

# Constitution of the Council of Australian Volunteer Fire Associations Limited



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**Council of Australian Volunteer Fire Associations Limited  
ACN 163 055 883**

**Constitution**

## **Preliminary**

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### **1. Definitions**

In this Constitution:

**Acting Chair** has the meaning given in Article 23(c).

**AFAC** means Australasian Fire and Emergency Services Authorities Council Limited  
ACN 060 049 327.

**Annual Fee** means the Fee in respect of a Financial Year determined and required to be paid by Members in accordance with this Constitution.

**Attending Member** means, in relation to a meeting of Members, the Member present at the place of the meeting, in person or by proxy, by attorney or, where the Member is a body corporate, by Corporate Representative.

**AEMVF** means the Australian Emergency Management Volunteer Forum formed as a result of a recommendation from the National Volunteer Summit, held in Canberra in October 2001, as part of the International Year of Volunteers.

**Board** means the Directors of the Council from time to time.

**Board Chairperson** means the person elected pursuant to Article 49 from time to time.

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

**Committee Member** means a member of the board, committee or an equivalent management body of a Member.

**Corporate Representative** means a person authorised in accordance with the Corporations Act by a Member which is a body corporate to act as its representative at a meeting of Members.

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

**Council** means the Council of Australian Volunteer Fire Associations, by whatever name called from time to time.

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

**Entities** means agencies, government departments or any other organisations.

**Executive** means the persons referred to in Article 46 with the powers referred to in that Article and elsewhere in this Constitution.

**Fee** means a fee or levy referred to in Article 15(a) or 17(b).

**Financial Member** means a Member in respect of which all Fees or any other amount due and payable to the Council in respect of that Member's membership of the Council has been paid, or who has obtained relief from payment in accordance with Article 15 of this Constitution.

**Financial Year** means each financial year of the Council.

**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 Council or in or arising out of the conduct of the business of the Council, including as result of appointment or nomination by the Council or a subsidiary as a trustee or as a director, officer or employee of another body corporate.

**Member** means a person whose name is entered in the Register as a member of the Council.

**Meeting Chairperson** means in respect of a meeting of Members, the chairperson of that meeting determined in accordance with Article 23, including where Article 23(c) applies, an Acting Chair.

**Nominated Representatives** means the person or persons (being not more than 2) nominated by a Member to represent that Member at meetings of Members, each being a person who is a Committee Member of that Member or who holds any other management position in that Member which is approved by resolution of the Members.

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

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

**Relevant Officer** means a person who is, or has been, a Director or Secretary, or member of the Executive.

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

**Treasurer** means a person appointed as, or to perform the duties of, treasurer of the Council for the time being.

**Volunteer Fire Brigade Entity** means an association or other entity whose objectives are to promote the interests of, and provide representation for, volunteer fire fighters of a particular state or territory of Australia, including those entities who represent auxiliary fire fighters.

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## 2. Interpretation

Headings are for convenience only and do not affect interpretation. Unless the context indicates a contrary intention, in this Constitution:

- (a) a word importing the singular includes the plural (and vice versa);
- (b) a word indicating a gender includes every other gender;
- (c) 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;
- (d) the word "includes" in any form is not a word of limitation;

- (e) a reference to something being "written" or "in writing" includes that thing being represented or reproduced in any mode in a visible form;
- (f) 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;
- (g) 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; and
- (h) a reference to an agency or body if that agency or body ceases to exist or is reconstituted, renamed or replaced or has its powers or function removed (**obsolete body**), means the agency or body which performs most closely the functions of the obsolete body.

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### 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 Council after taking into account any waiver, modification or exemption which is in force either generally or in relation to the Council; 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 matters as the matters for which it is defined in the Corporations Act, unless that word or phrase is otherwise defined in this Constitution.
- (b) The replaceable rules in the Corporations Act do not apply to the Council.

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### 4. Enforcement

- (a) Each Member submits to the non-exclusive jurisdiction of the courts of New South Wales, 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.

