

CORPORATIONS LAW

A PUBLIC COMPANY LIMITED BY GUARANTEE
AND NOT HAVING SHARE CAPITAL

CONSTITUTION

-of-

AUSTRALIAN INSTITUTE OF PROFESSIONAL
INVESTIGATORS LIMITED

A.C.N. 092 281 868

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CHAPTER 1 - INTERPRETATION

1. How to read this Constitution

- 1.1 This Constitution contains clauses setting out the manner in which the Members of the Company have agreed to conduct the internal administration of the Company.
- 1.2 There are two types of clauses in the Constitution being
 - (a) clauses that are called 'Replaceable Rules' which are repeated from the stated sections of the *Corporations Law* but are agreed to be read as subject to any amendments to the relevant section in the *Corporations Law* from time to time; and
 - (b) all other clauses that are to apply unless amended by the Members
- 1.3 Replaceable Rules apply to the Company to the extent that they are not displaced or modified by provisions in this Constitution.
- 1.4 For convenience and consistency, in some instances the exact wording of a Replaceable Rule in this Constitution may differ to the Law.

2. Definitions

- 2.1 In this Constitution, unless the context otherwise requires,
 - "AGM" means an annual general meeting of the Company held in accordance with section 250N of the Law;
 - "ASIC" means the Australian Securities and Investments Commission;
 - "Auditor" means the auditor for the time being of the Company;
 - "Constitution" means this Constitution, the Regulations and any supplementary, substituted or amended Constitution for the time being in force;
 - "Chair" means the person appointed to be the Chair of meetings of Directors or the Chair of meetings of Members (as applicable);

"Director" means any person formally and lawfully appointed as a director of the Company, including an alternate Director and a person duly appointed and for the time being acting as an attorney for a Director;

"Directors" means all or any number of the Directors for the time being;

"Guarantee" means the maximum amount each Member agrees to pay to the Company in accordance with clause 7;

"Law" means the *Corporations Law* or any statutory modification, amendment or re-enactment in force and any reference to any section, part or division is to that provision as so modified, amended or re-enacted;

"Member" means a person admitted as a Member under clause 43;

"National Executive" means the Board of Directors of the Company appointed in accordance with clause 10;

"National Secretary" includes the assistant or acting Secretary or any substitute for the time being for the Secretary;

"Officer" means an officer of the Company within the meaning of section 241 of the Law;

"Register of Members" means the Register of Members to be kept pursuant to section 169 of the Law;

"Regulations" means the Regulations of the Company;

"Replaceable Rule" has the same meaning as in part 28.4 of chapter 28 of the Law;

"Subscription" means the amount payable by a Member under clause 46

2.2 Words importing:

- (a) persons include companies and corporations and vice versa;
- (b) the masculine gender include the feminine gender and vice versa; and
- (c) the singular number include the plural number and vice versa

2.3 Division 8 of Part 1.2 (other than section IO9X) of the Law applies in relation to this Constitution, so far as it is capable of application and with such changes as are necessary, as if the provisions of this Constitution were provisions of the Law.

2.4 An expression used in this Constitution that has a particular meaning in any Part or Division of the Law has the same meaning as in the Part or Division.

3. Regulations

The Regulations form part of this Constitution. Where the Regulations are inconsistent with the terms of the Constitution, the Constitution prevails to the extent of the inconsistency.

4. Amendment to Constitution

4.1 No addition, alteration or amendment shall be made to or in this Constitution unless previously submitted (as appropriate) to the

- (a) Australian Taxation Office; and/or
- (b) ASIC

and the Australian Taxation Office and/or the ASIC (as appropriate) has provided written advice that the proposed addition, alteration or amendment does not remove or have the effect of removing the tax-exempt status or any status under the Law of the Company.

CHAPTER 2 - NATURE OF THE COMPANY

5. Public Company limited by Guarantee

The Company is a public company limited by guarantee and does not have a share capital.

6. Limitation of Company

6.1 The Company is a not for profit enterprise entirely for the benefit of its membership.

6.2 The Company is primarily funded by annual member subscriptions, donations and, subject to any resolution approved by the National Executive, such other sources as the Company determines. The Company may, at the discretion of the National Executive, accumulate funds for one or more of the following purposes:

- (a) Professional Development of members and the industry;
- (b) To assist in meeting the objects of the Company;
- (c) Funding the proper administration of the Company; and
- (d) Supporting the ethical standards of the Company and the conduct of the disciplinary and appeals committees.

6.3 The Company does not have the power to

- (a) issue shares of any kind; or

- (b) apply, pay or transfer, whether directly or indirectly, any portion of the income and property of the Company for the benefit of, or to, a Member.

7. Guarantee of Members

Each Member undertakes to contribute a maximum of \$25.00 to the Company for payment of:

- 7.1 the debts and liabilities of the Company;
- 7.2 the costs, charges and expenses of any winding up; and
- 7.3 the adjustment of the rights of Members among themselves,

in the event that the Company is wound up

- (a) while the Member is a Member; or
- (b) within one year after the Member ceases to be a Member.

