

# Constitution

A company limited by guarantee

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Cambridge Australia Scholarships Limited  
ACN 146 517 366

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# Constitution of Cambridge Australia Scholarships Limited

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# Preliminary

## 1. Defined terms

1.1 In this Constitution unless the contrary intention appears:

**Alternate Director** means a person appointed as an alternate director under clause 41.

**Auditor** means the Company's auditor.

**Australian** means a citizen or permanent resident of Australia.

**Cambridge** means the University of Cambridge, its collections, colleges, departments, facilities, libraries, museums, schools and other institutions from time to time.

**CAT** means the Cambridge Australia Trust.

**Company** means Cambridge Australia Scholarships Limited.

**Constitution** means the constitution of the Company as amended from time to time.

**Corporations Act** means the *Corporations Act 2001* (Cth) as modified or amended from time to time and includes any regulations made under that Act and any exemption or modification to that Act applying to the Company.

**Deductible Contribution** means a contribution that is deductible under Items 7 or 8 of the table in subsection 30-15(2) of the ITAA 1997.

**Director** means a person appointed to the position of director of the Company and, where appropriate, includes an Alternate Director.

**ITAA 1997** means *Income Tax Assessment Act 1997* (Cth).

**Member** means a person who is a member of the Company under the Corporations Act, and in accordance with clause 11 of this Constitution.

**Register** means the register of Members.

**Representative** means a person appointed as such under clause 13.

**Responsible Person** means an individual who:

- (a) performs a significant public function;
- (b) is a member of a professional body having a code of ethics or rules of conduct;
- (c) is officially charged with spiritual functions by a religious institution;
- (d) is a director of a company whose shares are listed on the Australian Stock Exchange;
- (e) has received formal recognition from government for services to the community; or
- (f) is approved as a Responsible Person by the Commonwealth Commissioner of Taxation.

**Secretary** means any person appointed by the Directors to perform any of the duties of a secretary of the Company and, if more than one person is appointed, any one or more of those persons.

## 2. Interpretation

2.1 In this Constitution, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;

- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this Constitution, and a reference to this Constitution includes any schedule or annexure;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to A\$, \$A, dollar or \$ is to Australian currency; and
- (f) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions.

2.2 In this Constitution, except where the context otherwise requires, an expression in a clause of this Constitution has the same meaning as in the Corporations Act. Where the expression has more than one meaning in the Corporations Act and a provision of the Corporations Act deals with the same matter as a clause of this Constitution, that expression has the same meaning as in that provision.

### 3. Replaceable rules

To the extent permitted by law, the replaceable rules in the Corporations Act do not apply to the Company.

### 4. Background

4.1 CAT was founded on or around March 1983 for the purpose of assisting the Cambridge Commonwealth Trust to award scholarships to Australians for study at Cambridge. It has consisted of:

- (a) a national committee made up of representatives from the Australian National University and various State committees and other interested persons; and
- (b) State committees which are responsible for co-ordination of CAT's activities at a State level.

4.2 It has been determined to replace CAT with the Company (which, for all purposes, is intended to be and shall be CAT's successor).

### 5. Objects

5.1 The objects (**Objects**) for which the Company is established are:

- (a) to be the successor in all respects to the group of persons known variously as CAT, or the Cambridge Commonwealth Trust in Australia, with the intention that the Company carry on the work, and have the benefits and responsibilities, of that group of persons, whose functions shall be subsumed in, and taken over by, the Company;
- (b) to encourage, promote, and provide opportunities for scholarly research or academic education at Cambridge;
- (c) to encourage, promote and provide opportunities for scholarly research or academic education in Australia by Cambridge graduates or other members of Cambridge;
- (d) to raise, accept and administer funds, donations, devises and bequests (whether of real or personal property) for the attainment of all or any of the Objects, including through public or private donations or through government assistance;

- (e) to invest all income or other funds or property generated or received by the Company towards attaining the Objects;
- (f) to encourage, promote and strengthen the relationship between Australia and Cambridge;
- (g) to encourage social intercourse and links between Cambridge alumni or other members of the University of Cambridge;
- (h) to establish, promote, assist or subscribe to, amalgamate or affiliate with or become a member of any other company, association or institution whose objects are similar to or consistent with the Objects;
- (i) to establish sub-committees for the purpose of attaining the Objects;
- (j) generally to enter into, execute and carry out all contracts, agreements and undertakings of any kind whatsoever; and
- (k) to do all things necessary, incidental or conducive to attaining the Objects.

5.2 The Objects are to be pursued principally in Australia.

5.3 The Company may only exercise the powers in section 124(1) of the Corporations Act to carry out the Objects and do all things necessary, incidental or conducive to attaining the Objects.

## 6. Exercising Powers

6.1 Where this Constitution provides that a person 'may' do a particular act or thing, the act or thing may be done at the person's discretion.