## Objectives

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### 5. Objectives of the Council

- (a) The objectives of the Council are to:
  - (i) give volunteer fire fighters a united voice in discussions and negotiations with governments and key stakeholders;

- (ii) assist volunteer fire fighters to support and protect their communities and the diverse environments across Australia;
  - (iii) assist the Volunteer Fire Brigade Entities and foster the interests of volunteer fire fighters in Australia through the sharing of information and networking;
  - (iv) act as an advocate for its Members on issues that the Members agree are best resolved at the national level;
  - (v) identify issues which may, as a consequence of national policy formulation, impact directly or indirectly upon the membership of Volunteer Fire Brigade Entities;
  - (vi) with the consent of its Members, make comments and representations to AFAC or to any other Entity considered necessary on issues affecting volunteer fire fighters in Australia;
  - (vii) appoint, as required, one or more delegates to the AEMVF and other AFAC working groups and work with these bodies on issues affecting volunteer fire fighters;
  - (viii) at the request of a Member, make representations on issues impacting on volunteer fire fighters represented by that Member, in the State or Territory from which the Member is derived, provided that where there is more than one Member in a State or Territory, all Members from that State or Territory must agree to the representations being made;
  - (ix) develop and foster strategic relationships with individuals and other bodies to advance the collective pursuits of Members; and
  - (x) carry out any other function consistent with the objectives of the Council.
- (b) The Council recognises the autonomy of its Members and will only act in the interests and with consensus of its Members on issues of common interest.

## Income and property

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### 6. Application of income and property

- (a) Subject to Articles 6(b) and 6(c), the Council must apply the profits (if any) or other income and property of the Council solely towards the promotion of the objectives of the Council set out in Article 5 and no portion of it may be paid or transferred, directly or indirectly, to any Member whether by way of dividend, bonus or otherwise.
- (b) Nothing in Article 6(a) prevents the Council making any payment in good faith of:
  - (i) reasonable and proper remuneration to any Member for any services actually rendered or goods supplied to the Council in the ordinary and usual course of business of the Council;
  - (ii) the payment or reimbursement of out-of-pocket expenses incurred by a Member on behalf of the Council where the amount payable does not exceed an amount previously approved by the Members;

- (iii) reasonable and proper rent or fees to a Member for premises leased or licensed by any Member to the Council;
  - (iv) interest to a Member at a rate not exceeding a rate approved by the Members on money borrowed by the Council from the Member; or
  - (v) an amount pursuant to Article 57.
- (c) The Council must not pay fees to or on behalf of Directors or a Secretary but the Council may make payments to a Director or Secretary in good faith for:
- (i) the payment or reimbursement of out-of-pocket expenses reasonably incurred by a Director or Secretary in the performance of any duty as a director or secretary of the Council where that payment or reimbursement has been approved by the Members;
  - (ii) money to any Director or Secretary, 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 Members and the amount payable is approved by the Members and is not more than an amount which commercially would be reasonable payment for the service;
  - (iii) any salary or wage due to the Director or Secretary as an employee of the Council where the terms of employment have been approved by the Members;
  - (iv) an insurance premium in respect of a contract insuring a Director or Secretary for a liability incurred as an officer of the Council where the Members have approved the payment of the premium; or
  - (v) any payment pursuant to Article 41(a), 41(c) or 41(d) or a payment pursuant to any agreement or deed referred to in Article 41(e).

## Liability of Members

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### 7. Extent of liability

The liability of each Member is limited to \$1.00 being the amount that each Member commits to contribute to the assets of the Council if the Council 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 Council'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 Council; and
- (c) adjustment of the rights of the contributories among themselves.

## Membership

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### 8. Applications

- (a) The Council may from time to time invite a Volunteer Fire Brigade Entity which is not a Member to apply to become a Member.



- (b) Each applicant to become a Member must sign and deliver to the Council an application in the form which the Members determine.
- (c) The Members determines in their absolute discretion whether an applicant may become a Member. The Members are not required to give any reason for the rejection of any application to become a Member.
- (d) If an application to become a Member is accepted by the Members:
  - (i) the applicant must pay any Annual Fee in accordance with Articles 15 and 17 of this Constitution; and
  - (ii) the Council must give written notice of the acceptance to the applicant and enter the applicant's name in the Register..
- (e) If an application to become a Member is rejected by the Members, the Council must give written notice of the rejection to the applicant.
- (f) Failure by the Council to comply with any notice requirement in this Article 8(d) or 8(e) does not invalidate the decision regarding an application.

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## **9. No transfers**

The rights of being a Member are not transferable whether by operation of law or otherwise.

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## **10. Inspection of Records**

A Financial Member of the Council may, at any reasonable time and on reasonable notice to the Council, inspect without charge the books of the Council.

