
Constitution

Superannuation Consumers' Centre

(ACN 163 636 566)

(A public company limited by guarantee)

September 2013

Amended by Special Resolution of Members to insert a new clause 3.1

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1 Defined terms and interpretation

Schedule 1:

- (a) defines some of the terms used in this constitution;
- (b) sets out the rules of interpretation which apply to this constitution; and
- (c) clarifies the effect of the Corporations Act on this constitution.

2 Nature of company and liability

- (a) The company is a public company limited by guarantee.
- (b) The liability of each member is limited to \$10. This means that if the company does not have enough assets to cover all of its liabilities upon winding up, each member must contribute up to a maximum of \$10 to the assets of the company.

3 Purpose and activities of the company

3.1 Purpose

The principal purpose of the company is to engage, empower, educate, assist, conduct research, develop policy, and advocate for the benefit of low and middle income consumers of the superannuation system in both the accumulation and retirement phases and to thereby assist to:

- (a) reduce the confusion and anxiety experienced by consumers of the superannuation system;
- (b) increase engagement to ensure consumers and the community generally gets the maximum benefit from the compulsory superannuation system;
- (c) increase economic security of Australians of retirement age; and
- (d) increase the life choices and standard of living of people of retirement age.

3.2 Activities

Without limiting or derogating from the inherent powers of the company in any way, and in the furtherance of the company's purpose, the activities of the company include:

- (a) engaging, empowering and educating consumers to act in their own interests to achieve better superannuation outcomes
- (b) promoting continual improvement in consumer outcomes in the superannuation and retirement incomes systems;
- (c) increasing the effectiveness of competitive markets, including by increasing transparency and meaningful choices for consumers within appropriate regulatory frameworks;
- (d) providing direct assistance and referral services to consumers to help them navigate the superannuation system with a focus on low income earners;

- (e) developing ways to connect consumers to existing superannuation tools and content and fostering the development of new tools and content to help consumers where gaps exist;
 - (f) researching, analysing and developing policy on consumer issues in the superannuation system;
 - (g) capturing data about consumer issues with superannuation and identifying emerging trends and systemic issues;
 - (h) increasing the awareness of individuals, communities, business and government about issues relating to superannuation for consumers;
 - (i) building networks amongst consumer groups, academics, government and industry in relation to superannuation for consumers;
 - (j) facilitating consumer representation on government and industry committees, advisory panels and boards;
 - (k) collaborating with communities, organisations, industry and government to further the company's purpose; and
 - (l) doing all other things necessary for or ancillary to the fulfilment of the purpose and activities of the Company.
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4 Directors

4.1 Number of directors

- (a) The minimum number of directors is three. Subject to rule 4.1(b), the maximum number of directors is ten.
- (b) The directors may change the maximum number of permitted director positions in accordance with the law.
- (c) If at any time there are less than the minimum number of directors, the remaining director or directors may act but only:
 - (i) in an emergency;
 - (ii) for the purpose of convening a general meeting of the company; or
 - (iii) for the purpose of increasing the number of directors to the minimum number required.

4.2 Becoming a director and term of office

- (a) Subject to rule 4.2(c), a person may only become a director if he or she is:
 - (i) nominated by the Nominations Committee; and
 - (ii) appointed by the directors.
- (b) Each appointment made under rule 4.2(a) is to be for a period of up to three years with the precise period to be determined by the directors at the time of the appointment.

- (c) The directors may appoint one or more persons as director without first receiving a nomination from the Nominations Committee in the following circumstances:
 - (i) to increase the number of directors to the minimum number required in accordance with rule 4.1(c)(iii);
 - (ii) if a director position has been vacant for at least three months and the Nominations Committee has not nominated anyone to fill the vacant position; or
 - (iii) if the law requires.
- (d) Each appointment made under rule 4.2(c) is to be for a period of up to 12 months with the precise period to be determined by the directors at the time of the appointment.
- (e) Each director is to remain as a director until the term of her or his office expires or until he or she resigns, is expelled or is otherwise removed as a director of the company in accordance with the law and this constitution. For the avoidance of doubt but subject to rule 4.2(f), a previous director of the company is, subject to the law and this constitution, eligible for nomination by the Nominations Committee and appointment by the directors for a further term.
- (f) Notwithstanding anything else in this constitution, no person is permitted to hold the office of director for any more than nine continuous years unless otherwise resolved by a special resolution of members.

