by Members in the amount, on any terms and at any times as the Board determines (and in doing so may provide for or allow payment by instalments). In doing so the Company may require the payment of fees of different amounts and/or at different times in respect of any particular Member(s) or group(s) of Members.
- (b) The Company may by resolution of the Board in respect of any Member, revoke, vary or postpone a Fee (or excuse a Member from the obligation to pay a Fee), extend the time for payment of a Fee or allow the Fee to be paid in instalments, at any time.

16. Notice of Fees

- (a) The Company must give notice of all Fees to the Members or applicants who are required to pay the Fees. The notice must specify the amount of the Fee, the time or times and manner of payment and any other matter with respect to the Fee that the Board resolves.
- (b) The non-receipt of a notice of a Fee by, or the accidental omission to give notice of a Fee or any information regarding any matter concerning the Fee to, any Member or applicant does not invalidate the Fee, or affect the Member's obligation to pay the Fee.

17. Payment of Fees

- (a) Each Member must pay to the Company the amount of each Fee payable by the Member (having regard to his or her Allocated Membership Status) in the manner, at the time and at the place specified in the notice of the Fee. All Fees paid to the Company by Members are non-refundable.
- (b) An applicant who becomes entitled to admission as a Member must, before the applicant's name is entered in the Register pay the amount of each Fee payable by that applicant, in the manner, at the time and at the place specified in the notice of the Fee.
- (c) Each Member seeking to change his or her Allocated Membership Status must pay any Fee payable by that Member in relation to the change in Allocated Membership Status, at the time and in the manner specified in the notice of the Fee. A Member's change in Allocated Membership Status shall not become effective until each Fee payable by the Member has been paid by the Member.
- (d) In a proceeding to recover a Fee, or an amount payable due to the failure to pay or late payment of a Fee, proof that:
 - (i) the name of the person is entered in the Register as a Member;
 - (ii) if the amount of the Fee is referable to the person's Allocated Membership Status or the period of time for which the Member has held that Allocated Membership Status, the Register records the person's Allocated Membership Status as being the same as that specified in the initial notice of the relevant Fee or (as the case may be) the Register records that the person has held the relevant Allocated Membership Status for not less than the period specified in the initial notice of the relevant Fee;
 - (iii) there is a record in the minute books of the Company of the resolution (or a record prepared in accordance with the By-Laws) determining the Fee; and
 - (iv) notice of the Fee was given or taken to be given to the person in accordance with this Constitution,

is conclusive evidence of the obligation of that person to pay the Fee.

18. Interest payable

- (a) If an amount payable to the Company as a Fee is not paid before or on the time for payment, the person who owes the amount must pay to the Company:
 - (i) interest on the unpaid part of the amount from the date payment is due to the date of payment at the rate that the Board resolves; and
 - (ii) all costs and expenses that the Company incurs due to the failure to pay or the late payment.
- (b) Interest pursuant to Article 18(a) accrues daily and may be capitalised at any interval that the Board resolves.
- (c) The Company may by resolution of the Board waive payment of some or all of the interest, costs or expenses payable pursuant to Article 18(a).

19. Company payments

- (a) A Member or the Personal Representative of a deceased Member must pay to the Company on written demand an amount equal to all payments that the Company makes to a government or taxation authority in respect of the Member or the death of the Member, where the Company is either:
 - (i) obliged by law to make the relevant payment; or
 - (ii) advised by a lawyer qualified to practice in the jurisdiction of the relevant government or taxation authority that the Company is obliged by law to make the relevant payment.
- (b) The Company is not obliged to notify a Member in advance of its intention to make a payment pursuant to Article 19(a).
- (c) An amount payable by a Member to the Company pursuant to Article 19(a) is treated for the purposes of this Constitution as if it is a Fee properly raised by the Board of which notice has been given on the date on which the written demand is given by the Company to the Member or the Personal Representative of a deceased Member.
- (d) Nothing in this Article 19 affects any right or remedy which any law confers on the Company.

Proceedings of Members

20. Written resolutions of Members

While the Company has only one Member, the Company may pass a resolution by that Member signing a record in writing of that resolution.

21. Calling meetings of Members

- (a) The Company may by resolution of the Board call a meeting of Members to be held at a time and place (including 2 or more venues using technology which gives Meeting Members as a whole a reasonable opportunity to participate) and in such manner that the Board resolves.
- (b) No Member may call or arrange to hold a meeting of Members except where permitted by the Corporations Act.

22. Notice of meetings of Members

- (a) Where the Company has called a meeting of Members, then subject to any requirements of the Corporations Act, notice of the meeting and any proxy form for the meeting may be given in the form and in the manner in which the Board resolves.
- (b) Notice of any meeting of Members shall be deemed to be sufficiently given to all Members if the notice of meeting is published in the Publication.
- (c) A person may waive notice of any meeting of Members by written notice to the Company.

- (d) A person who has not duly received notice of a meeting of Members may, before or after the meeting, notify the Company of the person's agreement to anything done or resolution passed at the meeting.
- (e) A person's attendance at a meeting of Members waives any objection which that person may have had to a failure to give notice, or the giving of a defective notice, of the meeting, unless the person at the beginning of the meeting objects to the holding of the meeting.
- (f) Subject to the Corporations Act, anything done (including the passing of a resolution) at a meeting of Members is not invalid because a person does not receive notice of the meeting and/or a proxy form, or the Company accidentally does not give notice of the meeting or a proxy form to a person.

23. Business of meetings

Except with the approval of the Board, with the permission of the chair of the meeting or pursuant to the Corporations Act, no person may move at any meeting of Members:

- (a) any resolution (except in the form set out in the notice of meeting given pursuant to Article 22(a)); or
- (b) any amendment of any resolution or a document which relates to any resolution and a copy of which has been made available to Members to inspect or obtain.

24. Quorum

- (a) Unless a quorum for a meeting of Members is present at the time when the meeting commences, no business may be transacted at a meeting of Members except, subject to Article 25, the election of the chair of the meeting.
- (b) A quorum for a meeting of Members is 6 Meeting Members entitled to vote on a resolution at that meeting or if only one Member is entitled to vote at that meeting, then that Member (or a person appointed as a proxy or attorney of that Member). Each individual present may only be counted once towards a quorum. If a Member has appointed more than one proxy or attorney, only one of them may be counted towards a quorum.
- (c) If a quorum is not present within 15 minutes after the time appointed for the commencement of a meeting of Members, the meeting is dissolved unless the chair of the meeting or the Board adjourns the meeting to a date, time and place determined by that chair or the Board.
- (d) If a quorum is not present within 15 minutes after the time appointed for the commencement of an adjourned meeting of Members, the meeting is dissolved.

25. Chair of meetings of Members

- (a) Subject to Articles 25(b) and 25(c) the President or, in the President's absence, a Deputy President (drawn by lot unless agreed amongst themselves, if more than one Deputy President is present) or in the absence of the President and both Deputy Presidents, a Director to be chosen by the Members present at the meeting and the proxies and attorneys who are present at the meeting representing Meeting Members, must chair each meeting of Members.
- (b) If at a meeting of Members:

- (i) no person entitled to chair the meeting is present within 15 minutes after the time appointed for holding the meeting; or
- (ii) all of the persons entitled to chair the meeting who are present within 15 minutes of the time appointed for holding the meeting decline to chair all or part of the meeting,

the Members who are present at the meeting and the proxies and attorneys who are present at the meeting representing Meeting Members shall (by majority vote) elect one of the Members who is present at the meeting to chair that meeting.

- (c) The chair of a meeting of Members may, for any item of business at that meeting or for any part of that meeting, vacate their position as chair in favour of another person nominated by him or her.

26. Conduct of meetings of Members

- (a) Subject to the Corporations Act, the chair of a meeting of Members is responsible for the general conduct of that meeting and for the procedures to be adopted at that meeting. The chair of a meeting of Members shall maintain order at the meeting and conduct the meeting in a proper and orderly manner.
- (b) The chair of a meeting of Members may make rulings without putting the question (or any question) to the vote if that action is required to ensure the orderly conduct of the meeting.
- (c) The chair of a meeting of Members may determine the procedures to be adopted for proper and orderly discussion or debate at the meeting, and the casting or recording of votes at the meeting.
- (d) The chair of a meeting of Members may determine any dispute concerning the admission, validity or rejection of a vote at the meeting.
- (e) The chair of a meeting of Members may, subject to the Corporations Act, at any time terminate discussion or debate on any matter being considered at the meeting and require that matter be put to a vote.
- (f) The chair of a meeting of Members may refuse to allow debate or discussion on any matter which is not business referred to in the notice of that meeting or is not business of the meeting permitted pursuant to the Corporations Act without being referred to in the notice of meeting.
- (g) The chair of a meeting of Members may refuse any person admission to, or require a person to leave and remain out of, the meeting if that person:
 - (i) in the opinion of the chair, is not complying with the reasonable directions of the chair;
 - (ii) has any audio or visual recording or broadcasting device;
 - (iii) has a placard or banner;
 - (iv) has an article the chair considers to be dangerous, offensive or liable to cause disruption;
 - (v) behaves or threatens to behave in a dangerous, offensive or disruptive manner;

- (vi) refuses to produce or to permit examination of any article, or the contents of any article, in the person's possession; or
- (vii) is not entitled pursuant to the Corporations Act or this Constitution to attend the meeting.
- (h) If the chair of a meeting of Members considers that there are too many persons present at the meeting to fit into the venue where the meeting is to be held, the chair may nominate a separate meeting place using any technology that gives Meeting Members as a whole a reasonable opportunity to participate.
- (i) The chair of a meeting of Members may delegate any power conferred by this Article 26 to any person.
- (j) Nothing contained in this Article 26 limits the powers conferred by law on the chair of a meeting of Members.