## **Cessation of membership**

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## **11. Resignation of a Member**

- (a) Subject to Article 11(b), a Member may at any time resign as a member of the Council by giving the Council notice in writing. Unless the notice provides otherwise, a resignation by a Member takes effect immediately on the giving of that notice to the Council.
- (b) 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 Council is wound up.
- (c) If a Member resigns, the Council must remove the Member's name from the Register.

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## **12. Expulsion of a Member**

- (a) Subject to Article 12(b), if:
  - (i) a Member is in breach of a provision of this Constitution; or
  - (ii) any act or omission of a Member is, in the opinion of the Members, unbecoming of a Member, or prejudicial to the interests or reputation of the Council;

- (iii) a Member is, or any step is taken for that Member to become, either an insolvent under administration or an externally administered body corporate; or
- (iv) the succession by another body corporate or entity to the assets and liabilities of the Member,

the Council may expel the Member by a resolution of the Members and remove the Member's name from the Register.

- (b) The Council must not expel a Member pursuant to Article 12(a) unless:
  - (i) at least 5 Business Days notice has been given to the Member stating the date, time and place at which the question of expulsion of that Member is to be considered by the Members, and the nature of alleged event giving rise to the expulsion; and
  - (ii) the affected Member is given the opportunity of explaining to the Members, orally or in writing, why the Member should not be expelled.

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### **13. Other cessation events**

If a Member being a body corporate, is deregistered pursuant to the laws of the jurisdiction in which the Member is incorporated, the Member ceases to be a member of the Council and the Council may remove the Member's name from the Register.

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### **14. Effect of cessation**

- (a) A person who ceases to be a Member:
  - (i) remains liable to pay, and must immediately pay, to the Council all amounts that at date of cessation were payable by the person to the Council as a Member; and
  - (ii) must pay to the Council interest at the rate the Members resolve on those amounts from the date of cessation until and including the date of payment of those amounts.
- (b) The Council may by resolution of the Members waive any or all of its rights pursuant to this Article 14.

### **Fees and other payments**

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### **15. Setting of Fees**

- (a) Subject to the Corporations Act, the Council may by resolution of the Members require payment of a Fee by Members of any amount, on any terms and at any times as the Members resolve, including payment by instalments.
- (b) If the Council requires the payment of an Annual Fee, the amount of the Annual Fee will be determined at each annual general meeting of the Council. Until the first annual general meeting of the Council, the amount of any Annual Fee will be determined by the Members.
- (c) The Members may when considering Member applications pursuant to Article 8 of this Constitution make a Fee payable for one or more Members for different amounts and at different times as the Members resolve.

- (d) The Council may by resolution of the Members resolve that the amount of a Fee be varied when a request for assistance is received from a Member experiencing difficulty in paying the full amount of the Fee.
- (e) Any request for assistance pursuant to Article 15(d) of this Constitution will be considered by the Members and any decisions made will be based on the merits of each request.
- (f) The Council may by resolution of the Members revoke or postpone a Fee payable by a Member or extend the time for payment of a Fee by a Member, at any time prior to the date on which payment of that Fee is due.

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## **16. Notice of Fees**

- (a) The Council must give notice of the Fee to the Members who are required to pay the Fee at least 10 Business Days before the due date for payment. The notice must specify the amount of the Fee, the time or times and place of payment and any other information as the Members resolve.
- (b) The non-receipt of a notice of a Fee by, or the accidental omission to give notice of a Fee to, any Member does not invalidate the requirement to pay the Fee.

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## **17. Payment of Fees**

- (a) Each Member must pay to the Council the amount of the Fee payable by the Member in the manner, at the time and at the place specified in the notice of the Annual Fee.
- (b) If the terms of membership of a class of Members require an amount to be paid as fee or levy on a fixed date, each Member in that class of Members must pay that amount to the Council at that time and that amount is treated for the purposes of this Constitution as if a fee for that amount had been properly determined by the Members of which appropriate notice has been given.
- (c) 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) the person is in the class of Members liable to pay the Fee;
  - (iii) there is a record in the minute books of the Council of the resolution determining the Fee or the terms of membership of a class of Members requiring the payment of 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.

## **Proceedings of Members**

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### **18. Written resolutions of Members**

- (a) The Council may pass a resolution without a meeting of Members being held if notice in writing of the resolution is given to all Members and a majority of the Members entitled to vote on the resolution (not being less than the number required

for a quorum at a meeting of Members) 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 18(a) may consist of several documents in the same form each signed by one or more Members and is effective when signed by the last of the Members constituting the majority of the Members. A facsimile transmission or other document produced by electronic means under the name of a Member with the Member's authority is taken to be a document signed by the Member for the purposes of Article 18(a) and is taken to be signed when received by the Council in legible form.