8. Objects of the Company

The objects for which the Company are established are to:

- Develop and promote the Company as the premier organisation of professional investigators in Australasia throughout both government and private sector organisations;
- Establish a standard of professional conduct incorporated in a code of ethics and ensure that members abide by that code of ethics;
- Promote prevention and awareness of fraud;
- Accredite the specialist skills of its Members;
- Promote and assist in the professional development of the Company's Members, and associates;
- Develop, implement and facilitate compliance with the partnership arrangements with law enforcement and regulatory agencies;
- Take remedial or disciplinary action against Members and associates where appropriate;
- Cooperate with educational institutions and other organisations in developing recognised standards of investigative practice;
- Foster relationships between the Company and other bodies with similar aims in order to discuss matters or exchange information of common interest or concern;
- Provide a united response to public debate on issues affecting the investigative profession;

- Foster fellowship and establish standards of professionalism within the Company by organising conferences and seminars and providing lectures on topics concerning the industry; and
- Provide a membership database for the benefit of the Company's members.

9. Scope of powers of the Company

9.1 The Company has the following powers:

- (a) to obtain the approval and consent of all relevant authorities necessary, incidental or conducive to the exercise of any of the objects of the Company;
- (b) to adopt such rules, regulations or by-laws as are necessary prescribing the administration, operation and exercise of any of the activities of the Company;
- (c) to establish close communications with other companies and groups including government bodies and authorities, which may have related interests to the Company;
- (d) to raise funds for any purpose of the Company and to accept financial and other aids, grants, donations and requests from whatever source;
- (e) to subscribe to become a member of and co-operate with or amalgamate with any association or organisation (whether incorporated or not) whose objects are similar to those of the Company provided that the Company shall not subscribe to or support with its funds or amalgamate with any association or organisation that does not prohibit the distribution of its income and property amongst its members to an extent at least as great as that imposed on the Company under or by virtue of clause 6.3;
- (f) to purchase, take on, lease, hire or otherwise acquire any land, buildings, easements or property (real and personal) and any rights or privileges which may be required for the purposes and capable of being conventionally used in connection with any of the objects of the Company provided that in the event that the Company shall take or hold any property which may be subject to any trusts, the Company shall only deal with the same in such manner as is permitted by law having regard to such trusts;
- (g) to enter into any arrangements with any government or authority, supreme, municipal, local or otherwise, that may seem conducive to the objects of the Company or any of them and to obtain from such government or authority any rights, privileges and concessions which the Company may consider desirable to obtain and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions;
- (h) to appoint, employ, remove or suspend any managers, clerks, secretaries, servants, workers or other persons as may be necessary or desirable for the purposes of the Company;

- (i) to establish and support or aid in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees or past employees of the Company or the dependants of any such employees, to grant pensions and allowances and to make payments towards insurance and superannuation and to subscribe or guarantee money for charitable or benevolent objects or for any public, general or useful objects;
- (j) to construct, improve, maintain, develop, work, manage, carry out, alter or control any property, grounds and works of conveniences which may be deemed to directly or indirectly advance the interests and objects of the Company and to contribute, subsidise or otherwise assist or take part in the construction, improvement, maintenance, development, working, management, carrying out, alteration or control thereof;
- (k) to invest and deal with money of the Company not immediately required in such manner as the Directors think fit or as may be permitted by law for the investment of trust funds;
- (l) to borrow or raise or secure the payment of money in such a manner as the Directors think fit, secure the same or the repayment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the Company in any manner and in particular by the issue of debentures (perpetual or otherwise), charges upon all or any of the property of the Company (both present and future) and to purchase, redeem or payout such security;
- (m) to make, draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable and transferable instruments;
- (n) to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with any or all of the property and rights of the Company;
- (o) to take or hold mortgages, liens and charges to secure payment of the purchase price or any unpaid balance of the purchase price of any part of the property of the Company of whatsoever kind sold by the Company or any money due and payable to the Company from such purchases;
- (p) to take any gift or property whether subject to any special trust or not for anyone or more objects of the Company;
- (q) to purchase or otherwise acquire and undertake all or any part of the property, assets, liabilities and engagements of anyone or more of the companies, institutions, societies and associations with which the Company is authorised to amalgamate ;
- (r) to transfer all or any part of a property, assets, liabilities and engagements of the Company to anyone or more of the companies,

institutions, societies or associations with which the Company is authorised to amalgamate; and

- (s) to make donations for patriotic or charitable purposes,

provided that the Company shall not support with its funds any activity or endeavour to impose on or procure to be observed by its members or any regulations or restrictions which, if an object of the Company, would make it a trade union within the meaning of the *Workplace Relations Act 1996*.

CHAPTER 3 - DIRECTORS

10. Board of Directors (National Executive)

The Board of Directors will consist of each of the State Chapter Presidents and be known as the AIPI National Executive.

11. Number of Directors

The Company must have at least three and not more than 8 Directors, unless the Company in general meeting otherwise determines.