27. Attendance at meeting of Members

- (a) Subject to this Constitution and any rights and restrictions of a class of Members, a Member who is entitled to attend and cast a vote at a meeting of Members, may attend and vote in person or by proxy or by attorney.
- (b) The chair of a meeting of Members may require a person acting as a proxy or attorney at that meeting to establish to the chair's satisfaction that the person is the person who is duly appointed to act. If the person fails to satisfy this requirement, the chair may exclude the person from attending or voting at the meeting.
- (c) A Director is entitled to receive notice of and to attend all meetings of Members and all meetings of a class of Members and is entitled to speak at those meetings.
- (d) A person requested by the Board to attend a meeting of Members or a meeting of a class of Members is, regardless of whether that person is a Member or not, entitled to attend that meeting and, at the request of the chair of the meeting, is entitled to speak at that meeting.

28. Authority of proxies and attorneys

- (a) Unless otherwise provided in the document or resolution appointing a person as proxy or attorney of a Member, the person so appointed has the same rights to speak, demand a poll, join in demanding a poll or act generally at a meeting of Members to which the appointment relates, as the appointing Member would have had if that Member was present at the meeting.
- (b) Unless otherwise provided in the document or resolution appointing a person as proxy or attorney of a Member, the appointment is taken to confer authority to:
 - (i) vote on any amendment moved to a proposed resolution and on any motion that a proposed resolution not be put or any similar motion; and
 - (ii) vote on any procedural motion, including any motion to elect the chair of the meeting of Members to which the appointment relates, to vacate the chair or to adjourn the meeting,

even though the appointment may refer to specific resolutions and may direct the proxy or attorney how to vote on particular resolutions.

- (c) Unless otherwise provided in the document or resolution appointing a person as proxy or attorney of a Member, the appointment is taken to confer authority to attend and vote at a meeting which is rescheduled, postponed or adjourned to another time or changed to another place, even though the appointment may refer to a specific meeting to be held at a specified time or place.

29. Multiple appointments

- (a) If more than one attorney appointed by a Member is present at a meeting of Members and the Company has not received notice of any revocation of any of the appointments:
 - (i) an attorney appointed to act at that particular meeting may act to the exclusion of an attorney appointed pursuant to a standing appointment; and
 - (ii) subject to Article 29(a)(i), an attorney appointed pursuant to the most recent appointment may act to the exclusion of an attorney appointed earlier in time.
- (b) An appointment of a proxy of a Member is revoked (or, in the case of a standing appointment, suspended for that particular meeting of Members) if the Company receives a further appointment of a proxy from that Member which would result in there being more than one proxy of that Member entitled to act at the meeting. The appointment of proxy made first in time is the first to be treated as revoked or suspended by this Article 29(b).
- (c) The appointment of a proxy for a Member is not revoked by an attorney for that Member attending and taking part in a meeting of Members to which the appointment relates, but if that attorney votes on a resolution at that meeting, the proxy is not entitled to vote, and must not vote, as the Member's proxy on that resolution.

30. Voting at meeting of Members

- (a) A resolution put to the vote at a meeting of Members must be decided on a show of hands, unless a poll is demanded in accordance with Article 33 and that demand is not withdrawn.
- (b) The Board may determine that Members entitled to attend and vote at a meeting of Members or at a meeting of a class of Members may vote at that meeting without the Member or any proxy or attorney appointed to represent that Member being present at that meeting (and voting in this manner is referred to in this Article 30(b) as direct voting). The Board may determine rules and procedures in relation to direct voting, including the class of Members entitled to cast a direct vote, the manner in which a direct vote may be cast, the circumstances in which a direct vote will be valid and the effect of a Member casting both a direct vote and a vote in any other manner. Where a notice of meeting specifies that direct voting may occur by eligible Members, a direct vote cast by an eligible Member is taken to have been cast by that person at the meeting if the rules and procedures for direct voting determined by the Board (whether set out in the notice of meeting or otherwise) are complied with.
- (c) Subject to this Constitution and any rights or restrictions of a class of Members, on a show of hands at a meeting of Members, each Meeting Member having the right to vote on the resolution has one vote, provided that where a person is entitled to vote in more than one capacity, that person is entitled only to one vote.

- (d) Subject to this Constitution and any rights or restrictions of a class of Members, on a poll at a meeting of Members, each person present at the meeting and having the right to vote on the resolution has, if they are a Member, one vote, and further has one vote for each Meeting Member that the person represents.
- (e) Subject to this Constitution and any rights or restrictions of a class of Members, where the Board has determined other means (including electronic) permitted by law for the casting and recording of votes by Members on any resolution to be put at a meeting of Members, each Member having a right to vote on the resolution has one vote.
- (f) An objection to a right to vote at a meeting of Members or to a determination to allow or disregard a vote at the meeting may only be made at that meeting (or any resumed meeting if that meeting is adjourned). Any objection pursuant to this Article 30(f) must be decided by the chair of the meeting of Members, whose decision, made in good faith, is final and conclusive.
- (g) Except where a resolution at a meeting of Members requires a special majority pursuant to the law, the resolution is passed if more votes are cast by Members entitled to vote in favour on the resolution than against it.
- (h) In the case of an equality of votes on a resolution at a meeting of Members, whether on a show of hands or on a poll, the chair of that meeting shall have a casting vote on that resolution.
- (i) Unless a poll is demanded and the demand is not withdrawn, a determination by the chair of a meeting of Members following a vote on a show of hands that a resolution has been passed or not passed, and an entry to that effect in the minute book of the Company shall be conclusive evidence of that fact, without proof of the number or proportion of the votes recorded in favour of or against the resolution.

31. Voting by representatives

- (a) The validity of any resolution passed at a meeting of Members is not affected by the failure of any proxy or attorney to vote in accordance with directions (if any) of the appointing Member.
- (b) If a proxy of a Member purports to vote in a way or in circumstances that contravene the Corporations Act, on a show of hands the vote of that proxy is invalid and the Company must not count it. If a poll is demanded, votes which the Corporations Act require a proxy of a Member to cast in a given way must be treated as cast in that way.
- (c) Subject to this Constitution and the Corporations Act, a vote cast at a meeting of Members by a person appointed by a Member as a proxy or attorney is valid despite:
 - (i) the revocation of the appointment (or the authority pursuant to which the appointment was executed); or
 - (ii) the previous death or unsoundness of mind of the appointing Member,provided that no notice in writing of that matter has been received by the Company before the commencement of that meeting.

32. Restrictions on voting rights

- (a) The authority of a proxy or attorney for a Member to speak or vote at a meeting of Members to which the authority relates is suspended while the Member is present in person at that meeting.
- (b) A Meeting Member is not entitled to vote on any resolution, either personally or by proxy or attorney, if:
 - (i) the Meeting Member's Allocated Membership Status is "Associate", unless:
 - A. the Meeting Member was an Associate as at 30 June 1990; or
 - B. the Meeting Member successfully completed the Associate Program examination prescribed by the Board on or before 31 December 1990 and has complied with the requirements for admission or advancement as an Associate in accordance with the By-Laws in force on 30 June 1990;
 - (ii) the Meeting Member is an Honorary Member;
 - (iii) the Meeting Member's membership has been suspended and the Meeting Member has not been Reinstated to active membership; or
 - (iv) any Fee, Fine, or other amount due and payable to the Company in respect of that Meeting Member's membership of the Company has not been paid and is more than 3 months overdue.
- (c) A Meeting Member is not entitled to vote on a resolution at a meeting of Members where that vote is prohibited by the Corporations Act or an order of a court of competent jurisdiction.
- (d) The Company must disregard any vote on a resolution at a meeting of Members purported to be cast by a Meeting Member where that person is not entitled to vote on that resolution. A failure by the Company to disregard a vote on a resolution as required by this Article 32(d) does not invalidate that resolution or any act, matter or thing done at the meeting, unless that failure occurred by wilful default of the Company or of the chair of that meeting.

33. Polls

- (a) A poll on a resolution at a meeting of Members may be demanded by a Member only in accordance with the Corporations Act or by the chair of that meeting.
- (b) No poll may be demanded at a meeting of Members on the election of a chair of that meeting, or unless the chair of the meeting otherwise determines, the adjournment of that meeting.
- (c) A demand for a poll may be withdrawn.
- (d) A poll demanded on a resolution at a meeting of Members for the adjournment of that meeting must be taken immediately. A poll demanded on any other resolution at a meeting of Members must be taken in the manner and at the time and place the chair of the meeting directs.
- (e) The result of a poll demanded on a resolution of a meeting of Members is a resolution of that meeting.