4.3 Qualifications and composition of directors

- (a) An employee of the company is not permitted to be a director of the company.
- (b) Subject to any policies relating to the composition of the board and skills and qualifications of directors developed by the directors from time to time:
 - (i) all directors must have knowledge, and expertise relevant to and be committed to the purpose and activities of the company; and
 - (ii) the directors together must have:
 - (A) knowledge about consumer policy and consumer advocacy
 - (B) knowledge about superannuation policy and the superannuation industry; and
 - (C) an appropriate level of financial knowledge and skills sufficient to properly oversee the prudent administration of any endowment fund owned, operated or maintained by the company.
- (c) A director must be a member of the company.

4.4 Nominations Committee

- (a) The directors must establish a nominations committee for the purpose of seeking, assessing and nominating candidates for the position of director of the company (**Nominations Committee**).
- (b) The Nominations Committee must be comprised of:

- (i) two directors and
 - (ii) three persons who are not directors or employees of the company (**External Committee Members**).
- (c) When appointing people to the Nominations Committee, the directors should have regard to the interests of consumers, government, any sponsoring university and industry and, so far as possible, ensure a balanced representation of these interests.
- (d) The chair of the Nominations Committee must have experience, skill, knowledge and integrity sufficient to ensure that the proper processes of assessment and nomination of candidates are implemented and followed.
- (e) The chair of the Nominations Committee will be responsible for, among other things:
- (i) chairing all meetings of the Nominations Committee; and
 - (ii) ensuring the proper and effective operation of the Nominations Committee in accordance with principles of good governance.

4.5 Ceasing to be a director

- (a) The office of a director becomes vacant if that director:
- (i) dies;
 - (ii) due to physical or psychological impairment, is unable to properly perform his or her duties as a director;
 - (iii) ceases to be a member of the company;
 - (iv) becomes bankrupt;
 - (v) is convicted of an indictable offence; or
 - (vi) is absent from three consecutive directors' meetings or half of the number of directors' meetings held in any 12 month period without leave of absence approved by the directors.
- (b) If a director's position becomes vacant under rule 4.5(a) then, so long as the law does not prohibit the directors from doing so, the directors may resolve that the director remain as a director.
- (c) The office of a director becomes vacant if that director becomes an employee of the company.
- (d) Nothing in rule 4.5(a) prevents a director from vacating his or her office if the director resigns by notice in writing to the company.

4.6 Payments to directors

- (a) Subject to rule 4.6(c), directors are entitled to be paid all reasonable authorised travelling and other expenses properly incurred by them in connection with the affairs of the company, including attending and returning from general meetings of the company or meetings of the directors or of committees but will not otherwise receive any payment for acting as a director.

- (b) Nothing in this rule 4.6 restricts the payment to which a director may be entitled as a consultant or contractor of the company.
- (c) Notwithstanding anything else in this constitution, no payment of any kind which is permitted to be paid to a director by this constitution can be made by the company to a director until that payment is approved by the directors or the relevant directors' delegate.

4.7 Interests of directors, including personal interests

- (a) No contract made between a director and the company is voided merely because the director holds office as a director or because of the fiduciary obligations arising out of that office.
- (b) Where a director has a material personal interest in a matter to be considered at a meeting, that director must not be present while the matter is being considered, nor receive the relevant papers for that item or vote on the matter, unless the directors who do not have a material personal interest pass a resolution in accordance with the law which permits that director to do so.
- (c) Subject to rules 4.7(d) and (e), a director who is interested in arrangement (other than by having a material personal interest) may, despite that interest:
 - (i) be counted in determining whether or not a quorum is present at any meeting of directors considering that arrangement;
 - (ii) sign or countersign any document relating to that arrangement; and
 - (iii) vote in respect of the arrangement or any matter arising out of it.
- (d) Rule 4.7(c) does not apply to the extent that it would be contrary to law.
- (e) The directors may make regulations requiring the disclosure of interests that a director, and any person deemed by the directors to be related to or associated with the director, may have in any matter concerning the company. Any regulations made under this rule bind all directors and apply in addition to any obligations imposed on the directors by the law to disclose interests to the company.

4.8 Powers and duties of directors

The directors are responsible for managing the business of the company. As such they may exercise all the powers of the company which are not required by the law or this constitution to be exercised by the company in general meeting.