12. Chief Executive Officer

12.1 The National Executive of the Company may appoint a Chief Executive Officer in accordance with the Regulations.

13. Secretary

13.1 The Company must have one secretary who ordinarily resides in Australia.

13.2 The secretary must be appointed by the National Executive.

13.3 Delegation of secretarial tasks

With the approval of the National Executive the Secretary may delegate one or more of the following functions to a corporation or an individual approved by the National Executive (the "National Secretariat") to provide secretariat services nationally to the membership including:

- (a) Membership administration;
- (b) Financial management under the direction of the National Executive and/or CEO;
- (c) Development of access to professional member training and education;
- (d) Maintenance of the Company's website; and
- (e) Organisation of the Company's annual conference.

14. Non-eligibility of Auditor

The Auditor is ineligible to be elected or appointed as a Director or alternate Director.

15. Period of appointment of Directors

Each Director shall hold office until they die, vacate the office in accordance with clause 18, are removed in accordance with clause 17 or the term for which they are appointed or elected expires.

16. Alternate Directors

[Replaceable Rule 225A]

- 16.1 With the other Directors' approval, a Director may appoint a State Chapter Vice President, Secretary or Treasurer as an alternate to exercise some or all of the Director's powers for a specified period.
- 16.2 If the appointing Director requests the Company to give the alternate notice of Directors' meetings, the Company must do so.
- 16.3 When an alternate exercises the Director's powers, the exercise of the powers is just as effective as if the powers were exercised by the Director.
- 16.4 The appointing Director may terminate the alternate's appointment at any time.
- 16.5 An appointment or its termination must be in writing and copies must be given to
 - (a) the Company; and
 - (b) the ASIC.

17. Director may resign

[Replaceable Rule 227A]

A Director may resign as a Director of the Company by giving written notice of resignation to the Company at its registered office.

18. Removal of Directors

- 18.1 The Company may, by resolution, remove a Director before the end of the Director's period of office in accordance with section 227 of the Law.
- 18.2 A Director shall not be removed by, or required to vacate their office because of, any resolution, request or notice of the Directors or any one of them.

19. Vacation of office of Director

- 19.1 A Director must vacate office if the Director:
 - (a) ceases to be a State Chapter President;
 - (b) ceases to be a Director or becomes prohibited from being a Director by virtue of section 224 of the Law;
 - (c) resigns their office by written notice to the Company;

- (d) for more than three months is absent without permission of the other Directors from meetings of the Directors held during that period;
 - (e) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of the Director's interest in the manner required by clause 22; or
 - (f) is removed from the office of Director by a resolution of the Company in accordance with clause 17.
- 19.2 Subject to clause 18.1, where there are only three Directors, the Director shall not vacate their office voluntarily unless they have appointed, prior to their vacation, another person to be a Director.

CHAPTER 4 - MANAGEMENT OF BUSINESS BY DIRECTORS

20. Powers of Directors

[Replaceable Rule 226A]

- 20.1 The business of the Company is to be managed by or under the direction of the Directors.
- 20.2 The Directors may exercise all of the powers of the Company except any powers that the Law or this Constitution requires the Company to exercise in general meeting.

21. Negotiable instruments

(Applicable Rule 2268]

- 21.1 Any two Directors may sign, draw, accept, endorse or otherwise execute a negotiable instrument.
- 21.2 The Directors may determine that a negotiable instrument may be signed, drawn, accepted, endorsed or otherwise executed in a different way.

22. Delegation to committees

[Replaceable Rule 226D]

- 22.1 The Directors may delegate any of their powers to a committee of Directors and such other Members as the Directors nominate.
- 22.2 A committee must exercise the powers delegated to it in accordance with any directions of the Directors.
- 22.3 The effect of the committee so exercising a power is the same as if the Directors exercised it.

23. Voting by interested Director

23.1 Subject to section 232A of the Law and to clause 23.2, a Director who has a material personal interest in a matter that is being considered at a meeting of Directors:

- (a) must not vote on the matter (or on a proposed resolution under clause 23.2(b) in relation to the matter, whether in relation to that or a different Director); and
- (b) must not be present while the matter (or proposed resolution of that kind) is being considered at the meeting.

23.2 Subject to clause 23, clause 23.1 does not apply

- (a) to an interest that the Director has
 - (i) as a Member; and
 - (ii) in common with the other Members; or
- (b) if the Directors have at any time passed a resolution that:
 - (i) specifies the Director, the interest and the matter; and
 - (ii) states that the Directors voting for the resolution are satisfied that the interest should not disqualify the director from considering or voting on the matter.

23.3 A resolution passed by directors in accordance with clause 23.2(b) that a director is a member of any specified firm or company or is the sole proprietor of a particular business and is to be regarded as interested in all transactions with that firm, company or business, is sufficient resolution under clause 23.2(b) as regards that Director and the transactions.

24. Accounting for profit

No Director shall be liable to account to the Company for any profit arising from any office or place of profit or realised from any contract or arrangement by reason only of the Director holding that office or of the fiduciary relations so established, but the nature of their interest must be approved by a resolution of Directors in accordance with clause 23.2(b).

CHAPTER 5 DIRECTORS' MEETINGS

25. Circulating resolutions

[Replaceable Rule 248A]

25.1 The Directors may pass a resolution without a Directors' meeting being held if all of 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.

25.2 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.

25.3 The resolution is passed when the last Director signs.

26. Calling Directors' meetings

[Replaceable Rule 248C]

A Directors' meeting may be called by a Director giving reasonable notice individually to every other Director.