6.2 Where this Constitution confers a power to do a particular act or thing:

- (a) the power is, unless the contrary intention appears, to be taken as including a power exercisable in the same way and subject to the same conditions (if any) to repeal, rescind, revoke, amend or vary that act or thing;
- (b) the power may be exercised from time to time and may be exercised subject to conditions; and
- (c) concerning particular matters, the power is, unless the contrary intention appears, to be taken to include a power to do that act or thing as to only some of those matters or as to a particular class of those matters, and to make different provision concerning different matters or different classes of matters.

6.3 Where this Constitution confers a power to make appointments to an office or position (except the power to appoint a Director under clause 30) the power is, unless the contrary intention appears, to be taken to include a power:

- (a) to appoint a person to act in the office or position until a person is appointed to the office or position;
- (b) to remove or suspend any person appointed (without prejudice to any rights or obligations under any contract between the person and the Company); and
- (c) to appoint another person temporarily in the place of any person removed or suspended or in the place of any sick or absent holder of the office or position.

6.4 Where this Constitution gives power to a person to delegate a function or power:

- (a) the delegation may be concurrent with, or (except in the case of a delegation by the Directors) to the exclusion of, the performance or exercise of that function or power by the person;
- (b) the delegation may be either general or limited in any way provided in the terms of delegation;
- (c) the delegation need not be to a specified person but may be to any person holding, occupying or performing the duties of a specified office or position;
- (d) the delegation may include the power to delegate; and
- (e) where performing or exercising that function or power depends on that person's opinion, belief or state of mind about a matter, that function or power may be performed or exercised by the delegate on the delegate's opinion, belief or state of mind about that matter.

## Cambridge Australia Scholarships Fund

### 7. Cambridge Australia Scholarships Fund

7.1 The Company shall directly, and/or in conjunction with the Australian National University, maintain a fund for the sole purpose of attaining the Objects (**Fund**) to hold:

- (a) all gifts of money or property, or Deductible Contributions received by the Company;
- (b) all money received by the Company because of or as a result of those gifts, or Deductible Contributions.

7.2 If established directly by the Company, the name of the Fund shall be 'Cambridge Australia Scholarships Fund'.

7.3 The Company must use the following only for seeking to attain the Objects:

- (a) gifts, or Deductible Contributions, made to the Fund; and
- (b) any money received because of or as a result of those gifts or Deductible Contributions.

7.4 Receipts for gifts must state:

- (a) the name of the Fund as stated in clause 7.2;
- (b) the Australian Business Number of the Company; and
- (c) the fact that the receipt is for a gift.

7.5 Receipts for Deductible Contributions must state:

- (a) the name of the Fund as stated in clause 7.2;
- (b) the Australian Business Number of the Company;
- (c) the fact that the Deductible Contribution was made in return for either or both of:
  - (i) a right to attend or participate in a specific fund-raising event; and/or
  - (ii) the purchase of goods and services at an auction held at a fund-raising event;
- (d) the amount of the Deductible Contribution if the Deductible Contribution is money; and
- (e) the GST inclusive market value of the minor benefit provided in return for the Deductible Contribution.

7.6 At the first instance of:

- (a) the winding up of the Fund; or
- (b) the Fund ceasing to be specifically listed as a deductible gift recipient in Division 30 of the ITAA 1997 (assuming the Fund is specifically listed after the establishment of the Company),

any surplus assets of the Fund remaining after the payment of liabilities attributable to the Fund shall not be paid to or distributed to the Members, but shall be given or transferred to some other fund, authority or institution having objects similar to the objects of the Company, and whose rules shall prohibit the distribution of its or their income among its or their members, such fund, authority or institution is to be eligible for tax deductibility of donations under Subdivision 30-BA of the ITAA 1997.

7.7 The assets and income of the Fund shall be applied solely in the furtherance of the Objects in clause 5 and no portion shall be distributed directly or indirectly to any individual except as bona fide compensation for services rendered or expenses incurred on behalf of the Fund.

7.8 The Company must keep gifts to the Fund separate from any other funds of the Company, and must maintain a separate bank account, and adopt clear accounting principles, for the Fund.

7.9 The Directors shall ensure that the Fund is controlled by a committee consisting of a majority of Responsible Persons.

7.10 The Company shall invite the public to make contributions to the Fund.

7.11 The Australian Taxation Office must be notified of any alterations made to this clause 7 of the Constitution.

## Income and property of Company

### 8. Income and property of Company

8.1 The income and property of the Company will only be applied towards the promotion of the Objects of the Company set out in clause 5.

8.2 No income or property will be paid or transferred directly or indirectly to any Member of the Company except for payments to a Member:

- (a) in return for any services rendered or goods supplied in the ordinary and usual course of business to the Company; or
- (b) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent.

## State or Other Committees

### 9. Existence of State or Other Committees

9.1 The Company may establish State or Other Committees.

## Membership

### 10. Eligibility

10.1 The Members of the Company are to be any persons, corporations or organisations, whom or which the Directors admit to membership in accordance with this Constitution.

- 10.2 Applicants for membership of the Company must be:
- (a) a current or former scholar or honorary scholar of CAT or the Company;
  - (b) a substantial donor to CAT or the Company; or
  - (c) admitted to a degree, diploma or other qualification by the University of Cambridge.
- 10.3 Members must not be current Directors.