4.9 Directors' meetings

- (a) The directors may hold meetings (including by technological means) for the conduct of business and regulate them as they think fit.
- (b) A meeting of directors may be convened by:
 - (i) the chair; or
 - (ii) at least three directors.

4.10 Notice of directors' meetings

- (a) Notice of a directors' meeting must be given to each current director, other than a director on leave of absence approved by the directors.
- (b) A notice of a directors' meeting must:
 - (i) be given in a way permitted by rule 13;
 - (ii) specify the time and place of and, if relevant, the form of technology for, the meeting; and
 - (iii) state the nature of the business to be transacted at the meeting.
- (c) A resolution passed at a directors meeting is not invalid just because a director did not receive notice of the meeting provided that:
 - (i) the notice was not received because of accident or error;
 - (ii) before or after the meeting, the director notifies the company of his or her agreement to the resolution; or
 - (iii) the director attended the meeting.

4.11 Quorum for directors' meetings

- (a) No business may be transacted at a directors' meeting unless there is a quorum of directors at the time the business is dealt with.
- (b) A quorum consists of 50% of the current number of directors. If 50% of directors is not a whole number, the number must be rounded up to the nearest whole number.
- (c) For the avoidance of doubt, a director is present at a meeting if participating by technological means such as by telephone and is included when determining whether a quorum is present.
- (d) If, within 30 minutes after the time appointed for the meeting, a quorum is not present, then, without preventing those present from discussing (but not to vote on) any matter, the meeting will be dissolved or stand adjourned to such time, date and place as those present at the meeting decide.

4.12 Chair and deputy-chair of directors

- (a) The directors must elect at least one director to the office of chair and may, subject to rule 4.2, determine the period for which that person is, or those persons are, to be chair of directors.
- (b) The directors may elect one or more of the directors, other than the chair, to the office of deputy-chair and may, subject to rule 4.2, determine the period for which that person is, or those persons are, to be deputy-chair of directors.
- (c) A person may only fill the office of chair or deputy-chair for so long as that person is a director of the company.
- (d) The chair of directors must preside as chair at each directors' meeting unless he or she is unable to attend or unwilling to act.

- (e) If the chair is unable to attend a directors' meeting or unwilling to act, then a deputy chair, if one has been appointed, must preside as chair of that meeting.
- (f) If both the chair and deputy-chair are unable to attend a directors' meeting or are unwilling to act, then the directors present at that meeting must elect a person from among their number to preside as chair for that meeting.

4.13 Decisions of directors

- (a) A directors' meeting at which a quorum is present is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the directors under the law and this constitution.
- (b) Questions arising at a directors' meeting are to be decided by a majority of votes cast by the directors present and a decision of that kind is for all purposes a determination of the directors.
- (c) If there is an equal number of votes cast for and against a resolution at a directors' meeting, then the chair may cast a second vote.

4.14 Decisions without meetings

Directors may pass resolutions and otherwise make decisions outside of a directors' meeting in any manner (including through the use of technology) so long as such manner complies with:

- (a) the law; and
- (b) any policies and procedures relating to the passing of director resolutions as determined by the directors from time to time.

4.15 Delegation to committees

- (a) Subject to rule 4.15(b), the directors may resolve to:
 - (i) establish one or more committees consisting of such persons as they determine;
 - (ii) revoke any or all of the powers delegated to each committee and vary the nature and scope of the powers delegated;
 - (iii) determine the way in which committee meetings are to be conducted and how resolutions are to be considered and passed; and
 - (iv) change the makeup of a committee at any time or dissolve it all together.
- (b) No committee may be authorised to make any decision or take any action that binds the company or the directors in any way unless the giving of such authorisation has been approved by a resolution passed by at least 75% of the directors eligible to vote on that resolution.
- (c) A committee must exercise the powers delegated to it in accordance with any directions of the directors.
- (d) The directors may continue to exercise all of their powers despite any delegation made under this rule.

4.16 Delegation to individuals

- (a) Subject to rule 4.16(b), the directors may at any time resolve to delegate any of their powers:
 - (i) to one or more directors;
 - (ii) to one or more members or Representatives of members; or
 - (iii) to one or more employees.
- (b) No person may be authorised to make any decision or take any action that binds the company or the directors in any way unless the giving of such authorisation has been approved by a resolution that is passed by at least 75% of the directors eligible to vote on that resolution.
- (c) The directors may delegate their powers for such time as they determine and may revoke or vary any power so delegated.
- (d) A person to whom any powers have been delegated must exercise the powers delegated in accordance with any directions of the directors.
- (e) The directors may continue to exercise all of their powers despite any delegation.
- (f) A delegation under this rule need not be to a specified person but may be to any person from time to time holding, occupying or performing the duties of a specified office or position.