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## **19. Calling meetings of Members**

- (a) The Council may by resolution of the Executive call a meeting of Members.
- (b) Two Members may request the Executive to call and arrange to hold a meeting of Members.
- (c) Two Members may call or arrange to hold a meeting of Members.
- (d) A meeting of Members can be called or arranged to be held at the time and place (including 2 or more venues using technology which gives Attending Members as a whole a reasonable opportunity to participate) and in the manner that the persons calling or arranging the meeting reasonably determine.

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## **20. Notice of meetings of Members**

- (a) Where the Council has called a meeting of Members, notice of the meeting and any proxy form for the meeting may be given in the form and in the manner in which the Executive resolves, subject to any requirements of the Corporations Act.
- (b) A person may waive notice of any meeting of Members by written notice to the Council.
- (c) A person who has not duly received notice of a meeting of Members may, before or after the meeting, notify the Council of the person's agreement to anything done or resolution passed at the meeting.
- (d) A person's attendance at a meeting of Members waives any objection which that person may have had to:
  - (i) 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; or
  - (ii) the consideration of a particular matter at the meeting which is not within the business referred to in the notice of meeting, unless the person objects to considering the matter when it is presented.
- (e) Subject to the Corporations Act, anything done (including the passing of a resolution) at a meeting of Members is not invalid because either or both a person does not receive notice of the meeting or a proxy form, or the Council accidentally does not give notice of the meeting or a proxy form to a person.

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## **21. Business of meetings**

Except with the permission of the Meeting Chairperson 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 20(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.

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## 22. Quorum

- (a) No business may be transacted at a meeting of Members except, subject to Article 23, the election of the Meeting Chairperson unless a quorum for a meeting of Members is present at the time when the meeting commences.
- (b) A quorum for a meeting of Members is Attending Members (or whose Member that they represent) who comprise one half of the Members plus one entitled to vote on a resolution at that meeting or if only one representative is entitled to vote at that meeting, then that person. Each representative present may only be counted once towards a quorum. If a Member has appointed more than one proxy or attorney or Corporate Representative, only one of them may be counted towards a quorum.
- (c) If a quorum is not present within 30 minutes after the time appointed for the commencement of a meeting of Members, the meeting is dissolved unless the Meeting Chairperson adjourn the meeting to a date, time and place determined by the Meeting Chairperson.
- (d) If a quorum is not present within 30 minutes after the time appointed for the commencement of an adjourned meeting of Members, the meeting is dissolved.

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## 23. Meeting Chairperson

- (a) Subject to Articles 23(b) and 23(c), the Board Chairperson must chair each meeting of Members.
- (b) If at a meeting of Members:
  - (i) there is no Board Chairperson; or
  - (ii) the Board Chairperson is not able to be present at the meeting or is not present within 15 minutes after the time appointed for the commencement of a meeting of Members, or despite being present is unable or unwilling to chair all or part of the meeting,the Attending Members may elect one of their number, to chair that meeting of Members.
- (c) The Meeting Chairperson of a meeting of Members may, for any item of business at that meeting or for any part of that meeting, vacate the chair in favour of another person nominated by him or her (**Acting Chair**). Where an instrument of proxy appoints the Meeting Chairperson as proxy for part of proceedings for which an Acting Chair has been nominated, the instrument of proxy is taken to be in favour of the Acting Chair for the relevant part of the proceedings.

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## 24. Conduct of meetings of Members

- (a) Subject to the Corporations Act, the Meeting Chairperson of a meeting of Members is responsible for the general conduct of that meeting and for the procedures to be adopted at that meeting.

- (b) The Meeting Chairperson 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 Meeting Chairperson 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 Meeting Chairperson of a meeting of Members may determine any dispute concerning the admission, validity or rejection of a vote at the meeting.
- (e) The Meeting Chairperson 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 Meeting Chairperson 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 Meeting Chairperson 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 Meeting Chairperson, is not complying with the reasonable directions of the Meeting Chairperson;
  - (ii) has any audio or visual recording or broadcasting device;
  - (iii) has a placard or banner;
  - (iv) has an article the Meeting Chairperson 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;
  - (vii) refuses to comply with a request to turn off a mobile telephone, personal communication device or similar device; or
  - (viii) is not entitled pursuant to the Corporations Act or this Constitution to attend the meeting.
- (h) If the Meeting Chairperson 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 Meeting Chairperson may nominate a separate meeting place using any technology that gives Attending Members as a whole a reasonable opportunity to participate.
- (i) The Meeting Chairperson of a meeting of Members may withdraw from consideration by the meeting any resolution proposed in the notice convening the meeting, other than a resolution proposed by Members in accordance with the Corporations Act or a resolution required by the Corporations Act to be put to the meeting.