## 11. Admission

- 11.1 The number of Members is unlimited.
- 11.2 The initial Members of the Company are the persons who have consented to act as Members and are set out in the Company's application for registration as a Company.
- 11.3 Applications for membership of the Company must be made in the form approved by the Directors from time to time, provided that each such application must contain:
- (a) an undertaking on the part of the applicant to be bound by this Constitution;
  - (b) the postal address and electronic mail address of the applicant;
  - (c) particulars of the applicant's eligibility for membership;
  - (d) if the applicant is a corporation or organisation, the name of the corporation or organisation's proposed Representative; and
  - (e) the signature (or where applicable, the seal) of the applicant, or such other form of authentication (electronic or otherwise) approved by the Directors from time to time.
- 11.4 The Directors will consider each application for membership at the next meeting of Directors after the application is received. In considering an application for membership, the Directors may:
- (a) accept the application by a majority vote; or
  - (b) reject the application by a majority vote; or
  - (c) ask the applicant to give more evidence of eligibility for membership.
- 11.5 If the Directors ask for more evidence under clause 11.4(c), their determination of the application for membership is deferred until the evidence is given.
- 11.6 The Directors do not have to give any reasons for rejecting an application for membership.
- 11.7 As soon as practicable following acceptance of an application for membership, the Secretary will send the applicant written notice of the acceptance.
- 11.8 The rights and privileges of every Member are personal to each Member and are not transferable by the Member's own act or by operation of law.

## 12. Ceasing to be a Member

- 12.1 A Member's membership of the Company will cease:
- (a) automatically and immediately upon the Member becoming a Director;
  - (b) if the Member gives the Secretary written notice of resignation, from the date of receipt of that notice by the Secretary;
  - (c) if a majority of the Members present and voting at a general meeting by resolution terminate the membership of a Member:

- (i) whose conduct in their opinion renders it undesirable that that Member continue to be a Member of the Company; and
  - (ii) provided that the Member has been given at least 21 days' notice of the resolution and has had the opportunity to be heard at the meeting at which the resolution is proposed;
- (d) if the Member:
  - (i) dies;
  - (ii) becomes mentally incapacitated or whose person or estate is liable to be dealt with in any way under the laws relating to mental health; or
  - (iii) is convicted of an indictable offence;
- (e) where the Member is not an individual, if:
  - (i) a liquidator, receiver or administrator is appointed to the Member; or
  - (ii) an order is made by a Court for the winding-up or de-registration of the Member.

## 13. Representatives

13.1 Any corporation or organisation which is a Member may by written notice to the Secretary:

- (a) appoint a natural person to act as its representative in all matters connected with the Company as permitted by the Corporations Act (**Representative**); and
- (b) remove a Representative.

13.2 A Representative is entitled to:

- (a) exercise at a general meeting all the powers which the corporation or organisation which appointed him or her could exercise if it were a natural person;
- (b) stand for election as an office bearer or Director; and
- (c) be counted towards a quorum on the basis that the Member corporation or organisation is to be considered personally present at a general meeting by its Representative.

13.3 A certificate executed in accordance with section 127 of the Corporations Act is rebuttable evidence of the appointment or of the removal of the appointment (as appropriate) of the Representative.

13.4 The chairperson of a general meeting may allow a Representative to vote on the condition that he or she subsequently establishes his or her status as a Representative within a period prescribed by and to the satisfaction of the chairperson of the general meeting.

13.5 The appointment of a Representative may set out restrictions on the Representative's powers.

## General meetings

### 14. Calling general meeting

14.1 A general meeting may only be called:

- (a) by a Directors' resolution; or
- (b) as otherwise provided in the Corporations Act.

14.2 A general meeting may be held at two or more venues simultaneously using any technology that gives the Members as a whole a reasonable opportunity to participate.

## 15. Notice of general meeting

15.1 Subject to the provisions of the Corporations Act allowing general meetings to be held with shorter notice, at least 21 days written notice (exclusive of the day on which the notice is served or deemed to be served and of the day for which notice is given) must be given to Members of any general meeting.

15.2 A notice calling a general meeting:

- (a) must specify the place, date and time of the meeting and if the meeting is to be held in two or more places, the technology that will be used to facilitate this; and
- (b) must state the general nature of the business to be transacted at the meeting; and
- (c) may specify a place, facsimile number and electronic address for the purposes of proxy appointment.

## 16. Business

16.1 The business of a general meeting may include:

- (a) any of the following matters, even if not referred to in the notice of meeting:
  - (i) consideration of the annual financial report, directors' report and Auditor's report;
  - (ii) election of Directors;
  - (iii) appointment of the Auditor;
  - (iv) fixing the Auditor's remuneration;
- (b) any business which under this Constitution or the Corporations Act is required to be transacted at a general meeting; and
- (c) any other business which may lawfully be transacted at a general meeting.