4.17 Validity of acts

An act done by a director or by a meeting of the directors or a committee attended by a director is not invalidated just because:

- (a) of a defect in the appointment or election of the director;
- (b) the person is disqualified from being a director or has vacated office; or
- (c) the person was not entitled to vote,

if that circumstance was not known by the person or the directors or committee, as the case may be, when the act was done.

5 Company secretary

- (a) The directors must appoint at least one secretary who may be, but does not need to be, a director.
- (b) The appointment of a secretary may be for the period, on the conditions and, subject to rule 5(c), at the remuneration as the directors determine.
- (c) A director may not be remunerated in his or her capacity as secretary.
- (d) Subject to any contract between the company and the relevant secretary, a secretary of the company may be removed or dismissed by the directors at any time. If that person is a director, such removal or dismissal does not remove that person from office as a director.

- (e) The secretary has the responsibilities and duties required by law and as may be described in the company's policies determined by the directors from time to time.
 - (f) An act done by a person acting as a secretary is not invalidated just because:
 - (i) of a defect in the person's appointment as a secretary; or
 - (ii) the person is disqualified from being a secretary,if that circumstance was not known by the person when the act was done.
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6 Membership

6.1 Who are the Members?

- (a) The members of the company are the members at the date of incorporation of the company and any person or body corporate (**Applicant**) that has:
 - (i) at the invitation of the directors, applied to become a member; and
 - (ii) been approved for membership of the company by the directors.
- (b) If an Applicant is admitted as a member of the company, the secretary must ensure that:
 - (i) the Applicant is given notice of admission as a member of the company; and
 - (ii) the name and details of the Applicant are entered in the members' register.
- (c) The secretary must ensure that each Applicant not admitted as a member of the company is informed of this decision. The directors and secretary are not required to give reasons for the decision not to admit an Applicant as a member of the company.

6.2 Member's rights

Each ordinary member has the right to:

- (a) receive notices of and attend and be heard at any general meeting of the company;
- (b) vote at any general meeting of the company; and
- (c) vote on written resolutions.

6.3 Register of members

A register of members must be kept and contain:

- (a) the name and address of each member;
- (b) the date each member's membership starts;
- (c) the date each member's membership ends; and
- (d) any other information that may be required by the directors from time to time.

6.4 Membership fees

The directors may determine the joining fee and annual membership fee from time to time which, for the avoidance of doubt, includes setting such fees at \$0.

7 Ceasing to be a member

7.1 General

- (a) a member will cease to be a member of the company if that member:
 - (i) resigns from membership. See rule 7.2;
 - (ii) automatically ceases to be a member. See rule 7.3; or
 - (iii) is expelled from membership. See rule 7.4.
- (b) Any member who ceases to be a member may, if that member agrees, be readmitted into membership of the company at the directors' complete discretion.

7.2 Resignation from membership

A member may resign from membership of the company at any time by providing written notice to the company addressed to the chair or the secretary. Unless the notice provides otherwise, the resignation takes effect from the date the notice is received by the company.

7.3 Automatic cessation of membership

A member's membership will automatically cease if:

- (a) the member dies or, in the case of a member that is a body corporate, is wound up;
or
- (b) the member fails to pay any required membership fee within two months after the date on which that membership fee becomes due or such later time as the directors may determine.

7.4 Expulsion of member

- (a) The directors may resolve to expel a member from membership of the company if that member:
 - (i) has wilfully refused or neglected to comply with the provisions of this constitution; or
 - (ii) has acted in a way that, in the reasonable opinion of the directors, is unbecoming of the member or prejudicial to the interests or reputation of the company.

(Membership Expulsion Resolution)

- (b) The directors must give the member in question at least 14 days notice of the date that the directors will consider the Membership Expulsion Resolution. This notice must be in writing and let the member know:

- (i) that the directors are to consider expelling the member from membership of the company;
 - (ii) the reasons why the member is to be expelled; and
 - (iii) of the right for the member to give the directors, either orally or in writing, any explanation or defence relevant to a decision to expel that member.
- (c) A director that is subject to a Member Expulsion Resolution is not entitled to vote on that resolution.
- (d) Directors have 14 days from the date a Membership Expulsion Resolution is passed to notify the relevant member about the directors' decision. This notice must be in writing and let the member know whether or not the directors have resolved to expel the member.