27. Use of technology

27.1 A Directors' meeting may be called or held using any technology consented to by the Directors.

27.2 Any consent may be a standing consent.

27.3 A Director may only withdraw their consent within a reasonable period before the meeting.

28. Chairing Directors' meetings

[Replaceable Rule 248E]

28.1 The Directors may elect a Director to chair their meetings.

28.2 The Directors may determine the period for which the Director is to be the Chair.

28.3 The Directors must elect a Director present to chair a meeting, or part of it, if

(a) a Director has not already been elected to chair the meeting; or

(b) a previously elected Chair is not available or declines to act as Chair for the meeting or part of it.

29. Quorum at Directors' meetings

[Replaceable Rule 248F]

Unless the Directors determine otherwise, the quorum for a Directors' meeting is two Directors and the quorum must be present at all times during the meeting.

30. Passing of Directors' resolutions

[Replaceable Rule 248G]

30.1 A resolution of the Directors must be passed by a majority of the votes cast by Directors entitled to vote on the resolution.

30.2 The Chair has no casting vote in addition to any vote they have in their capacity as a Director.

CHAPTER 6 - STATE CHAPTERS

31. Chapter Locations

Chapters may exist in:

- Victoria
- New South Wales
- A.C.T.
- Queensland
- Northern Territory
- Western Australia
- South Australia
- Tasmania

32. Chapter President

32.1 The Chapter President must consent to being a Director of the Company.

32.2 The Chapter President must ordinarily reside in, or carry out his or her business in the state that he or she represents.

32.3 The Chapter President's term as Chapter President will coincide with his or her term as a Director of the Company. If the Chapter President ceases to be a Director of the Company, he or she must resign as Chapter President. The roles and responsibilities of the Chapter President are as follows:

- (a) Represent the State Chapter at meetings of the National Executive of Company;
- (b) Chair meetings of the State Chapter; and
- (c) Carry out in conjunction with the State Chapter executive, the business of the State Chapter under the direction of the National Executive of the Company.

32.4 The Chapter President will not be paid any remuneration as a Director of the Company.

33. Chapter operational structure

33.1 The State Chapters will each have the following positions:

- (a) State Chapter President;
- (b) State Chapter Vice President;
- (c) State Chapter Secretary; and

- (d) State Chapter Treasurer.
- 33.2 Together, these positions will be known as the State Chapter Executive.
- 33.3 The State Chapter Treasurer and State Chapter Secretary are to be appointed by a majority vote of the membership of the State Chapter. However, the first State Chapter Treasurer and State Chapter Secretary will be appointed by the Agreement of the Directors of the Company and the State Chapter President.
- 33.4 The State Chapter Treasurer and the State Chapter Secretary will each have a term of office of 1 year to coincide with the financial year of the Company.
- 33.5 The positions of State Chapter Treasurer and State Chapter Secretary are honorary positions and no remuneration will be paid.
- 33.6 The State Chapter may elect to pay the State Chapter Treasurer and State Chapter Secretary's reasonable travelling and other expenses that he or she reasonably incurs in connection with the State Chapter's business.
- 33.7 If the Board Directors requests the State Chapter Treasurer or State Chapter Secretary to perform services in addition to those required by these Regulations or required by the State Chapter, the Company may remunerate that person appropriately.

34. Election and Appointment Procedure

34.1 State Chapter President

The State Chapter President will be elected, appointed and dismissed in accordance with the provisions for the appointment and election of Directors as contained in this Constitution.

34.2 State Chapter Secretary

Other than the first State Chapter Secretary, the State Chapter Secretaries will be appointed by a majority vote of the membership of the State Chapter at its annual general meeting. The office of the State Chapter Secretary must be vacated if:

- (a) For more than 2 months, he or she is absent without the permission of the State Chapter President from meetings of the State Chapter held during that period;
- (b) He or she resigns from office of State Chapter Secretary by written notice to the State Chapter President; or
- (c) By a vote of no confidence of the State Chapter members.

34.3 State Chapter Treasurer

Other than the first State Chapter Treasurer, the State Chapter Treasurers will be appointed by a majority vote of the membership of the State Chapter at its annual general meeting.

The office of the State Chapter Treasurer must be vacated if:

- (a) For more than 2 months, he or she is absent without the permission of the State Chapter President from meetings of the State Chapter held during that period;
- (b) He or she resigns from office of State Chapter Treasure by written notice to the State Chapter President; or
- (c) By a vote of no confidence of the majority of State Chapter members.

35. Meetings

35.1 Meetings of the State Chapters may be held from time to time as determined by the State Chapter Executive. The State Chapter must hold at least 2 State Chapter meetings per year and at least one annual general meeting of the State Chapter per year.

35.2 The State Chapter President will chair meetings of the State Chapter. A quorum of the State Chapter will be at least 33% of the membership present in person or by proxy.

35.3 The State Chapter may use any technology such as telephone conferencing or video conferencing to hold its meetings.

35.4 Voting at meetings

Motions at the meeting of a chapter or a committee of the Company will be determined by a vote of eligible members. In the event of an equal number of votes for or against a motion, the member presiding over the chapter or committee will be entitled to a casting vote.