- (j) The Meeting Chairperson of a meeting of Members may delegate any power conferred by this Article 24 to any person.
- (k) Nothing contained in this Article 24 limits the powers conferred by law on the Meeting Chairperson of a meeting of Members.

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## **25. Attendance at meeting of Members**

- (a) Subject to this Constitution, 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, by attorney or, if the Member is a body corporate, by Corporate Representative.
- (b) A proxy, attorney or Corporate Representative of a Member must be a Nominated Representative for the Member.
- (c) The Meeting Chairperson of a meeting of Members may require a person acting as a proxy, attorney or Corporate Representative at that meeting to establish to the Meeting Chairperson's satisfaction that the person is the person who is duly appointed to act. If the person fails to satisfy this requirement, the Meeting Chairperson may:
  - (i) exclude the person from attending or voting at the meeting; or
  - (ii) permit the person to exercise the powers of a proxy, attorney or Corporate Representative on the condition that, if required by the Company, the person produces evidence of the appointment within the time set by the Meeting Chairperson.
- (d) A Director is entitled to receive notice of and to attend all meetings of Members and is entitled to speak at those meetings.
- (e) A person requested by the Executive to attend a meeting of Members is, regardless of whether that person is a Member or not, entitled to attend that meeting and, at the request of the Meeting Chairperson of the meeting, is entitled to speak at that meeting.

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## **26. Authority of Attending Members**

- (a) Unless otherwise provided in the document or resolution appointing a person as proxy, attorney or Corporate Representative 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, attorney or Corporate Representative 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 Meeting Chairperson 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, attorney or Corporate Representative how to vote on particular resolutions.

- (c) Unless otherwise provided in the document or resolution appointing a person as proxy, attorney or Corporate Representative 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.

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## **27. 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 30 and that demand is not withdrawn.
- (b) The Executive may determine that Members entitled to attend and vote at a meeting of Members may vote at that meeting without an Attending Member in respect of that person being present at that meeting (and voting in this manner is referred to in this Article 27(b) as direct voting). The Executive may determine rules and procedures in relation to direct voting, 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 Executive (whether set out in the notice of meeting or otherwise) are complied with.
- (c) Subject to this Constitution, on a show of hands at a meeting of Members, each Attending Member having the right to vote on the resolution has one vote.
- (d) Subject to this Constitution, on a poll at a meeting of Members, each Attending Member having the right to vote on the resolution has one vote.
- (e) Subject to this Constitution, where the Executive 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 27(f) must be decided by the Meeting Chairperson 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, it shall be the policy of the Council that on matters of policy determination, a consensus (no objections) of the voting Members is required. It shall be a policy of the Council that for the purpose of day to day management of the affairs of the Council that comes to a vote, a simple majority of eligible Members be required.
- (h) In the case of an equality of votes on a resolution or motion at a meeting of Members, the Meeting Chairperson of that meeting does not have the casting vote on that resolution or motion and the resolution or motion is not passed.
- (i) Unless a poll is demanded and the demand is not withdrawn, a determination by the Meeting Chairperson of a meeting of Members following a vote on a show of hands that a resolution has been passed or not passed is conclusive, without proof of the number or proportion of the votes recorded in favour or against the resolution.



- (j) The Meeting Chairperson of a meeting of Members may decide any difficulty or dispute which arises as to the number of votes which may be cast by or on behalf of any Member and the decision of the Meeting Chairperson is final and conclusive.

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## **28. 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 circumstances that contravene the Corporations Act, on a show of hands the vote of that proxy is invalid and the Council 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, attorney or Corporate Representative is valid despite the revocation of the appointment (or the authority pursuant to which the appointment was executed), if no notice in writing of that matter has been received by the Council before the time appointed for the commencement of that meeting.