- (f) A demand for a poll on a resolution of a meeting of Members does not prevent the continuance of that meeting or that meeting dealing with any other business.

34. Proxies

- (a) A Member who is entitled to attend and vote at a meeting of Members may appoint a person as proxy to attend and vote for the Member in accordance with the Corporations Act but not otherwise.
- (b) A proxy appointed in accordance with the Corporations Act to attend and vote may only exercise the rights of the Meeting Member on the basis and subject to the restrictions provided in the Corporations Act.
- (c) A form of appointment of proxy is valid if it is in accordance with the Corporations Act or in any other form (including electronic) prescribed in the By-Laws, or which the Board may otherwise accept.
- (d) If the name of the proxy or the name of the office of the proxy in a proxy appointment of a Member is not filled in, the proxy of that Member is:
 - (i) the person specified by the Company in the form of proxy in the case that Member does not choose; or
 - (ii) if no person is so specified, the chair of that meeting.

35. Receipt of appointments

- (a) An appointment of proxy or attorney for a meeting of Members is effective only if the Company receives the appointment (and any authority pursuant to which the appointment was signed or a certified copy of the authority) not less than 48 hours before the time appointed for the meeting to commence or (in the case of an adjourned meeting) resume.
- (b) Where a notice of meeting specifies an electronic address or other electronic means by which a Member may give the Company a proxy appointment, a proxy given at that electronic address or by that other electronic means is taken to have been given by the Member and received by the Company if the requirements set out in the notice of meeting are complied with.

36. Adjournments

- (a) The chair of any meeting of Members at which a quorum is present may at any time during the meeting, and shall if so directed by the meeting, adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered at the meeting or any discussion or debate, either to a later time at the same meeting or to an adjourned meeting to be held at the time and place determined by the chair.
- (b) If the chair of a meeting of Members exercises the right to adjourn that meeting pursuant to Article 36(a), the chair may (but is not obliged to) obtain the approval of Meeting Members to the adjournment.
- (c) No person other than the chair of a meeting of Members may adjourn that meeting.
- (d) Subject to Article 36(f), the Company may give such notice of a meeting of Members resumed from an adjourned meeting as the Board resolves. Failure to give notice of an adjournment of a meeting of Members or the failure to receive any

notice of the meeting does not invalidate the adjournment or anything done (including the passing of a resolution) at a resumed meeting.

- (e) Only business left unfinished is to be transacted at a meeting of Members which is resumed after an adjournment.
- (f) If a meeting is adjourned for 30 days or more, the Company must give notice of the adjourned meeting as if the adjourned meeting was an original meeting.

37. Cancellations and postponements

- (a) Subject to the Corporations Act and Article 37(b), the Company may by resolution of the Board cancel or postpone a meeting of Members or change the place for the meeting, prior to the date on which the meeting is to be held.
- (b) Article 37(a) does not apply to a meeting called in accordance with the Corporations Act by Members or by the Board on the request of Members, unless a majority of those Members consent to the cancellation or postponement of the meeting.
- (c) The Company may give notice of a cancellation or postponement or change of place of a meeting of Members as the Board resolves. Failure to give notice of a cancellation or postponement or change of place of a meeting of Members or the failure to receive any notice of the meeting does not invalidate the cancellation, postponement or change of place of a meeting or anything done (including the passing of a resolution) at a postponed meeting or the meeting at the new place.
- (d) The only business that may be transacted at a meeting of Members the holding of which is postponed is the business specified in the original notice calling the meeting.

38. Meetings of a class of Members

All the provisions of this Constitution relating to a meeting of Members apply so far as they are capable of application and with any necessary changes to a meeting of a class of Members required to be held pursuant to this Constitution or the Corporations Act except that:

- (a) a quorum is 2 Meeting Members who are members of that class of Members, or if only one person is a member of that class of Members, that person (or a proxy or attorney representing that person); and
- (b) any Meeting Member who is a member of that class of Members may demand a poll.

Regulation of Member conduct

39. Professional Conduct

- (a) In regulating the conduct of a Member pursuant to Article 52(e), the Board may impose on a person any one or more of the penalties set out in Article 39(b) if, in the opinion of the Board:
 - (i) a Member has:
 - A. obtained admission as a Member, or obtained admission as a member of any other professional body, by improper means

including, without limitation, making a false declaration on the application for membership; or

- B. renewed his/her membership of the Company by improper means including without limitation, making a false declaration on the renewal form for membership;

(ii) a person while a Member has:

- A. breached this Constitution (or the constitution of the Company in force immediately before the Amending Date), By-Laws, Code of Professional Conduct or the Applicable Regulations;
- B. been guilty of:
 - 1) dishonourable practice in any profession or undertaking; or
 - 2) conduct which is derogatory to, or not in the best interests of the Company or its Members;
- C. failed to observe a proper standard of professional care, skill or competence;
- D. ceased to hold the necessary qualifications to be a Member or to be a member of any other professional body recognised by the Company;
- E. become Insolvent;
- F. been the subject of an adverse finding that has not been overturned on appeal in relation to the Member's conduct, competence or recognition by any Court, professional body, statutory or other regulatory authority in any jurisdiction;
- G. pleaded guilty to, or been found guilty of (with or without conviction), any offence (criminal or otherwise, but excluding any offence relating to traffic infringement) before any Court in any jurisdiction (which, in the case of a finding or conviction has not been overturned on appeal) which in the reasonable opinion of the Board is likely to materially adversely reflect upon or affect the standing or reputation of the Company;
- H. been found to have acted dishonestly in any civil proceedings before any Court in any jurisdiction and such finding has not been overturned on appeal; or
- I. failed to comply with any reasonable and lawful direction of the Board or its delegate which relates to a matter concerning the good order and administration of the Company including a failure to comply with a Determination including relating to costs; or

(iii) a Member was Closely Associated with a Practice Entity which has become Insolvent:

- A. at the time the Practice Entity became Insolvent; or

- B. at any time during the 2 years prior to the Practice Entity becoming Insolvent.
- (b) The following penalties may be imposed by the Board in accordance with Article 39(a):
- (i) forfeiture of membership on such terms and conditions as to Readmission (or non-Readmission) as may be prescribed;
 - (ii) suspension from membership for any period not exceeding 5 years on such terms and conditions as to Reinstatement as may be prescribed;
 - (iii) a fine not exceeding the Maximum Fine;
 - (iv) admonishment;
 - (v) a severe reprimand;
 - (vi) for such period and upon such terms as may be imposed:
 - A. cancellation or suspension of any certificate, privilege, right or benefit issued or granted to the Member; and/or
 - B. prohibition on the use of any designation permitted to be used by the Member;
 - (vii) restriction for such period and upon such terms and conditions as may be imposed on the permission or ability of the Member or any Practice Entity with which the Member is Closely Associated, to trade under, display or utilise any Intellectual Property of the Company including any status or designation;
 - (viii) the lowering of Allocated Membership Status and/or removal of any specialist designation;
 - (ix) a direction to undertake such additional number of hours in such course of Continuing Professional Development as may be described;
 - (x) a direction to undertake such Quality Assurance as may be prescribed; and/or
 - (xi) such other penalty as may be deemed appropriate in the circumstances.
- (c) If in the reasonable opinion of the Board a Member has:
- (i) committed a breach referred to in Article 39(a)(ii)A which is serious;
 - (ii) been guilty of a dishonourable practice or conduct referred to in Article 39(a)(ii)B which is serious; or
 - (iii) done any of the acts, or been the subject of any of the circumstances or events referred to in Article 39(a)(i), 39(a)(ii)E, 39(a)(ii)F, 39(a)(ii)G, 39(a)(ii)H or 39(a)(iii),

the Board may suspend the membership of that Member with immediate effect, pending a subsequent hearing at the discretion of the Board as to the merits upon which the Member will be given the opportunity of being heard.

- (d) The Board may require a Member to pay all or any of the costs and expenses (not exceeding the Maximum Costs) reasonably incurred by the Company in the investigation of and the making of the Determination in relation to any matter arising under Article 39(a) and, except where the Determination is subject to an appeal (pending which the time specified in this Article 39(d) shall not run) or the Board otherwise resolves, in default of such payment within 30 days, or such further period as the Board shall allow, the membership of that Member shall be forfeited. No appeal shall be available to a person whose membership is forfeited pursuant to this Article 39(d).
- (e) The Board may publish, in any manner it shall deem fit, the name of any Member whose conduct has been regulated under Article 52(e), together with details of the Determination including the nature of the charge and any penalty or costs imposed.

40. Non-payment of Fees

- (a) Subject to Article 40(b), if a Member fails to make payment of any Fee within 60 days of the date on which that Fee is payable (as specified in the notice of that Fee), then the Company may by a resolution of the Board:
 - (i) determine that the Member has forfeited his or her membership; or
 - (ii) remove or suspend the Member's rights and privileges for such time as it deems appropriate.
- (b) The Company must not determine that a Member has forfeited his or her membership pursuant to Article 40(a) unless the Company has given notice to the Member that the Fee is 60 days overdue, and the Member fails to pay that Fee within 30 days of the date of that notice.