8 No profits for members

8.1 No transfer of income or property

Subject to rule 8.2, the assets and income of the company must be applied solely in furtherance of the purpose of the company and no portion of the income or assets of the company may be paid or transferred, directly or indirectly, to any member.

8.2 Payments that may be made to members

- (a) The company may, with the approval of the directors, make payment in good faith to a member of the company:
- (i) by way of reasonable and proper remuneration for any goods supplied or services rendered to the company (including remuneration as an employee or consultant);
 - (ii) by way of interest on money lent to the company by that member at a reasonable and proper rate per annum not exceeding the rate for the time being charged by the company's bankers on overdrawn accounts;
 - (iii) by way of reasonable and proper rent for premises let by that member to the company; and
 - (iv) for authorised out-of-pocket expenses reasonably and properly incurred by that member in connection with the affairs of the company.
- (b) Nothing in this rule 8 prevents a member from receiving services or assistance from the company in its ordinary course of business.

9 General meetings and decisions of members

9.1 Convening of general meetings (including annual general meetings)

- (a) A general meeting of members may be convened:
- (i) by a resolution of the directors; or
 - (ii) in a way that the law permits members of the company and the court to call general meetings of members.

- (b) The company must hold an annual general meeting if required by law.
- (c) A meeting of members may be held in 2 or more places linked together by any technology so long as:
 - (i) all members attending are given a reasonable opportunity to participate in proceedings;
 - (ii) the chair is able to be aware of proceedings in each place; and
 - (iii) all members in attendance are able to clearly indicate whether or not they are in favour of a resolution and can also vote on a poll if required.

9.2 Notice of general meetings

- (a) Subject to the provisions of any relevant law relating to special resolutions and consent to short notice, at least 21 days notice of a general meeting must be given to each person who is at the date of the notice:
 - (i) a member of the company;
 - (ii) a director of the company; or
 - (iii) an auditor of the company.
- (b) A notice of a general meeting must:
 - (i) be given in a way permitted by rule 13;
 - (ii) specify the date, time and place of the meeting;
 - (iii) if the meeting is to be held in 2 or more places, specify the technology that will be used to enable members to attend by electronic means;
 - (iv) state the general nature of the business to be transacted at the meeting including any matters to be determined by special resolution; and
 - (v) include any other information required by law.
- (c) A person who is entitled to receive notice of a meeting or who is requested by the chair to attend a general meeting is entitled to be present, whether the person is a member or not.
- (d) The non-receipt of notice of a members' meeting, or a failure to give notice of a members' meeting, does not invalidate any act, matter or thing done or resolution passed at the meeting if:
 - (i) the non-receipt or failure occurred by accident or error; or
 - (ii) the director attended the meeting.

9.3 Quorum at general meetings

- (a) No business may be transacted at any general meeting, except the election of a chair and the adjournment of the meeting, unless a quorum is present when the meeting proceeds to business and remains present throughout the meeting.
- (b) The quorum for a general meeting of members is five members:

- (c) If a quorum is not present within 30 minutes after the time appointed for a general meeting then:
 - (i) if the meeting was convened by members, the meeting must be dissolved; or
 - (ii) if the meeting was convened by directors, the meeting stands adjourned to the same day in the next week at the same time and place.
- (d) If a quorum is not present at an adjourned meeting of members within 30 minutes after the time appointed for that meeting, the meeting must be dissolved.

9.4 Chair of general meetings

- (a) The chair of the directors must preside as chair at each general meeting of members unless he or she is unable to attend or unwilling to act.
- (b) If the chair is unable to attend a meeting of members or unwilling to act, then the deputy-chair must preside as chair of that meeting.
- (c) If both the chair and deputy-chair are unable to attend a meeting of members or are unwilling to act, then the members present at that meeting must elect a person present at that meeting to preside as chair for that meeting.

9.5 Conduct of general meetings

- (a) The chair of a general meeting is responsible for the conduct of the meeting and may require the adoption of procedures for the proper and orderly debate and discussion and for the casting or recording of votes.
- (b) The chair of a general meeting at which a quorum is present may, with the consent of the majority of members present at the meeting, adjourn the meeting from time to time and place to place, but no business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- (c) Except for an annual general meeting adjourned under rule 9.3(c)(ii) because of a lack of quorum, notice of an adjournment and the business to be transacted at an adjourned meeting must be given to all persons who were entitled to receive notice of the meeting the subject of the adjournment.