16.2 Unless the Corporations Act provides otherwise and subject to clause 16.6:

- (a) no business may be transacted at a general meeting unless the general nature of the business is stated in the notice calling the meeting; and
- (b) except with the approval of the Directors or chairperson, no person may move any amendment to a proposed resolution the terms of which are set out in the notice calling the meeting or to a document which relates to such a resolution and a copy of which has been made available to Members to inspect or obtain.

16.3 A person may waive notice of any general meeting by written notice to the Company.

16.4 The chairperson of an annual general meeting must allow a reasonable opportunity for the Members as a whole at the meeting to:

- (a) ask questions about or make comments on the management of the Company; and
- (b) ask the Auditor or their representative questions relevant to the conduct of the audit and the preparation and content of the Auditor's report for the Company.

- 16.5 The Directors may postpone or cancel any general meeting (other than a meeting requested or called by Members) at any time before the day of the meeting. The Directors must give notice of the postponement or cancellation to all persons entitled to receive notices of a general meeting.
- 16.6 A person's attendance at a general meeting waives any objection that person may have to:
- (a) 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; and
  - (b) the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting, unless the person objects to considering the matter when it is presented.

## Proceedings at general meetings

### 17. Member

In clauses 18, 19, 21 and 25, **Member** includes a Member present in person or by proxy or attorney.

### 18. Quorum

- 18.1 No business may be transacted at a general meeting unless a quorum of Members is present when the meeting proceeds to business.
- 18.2 A quorum of Members is ten Members.
- 18.3 If a quorum is not present within 30 minutes after the time appointed for a general meeting:
- (a) if the general meeting was called on the requisition of Members, it is automatically dissolved; or
  - (b) in any other case:
    - (i) it will stand adjourned to the same time and place seven days after the meeting, or to another day, time and place determined by the Directors; and
    - (ii) if at the adjourned general meeting a quorum is not present within 30 minutes after the time appointed for the general meeting, the general meeting is automatically dissolved.

### 19. Chairperson

- 19.1 The chairperson, or in the chairperson's absence the deputy chairperson, of Directors' meetings will be the chairperson at every general meeting.
- 19.2 The Directors present may elect a chairperson of a general meeting if:
- (a) there is no chairperson or deputy chairperson; or
  - (b) neither the chairperson nor deputy chairperson is present within 15 minutes after the time appointed for holding the general meeting; or
  - (c) the chairperson and deputy chairperson are unwilling to act as chairperson of the general meeting.
- 19.3 If no election is made under clause 19.2, then the Members may elect one of the Directors or Members present as chairperson.

19.4 If there is a dispute at a general meeting about a question of procedure, the chairperson may determine the question.

## 20. Adjournment

20.1 The chairperson of a general meeting at which a quorum is present:

- (a) in his or her discretion may adjourn the general meeting with the meeting's consent; and
- (b) must adjourn the general meeting if the meeting directs him or her to do so.

20.2 An adjourned general meeting may take place at a different venue to the initial general meeting.

20.3 The only business that can be transacted at an adjourned general meeting is the unfinished business of the initial general meeting.

20.4 Notice of an adjourned general meeting must only be given in accordance with clause 15.1 if a general meeting has been adjourned for more than 21 days.

## 21. Decision on questions

21.1 Subject to the Corporations Act in relation to special resolutions, a resolution is carried if a majority of the votes cast on the resolution are in favour of the resolution.

21.2 A resolution put to the vote of a meeting is decided on a show of hands unless a poll is demanded in accordance with the Corporations Act.

21.3 Unless a poll is demanded:

- (a) a declaration by the chairperson that a resolution has been carried, carried by a specified majority, or lost; and
- (b) an entry to that effect in the minutes of the meeting,

are conclusive evidence of the fact without proof of the number or proportion of the votes in favour of or against the resolution.

21.4 The demand for a poll may be withdrawn.

21.5 A decision of a general meeting may not be impeached or invalidated on the ground that a person voting at the general meeting was not entitled to do so.

## 22. Taking a poll

22.1 A poll will be taken when and in the manner that the chairperson directs.

22.2 The result of the poll will be the resolution of the meeting at which the poll was demanded.

22.3 The chairperson may determine any dispute about the admission or rejection of a vote.

22.4 The chairperson's determination, if made in good faith, will be final and conclusive.

22.5 A poll demanded on the election of the chairperson or the adjournment of a general meeting must be taken immediately.

22.6 After a poll has been demanded at a general meeting, the general meeting may continue for the transaction of business other than the question on which the poll was demanded.

## 23. Casting vote of chairperson

The chairperson does not have a casting vote in a meeting of Members.

## 24. Auditor's right to be heard

The Auditor is entitled to:

- (a) attend any general meeting of the Company;
- (b) be heard at any general meeting of the Company on any part of the business of the meeting that concerns the Auditor in their capacity as auditor, even if:
  - (i) the Auditor retires at the general meeting; or
  - (ii) Members pass a resolution to remove the Auditor from office; and
- (c) authorise a person in writing to attend and speak at any general meeting as the Auditor's representative.