41. Suspension of membership and Reinstatement to active membership

- (a) A Member whose membership has been suspended shall, during the period of the Member's suspension, continue to pay all Fees and subscriptions and shall be subject to the Constitution and the By-Laws relating to obligations upon a Member but shall cease (save to the extent, if any, otherwise specifically resolved by the Board either generally or in any particular case) to enjoy any of the rights or benefits conferred on Members by this Constitution and the By-Laws.
- (b) A Member whose membership is suspended must deliver their Certificate to the Company.
- (c) The Board may declare that a Member whose membership has been suspended has forfeited his or her membership if the Member fails to deliver up on demand their Certificate to the Company.
- (d) Subject to any terms and conditions imposed by the Board when a Member's membership was suspended or Allocated Membership Status was lowered (as applicable), a Member whose membership was suspended or Allocated Membership Status was lowered may be Reinstated upon such terms and conditions and upon giving such information and explanation as the Board may determine.
- (e) No appeal shall lie from a decision of the Board in respect of Reinstatement pursuant to this Article 41.

42. Forfeiture of membership

A Member who has forfeited his or her membership shall cease to be a Member and the person's name shall, subject to the Corporations Act, be removed from the Register. Forfeiture of membership shall not entitle the former Member to any refund of any Fees already paid to the Company.

43. Forfeiture of distinction

- (a) The Board may determine that an Honorary Member has forfeited his or her distinction as an Honorary Member for any reason the Board thinks fit. If the Board determines that an Honorary Member has forfeited his or her distinction as an Honorary Member:
 - (i) the Board must give written notice of its determination to the Honorary Member; and
 - (ii) the Company shall remove the Honorary Member's name from the Register.
- (b) The Board may determine that a Life Member has forfeited his or her distinction as a Life Member for any reason the Board thinks fit. If the Board determines that a Life Member has forfeited his or her distinction as a Life Member:
 - (i) the Board must give written notice of its determination to the Life Member; and
 - (ii) the Company shall amend the Register to reflect such forfeiture.

Directors

44. Appointment of Directors

- (a) The Board shall be appointed by the Representative Council and shall consist of a maximum of 12 Directors, such Directors being:
 - (i) one Member who is attached to each Division (as at the time of the person's appointment to the Board); and
 - (ii) up to two persons who are neither a Member nor an employee of the Company.
- (b) Subject to Article 44(g), each Director appointed by the Representative Council must retire on 30 September of the third calendar year following the calendar year during which the Director is appointed.
- (c) Once appointed to the Board, a Director cannot be removed by the Representative Council.
- (d) On or before 30 September in the year in which a Director is to retire under this Article 44, the Representative Council shall meet and appoint a replacement Director to the Board in accordance with this Article 44.
- (e) Subject to the requirements of the Corporations Act, on the retirement of a Director, the retiring Director shall be eligible for reappointment but the Director shall, subject to Article 44(f), be ineligible for any subsequent re-appointment.

- (f) A Director appointed by the Representative Council under Article 44(g) to fill a casual vacancy in the Board, and who is reappointed, is eligible for one subsequent re-appointment if he or she was not a Director for more than 1 year before being reappointed.
- (g) Any casual vacancy occurring in the Board may be filled by the Representative Council appointing a new Director who is (except in the case of an External Director) attached to the same Division as the vacating Director and who shall retain office, and be subject to, and have the benefit of, all the rights, duties and privileges attaching to that office, for so long as the vacating Director would have retained the office if no vacancy had occurred. A Director appointed under this Article 44(g) must retire on the same date on which the vacating Director would have retired in accordance with Article 44(b) or Article 44(h), as applicable.
- (h) Notwithstanding any provisions of this Constitution, or any provisions contained in the constitution of the Company prior to the Amending Date, the following transitional provisions regarding the Directors and the composition of the Board shall apply:

- (i) those Directors appointed by the Representative Council for a term of 2 years commencing on 1 April 2009 and expiring on 31 March 2011 (or any person appointed by the Representative Council to fill a casual vacancy caused by any such Director vacating their office) shall continue in office until 30 September 2011, and on the expiry of that extended term shall retire and shall either be reappointed or replaced by new appointees, as determined by the Representative Council in accordance with Article 44(a), each such appointment to be:
 - A. in respect of 2 Directors, for a term of 3 years commencing on 1 October 2011 and expiring on 30 September 2014. These Directors shall be eligible for reappointment on 1 October 2014, except that a Director is ineligible for a further consecutive reappointment on 1 October 2014 if that Director was reappointed on 1 April 2009 and has also been reappointed on 1 October 2011; and
 - B. in respect of 4 Directors, for a term of 4 years commencing on 1 October 2011 and expiring on 30 September 2015. These Directors shall be eligible for reappointment on 1 October 2015, except that a Director is ineligible for a further consecutive reappointment on 1 October 2015 if that Director was reappointed on 1 October 2011.

Subject to Article 44(h)(iii), the Director appointments contemplated by this Article 44(h)(i) to be made by the Representative Council on:

- C. 1 October 2014 shall be made subject to and in accordance with Articles 44(a) to (d), (f) and (g); and
- D. 1 October 2015 shall be made subject to and in accordance with Articles 44(a) to (g).

The Board shall determine whether a Director is appointed on the basis of Article 44(h)(i)A or 44(h)(i)B.

- (ii) those Directors appointed by the Representative Council for a term of 30 months commencing on 1 October 2007 and expiring on 31 March 2010 (or any person appointed by the Representative Council to fill a casual

vacancy caused by any such Director vacating their office) shall continue in office until 30 September 2010, and on expiry of that extended term shall retire and shall either be reappointed or replaced by new appointees, as determined by the Representative Council in accordance with Article 44(a), each such appointment to be:

- A. in respect of 4 Directors for a term of 3 years commencing on 1 October 2010 and expiring on 30 September 2013. These Directors shall be eligible for reappointment on 1 October 2013, except that a Director is ineligible for a further consecutive reappointment on 1 October 2013 if the Director has been reappointed on 1 October 2010; and
- B. in respect of 2 Directors, for a term of 4 years commencing on 1 October 2010 and expiring on 30 September 2014. These Directors shall be eligible for reappointment on 1 October 2014, except that a Director is ineligible for a further consecutive reappointment on 1 October 2014 if the Director has been reappointed on 1 October 2010.

Subject to Article 44(h)(iii), the Director appointments contemplated by this Article 44(h)(ii) to be made by the Representative Council on 1 October 2013 or 1 October 2014 (as the case may be) shall be made subject to and in accordance with Articles 44(a) to (g). The Board shall determine whether a Director is appointed on the basis of Article 44(h)(ii)A or 44(h)(ii)B.

- (iii) in any event, a Director shall not be eligible for reappointment under this Article 44(h) or otherwise if being reappointed would result in that person being a Director for more than 8.5 consecutive years (for this purpose, excluding any time served by a Director prior to 1 October 2007).

45. Remuneration and benefits of Directors

- (a) Subject to Articles 45(b) to (d) and Article 45(g), the Company may:
 - (i) prior to 31 March 2010, pay or provide to:
 - A. an External Director;
 - B. a Member Director, provided that the Member Director is self-employed;
 - C. the employer of a Member Director; or
 - D. a Practice Entity with which a Member Director is Closely Associated,fees in an amount or value determined by the Board;
 - (ii) from 1 April 2010 onwards:
 - A. pay or provide to a Director fees in an amount or value determined by the Board; or
 - B. if, as a condition of a Director's employment with his or her employer, that Director is not permitted to receive fees from

the Company personally, pay or provide amounts to the Director's employer by way of an honorarium to compensate the Director's employer for the release of the Director's time from his or her employment and making the Director available to serve as a director of the Company.

(b) Subject to Article 45(i), the amount paid to a Director (other than the President or the Deputy Presidents), the employer of such a Director or a Practice Entity with which such a Director is Closely Associated (as applicable, and when and where permissible) pursuant to Article 45(a) (for the avoidance of doubt, excluding any amounts paid pursuant to Articles 45(e) or (f)), in any Director Year:

(i) must not be less than 10% of; and

(ii) must not exceed 15% of,

the total annual salary package of the Auditor-General of Australia, as varied from time to time and as determined by the Board for the relevant Director Year, prorated for any period where the Director is not entitled to be paid fees by reason of Article 45(g) or serves as a Director for a period of less than 12 months (or in the case of the Transitional Director Year, more than 12 months).

Save for any pro rata reduction to reflect a non-entitlement to be paid fees by reason of Article 45(g) or service of less than 12 months (or 18 months, in the case of the Transitional Director Year), the same amount of fees shall be paid under this Article 45(b) in respect of each Director for each Director Year, however the Board may vary the amount of fees payable in respect of a Director to take into account such additional responsibilities within the Company that a Director may have.