36. Assignment of Members

36.1 Members of the Company will be assigned to the various State Chapters based upon the geographical location of their business.

36.2 A member may request to belong to a certain State Chapter. In these circumstances the National Executive may, in their discretion, approve such an application.

37. Bank Accounts

37.1 Each State Chapter may maintain its own bank accounts with a bank approved by the National Executive of the Company. Such bank accounts must have at least 2 signatories, one of which must be the State Chapter President. The State Chapter Treasurer must also be a signatory to the account.

37.2 The State Chapter may use its funds to conduct the business of the State Chapter as it sees fit.

38. Insurance

The Company must effect and maintain Directors and Officers and professional indemnity insurance. In addition the Company may effect and maintain other insurance as appropriate.

39. Funding Arrangements

39.1 The Company will determine the level of funding to be provided to each State Chapter by the Company.

39.2 The concept to be used as a guide will be for the Company to provide funding to State Chapters based upon the following factors:

- (a) The number of State Chapter members; and
- (b) Any other special requirements presented to the National Executive of the Company.

39.3 The National Executive may resolve that the Member's subscriptions due under clause 45 be collected by the State Chapter Treasurer on behalf of the Company.

39.4 National secretariat levy

In circumstances where the National Executive have permitted the Secretary to delegate certain functions to a national secretariat, all subscriptions will be collected by that entity on behalf of the Company.

Any subscriptions received by a local chapter must be remitted in full to the national Secretariat within 7 days.

Prior to the commencement of the new financial year the National Executive will agree a levy to be deducted from the annual subscription for the efficient running of the Company and member facilities.

The extent and nature of expenses to be met by the national secretariat will be determined by the National Executive at the commencement of each financial year.

The remaining portion of the subscription will be remitted to the local chapter of the Company to be expended for benefit of the Company's members and in the interests of advancing the objects of the Company.

All other income generated by the local chapter will remain with the local chapter to be expended at the direction of the State Executive for the benefit of the Company's members and in the interests of advancing the objects of the Company.

40. Use of Company Name

40.1 The Company provides the State Chapters with a revocable and non-transferable right to use the name "Australian Institute of Professional

Investigators Limited” on its official publications including electronic publications.

40.2 The name should appear in all correspondence as follows:

“Australian Institute of Professional Investigators Limited ([name of state] Chapter)”

40.3 If the Company is of the opinion that the State Chapter is using the name of the Company in a manner that is detrimental to the reputation or business of the Company, the National Executive of the Company may, by ordinary resolution, resolve to revoke this licence.

40.4 At such time, the State Chapter must cease to use the reference to the name of the Company.

41. Cessation of State Chapter

The National Executive of the Company may, by special resolution, cease the operation of a State Chapter.

CHAPTER 7 - MEMBERS

DIVISION 1 – MEMBERSHIP

42. Number of Members

42.1 There must be at least one Member.

42.2 The Directors may set a limit on the maximum number of Members.

43. Qualification for membership

43.1 All members must meet the experience, educational, training and any other requirements determined by the National Executive and set out in the Regulations.

44. Membership Committee

44.1 A membership committee shall be established by each State Chapter to consider and determine membership applications in accordance with the Regulations.

44.2 The State Membership Committee shall consist of at least three Members nominated and approved by the State Chapter Executive and must include the State Chapter Secretary.

44.3 The Membership Committee may, in its sole discretion, accept or reject the application of a proposed member. Should an applicant disagree with the decision of the membership committee he or she may lodge an appeal to the appeal committee.

44.4 Each State Chapter may choose to combine the membership and accreditation committee described in the regulations.

45. Classes of Members

The Directors may:

45.1 establish different classes of Members in the Regulations; and

45.2 prescribe the qualifications, rights and privileges of persons to become a Member of a class.

46. Subscription

Each Member shall pay an annual fee determined by the National Executive and set out in the Regulations.

47. Address of Member

47.1 Each Member shall provide to the Secretary details of an address in Australia where the Company can send notices.

47.2 If a Member fails to provide an address in accordance with clause 46, the address of the Member is deemed to be the registered office of the Company.

DIVISION 2 - CESSATION OF MEMBERSHIP

48. Events leading to cessation

48.1 A Member ceases to be a Member if they:

- (a) die;
- (b) resign in writing;
- (c) become of unsound mind or become liable to be dealt with in any way under the law relating to mental health;
- (d) are convicted of an indictable offence; or
- (e) if they are a company, have a receiver or a receiver and manager appointed to its assets or some of them or passes a resolution or takes or has taken against it any action having the effect of its winding up.

49. Non-payment of Subscription

If any Subscription of a Member remains unpaid, the Member will be debarred from all privileges of membership provided that the Directors may, if they think fit, reinstate the Member on payment of all arrears.

50. Effect of cessation

A Member who ceases to be a Member continues to be liable for:

50.1 any Subscription and all arrears due and unpaid at the date of cessation;

50.2 all other moneys due by them to the Company; and

50.3 the Guarantee.