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## **29. 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) An Attending Member is not entitled to vote on any resolution if that Member (or the Member that they represent) is not a Financial Member.
- (c) An Attending 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 Council must disregard any vote on a resolution at a meeting of Members purported to be cast by an Attending Member where that person is not entitled to vote on that resolution. A failure by the Council to disregard a vote on a resolution as required by this Article 29(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 Council or of the Meeting Chairperson of that meeting.

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## **30. 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 Meeting Chairperson of that meeting.
- (b) No poll may be demanded at a meeting of Members on the election of a Meeting Chairperson of that meeting, or unless the Meeting Chairperson 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 Meeting Chairperson 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.

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### **31. Proxies**

- (a) Subject to Article 25(b), 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 Member on the basis and subject to the restrictions provided in the Corporations Act.
- (c) An appointment of proxy is valid if it is in accordance with the Corporations Act or in any other form (including electronic) which the Meeting Chairperson of the meeting to which the proxy relates may determine or accept.

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### **32. Receipt of appointments**

- (a) An appointment of proxy or attorney for a meeting of Members is effective only if the Council 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 commencement of the meeting or, in the case of an adjourned meeting, resumption of the meeting.
- (b) Where a notice of meeting specifies an electronic address or other electronic means by which a Member may give the Council 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 Council if the requirements set out in the notice of meeting are complied with.

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### **33. Adjournments**

- (a) The Meeting Chairperson of a meeting of Members may at any time during the meeting:
  - (i) 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 Meeting Chairperson; or
  - (ii) for the purpose of allowing any poll to be taken or determined, suspend the proceeding of the meeting for any period as the Meeting Chairperson determines without effecting an adjournment. No business may be transacted and no discussion may take place during any suspension of proceedings unless the Meeting Chairperson otherwise allows.
- (b) If the Meeting Chairperson of a meeting of Members exercises the right to adjourn that meeting pursuant to Article 33(a), the Meeting Chairperson may (but is not obliged to) obtain the approval of Attending Members to the adjournment.

- (c) No person other than the Meeting Chairperson of a meeting of Members may adjourn that meeting.
- (d) The Council may give such notice of a meeting of Members resumed from an adjourned meeting as the Executive 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.

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## **34. Cancellations and postponements**

- (a) Subject to the Corporations Act, the Council may by resolution of the Executive 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 34(a) does not apply to a meeting called in accordance with the Corporations Act by Members or by the Executive on the request of Members, unless those Members consent to the cancellation or postponement of the meeting.
- (c) The Council may give notice of a cancellation or postponement or change of place of a meeting of Members as the Executive 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) Subject to the Corporations Act, where a meeting of Members is convened by a person or persons other than the Executive, this person or those persons may cancel or, with the approval of the Executive, postpone the meeting, prior to the date on which the meeting is to be held.
- (e) 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.

## **Directors**

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## **35. Appointment of Directors**

- (a) The number of Directors must not be less than 3.
- (b) The Council by resolution of the Members may, from time to time, appoint Directors.
- (c) The Board may at any time appoint a person to be a Director to fill a casual vacancy.
- (d) The Board may determine procedures by which:
  - (i) Nominations for appointment of a person as a Director are given; and
  - (ii) Votes are cast on the appointment of a Director, which may include a ballot where the identity of the person casting, or abstaining from casting, a vote is restricted to a voting scrutineer determined by the Board.

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## **36. Retirement of Directors**

- (a) A Director appointed pursuant to Article 35(b) must retire at the annual general meeting of the Council first occurring two years after that appointment.
- (b) Any Director appointed pursuant to Article 35(c) must retire at the end of the term of Director whose cessation of office gave rise to the vacancy.
- (c) A Director may stand for re-election after any term served.

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## **37. Termination of office**

A person ceases to be a Director if the person:

- (a) ceases to be a Committee Member of a Member;
- (b) fails to attend Council for a continuous period of 3 months without the consent of the Council;
- (c) resigns by notice in writing to the Council;
- (d) retires pursuant to Article 36 and is not reappointed;
- (e) is removed from office pursuant to the Corporations Act;
- (f) is an employee (whether full-time or part-time) of the Council or of any related body corporate of the Council and ceases to be an employee of the Council or of a related body corporate of the Council;
- (g) becomes an insolvent under administration;
- (h) becomes of unsound mind or a person whose property is liable to be dealt with pursuant to a law about mental health; or
- (i) is not permitted to be a director, or to manage a corporation, pursuant to the Corporations Act.