## Votes of Members

### 25. Entitlement to vote

25.1 Each Member who is entitled to vote on a matter, has one vote, whether on a show of hands or a poll.

### 26. Objections

26.1 An objection to the qualification of a voter may only be raised at the general meeting or adjourned general meeting at which the voter tendered its vote.

26.2 An objection must be referred to the chairperson of the general meeting, whose decision is final.

26.3 A vote which the chairperson does not disallow because of an objection is valid for all purposes.

### 27. Lodgement of proxy

27.1 The written appointment of a proxy or attorney must be received by the Company, at least 48 hours (unless otherwise specified in the notice of meeting to which the proxy relates) before:

- (a) the time for holding the general meeting or adjourned general meeting at which the appointee proposes to vote; or
- (b) the taking of a poll on which the appointee proposes to vote.

27.2 The Company receives an appointment of a proxy and any power of attorney or other authority under which it was executed when they are received at:

- (a) the Company's registered office;
- (b) a facsimile number at the Company's registered office; or
- (c) a place, facsimile number or electronic address specified for that purpose in the notice of meeting.

## 28. Validity

A vote cast in accordance with an appointment of proxy or power of attorney is valid even if before the vote was cast the appointor:

- (a) died;
- (b) became mentally incapacitated; or
- (c) revoked the proxy or power,

unless any written notification of the death, unsoundness of mind or revocation was received by the Company before the relevant general meeting or adjourned general meeting.

## Appointment and removal of Directors

### 29. Number of Directors

- 29.1 There will be not less than four and no more than twelve Directors unless the Company in general meeting by resolution changes the maximum number.
- 29.2 The initial Directors of the Company are the persons who have consented to act as directors and are set out in the Company's application for registration as a Company. Those persons hold office subject to the Constitution.
- 29.3 A Director appointed under clause 29.2 must retire at the next annual general meeting, and is eligible for re-election at that meeting.
- 29.4 Where possible, the Board should be constituted by a person resident in each of the Australian Capital Territory, the State of New South Wales, the Northern Territory, the State of Queensland, the State of South Australia, the State of Tasmania, the State of Victoria and the State of Western Australia.

### 30. Eligibility

- 30.1 Directors of the Company must be:
  - (a) a current or former scholar or honorary scholar of CAT or the Company;
  - (b) a substantial donor to CAT or the Company; or
  - (c) admitted to a degree, diploma or other qualification by the University of Cambridge.
- 30.2 Where possible, priority should be given to current or former scholars or honorary scholars of CAT or the Company.

### 31. Appointment and removal of Directors

- 31.1 The Company may by resolution passed in general meeting:
  - (a) appoint new Directors;
  - (b) subject to clause 29.1 increase or reduce the number of Directors;
  - (c) remove any Director before the end of the Director's period of office; and
  - (d) appoint another person in the Director's place.
- 31.2 A person appointed under clause 31.1(d) will hold office for the period for which the Director replaced would have held office if the Director had not been removed.

- 31.3 If the conduct or position of any Director is such that continuance in office appears to the majority of the Directors to be prejudicial to the interests of the Company, a majority of Directors at a meeting of the Directors specifically called for that purpose may suspend that Director.
- 31.4 Within 14 days of the suspension, the Directors must call a general meeting, at which the Members may either confirm the suspension and remove the Director from office in accordance with clause 31.1(c) or annul the suspension and reinstate the Director.

## 32. Additional and casual Directors

- 32.1 Subject to clause 29.1, the Directors may appoint any person as a Director to fill a casual vacancy or as an addition to the existing Directors.
- 32.2 A Director appointed under clause 32.1 will hold office until the next general meeting of the Company when the Director may be re-elected.
- 32.3 The Directors may invite any person to apply to be a Director of the Company.

## 33. Period of Office

- 33.1 A Director must retire from office at the conclusion of the second annual general meeting after the Director was last elected.
- 33.2 A retiring Director remains in office until the end of the meeting and will be eligible for re-election at the meeting (subject to clause 33.3).
- 33.3 A retiring Director will be ineligible for re-election after serving three consecutive terms in office unless otherwise approved by a special resolution of Members.
- 33.4 For the purpose of this clause 33, 'term' means the period of office that follows a Director's election and ends on the earlier of:
- (a) the Director retiring from office by reason of clause 33.1; or
  - (b) the Director resigning from office,

## 34. Nomination of Director

- 34.1 A person other than a retiring Director is not eligible for election as a Director at a general meeting unless the person, or a Member who intends to propose the person, has left at the Company's registered office a written notice signed by him or her:
- (a) giving the person's consent to the nomination; and
  - (b) stating either that the person is a candidate for the office of Director or that the Member intends to propose the person for election.
- 34.2 A notice given in accordance with clause 34.1 must be left at the Company's registered office at least 30 days before the relevant general meeting.
- 34.3 A written notice referring to all Director vacancies and each candidate for election, must be sent to all Members at least seven days before every general meeting at which an election of a Director will take place.
- 34.4 Directors can nominate themselves for election as Directors by following the process set out in this clause 34.