51. Member Suspension and Expulsion

51.1 All categories of Members are required to be of good character and integrity at all times.

51.2 A Member of the Company must report in writing to the State Chapter Secretary any circumstance or issue known to them concerning another Member or applicant for membership that would give rise to concerns as to that other Member's or applicant's honesty and integrity.

51.3 The Membership Committee may, in its sole discretion, expel, suspend, or discipline a Member if, under such procedures as the Committee may establish, it determines that a Member is not of good character and integrity.

51.4 Circumstances that will indicate that a person is not of good character and integrity will include without limitation, where the person:

- (a) Is in breach of a requirement of this Constitution or the Regulations;
- (b) Has been convicted of any criminal offence involving dishonesty or violent behaviour;
- (c) Has failed to abide by the Code of Professional Ethics;
- (d) Has committed any act discrediting to the Company or its membership, or prejudicial to the interests of the Company;
- (e) Has been declared by a court of competent jurisdiction to be insane or to lack legal capacity;
- (f) Is an undischarged bankrupt;
- (g) Has failed to comply with the provisions of any privacy legislation and regulation in force at any given time;
- (h) Has failed to cooperate with disciplinary investigation of the Company;
- (i) Has failed to pay membership fees in accordance with the Regulations;
- (j) Failed to meet the Company's education, training and accreditation requirements in accordance with the Regulations; and
- (k) Has breached, or caused the Company to breach, any law enforcement or regulatory agency partnership agreement.

51.5 A known fact, being public information sourced in Australia or overseas, that might be contrary to a person's claim of good character and integrity that must be disclosed to the membership committee will include, but is not restricted to:

- (a) A conviction for a criminal offence, within the previous ten years;

- (b) An adverse finding of a Court/Tribunal/Commission of inquiry including a finding in respect to a person's honesty or integrity; or
- (c) A refusal or revocation of membership from another association, institute or similar body.

CHAPTER 8 - MEETINGS OF MEMBERS

DIVISION 1 -WHO MAY CALL MEETINGS OF MEMBERS

52. Calling of meetings of Members by a Director [*Replaceable Rule 249C*]

A Director may call a meeting of Members.

53. Calling of general meetings by Directors when requested by Members

The Directors must call and arrange to hold a general meeting in accordance with section 249D(I) of the Law, on the request of

53.1 Members with at least 5% of the votes that may be cast at a general meeting;
or

53.2 at least 100 Members who are entitled to vote at the general meeting

54. Failure of Directors to call general meeting

Members with more than 50% of the votes of all Members who make a request under section 249D of the Law may call and arrange to hold a general meeting if the Directors do not do so within 21 days after the request is given to the Company in accordance with section 249E of the Law.

55. Calling of meetings by Members

Members with at least 5% of the votes that may be cast at a general meeting of the Company may call and arrange to hold a general meeting in accordance with section 249F of the Law.

56. Calling of Meetings by the Court

The Court may order a meeting of Members to be called in accordance with section 249G of the Law if it is impracticable to call the meeting in any other way.

DIVISION 2 - HOW TO CALL MEETINGS OF MEMBERS

57. Amount of notice of meetings

57.1 Subject to the Law, at least 21 days notice must be given of a meeting of Members.

57.2 Subject to clause 57.3, the Company may call on shorter notice

- (a) an AGM, if all of the Members entitled to attend and vote at the AGM agree beforehand; and

- (b) any other general meeting, if Members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- 57.3 At least 21 days notice must be given of a meeting of Members at which a resolution will be moved to:
- (a) remove a Director under clause 17;
 - (b) appoint a Director in place of a Director removed under clause 17;
 - (c) appoint or reappoint as a Director under sections 228(7) or 228(8) of the Law, a person who has attained the age of 72 years; or
 - (d) remove an Auditor.

58. Notice of meetings of Members

- 58.1 Written notice of the meeting of Members must be given individually to each Member entitled to vote at the meeting and to each Director.
- 58.2 *[Replaceable Rule 249J(2)]* Notice to joint Members must be given to the joint Member first named in the register of Members.
- 58.3 The Company may give the notice of meeting to a Member:
- (a) personally;
 - (b) by sending it by post to the address of the Member in the register of Members or the alternative address (if any) nominated by the Member;
 - (c) by sending it to the fax number or electronic address (if any) nominated by the Member; or
 - (d) by any other means authorised by the Law.
- 58.4 *[Replaceable Rule 249J(4)]*
- (a) A notice of meeting sent by post is taken to be given three days after it is posted.
 - (b) A notice of meeting sent by fax or other electronic means is taken to be given on the business day after it is sent.

59. Auditor entitled to notice and other communication

The Company must give its Auditor:

- 59.1 notice of general meeting in the same way that a Member is entitled to receive notice; and
- 59.2 any other communication relating to the general meeting that a Member is entitled to receive.

60. Contents of notice of meeting

The notice of meeting must conform with the requirements of section 249L of the Law.

61. Notice of adjourned meetings

[Replaceable Rule 249M]

When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for one month or more.

DIVISION 3 - MEMBERS' RIGHTS TO PUT RESOLUTIONS AT THE GENERAL MEETING

62. Members' resolutions

The Members may propose a resolution to be moved at a general meeting only in accordance with the provisions of division 4 of part 2G.2 of chapter 2G of the Law.