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## **38. 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 (except auditor) or place of profit or employment in the Council or a related body corporate of the Council;
  - (ii) holding an office or place of profit or employment in any other company, body corporate, trust or entity promoted by the Council or in which it has an interest;
  - (iii) being a member, creditor or otherwise be interested in any body corporate (including the Council), partnership or entity, except auditor of the Council;
  - (iv) entering into any agreement or arrangement with the Council; or
  - (v) acting in a professional capacity (or being a member of a firm which acts in a professional capacity) for the Council, except as auditor of the Council.

- (b) Each Director must comply with 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 Council 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 38(c), Article 38(e) and this Constitution:
  - (i) that Director may be counted in a quorum at the Council 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 Council meeting;
  - (ii) that Director may participate in and vote on matters that relate to the interest;
  - (iii) the Council 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 Council;
  - (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 Council cannot avoid any transaction that relates to the interest merely because of the existence of the interest.
- (e) Nothing in Article 38(d) affects the duties of a Director:
  - (i) who holds any office or possesses any property whereby, directly or indirectly, duties or interests might be created in conflict with the Director's duties or interests as a Director, to declare at a meeting of Directors the fact and the nature, character and extent of the conflict; or
  - (ii) to comply with Article 38(b).

## Officers

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### 39. Secretary

The Council may appoint one or more Secretaries, for any period and on any terms (including, subject to Article 6, as to remuneration) as the Council resolves. Subject to any agreement between the Council and the Secretary, the Council may vary or terminate the appointment of a Secretary at any time, with or without cause.

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### 40. Treasurer

The Council may appoint a Treasurer, for any period and on any terms (including, subject to Article 6, as to remuneration) as the Council resolves. Subject to any agreement between the Council and the Treasurer, the Council may vary or terminate the appointment of a Treasurer at any time, with or without cause.

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## 41. Indemnity and insurance

- (a) To the extent permitted by law, the Council may indemnify each Relevant Officer against a Liability of that person and the Legal Costs of that person.
- (b) The indemnity pursuant to Article 41(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 Council; 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 Council may make a payment (whether by way of advance, loan or otherwise) to a Relevant Officer in respect of Legal Costs of that person.
- (d) To the extent permitted by law, the Council 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, the Council may enter into an agreement or deed with a Relevant Officer or a person who is, or has been, an officer of the Council or a subsidiary of the Council, pursuant to which the Council must do all or any of the following:
  - (i) keep books of the Council 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 Council or a subsidiary of the Council, on the terms agreed (including as to payment of all or part of the premium for the contract of insurance).

## Powers of the Council

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### 42. General powers

- (a) The Members have the power to manage the business of the Council and may exercise to the exclusion of the Board all powers of the Council which are not, by the law or this Constitution, required to be exercised by the Board.

- (b) A power of the Council can only be exercised by a resolution passed at a meeting of the Members in accordance with Article 48, a resolution passed by signing a document in accordance with Article 47, or in accordance with a delegation of the power pursuant to Article 44, 45 or 46. A reference in this Constitution to the Council exercising a power by a resolution of the Members includes an exercise of that power in accordance with a delegation of the power pursuant to Article 44, 45 or 46.

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#### **43. Execution of documents**

- (a) If the Council has a common seal, the Council 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 Members for that purpose.
- (b) The Council 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 Members for that purpose.
- (c) The Executive 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 Council, and receipts for money paid to the Council, must be signed, drawn, accepted, endorsed or otherwise executed.

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#### **44. Committees and delegates**

- (a) The Members may delegate any of its powers to a committee of the Members, the Executive, a Director, the Treasurer, an employee of the Council or any other person. A delegation of those powers may be made for any period and on any terms (including the power to further delegate) as the Members resolve. The Members may by resolution revoke or vary any power so delegated.
- (b) A committee or delegate must exercise the powers delegated in accordance with any directions of the Members.
- (c) Subject to the terms of appointment or reference of a committee, Articles 47 and 48 apply with the necessary changes to meetings and resolutions of a committee of the Council.

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#### **45. Attorney or agent**

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

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#### **46. Executive**

- (a) The Executive must comprise:
  - (i) the Directors; and

- (ii) 2 other persons appointed by resolution of the Members.
- (b) The Members delegate to the Executive the day to day business and administrative functions of the Council.
- (c) The Members may delegate any of its other powers to the Executive in accordance with Article 44.
- (d) Subject to the terms of appointment or reference to the Executive, Articles 47 and 48 apply with the necessary changes to meetings and resolutions of the Executive.