## 35. Vacation of office

- 35.1 The office of a Director immediately becomes vacant if the Director:
- (a) is prohibited by the Corporations Act from holding office or continuing as a Director;
  - (b) is liable to have a person appointed, under a law relating to the administration of estates of persons who through mental or physical incapacity are incapable of managing their affairs, to administer it, or becomes in the opinion of the Directors incapable of performing his or her duties;
  - (c) resigns by notice in writing to the Company;
  - (d) is removed by a resolution of the Company;
  - (e) is absent from two consecutive Directors' meetings without leave of absence from the chairperson; or
  - (f) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of the interest as required by the Corporations Act.
- 35.2 Any Director ceasing to be a Director under this clause 35 irrevocably appoints the Secretary as his/her attorney to execute any documents required to give effect to their resignation as a Director.

## Powers and duties of Directors

### 36. Powers and duties of Directors

- 36.1 The business of the Company is managed by the Directors who may exercise all powers of the Company that this Constitution and the Corporations Act do not require to be exercised by the Company in general meeting.
- 36.2 Without limiting the generality of clause 36.1, the Directors may exercise all the powers of the Company to:
- (a) borrow money;
  - (b) charge any property or business of the Company;
  - (c) issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person; and
  - (d) guarantee or to become liable for the payment of money or the performance of any obligation by or of any other person.

## Proceedings of Directors

### 37. Directors' meetings

- 37.1 A Director may at any time, and the Secretary must on the request of a Director, call a Directors' meeting.
- 37.2 A Directors' meeting must be called on at least 24 hours notice of a meeting to each Director and each Alternate Director.
- 37.3 It is not necessary to give notice of a meeting of the Directors to an Australian resident whom the Secretary, when giving notice to the other Directors, reasonably believes to be temporarily outside Australia.

- 37.4 Subject to the Corporations Act, a Directors' meeting may be held by the Directors communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion.
- 37.5 The Directors need not all be physically present in the same place for a Directors' meeting to be held.
- 37.6 Subject to clause 40, a Director who participates in a meeting held in accordance with this Constitution is taken to be present and entitled to vote at the meeting.
- 37.7 Clauses 37.4 to 37.5 apply to meetings of Directors' committees as if all committee members were Directors.
- 37.8 The Directors may meet together, adjourn and regulate their meetings as they think fit.
- 37.9 A quorum is 50% or more of Directors for the time being.
- 37.10 Where a quorum cannot be established for the consideration of a particular matter at a meeting of Directors, the chairperson may call a general meeting to deal with the matter.
- 37.11 Notice of a meeting of Directors may be given in writing, or the meeting may be otherwise called using any technology consented to by all the Directors.

## 38. Decision on questions

- 38.1 Subject to an express term to the contrary in this Constitution, matters to be determined by the Directors are to be decided by a majority of votes of the Directors present and voting at a meeting of Directors and, subject to clause 40, each Director has one vote.
- 38.2 The chairperson of a meeting does not have a casting vote in addition to his or her vote as a Director or Alternate Director.
- 38.3 An Alternate Director has one vote for each Director for whom he or she is an alternate.
- 38.4 If the Alternate Director is a Director, he or she also has a vote as a Director.

## Payments to Directors

### 39. Payments to Directors

No payment will be made to any Director of the Company other than payment:

- (a) of out of pocket expenses incurred by the Director in the performance of any duty as Director of the Company where the amount payable does not exceed an amount previously approved by the Directors of the Company;
- (b) for any service rendered to the Company by the Director in a professional or technical capacity, other than in the capacity as Director, where the provision of the service has the prior approval of the Directors of the Company and where the amount payable is approved by the Directors of the Company and is not more than an amount which commercially would be reasonable payment for the service;
- (c) of any salary or wage due to the Director as an employee of the Company where the terms of employment have been approved by the Directors of the Company; and
- (d) relating to an indemnity in favour of the Director and permitted by section 199A of the Corporations Act or a contract of insurance permitted by section 199B.

## 40. Directors' interests

- 40.1 No contract made by a Director with the Company and no contract or arrangement entered into by or on behalf of the Company in which any Director may be in any way interested is avoided or rendered voidable merely because of the Director holding office as a director or because of the fiduciary obligations arising out of that office.
- 40.2 No Director contracting with or being interested in any arrangement involving the Company is liable to account to the Company for any profit realised by or under any such contract or arrangement merely because of the Director holding office as a director or because of the fiduciary obligations arising out of that office.
- 40.3 A Director is not disqualified merely because of being a Director from contracting with the Company in any respect.
- 40.4 Subject to clause 39, a Director or a body or entity in which a Director has a direct or indirect interest may:
- (a) enter into any agreement or arrangement with the Company;
  - (b) hold any office or place of profit other than as auditor in the Company; and
  - (c) act in a professional capacity other than as auditor for the Company,
- and the Director or the body or entity can receive and keep beneficially any remuneration, profits or benefits under any agreement or arrangement with the Company or from holding an office or place of profit in or acting in a professional capacity with the Company.
- 40.5 A Director who has a material personal interest in a matter that is being considered at a Directors' meeting must not:
- (a) be present while the matter is being considered at the meeting; or
  - (b) vote on the matter,
- unless permitted by the Corporations Act to do so, in which case the Director may:
- (c) be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement;
  - (d) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and
  - (e) vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.
- 40.6 A Director may be or become a director or other officer of, or otherwise interested in, any related body corporate or any other body corporate promoted by the Company or in which the Company may be interested as a vendor, shareholder or otherwise and is not accountable to the Company for any remuneration or other benefits received by the Director as a director or officer of, or from having an interest in, that body corporate.