DIVISION 4 - HOLDING OF MEMBERS MEETINGS

63. Time and place for meetings of Members

A meeting of Members must be held at a reasonable time and place.

64. Technology

The Company may hold a meeting of its Members at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate.

65. Quorum

[Replaceable Rule 249T]

65.1 The quorum for a meeting of Members is two Members and the quorum must be present at all times during the meeting.

65.2 (a) In determining whether a quorum is present, individuals attending as proxies or body corporate representatives are to be counted.

(b) If a Member has appointed more than one proxy or representative, only one of them is to be counted.

(c) If an individual is attending both as a Member and as a proxy or representative, they are to be counted only once.

65.3 A meeting that does not have a quorum present within 30 minutes after the time for the meeting set out in the notice of meeting is to be adjourned to a date, time and place as the Directors specify.

65.4 If the Directors do not specify one or more of those requirements, the meeting is adjourned to:

- (a) if the date is not specified, the same day of the week;
 - (b) if the time is not specified, the same time; or
 - (c) if the place is not specified, the same place.
- 65.5 If no quorum is present at the resumed meeting within 30 minutes after the time for the meeting, the meeting is dissolved.

66. Chairing meetings of Members

[Replaceable Rule 249U]

- 66.1 The Directors may elect an individual to Chair meetings of the Members.
- 66.2 The Directors at the meeting of Members must elect an individual present to Chair the meeting (or part of it) if an individual has not already been elected by the Directors to Chair it or, having been elected, is not available to Chair it or declines to act for the meeting (or part of it).
- 66.3 The Members present at a meeting of the Members must elect a Member present to Chair the meeting (or part of it) if:
- (a) a Chair has not previously been elected by the Directors to chair the meeting; or
 - (b) a previously elected Chair is not available or declines to act as Chair for the meeting (or part of the meeting).
- 66.4 The Chair must adjourn the meeting if the Members present with a majority of votes at the meeting agree or direct that the Chair must do so.

DIVISION 5 - PROXIES AND BODY CORPORATE REPRESENTATIVES

67. Proxies and body corporate representatives

- 67.1 A Member who is entitled to attend and cast a vote at meetings of Members may appoint a proxy or, if the Member is a body corporate, a representative, to attend and cast a vote at that meeting.
- 67.2 Any proxy or representative appointed under clause 67.1 must be appointed and has the rights set out in division 6 of part 20.2 of chapter 20 of the Law.

DIVISION 6 - VOTING AT MEETINGS OF MEMBERS

68. How many votes a Member has

- 68.1 Subject to any rights or restrictions attached to any class of Member, at a meeting of Members:
- (a) on a show of hands, each Member has one vote; and

(b) on a poll, each Member has one vote.

68.2 The Chair shall not have a casting vote.

69. Objections to right to vote

[Replaceable Rule 250G]

A challenge to a right to vote at a meeting of Members:

69.1 may only be made at the meeting; and

69.2 must be determined by the Chair whose decision is final.

70. How voting is carried out

[Replaceable Rule 250J]

70.1 A resolution put to the vote at a meeting of Members must be decided on a show of hands unless a poll is demanded.

70.2 On a show of hands, a declaration by the Chair is conclusive evidence of the result.

70.3 Neither the Chair nor the minutes need to state the number or proportion of the votes recorded in favour or against a resolution.

71. Matters on which a poll may be demanded

71.1 A poll may be demanded on any resolution other than resolutions concerning:

(a) the election of the Chair; or

(b) the adjournment of the meeting.

71.2 A poll may be demanded in accordance with section 250L of the Law.

72. When and how polls must be taken

[Replaceable Rule 250M]

72.1 A poll demanded on a matter other than the election of a Chair or the question of an adjournment must be taken when and in the manner the Chair directs.

72.2 A poll on the election of a Chair or on the question of an adjournment must be taken immediately.

DIVISION 7 -AGMS

73. Holding of AGM

73.1 The Company must hold an AGM within 18 months after its registration.

73.2 The Company must hold an AGM at least once in each calendar year and within five months after the end of its financial year.

73.3 An AGM is to be held in addition to any other meetings held by the Company in a year.

73.4 If the Company only has one Member, it is not required to hold an AGM.

74. Extension of time for AGM

The Company may lodge an application with the ASIC to extend the period within which it is required to hold the AGM in accordance with section 250P of the Law.

75. Consideration of reports at AGM

The Directors must lay before an AGM:

75.1 the financial report;

75.2 the Director's report; and

75.3 the Auditor's report,

for the last financial year that ended before the AGM completed in accordance with the requirements of Part 2M .3 of Chapter 2M of the Law.

76. Business of the AGM

The business of the AGM may include any of the following, even if not referred to in the notice of meeting:

76.1 the consideration of the annual financial report, Director's report and Auditor's report;

76.2 the election of Directors;

76.3 the appointment of the Auditor; and

76.4 the fixing of the Auditor's remuneration.

77. Questions by Members of the Company

The Chair of the AGM must allow a reasonable opportunity for the Members as a whole at the meeting to ask questions about or make comments on the management of the Company.