## Proceedings of the Board

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### 47. Written resolutions of the Board

- (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 47(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 47(a) and is taken to be signed when received by the Council in legible form.

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### 48. Board Meetings

- (a) Subject to this Constitution, the Board may meet, adjourn and otherwise regulate its meetings as it thinks fit.
- (b) A Director may call a Board meeting at any time. On request of any Director, a Secretary of the Council must call a meeting of the 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 Council 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 Council 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 use of each of the following technologies for the holding of a Board meeting:
  - (i) telephone;



- (ii) video;
- (iii) any other technology which permits each Director to communicate with every other participating Director; or
- (iv) any combination of these technologies.

A Director may withdraw the consent given pursuant to this Article 48(g) in accordance with the Corporations Act.

- (h) If a Board meeting is held in 2 or more places linked together by any technology:
  - (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 Board Chairperson of the meeting that the Director is discontinuing his or her participation in the meeting; and
  - (ii) the Board Chairperson of that meeting may determine at which of those places the meeting will be taken to have been held.
- (i) Until otherwise determined by the Board, a quorum for a Board meeting is 2 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.

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## **49. Board Chairperson**

- (a) The chairperson of the Board will be elected by the Executive for any period that it resolves, or if no period is specified, until that person ceases to be a Director. The Executive may remove the Board Chairperson at any time.
- (b) Subject to Article 49(c), the Board Chairperson must chair each Board meeting.
- (c) If at a Board meeting:
  - (i) a Board Chairperson has not been elected pursuant to Article 49(a); or
  - (ii) the Board Chairperson is not able to be present at the meeting or is not present within 15 minutes after the time appointed for the holding of a Board meeting, or despite being present is unable or unwilling to chair all or part of that meeting,

the Directors present may elect one of their number to, chair that meeting or part of the meeting.

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## **50. 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 38 and this Article 50, each Director present in person has one vote on a matter arising at a Board meeting.
- (c) In case of an equality of votes on a resolution at a Board meeting, the Board Chairperson of that meeting does not have a casting vote on that resolution.

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## 51. Valid proceedings

- (a) An act at any Board meeting or a committee of the Members 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) If the number of Directors is below the minimum required by this Constitution, the Board must not act except in emergencies or to call and arrange to hold a meeting of Members.

## Notices

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## 52. Notices to Members

- (a) The Council may give Notice to a Member by any of the following means in the Executive's discretion:
  - (i) delivering it to that Member or person;
  - (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 (including in the case of an electronic transmission, providing a Uniform Resource Locator (URL) link to any document or attachment) to the fax number or electronic address (if any) nominated by that Member or person for that purpose;
  - (iv) if permitted by the Corporations Act, notifying that Member of the Notice's availability by an electronic means nominated by the Member for that purpose; or
  - (v) any other means permitted by the Corporations Act.
- (b) Any Notice required or allowed to be given by the Council 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.

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## 53. Notice to Directors or the Executive

The Council may give Notice to a Director or a member of the Executive 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 Council and that person.

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## **54. Notice to the Council**

A person may give Notice to the Council by:

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

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## **55. Time of service**

- (a) A Notice sent by post or air-mail is taken to be given at 10.00am 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 fax or other electronic transmission is sent provided that in the case of notice to the Council 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 in accordance with Article 52(a)(iv) is taken to be given at 10.00am 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 Council has been given in accordance with this Constitution is conclusive evidence of that fact.

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## **56. Notice requirements**

The Executive 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**

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## **57. Winding up**

On a winding up of the Council, any surplus assets of the Council 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 (whether or not a Member or Members) selected by the Members by resolution at or before the dissolution of the Council:

- (i) having object similar to the objects of the Council; and
  - (ii) whose constitution prohibits the distribution of its or their income or property to no lesser extent than that imposed on the Council pursuant to Article 6; or
- (b) if there are no bodies corporate, associations or institutions which meet the requirements of Article 57(a), to one or more bodies corporate, associations or institutions (whether or not a Member or Members) selected by the Members by resolution at or before dissolution of the Council, the objects of which are the promotion of charity and whose constitution prohibits the distribution of its or their income or property to no lesser extent than that imposed on the Council pursuant to Article 6; or
- (c) if the Members do not make a selection pursuant to Article 57(a) or 57(b) for any reason, to one or more bodies corporate, associations or institutions meeting the requirements of either Article 57(a) or 57(b) selected by the Executive, subject to Executive obtaining court approval pursuant to the Corporations Act to exercise this power.