9.6 Decisions at general meetings

- (a) There are certain decisions that the law says can only be made by a special resolution of members. For example, amending this constitution, changing the company's name and winding up the company. Other than these types of decisions, a resolution put to a general meeting is passed if a majority of the members present vote in favour of the resolution. For the avoidance of doubt, a member may attend and vote at a general meeting through technological means.
- (b) Unless a poll is demanded, members are to pass a resolution under consideration at a members' meeting by clearly indicating whether or not they are in favour of the resolution in a way directed by the chair. For example, by a show of hands, by voice or by standing. When passing a resolution in this way:
 - (i) the declaration by the chair of the outcome of the resolution, and an entry to that effect in the members' minutes book, is evidence of that outcome; and

- (ii) there is no need to record or prove the number or proportion of the votes recorded in favour of or against the resolution.
- (c) If the number of votes for and against a resolution put to a members' meeting is equal, then the chair, unless he or she is excluded from doing so under law (for example, because of a conflict of interest), may exercise a second or casting vote.
- (d) A poll may be demanded by the chair or by at least five members present at the meeting who are entitled to do so under law.
- (e) If a poll is demanded at a general meeting, it will be taken when and in the manner the chair of the meeting directs, and the result of the poll will be the resolution of the meeting at which the poll was demanded.
- (f) A poll cannot be demanded on any resolution concerning:
 - (i) the election of the chair of a meeting; or
 - (ii) the adjournment of a meeting.
- (g) The demand for a poll may be withdrawn.

9.7 Voting rights

- (a) Each member has the right to exercise one vote.
- (b) A member is not entitled to vote on any resolution if:
 - (i) any fees or any other amount due and payable by that member to the company under this constitution have not been paid; or
 - (ii) that vote is prohibited by the law or an order of a court.

9.8 Representation at general meetings

- (a) Subject to this constitution, each member entitled to vote at a meeting of members may vote:
 - (i) in person or, where a member is a body corporate, by its Representative; or
 - (ii) by proxy in a form that the directors may prescribe or accept.
- (b) A proxy or Representative may be a member of the company but does not need to be.
- (c) The chair of a meeting may require any person purporting to act as a proxy or Representative to establish to the satisfaction of the chair that the person has been validly appointed and is the person named in the relevant instrument of appointment, failing which the person may be excluded from attending or voting at the meeting.
- (d) If the name of the proxy in a proxy form is not filled in, the proxy of that member is the person specified by the company in the form of proxy, or if no person is so specified, the chair of that meeting.
- (e) A proxy is not permitted to vote at a general meeting (including one that has been adjourned) unless the instrument appointing the proxy is received:

- (i) at the company's registered office or through any technological means specified for that purpose in the notice convening the meeting; and
 - (ii) at least 48 hours before the commencement time specified in the notice of meeting .
- (f) The authority of a proxy to speak and vote for a member at a general meeting is suspended while that member is present at the meeting unless the members present at the meeting resolve otherwise.

9.9 Decisions without meetings

Members may pass resolutions and otherwise make decisions outside of a general meeting of members in any manner (including through the use of technology) so long as such manner complies with:

- (a) the law; and
- (b) any policies and procedures relating to the passing of member resolutions as determine by the directors from time to time.

10 Winding up

- (a) If upon the winding up or dissolution of the company there remains after satisfaction of all of its debts and liabilities, any property or moneys whatsoever (**Surplus Assets**), then such Surplus Assets must not be paid to, or distributed amongst members, but must be given or transferred to one or more organisations in Australia that:
 - (i) has objects or purposes similar to those of the company; and
 - (ii) by its constituent rules, prohibits the distribution of its income and property amongst its Members to an extent at least as great as is imposed upon the company.
- (b) The decision as to which organisation is, or which organisations are, to be the recipient of the Surplus Assets distributed in accordance with rule 10(a) is to be determined by the directors at or before the winding up or dissolution of the company or, in the absence of any determination, by the Court.
- (c) Any part of the Surplus Assets consisting of property supplied by a government department or public authority, including any unexpended portion of a grant, must be returned to the department or authority that supplied it or to a body nominated by the department or authority.