## 41. Alternate Directors

- 41.1 A Director may, with the approval of the chairperson, appoint any person as his or her alternate for a period determined by the chairperson.
- 41.2 An Alternate Director is entitled to notice of Directors' meetings and, if the appointor is not present at a meeting, is entitled to attend, be counted in a quorum and vote as a Director.

- 41.3 An Alternate Director is an officer of the Company and is not an agent of the appointor.
- 41.4 The provisions of this Constitution which apply to Directors also apply to Alternate Directors.
- 41.5 The appointment of an Alternate Director:
- (a) may be revoked at any time by the appointor or by the other Directors; and
  - (b) end automatically when the appointor ceases to be a Director.
- 41.6 Any appointment or revocation under this clause must be effected by written notice delivered to the Secretary.

## 42. Remaining Directors

- 42.1 The Directors may act even if there are vacancies on the board.
- 42.2 If the number of Directors is not sufficient to constitute a quorum at a Directors' meeting, the Directors may act only to:
- (a) appoint a Director; or
  - (b) call a general meeting.

## 43. Chairperson

- 43.1 Subject to clause 43.2, the Directors may elect a Director as chairperson of Directors' meetings and may determine the period for which the chairperson will hold office
- 43.2 The period for which a chairperson can hold office will not exceed two terms.
- 43.3 If no chairperson is elected or if the chairperson is not present at any Directors' meeting within ten minutes after the time appointed for the meeting to begin, the Directors present must elect a Director to be chairperson of the meeting.
- 43.4 The Directors may elect a Director as deputy chairperson to act as chairperson in the chairperson's absence.

## 44. Delegation to Committees

- 44.1 The Directors may delegate any of their powers, other than those which by law must be dealt with by the Directors as a board, to a committee or committees, including the State Committees referred to in clause 9.
- 44.2 The Directors may at any time revoke or vary any delegation of power to a committee.
- 44.3 At least one member of each committee must be a Director.
- 44.4 A committee must exercise its powers in accordance with any directions of the Directors and a power exercised in that way is taken to have been exercised by the Directors.
- 44.5 A committee may be authorised by the Directors to sub-delegate all or any of the powers for the time being vested in it.
- 44.6 Meetings of any committee of Directors will be governed by the provisions of this Constitution which deal with Directors' meetings so far as they are applicable and are not inconsistent with any directions of the Directors. The provisions apply as if each member was a Director.

## 45. Written resolutions

- 45.1 The Directors may pass a resolution without a Director's meeting being held if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. The resolution is passed when the last Director signs.
- 45.2 For the purposes of clause 45.1, separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- 45.3 Any document referred to in this clause may be in the form of a facsimile or electronic transmission.
- 45.4 The minutes of Directors' meetings must record that a meeting was held in accordance with this clause.
- 45.5 This clause applies to meetings of Directors' committees as if all members of the committee were Directors.

## 46. Validity of acts of Directors

If it is discovered that:

- (a) there was a defect in the appointment of a person as a Director, Alternate Director or member of a Directors' committee; or
- (b) a person appointed to one of those positions was disqualified,

all acts of the Directors or the Directors' committee before the discovery was made are as valid as if the person had been duly appointed and was not disqualified.

## 47. Minutes and Registers

- 47.1 The Directors must cause minutes to be made of:
- (a) the names of the Directors present at all Directors' meetings and meetings of Directors' committees;
  - (b) all proceedings and resolutions of general meetings, Directors' meetings and meetings of Directors' committees;
  - (c) all resolutions passed by Directors in accordance with clause 45;
  - (d) all appointments of officers;
  - (e) all orders made by the Directors and Directors' committees; and
  - (f) all disclosures of interests made under clause 40.
- 47.2 Minutes must be signed by the chairperson of the meeting or by the chairperson of the next meeting of the relevant body.
- 47.3 The Company must keep all registers required by this Constitution and the Corporations Act.

# Appointment of attorneys and agents

## 48. Appointment of attorneys and agents

48.1 The Directors may from time to time by resolution or power of attorney executed in accordance with section 127 of the Corporations Act appoint any person to be the attorney or agent of the Company:

- (a) for the purposes;
- (b) with the powers, authorities and discretions (not exceeding those exercisable by the Directors under this Constitution);
- (c) for the period; and
- (d) subject to the conditions,  
determined by the Directors.