78. Questions by Members of Auditors

If the Auditor or their representative is at the meeting, the Chair of an AGM must allow a reasonable opportunity for the Members as a whole at the meeting to ask the Auditor or their representative questions relevant to the conduct of the audit and the preparation and content of the Auditor's report.

CHAPTER 9 - DIRECTORS' AND MEMBERS' MINUTES

79. Minutes

79.1 The Company must keep minute books in which it records within one month of such event:

- (a) proceedings and resolutions of Members' meetings;
- (b) proceedings and resolutions of Directors' meetings and including committee meetings;
- (c) resolutions passed by Members without a meeting; and
- (d) resolutions passed by Directors without a meeting.

79.2 The Company must ensure that the minutes of a meeting are signed by the Chair of the meeting or the Chair of the next meeting within a reasonable time after the meeting.

79.3 The Company must ensure that the minutes of the passing of a resolution without a meeting are signed by a Director within a reasonable time after the resolution is passed.

80. Members' access to minutes

Members are entitled to gain access to the minute book of meeting of Members in accordance with the Law.

CHAPTER 10 - WINDING UP

81. Rights of Members on winding up

If the Company is wound up or dissolved, the Members have no right to participate in any distribution or payment of the assets or property of the Company.

82. Distribution of assets

82.1 If the Company is wound up or dissolved, the assets and property available for distribution after satisfaction of all debts and liabilities shall be given or transferred to some other institution or institutions:

- (a) having objects similar to the objects of the Company;
- (b) whose constitution prohibits the distribution of its income and property to an extent at least as great as that imposed by clause 6.3; and
- (c) which is approved by the Commissioner of Taxation as an institution exempt from sales tax and income tax.

82.2 The Directors shall determine the identity of the institution or institutions for the purpose of clause 82.1 at the time of dissolution.

82.3 If the Directors fail to determine the identity of the institution or institutions under clause 82.2, the Supreme Court of Victoria shall make that determination.

CHAPTER 11 - INDEMNITY

83. Indemnity

83.1 Every person who is an Officer shall be indemnified by the Company against, and shall be paid on demand by the Officer, the amount of any liability to another person (other than the Company or a related body corporate of the Company as defined in the Law) incurred in that person's capacity as an Officer unless such liability arises out of conduct involving a lack of good faith.

83.2 The Company shall indemnify any other employee of the Company at the Directors' discretion.

83.3 The Company shall indemnify an Officer against a liability for costs and expenses (including, without limitation, legal expenses on a full indemnity basis) incurred by the Officer:

- (a) in defending proceedings, whether civil or criminal, in which:
 - (i) judgment is given in favour of the Officer; or
 - (ii) the Officer is acquitted; or
- (b) in connection with an application, in relation to proceedings under clause 83.3(a), in which a court grants relief to the Officer under the Law,

SUBJECT only to an obligation on the Officer to repay to the Company the expenses advanced by the Company if:

- (c) judgment is not given in the Officer's favour;
- (d) the Officer is not acquitted;
- (e) a court subsequently determines that the indemnification is not permitted; or
- (f) the indemnification is not permitted by the Law.

83.4 For the purposes of this clause, the Company shall have the burden of proving that the Officer to be indemnified is not entitled to the requested indemnification.

83.5 If the Company determines that the Officer to be indemnified is not entitled to be indemnified, that person shall be entitled to direct that the Company obtain and follow, at the Company's expense, an opinion as to such entitlement from a Queen's Counsel with relevant expertise practising in Victoria or New South Wales.

83.6 The indemnification rights in this clause constitute a contract between the relevant parties seeking indemnification and the Company and shall continue to have effect following the rescission or restrictive modification of the clause with respect to events occurring prior to the rescission or modification of the clause.

84. Payment of costs

The Directors may, out of the funds of the Company, pay all costs, losses and expenses which any Officer may incur or become liable to pay by reason of any contract entered into or act or thing done by them as such Officer or in any way in discharge of their duties.

85. Limit of indemnity

Subject to the provisions of the Law, an Officer of the Company shall not be liable for:

85.1 the acts, receipts, neglect or defaults of any other Officer;

85.2 joining in any receipt or other act of conformity or for any loss or expense happening to the Company through:

(a) the insufficiency or deficiency of title to any property acquired by order of the Officers for or on behalf of the Company; or

(b) the insufficiency or deficiency of any security in or upon which any of the moneys of the Company shall be invested;

85.3 any loss or damage arising from the bankruptcy, insolvency or tortious act of any person with whom any moneys, securities or effects shall be deposited;

85.4 any loss occasioned by any error of judgment or oversight on the Officer's part;
or

85.5 any other loss, damage or misfortune which occurs in the execution of the duties of the Officer's office,

unless the loss, damage or misfortune occurred through the Officer's own dishonesty.

86. Contract of insurance

The Company may pay a premium for a contract insuring a person who is or has been an Officer, against:

86.1 any liability incurred by the Officer which does not arise out of conduct involving a wilful breach of duty in relation to the Company or a contravention of sections 232(5) or 232(6) of the Law; or

86.2 any liability for costs and expenses incurred by that person in defending proceedings relating to that person's position with the Company whether civil or criminal and whatever their outcome.