(c) Subject to Article 45(i), the amount paid to the President, the employer of the President or a Practice Entity with which the President is Closely Associated (as applicable, and when and where permissible) pursuant to Article 45(a) (for the avoidance of doubt, excluding any amounts paid pursuant to Articles 45(e) or (f)), in any Director Year:

(i) must not be less than 50% of; and

(ii) must not exceed 60% of,

the total annual salary package of the Auditor-General of Australia, as varied from time to time and as determined by the Board for the relevant Director Year, prorated for any period where the President serves as the President for a period for less than 12 months (or in the case of the Transitional Director Year, more than 12 months).

(d) Subject to Article 45(i), the amount paid to each Deputy President, the employer of a Deputy President or a Practice Entity with which a Deputy President is Closely Associated (as applicable, and when and where permissible) pursuant to Article 45(a) (for the avoidance of doubt, excluding any amounts paid pursuant to Articles 45(e) or (f)), in any Director Year:

(i) must not be less than 15% of; and

(ii) must not exceed 25% of,

the total annual salary package of the Auditor-General of Australia, as varied from time to time and as determined by the Board for the relevant Director Year, prorated for any period where a Deputy President serves as the Deputy President for a period

for less than 12 months (or in the case of the Transitional Director Year, more than 12 months).

- (e) Where a Director resident outside Australia for tax purposes receives any fees under this Article 45 that are taxable in a country other than Australia but is required to pay such fees to an unrelated third party and is unable to claim a tax deduction or other offset, and is therefore subject to an amount of personal taxation on such fees (the **Residual Tax Amount**), the Company may pay to the Director or to a taxation authority in respect of any Director Year, the Residual Tax Amount or such other amount as is considered appropriate (as determined by the Board) to compensate that Director.
- (f) The Company must pay all reasonable travelling, accommodation and other expenses that a Director properly incurs in attending meetings of the Board, committees of the Board, meetings of Members, or otherwise in connection with the business of the Company.
- (g) No amounts may be paid to any Director (except for the President, the Deputy Presidents and External Directors), the employer of any such Director, or a Practice Entity with which any such Director is Closely Associated pursuant to Article 45(a), or Article 45(e) prior to 1 April 2010.
- (h) Articles 45(a) - (d) do not apply to any payments made pursuant to Article 50.
- (i) Notwithstanding anything else to the contrary in Articles 45(b) to (d), in relation to any amounts paid as an honorarium to the employer of a Director pursuant to Article 45(a)(ii)B:
 - (i) the minimum percentages specified in Articles 45(b) to (d) do not apply;
 - (ii) if the amount so paid as an honorarium is to the employer of a Director (who is not the President or a Deputy President), then such amount may be different from the amount of fees paid to other Directors (who are not the President or a Deputy President) in the relevant Director Year; and
 - (iii) no amounts may be paid (either to a Director or the employer of a Director) pursuant to Article 45(e) in connection with the amount so paid as an honorarium.

46. Termination of office

A person ceases to be a Director if the person:

- (a) is a Member Director and they cease to be a Member;
- (b) fails to attend 2 consecutive Board meetings (either personally or by giving notice to the Company pursuant to Article 57(i)) without the consent of the Board;
- (c) fails to personally attend 3 consecutive Board meetings without the consent of the Board (even if the person gives notice to the Company pursuant to Article 57(i) in relation to any or all of those meetings);
- (d) resigns by notice in writing to the Company;
- (e) is not re-elected pursuant to Article 44(e) on the expiry of their term in office;
- (f) is removed from office pursuant to the Corporations Act;
- (g) becomes Insolvent;

- (h) becomes of unsound mind or a person whose property is liable to be dealt with pursuant to a law about mental health;
- (i) is not permitted to be a director, or to manage a corporation, pursuant to the Corporations Act;
- (j) is a Member Director and his or her membership subscription is overdue for 60 days or more;
- (k) is a Member Director and his or her membership is suspended;
- (l) was appointed as an External Director and is, or becomes, a Member; or
- (m) is, or becomes, an employee of the Company.

47. Interests of Directors

- (a) A Director is not disqualified by reason only of being a Director (or the fiduciary obligations arising from that office) from:
 - (i) holding an office or place of profit or employment in any other company, body corporate, trust or entity promoted by the Company or in which it has an interest;
 - (ii) subject to Article 46(1), being a member, creditor or otherwise being interested in any body corporate (including the Company), partnership or entity, except auditor of the Company;
 - (iii) having a direct or indirect interest in any agreement or arrangement (including any proposed agreement or arrangement) with the Company; or
 - (iv) acting in a professional capacity (or being a member of a firm which acts in a professional capacity) for the Company, except as auditor of the Company.
- (b) Each Director must comply with the Corporations Act in relation to the disclosure of the Director's interests.
- (c) A Director who has a material personal interest in a matter that is being considered at a Board meeting must not be present while the matter is being considered at the meeting nor vote on the matter, except where permitted by the Corporations Act.
- (d) If a Director has an interest in a matter, then subject to Article 47(c), Article 47(e) and this Constitution:
 - (i) that Director may be counted in a quorum at the Board meeting that considers matters that relate to the interest provided that Director is entitled to vote on at least one of the resolutions to be proposed at that Board meeting;
 - (ii) that Director may participate in and vote on matters that relate to the interest;
 - (iii) the Company may proceed with any transaction that relates to the interest and the Director may participate in the execution of any relevant document by or on behalf of the Company;

- (iv) the Director may retain the benefits pursuant to any transaction that relates to the interest even though the Director has the interest; and
- (v) the Company cannot avoid any transaction that relates to the interest merely because of the existence of the interest.
- (e) If an interest of a Director is required to be disclosed pursuant to Article 47(b), Article 47(d)(iv) applies only if the interest is disclosed before the transaction is entered into.

Officers

48. Chief Executive Officer

- (a) The Board may from time to time appoint any person as the Chief Executive Officer of the Company, for any period and on any terms (including as to remuneration) as the Board resolves. Subject to any agreement between the Company and the Chief Executive Officer, the Board may vary or terminate the appointment of the Chief Executive Officer of the Company at any time, with or without cause.
- (b) The Board may delegate any of its powers to the Chief Executive Officer of the Company for any period and on any terms (including the power to further delegate) as the Board resolves. The Board may revoke or vary any power delegated to the Chief Executive Officer.
- (c) The Chief Executive Officer of the Company must exercise the powers delegated to him or her in accordance with any directions of the Board.
- (d) The Chief Executive Officer of the Company shall be entitled to attend at Board meetings, but shall have no right to vote at Board meetings.

49. Secretary

The Board may appoint one or more Secretaries, for any period and on any terms as the Board resolves. Subject to any agreement between the Company and the Secretary, the Board may vary or terminate the appointment of a Secretary at any time, with or without cause.

50. Indemnity and insurance

- (a) To the extent permitted by law, the Company may, subject to Article 50(f), indemnify each Relevant Officer against a Liability of that person and the Legal Costs of that person.
- (b) The indemnity pursuant to Article 50(a):
 - (i) is enforceable without the Relevant Officer having first to incur any expense or make any payment;
 - (ii) is a continuing obligation and is enforceable by the Relevant Officer even though the Relevant Officer may have ceased to be an officer of the Company; and
 - (iii) applies to Liabilities and Legal Costs incurred both before and after this Article became effective.
- (c) To the extent permitted by law, the Company may, subject to Article 50(f), make a payment (whether by way of advance, loan or otherwise) to a Relevant Officer in

respect of Legal Costs of that person, provided that the Relevant Officer shall be required to repay the same if the Legal Costs become costs for which the Company must not give an indemnity under section 199A of the Corporations Act.

- (d) To the extent permitted by law and subject to Article 50(f), the Company may:
 - (i) enter into, or agree to enter into; or
 - (ii) pay, or agree to pay, a premium for,

a contract insuring a Relevant Officer against a Liability of that person and the Legal Costs of that person.
- (e) To the extent permitted by law and subject to Article 50(f), the Company may enter into an agreement or deed with a Relevant Officer or a person who is, or has been, an officer of the Company or a subsidiary of the Company, pursuant to which the Company must do all or any of the following:
 - (i) keep books of the Company and allow either or both that person and that person's advisers access to those books on the terms agreed;
 - (ii) indemnify that person against any Liability and Legal Costs of that person;
 - (iii) make a payment (whether by way of advance, loan or otherwise) to that person in respect of Legal Costs of that person; and
 - (iv) keep that person insured in respect of any act or omission by that person while a Relevant Officer or an officer of the Company or a subsidiary of the Company, on the terms agreed (including as to payment of all or part of the premium for the contract of insurance).
- (f) Articles 50(a) to (e) only apply in relation to Liabilities and Legal Costs to the extent and for the amount that the Relevant 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).

Powers of the Board

51. General powers

- (a) The Board has the power to manage the business of the Company and may exercise to the exclusion of the Company in general meeting all powers of the Company which are not, by the law or this Constitution, required to be exercised by the Company in general meeting or the Representative Council.
- (b) A power of the Board can only be exercised by a resolution passed at a meeting of the Board in accordance with Article 57, a resolution passed by signing a document in accordance with Article 56, or in accordance with a delegation of the power pursuant to Article 48, 54 or 55. A reference in this Constitution to the Company exercising a power by a resolution of the Board or by the Board determining a matter includes an exercise of that power in accordance with a delegation of the power pursuant to Article 48, 54 or 55.
- (c) A power of the Board to resolve upon, prescribe or determine any matter may be exercised by the Board making, varying, amending, enlarging or revoking By-Laws in relation to that matter.