11 Minutes and records

11.1 Minutes

- (a) The directors must ensure that the following minutes are recorded, approved and kept in accordance with the law:
 - (i) meetings and resolutions of members;
 - (ii) meetings and resolutions of directors; and

- (iii) meetings and resolutions of committees.

11.2 Inspection of records

- (a) Subject to the law and rule 11.2(b), the directors may determine whether and to what extent, and at what time and places and under what conditions, the minute books, accounting records and other documents of the company or any of them will be open to the inspection of members.
- (b) A member may, upon reasonable notice to the directors, inspect any books, records or documents of the company, provided the information obtained is only used for a proper purpose in connection with membership of the company. In the case of directors' minutes and resolutions, the directors may, at their complete discretion, refuse to provide all or some of the directors' minutes or provide such records in a redacted form.
- (c) The company must establish and administer all registers required to be kept by law and each member must provide the company with such information as is required for the company to comply with this rule. If events occur which would cause the information contained in a register maintained by the company to be inaccurate the member must notify the company in writing of the change within 21 days of the date of such change occurring.
- (d) The register is sufficient evidence of the matters shown in the register.
- (e) The company must keep all financial and other records required by law.

12 Indemnity and insurance

- (a) To the extent permitted by law, the company indemnifies its officers and auditors (both current and past) for all losses or liabilities incurred by the person as an officer or auditor of the company including, but not limited to, a liability for negligence or for legal costs on a full indemnity basis .
- (b) This indemnity:
 - (i) may only be for losses or liabilities incurred as an officer or auditor of the company (either before or after the adoption of this rule); and
 - (ii) operates only to the extent that the loss or liability is not paid by insurance.
- (c) To the extent permitted by law, the company may take out and pay for insurance for the benefit of its officers (both current and past) against any liability incurred by the person as an officer of the company including, but not limited to, a liability for negligence or for legal costs) .

13 Notices

Any notice, document or other communication required or permitted to be given under this constitution or law may be given in any manner (including through the use of technology) so long as such manner complies with:

- (a) the law; and

- (b) any policies and procedures relating to the giving and receiving of notices, documents and other communications as determine by the directors from time to time.
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14 Formulating rules

- (a) Without limiting the directors' powers under this constitution, the directors may from time to time pass resolutions to make regulations and rules about any matter not being inconsistent with the law or this constitution which relates to the operations or conduct of the company.
 - (b) If there is any inconsistency between rules or regulations formulated pursuant to this rule and the provisions of this constitution or the law, the provisions of this constitution and the law will prevail.
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15 General

- (a) **Company seal:** The company may, but is not required to, have and use a company seal. If the directors determine that the company have a common seal, then it must be kept and used in accordance with the law.
- (b) **Submission to jurisdiction:** Each member submits to the non-exclusive jurisdiction of the Supreme Court of the State of New South Wales, the Federal Court of Australia and the Courts which may hear appeals from those Courts.

Schedule 1 — Dictionary

1 Dictionary

In this constitution:

Applicant has the meaning given at rule 6.1(a).

Business Day means Monday to Friday, excluding public holidays, in the place where the company's registered office is located.

External Committee Member has the meaning given at rule 4.4(b)(ii).

Nominations Committee has the meaning given at rule 4.4(a).

Representative, in relation to a body corporate, means a representative of the body corporate appointed under section 250D of the *Corporations Act*.

Surplus Assets has the meaning given in rule 10(a).

2 Interpretation

2.1 General

- (a) A reference in a rule in general terms to a person holding or occupying a particular office or position includes a reference to any person who occupies or performs the duties of that office or position for the time being.
- (b) In this constitution, headings are for convenience only and do not affect the interpretation of this constitution and, unless the contrary intention appears:
 - (i) words importing the singular include the plural and vice versa;
 - (ii) words importing a gender include every other gender;
 - (iii) words used to denote persons generally or importing a natural person include any company, corporation, body corporate, body politic, partnership, joint venture, association, board, group or other body (whether or not the body is incorporated);
 - (iv) a reference to a person includes that person's successors and legal personal representatives;
 - (v) a reference to any statute, regulation, proclamation, ordinance or by-laws includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing them and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute; and
 - (vi) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

2.2 Replaceable rules not to apply

The replaceable rules contained in the *Corporations Act 2001* (Cth) from time to time do not apply to the company.