48.2 A power of attorney may contain such provisions for the protection and convenience of persons dealing with an attorney as the Directors think fit.

48.3 An attorney or agent appointed under this clause may not be authorised by the Directors to sub-delegate all or any of the powers authorities and discretions for the time being vested in it.

## Secretary

### 49. Secretary

49.1 If required by the Corporations Act, there must be at least one secretary of the Company.

49.2 The Secretary is entitled to attend and be heard on any matter at all Directors' and general meetings.

49.3 The Directors may suspend, remove or dismiss the Secretary.

## Inspection of records

### 50. Inspection of records

50.1 Except as otherwise required by the Corporations Act, the Directors may determine whether and to what extent, and at what times and places and under what conditions, the financial records and other documents of the Company or any of them will be open for inspection by Members.

50.2 Except as otherwise required by the Corporations Act, a Member does not have the right to inspect any financial records or other documents of the Company unless the Member is authorised to do so by a court order or a resolution of the Directors.

## Notices

### 51. Service of notices

51.1 Notice may be given by the Company to any person who is entitled to notice under this Constitution:

- (a) by serving it on the person; or

- (b) by sending it by post, facsimile transmission or electronic mail to the person at the person's address shown in the Register or the address supplied by the person to the Company for sending notices to the person.
- 51.2 A notice sent by post is taken to be served:
- (a) by properly addressing, prepaying and posting a letter containing the notice; and
  - (b) within Australia on the day after the day on which it was posted or in any other country, seven days after the day on which it was posted.
- 51.3 A notice sent by facsimile transmission or electronic mail is taken to be served:
- (a) by properly addressing the facsimile transmission or electronic mail and transmitting it; and
  - (b) on the day of its despatch.
- 51.4 If a Member does not have an address recorded in the Register, a notice will be taken to be served on that Member 24 hours after it was posted on a notice board at the Company's registered office.
- 51.5 A Member whose address recorded in the Register is not in Australia may specify in writing an address in Australia to be taken to be the Member's for the purposes of clause 51.
- 51.6 A certificate in writing signed by a Director, Secretary or other officer of the Company that a document or its envelope or wrapper was addressed and stamped and was posted is conclusive evidence of posting.
- 51.7 Subject to the Corporations Act the signature to a written notice given by the Company may be written or printed.
- 51.8 All notices sent by post outside Australia must be sent by prepaid registered airmail post.

## 52. Persons entitled to notice

- 52.1 Notice of every general meeting must be given to:
- (a) every Member;
  - (b) every Director and Alternate Director; and
  - (c) any Auditor.
- 52.2 No other person is entitled to receive notice of a general meeting.

## Audit and accounts

### 53. Audit and accounts

- 53.1 The Directors must cause the Company to keep written financial records in relation to the business of the Company in accordance with the requirements of the Corporations Act.
- 53.2 The Directors must cause the financial records of the Company to be audited in accordance with the requirements of the Corporations Act.

# Winding up

## 54. Winding up

54.1 If the Company is wound up:

- (a) each Member; and
- (b) each person who has ceased to be a Member in the preceding year,

undertakes to contribute to the property of the Company for the:

- (c) payment of debts and liabilities of the Company (in relation to clause 54.1(b), contracted before the person ceased to be a Member) and payment of costs, charges and expenses of winding up; and
- (d) adjustment of the rights of the contributories amongst themselves,

such amount as may be required, not exceeding \$10.

54.2 If any surplus remains following the winding up of the Company, the surplus will not be paid to or distributed amongst Members, but will be given or transferred to another corporation which, by its constitution, is:

- (a) required to pursue charitable purposes only;
- (b) required to apply its profits (if any) or other income in promoting its objects; and
- (c) prohibited from making any distribution to its members or paying fees to its directors,

such corporation to be determined by the Members at or before the winding up and in default, by application to the Supreme Court of Victoria for determination.

# Indemnity

## 55. Indemnity

55.1 To the extent permitted by law and subject to the restrictions in section 199A of the Corporations Act, the Company indemnifies every person who is or has been an officer of the Company against:

- (a) any liability (other than for legal costs) incurred by that person as an officer of the Company (including liabilities incurred by the officer as an officer of a subsidiary of the Company where the Company requested the officer to accept that appointment); or
- (b) reasonable legal costs incurred in defending an action for a liability incurred by that person as an officer of the Company (including legal costs incurred by the officer as an officer of a subsidiary of the Company where the Company requested the officer to accept that appointment).

55.2 The amount of any indemnity payable under clauses 55.1(a) or 55.1(b) will include an additional amount (**GST Amount**) equal to any GST payable by the officer being indemnified (**Indemnified Officer**) in connection with the indemnity (less the amount of input tax credit claimable by the Indemnified Officer in connection with the indemnity). Payment of any indemnity which includes a GST Amount is conditional upon the Indemnified Officer providing the Company with a GST tax invoice for the GST Amount.

55.3 For the purposes of this clause, **officer** means:

- (a) a Director; or
- (b) a Secretary.