- (d) Except for the appointment of the Board in accordance with Articles 44 and 61(a)(i), the Board is not required to act in accordance with any view, guidance, wish, advice, direction or recommendation of or from the Representative Council.

52. Specific powers

Without limitation to the general powers conferred by Article 51 and the other powers conferred by this Constitution, the Board shall have the following powers on behalf of the Company:

- (a) to establish Divisions and Branches anywhere in Australia or any place outside Australia, and to do all things necessary or incidental to the establishment of Divisions and Branches, including:
- (i) determining the geographical area that a Division or Branch will represent (which may extend into more than one State, Territory or place);
 - (ii) appointing the initial members of the Divisional Council for any Divisions that it establishes, or the council for any Branch that it establishes; and
 - (iii) determining (either specifically in a particular instance or series of related instances, or generally) to which Division or Branch any Member shall be attached (or if a Member shall be determined to not be attached to a Division or Branch, how that Member shall be regulated);
- (b) to give directions to and otherwise control a Division and Branch;
- (c) to dissolve any Division or Branch and to amalgamate any Divisions and Branches;
- (d) to make, vary, amend, enlarge, revoke and repeal By-Laws, pronouncements, risk management statements, joint statements, professional schedules, regulations and codes ancillary to but not inconsistent with this Constitution to govern the procedures and activities of the Company, on all subjects not expressly reserved for the Representative Council or the Company in general meeting, including:
- (i) the management, governance and administration of Divisions, including:
 - A. the establishment of Divisional Councils;
 - B. the establishment of Divisional Branches for each Division and the making of rules governing Divisional Branches;
 - C. the powers and duties of Divisional Councils and the officeholders of each Division;
 - D. the procedures for the elections to Divisional Councils and for the officeholders of each Division; and
 - E. the procedures for meetings of Divisional Councils and meetings of Members attached to each Division;
 - (ii) the criteria and requirements for designation of Members into each Membership Status;
 - (iii) special cases for admission as a Member;
 - (iv) the maintenance of special membership lists by the Company;

- (v) the terms and conditions of the issue of Certificates to Members;
 - (vi) the courses of study and examinations required to be completed by applicants for membership, and all matters pertaining thereto;
 - (vii) any matter in relation to which the Board has a specific power (including a power to resolve, prescribe or determine) referred to elsewhere in this Constitution;
- (e) to prescribe standards of behaviour required of Members and to regulate the conduct of Members, including the investigation of the conduct of Members and the imposition of penalties on Members;
 - (f) to prescribe conditions or qualifications and experience for persons seeking to form a business entity with a Member where that business entity will offer services to the public of a type requiring that Member to hold a certificate issued or recognised by the Company; and
 - (g) the specific powers referred to elsewhere in this Constitution.

53. Execution of documents

- (a) Save for the sealing of Certificates in accordance with the By-Laws, the common seal of the Company shall only be used by the authority of the Board. The Company may execute a document if that seal is fixed to the document and the fixing of that seal is witnessed by one Director and either another Director, a Secretary, or another person appointed by the Board for that purpose.
- (b) The Company may execute a document without a common seal if the document is signed by one Director and either another Director, a Secretary, or another person appointed by the Board for that purpose.
- (c) The Board may determine the manner in which and the persons by whom cheques, promissory notes, bankers' drafts, bills of exchange and other negotiable or transferable instruments in the name of or on behalf of the Company, and receipts for money paid to the Company, must be signed, drawn, accepted, endorsed or otherwise executed.

54. Committees and delegates

- (a) The Board may delegate any of its powers to a committee (which may consist entirely of Directors or a combination of Directors and any other persons the Board may determine), a Director, an employee of the Company or any other person, group of persons or body. A delegation of those powers may be made for any period and on any terms (including the power to further delegate) as the Board resolves. The Board may revoke or vary any power so delegated.
- (b) A committee or delegate must exercise the powers delegated in accordance with any directions of the Board.
- (c) Subject to the terms of appointment or reference of a committee, Articles 56 and 57 apply with the necessary changes to meetings and resolutions of a committee of the Board.
- (d) A report or resolution of any committee, Director, employee of the Company or other person to whom a delegation is made in accordance with Article 54(a) shall not bind the Company until adopted or confirmed by the Board, unless at the time

of delegation power to do so was given to that committee, Director, employee of the Company or other person.

55. Attorney or agent

- (a) The Board may appoint any person to be attorney or agent of the Company for any purpose, for any period and on any terms (including as to remuneration) as the Board resolves. Subject to the terms of appointment of an attorney or agent of the Company, the Board may revoke or vary that appointment at any time, with or without cause.
- (b) The Board may delegate any of their powers (including the power to delegate) to an attorney or agent. The Board may revoke or vary any power delegated to an attorney or agent.

Proceedings of Directors

56. Written resolutions of Directors

- (a) The Board may pass a resolution without a Board meeting being held if notice in writing of the resolution is given to all Directors and a majority of the Directors entitled to vote on the resolution (not being less than the number required for a quorum at a meeting of Directors) sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) A resolution pursuant to Article 56(a) may consist of several documents in the same form each signed by one or more Directors and is effective when signed by the last of the Directors constituting the majority of the Directors. A facsimile transmission or other document produced by electronic means under the name of a Director with the Director's authority is taken to be a document signed by the Director for the purposes of Article 56(a) and is taken to be signed when received by the Company in legible form.

57. Board Meetings

- (a) Subject to this Constitution, the Board may meet, adjourn and otherwise regulate its meetings as it thinks fit.
- (b) The Secretary of the Company must call a meeting of the Directors on the request of:
 - (i) the President;
 - (ii) a Deputy President; or
 - (iii) 4 Directors.
- (c) Notice of a Board meeting must be given to each Director (except a Director on leave of absence approved by the Board). Notice of a Board meeting may be given in person, or by post or by telephone, fax or other electronic means.
- (d) A Director may waive notice of a Board meeting by giving notice to that effect to the Company in person or by post or by telephone, fax or other electronic means.
- (e) A person who attends a Board meeting waives any objection that person may have to a failure to give notice of the meeting.

- (f) Anything done (including the passing of a resolution) at a Board meeting is not invalid because either or both a person does not receive notice of the meeting or the Company accidentally does not give notice of the meeting to a person.
- (g) For the purposes of the Corporations Act, each Director, by consenting to be a Director or by reason of the adoption of this Constitution, consents to the holding of a Board meeting using any technology (or any combination of technologies) which permits each Director to communicate with every other participating Director.
- A Director may withdraw the consent given pursuant to this Article 57(g) in accordance with the Corporations Act.
- (h) If a Board meeting is held in 2 or more places linked together by any technology consented to by all Directors or any combination of any such technologies:
- (i) a Director present at one of the places is taken to be present at the meeting unless and until the Director states to the chair of the meeting that the Director is discontinuing his or her participation in the meeting; and
- (ii) the chair of that meeting may determine at which of those places the meeting will be taken to have been held, provided that at least one of the persons present at the meeting was at that place for the duration of the meeting.
- (i) If, due to any unforeseen circumstances a Director is unable to attend or vote at any meeting of the Board then that Director may by signed notice to the Company authorise any other Director to vote for that Director on all questions arising at such meeting or upon any particular question arising at such meeting.
- (j) Until otherwise determined by the Board, a quorum for a Board meeting is 6 Member Directors entitled to vote on a resolution that may be proposed at that meeting. A quorum for a Board meeting must be present at all times during the meeting.

58. Chair of Board meetings

At all meetings of the Board the President shall preside or, in the President's absence, a Deputy President (chosen by the Directors present, if both Deputy Presidents are present) as chair. In the absence of the President and both Deputy Presidents at a Board meeting, the Board may elect a Director as chair of that meeting.

59. Board resolutions

- (a) A resolution of the Board is passed if more votes are cast by Directors entitled to vote in favour of the resolution than against it.
- (b) Subject to Article 47 and this Article 59, each Director present at a Board meeting (**Voting Director**) has one vote on a matter arising at that Board meeting and has an additional vote for each other Director (**Absent Director**) who has authorised the Voting Director to vote for the Absent Director at that Board meeting pursuant to Article 57(i).
- (c) Subject to the Corporations Act and Article 67, in case of an equality of votes on a resolution at a Board meeting, the chair of that meeting has a casting vote on that resolution in addition to any vote the chair has in his or her capacity as a Director in respect of that resolution, provided that the chair is entitled to vote on the resolution and that a quorum of Directors is present and entitled to vote on the resolution.

60. Valid proceedings

- (a) An act at any Board meeting or a committee of the Board or an act of any person acting as a Director is not invalidated by:
 - (i) a defect in the appointment or continuance in office of a person as a Director, a member of the committee or of the person so acting; or
 - (ii) a person so appointed being disqualified or not being entitled to vote, if that circumstance was not known by the Board, committee or person (as the case may be) when the act was done.
- (b) The continuing Directors may act notwithstanding any vacancy in their number, provided that not less than 6 Directors (excluding External Directors) continue in office. If there are less than 6 Directors continuing in office, the Board must not act except in emergencies, to appoint Directors up to the minimum of 6 Directors or to call and arrange to hold a meeting of Members.

Representative Council

61. Powers of the Representative Council

- (a) The Representative Council shall have the following powers:
 - (i) to appoint the Board applying the election procedure (if any) from time to time prescribed by the Board to the extent the same is not inconsistent with this Constitution;
 - (ii) at the request of the Board, to consider and provide guidance to the Board (through the chair of the Representative Committee) on Member issues; and
 - (iii) at the request of more than 50 percent of the Representative Councillors, to consider any issue concerning the affairs of the Company and, as the Representative Council considers appropriate, convey (through the chair of the Representative Council) the view of the Representative Council to the Board. If requested by the Representative Council, the chair of the Representative Council must convey any such view to the Board.
- (b) Other than as set out in Article 61(a), the Representative Council will have no other powers.
- (c) The Representative Council will have no power or authority to bind, instruct or direct the Board on any matter (including in relation to Member issues or any issue considered by the Representative Council under Article 61(a)(iii)) and does not have the power to dismiss the Board or any Director.
- (d) Representative Councillors are not directors of the Company for any purpose (including the Corporations Act) unless they have separately been appointed as Directors by the Representative Council.

62. Appointment of Representative Councillors

- (a) Subject to the remainder of this Article 62, there shall be the following Representative Councillors:

- (i) one Divisional Councillor from each Division appointed by the respective Divisional Council;
- (ii) in respect of any Division to which are attached more than 20 percent of the total number of Members, one Divisional Councillor from the Division appointed by the relevant Divisional Council (in addition to the Divisional Councillor appointed by that Divisional Council under Article 62(a)(i));
- (iii) subject to Article 62(b), one representative of any group, body or committee established or recognised by the Board to reflect the diversity of membership which the Board from time to time determines should have a Representative Councillor representing that group, body or committee; and
- (iv) if not appointed to the Representative Council under Articles 62(a)(i) - 62(a)(iii), the President (as an ex officio member).

The Representative Councillor representing a body, group or committee of the Board in accordance with Article 62(a)(iii) will be selected or elected by that body, group or committee or, in the case of a group, if the Board so determines, by a representative body of that group or such other group or committee as the Board may appoint for that purpose.

- (b) The power of the Board to determine that a body, group or committee should have a Representative Councillor representing that body, group or committee pursuant to Article 62(a)(iii) is limited insofar as such determination must not be made by the Board if it would result in the proportion (expressed as a percentage) of Representative Councillors appointed by the Divisional Councils pursuant to Articles 62(a)(i) or 62(a)(ii) being less than or equal to 50 percent of all Representative Councillors.
- (c) Each Representative Councillor shall hold office as such for a term of 2 years, commencing on 1 February in the year of appointment which shall expire on 31 January in the second year of that term, unless such person has been appointed President for a term which extends past this date, in which case until the end of that person's term as President.
- (d) Subject to the Corporations Act and this Constitution, each Representative Councillor shall be eligible for reappointment, but a Representative Councillor is ineligible for reappointment if the serving of a further 2 year term would result in that person being a Representative Councillor for more than 6 consecutive years (for this purpose, excluding any time served as a Representative Councillor while filling a casual vacancy if so appointed in accordance with Article 64(b)).
- (e) If a Representative Councillor is ineligible for reappointment pursuant to Article 62(d), he or she shall not be eligible to be appointed as a Representative Councillor for a period of 2 years following the expiry of his or her term.
- (f) All Representative Councillors must be Members.
- (g) All appointments to the office of Representative Councillor shall (save in the case of the President appointed under Article 62(a)(iv)) be conducted in the manner set out in the By-Laws.

63. Meetings of the Representative Council

- (a) The President or, in the President's absence, a Representative Councillor chosen by those present, shall act as the chair of any meeting of the Representative Council.
- (b) A meeting of the Representative Council shall be convened at any time upon the request of the President or more than 50 percent of the Representative Councillors.
- (c) The quorum for meetings of the Representative Council shall be determined by the Representative Council from time to time, provided that such quorum shall not be less than the number which is equal to half of the total number of appointed Representative Councillors at the time of the meeting plus one (if this number is not a whole number, then it shall be rounded down).
- (d) The President shall cause a notice of a meeting of the Representative Council and a proposed agenda to be given to Representative Councillors at least 14 days prior to the meeting although matters of which no or insufficient notice has been given may be dealt with so long as the meeting is of the opinion that the matter is of sufficient importance.
- (e) A Representative Councillor unable to attend or vote at any meeting of the Representative Council may by signed notice to the Secretary authorise any other Representative Councillor to vote on their behalf on all questions arising at such meeting or upon any particular question arising at such meeting.
- (f) Representative Councillors attending any meeting of the Representative Council shall be entitled to such reasonable travel, accommodation, or other expenses approved from time to time by the Board.
- (g) The Representative Council may meet either in person or by telephone or by other means of communication by which all persons participating in the meeting are able to hear and be heard by all other participants. A meeting conducted by telephone or other means of communication is deemed to be held at the place agreed upon by the persons attending the meeting, provided that at least one of the persons present at the meeting was at the place for the duration of the meeting.
- (h) The Representative Council shall cause to be regularly entered, in books provided for the purpose, minutes of the proceedings of its meetings. The minutes of any meeting of the Representative Council signed by the chairman of the succeeding meeting of the Representative Council shall, unless the contrary is proved, be conclusive evidence of the proceedings recorded in those minutes.
- (i) The Representative Council may pass a resolution without holding a meeting if notice in writing of the resolution is given to all Representative Councillors and a majority of the Representative Councillors entitled to vote on the resolution sign a statement that they are in favour of the resolution set out in the document. A resolution pursuant to this Article 63(i) may consist of several documents in the same form each signed by one or more Representative Councillors and is effective when signed by the last of the Representative Councillors constituting the majority of the Representative Councillors. A facsimile transmission or other document produced by electronic means under the name of a Representative Councillor with the Representative Councillor's authority is taken to be a document signed by the Representative Councillor for the purposes of this Article 63(i) and is taken to be signed when received by the Company in legible form.
- (j) All acts done at any meeting of the Representative Council or an act of any person acting as a Representative Councillor is not invalidated by:

- (i) a defect in the appointment or continuance in office of a person as a Representative Councillor, or of the person so acting; or
- (ii) a person so appointed being disqualified or not being entitled to vote, if that circumstance was not known by the Representative Council or person (as the case may be) when the act was done.
- (k) Subject to Articles 63(a) to (j), all procedural requirements for meetings and conduct of the Representative Council will be as determined by the Board from time to time.

64. Termination of office

- (a) The office of a Representative Councillor shall ipso facto be vacated if:
 - (i) the Representative Councillor ceases to be a Member;
 - (ii) the Representative Councillor resigns by notice in writing to the Company;
 - (iii) the Representative Councillor becomes Insolvent;
 - (iv) the Representative Councillor becomes of unsound mind or a person whose person or estate is dealt with in any way under the laws relating to mental health;
 - (v) the Representative Councillor's membership is suspended; or
 - (vi) the Representative Councillor's membership subscription is overdue for 60 days or more.
- (b) Any casual vacancy occurring on the Representative Council may be filled by the body which appointed that Representative Councillor who shall retain office, and be subject to, and have the benefit of, all the rights, duties and privileges attaching to that office, for as long as the vacating Representative Councillor would have retained office if no vacancy occurred.

Divisional Councils

65. Composition of Divisional Councils

- (a) Subject to Articles 65(b) and (c), the Divisional Council for a Division shall consist of a number (determined by the Board, provided that such number must be not less than 8 and no more than 20) of Members attached to that Division, who shall be elected by the Members attached to that Division in accordance with the By-Laws.
- (b) The Board may determine from time to time that any number of the Divisional Councillors of a Divisional Council must be elected from within a place or region.
- (c) Each Divisional Councillor elected pursuant to Article 65(a) must not be an Honorary Member and must also:
 - (i) hold an Allocated Membership Status of "Fellow Certified Practising Accountant" or "Certified Practising Accountant"; or
 - (ii) hold an Allocated Membership Status of "Associate", and:

- A. have been an Associate as at 30 June 1990; or
- B. have successfully completed the Associate Program Examination prescribed by the Board on or before 31 December 1990 and have complied with the requirements for admission or advancement as an Associate in accordance with the By-Laws in force on 30 June 1990.

66. Terms of Divisional Councillors

- (a) Subject to Article 66(b), Divisional Councillors shall:
 - (i) hold office for a term of 3 years commencing on 1 January in the year following the year during which the Divisional Councillor is elected, and expiring on 31 December of the third year of that term ; and
 - (ii) on the expiry of each such term retire and be eligible for re-election for a further term of 3 years, provided that serving a further 3 year term would not result in that Divisional Councillor holding office for more than 6 consecutive years (for these purposes, excluding any time served as a Divisional Councillor while filling a casual vacancy, and any time served as a Divisional Councillor prior to 31 December 2008).
- (b) If a Divisional Councillor would be ineligible for re-election pursuant to Article 66(a)(ii) at the expiry of their current term but for the operation of this Article 66(b) and that Divisional Councillor:
 - (i) holds office as a Divisional President during the last year of his or her current term as a Divisional Councillor, then that Divisional Councillor shall be eligible for re-election for a further 1 year term as a Divisional Councillor but shall not be eligible for any further subsequent re-election; or
 - (ii) holds office as a Divisional Deputy President during the last year of his or her current term as a Divisional Councillor, then that Divisional Councillor shall be eligible for re-election for a further 2 year term as a Divisional Councillor but shall not be eligible for any further subsequent re-election.
- (c) If a Divisional Councillor is ineligible for re-election pursuant to Article 66(a) or 66(b), he or she shall not be eligible to be elected as a Divisional Councillor for a period of 2 years following the expiry of his or her current term as a Divisional Councillor.

President and Deputy Presidents

67. Election of President and Deputy Presidents

- (a) Subject to Articles 67(e) and 76(a), prior to 30 September in each calendar year from 2010 and onwards, the Board shall elect from amongst:
 - (i) those Directors whose terms do not expire before 1 October of that calendar year; and
 - (ii) those persons who the Representative Council has resolved to appoint to the Board for terms commencing on 1 October during that calendar year,
 a President and 2 Deputy Presidents (all of whom must be Members).

- (b) Each person so elected as President or Deputy President pursuant to Article 67(a) shall hold office for a term of 1 year commencing on 1 October of that calendar year and ending on 30 September in the next calendar year. Prior to 30 September in the next calendar year following the election of each such President or Deputy President, the term of each such President or Deputy President may be extended for a further 1 year term by election of the Board, provided that the President or the relevant Deputy President (as the case may be) is either:
- (i) not required to retire from office as a Director pursuant to Article 44(b), 44(g) or 44(h) on 30 September in that next calendar year; or
 - (ii) required to retire from office as a Director pursuant to Article 44(b), 44(g) or 44(h) on 30 September in that next calendar year but has been reappointed as a Director by the Representative Council pursuant to Article 44(d),
- but each such President or Deputy President can only hold office for a maximum of 2 consecutive years.
- (c) If a casual vacancy occurs for the position of President or a Deputy President during the term of their office, the Board may appoint a Member Director to fill the casual vacancy for as long as the vacating President or Deputy President would have retained office if no vacancy had occurred.
- (d) All such elections shall be conducted in the manner set out in the By-Laws.
- (e) Notwithstanding anything else to the contrary in this Constitution, or the constitution of the Company in force immediately before the Amending Date, the persons holding the offices of President and Deputy President immediately before the Amending Date shall continue to hold those offices until 30 September 2010. On the expiry of those extended terms, the terms of each such:
- (i) President, may not be extended for a further 1 year term pursuant to Article 67(b); and
 - (ii) Deputy President:
 - A. whose term was extended for a further term commencing on 1 April 2009, may not be extended for a further 1 year term pursuant to Article 67(b); and
 - B. who was appointed to that office for the first time on 1 April 2009, may be extended for a further 1 year term pursuant to Article 67(b).

68. Term of President and Deputy Presidents

Each person elected in accordance with Article 67 shall hold office until that person's successor is appointed and any vacancy occurring before such a successor is appointed may be filled at a meeting of the Board, to be held as soon as practicable after the occurrence of the vacancy of which business notice shall be given to the Directors.

Notices

69. Notices to Members

- (a) The Company may give Notice to a Member by any of the following means in the Board's discretion:

- (i) delivering it to that Member;
 - (ii) delivering it or sending it by post to the address of the Member in the Register or the alternative address (if any) nominated by that Member for that purpose;
 - (iii) sending it to the fax number or electronic address (if any) nominated by that Member or person for that purpose; or
 - (iv) any other means permitted by the Corporations Act.
- (b) The Company must send all documents to a Member whose address for Notices is not within Australia by air-mail, air courier, fax or electronic transmission.
- (c) Any Notice required or allowed to be given by the Company to one or more Members by advertisement is, unless otherwise stipulated, sufficiently advertised if advertised once in a daily newspaper circulating in the states and territories of Australia and published on the Company's website.

70. Notice to Directors

The Company may give Notice to a Director by:

- (a) delivering it to that person;
- (b) sending it by post to the usual residential address of that person or the alternative address (if any) nominated by that person for that purpose;
- (c) sending it to the fax number or electronic address (if any) nominated by that person for that purpose; or
- (d) any other means agreed between the Company and that person.

71. Notice to the Company

A person may give Notice to the Company by:

- (a) delivering it or sending it by post to the registered office of the Company, and marking it for the attention of the Secretary;
- (b) delivering it or sending it by post to a place nominated by the Company for that purpose, and marking it for the attention of the Secretary;
- (c) sending it to the fax number at the registered office of the Company nominated by the Company for that purpose, and marking it for the attention of the Secretary;
- (d) sending it to the electronic address (if any) nominated by the Company for that purpose; or
- (e) any other means permitted by the Corporations Act.

72. Time of service

- (a) A Notice sent by post or air-mail is taken to be given on the day after the date it is posted.
- (b) A Notice sent by fax or other electronic transmission is taken to be given when the transmission is sent provided that in the case of notice to the Company or a

Director, the sender meets any action required by the recipient to verify the receipt of the document by the recipient.

- (c) A Notice given by notifying that Member of the notice's availability by an electronic means nominated by the Member for that purpose is taken to be given on the day after the date on which the Member is notified that the Notice is available.
- (d) A certificate by a Director or Secretary to the effect that a Notice by the Company has been given in accordance with this Constitution is conclusive evidence of that fact.

73. Notice requirements

The Board may specify, generally or in a particular case, requirements in relation to Notices given by any electronic means, including requirements as to:

- (a) the classes of, and circumstances in which, Notices may be sent;
- (b) verification (whether by encryption code or otherwise); and
- (c) the circumstances in which, and the time when, the Notice is taken to be given.

Winding up

74. Liability of Members

Each Member undertakes to contribute an amount not exceeding \$10 to the property of the Company if the Company is wound up at a time when that person is a Member, or within one year of the time that person ceased to be a Member, for:

- (a) payment of the Company's debts and liabilities contracted before that person ceased to be a Member;
- (b) payment of the costs, charges and expenses of winding up the Company; and
- (c) adjustment of the rights of the contributories among themselves.

75. Winding up

On a winding up of the Company, any surplus assets of the Company remaining after the payment of its debts must not be paid to or distributed among the Members, but must be given or transferred to:

- (a) one or more bodies corporate, associations or institutions selected by the Members by resolution at or before the dissolution of the Company, having objects similar to the objects of the Company; or
- (b) if there are no bodies corporate, associations or institutions which meet the requirements of Article 75(a), to one or more bodies corporate, associations or institutions selected by the Members by resolution at or before dissolution of the Company, the objects of which are the promotion of charity and gifts which are allowable deductions pursuant to the Income Tax Assessment Act 1997 (Cth); or
- (c) if the Members do not make a selection pursuant to Article 75(a) or 75(b) for any reason, to one or more bodies corporate, associations or institutions meeting the requirements of either Article 75(a) or 75(b) selected by the Board, subject to Board obtaining court approval pursuant to the Corporations Act to exercise this power.

Transitional

76. Transitional provision

- (a) Persons holding the offices of Director, Representative Councillor, President, Deputy President, Secretary, Chief Executive Officer, Divisional Councillor, Divisional President or Divisional Deputy President immediately before the Amending Date by reason of their appointment to those offices in accordance with the constitution of the Company in force immediately before the Amending Date shall be taken, for the purposes of this Constitution:
 - (i) to continue to hold those offices following the Amending Date until the expiry of their respective terms (as provided in the constitution of the Company in force immediately before the Amending Date) or otherwise as provided in this Constitution (the applicable date being the **Interim Period Expiry Date**);
 - (ii) until the relevant Interim Period Expiry Date, to have been appointed to those offices in accordance with the provisions of this Constitution; and
 - (iii) to have vacated (and be scheduled to vacate) those offices on the relevant Interim Period Expiry Date.
- (b) Any Divisions or Branches existing immediately before the Amending Date shall be taken, for the purposes of this Constitution, to have been established in accordance with Article 52(a).
- (c) Any group or body determined by the Board (existing immediately before the Amending Date) before the Amending Date to be entitled to have Representative Councillor representing that group or body immediately before the Amending Date shall be taken, for the purposes of this Constitution, to have been the subject of a similar determination by the Board in accordance with Article 62(a)(iii).
- (d) A delegation by the Board (which delegation exists immediately before the Amending Date) of any of its powers pursuant to clause 81(s) of the constitution of the Company in force immediately before the Amending Date shall be taken, for the purposes of this Constitution, to the extent that such delegation does not expire before the Amending Date, to have been made by the Board in accordance with Article 54(a).
- (e) An obligation owed to or by a person (including the Company) under any provision of the constitution of the Company in force immediately before the Amending Date will not be effected by the enactment of this Constitution and will continue to be owed to or by that person until it is satisfied.