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## CONSTITUTION

of

### THE ASSOCIATION OF SUPERANNUATION FUNDS OF AUSTRALIA LIMITED (As amended up to 15 November 2007)

A company limited by guarantee

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## INTERPRETATION

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- (a) The following words have these meanings in this Constitution unless the contrary intention appears:

“**Article**” means an Article in this Constitution as amended from time to time.

“**ASFA Chairperson**” means the Director elected as chairperson in accordance with Article 118.

“**Board**” means all or some of the directors of the Company acting as the board of the Company.

“**Category**” means one of the categories comprising Members designated as:

- (a) Public Sector Funds;
- (b) Industry Funds;
- (c) Retail Funds;
- (d) Service Providers and Service Provider Funds; or
- (e) Corporates and Corporate Funds.

“**Central Register of Members**” means the register of members to be kept by the company secretary in accordance with Article 29.

“**Chief Executive Officer**” means a person appointed as chief executive officer under Article 123.

“**Company**” means The Association of Superannuation Funds of Australia Limited.

“**Corporate**” means an Ordinary Member which is an employer that does not sponsor a Corporate Fund and which is not a Service Provider.

“**Corporate Fund**” means a Fund sponsored by an employer to provide benefits for its employees or the employees of an associated employer and which is not a Public Sector Fund or an Industry Fund or a Retail Fund or a Service Provider Fund.

“**Corporations Act**” means the Corporations Act 2001 (Cwlth).

“**Deputy ASFA Chairperson**” means a Director elected as a deputy chairperson in accordance with Article 118.

“**Director**” means a person holding office as a director of the Company.

“**Division**” means a division of the Company made up of members for the time being attached to a geographical area for that Division formed in accordance with Article 42 or 43.

“**Division Rules**” means the rules, regulations and by-laws governing the operation of a Division made in accordance with Articles 44 to 47.

“**Eligible Representative**” means an individual who is:

- (a) an Operating Officer of a Fund where that Fund is an Ordinary Member or where the Fund’s trustee is an Ordinary Member;
- (b) an individual who is an Ordinary Member or a director, partner or employee of an Ordinary Member;
- (c) a trustee of a Fund which is an Ordinary Member or an employee or director of such a trustee; or
- (d) such other person in relation to a Fund, where that Fund is an Ordinary Member or where the Fund’s trustee is an Ordinary Member, as is approved by 75% of the Board.

“**Executive Committee**” means the committee of members of a Division appointed to act as that Division’s managing body in accordance with the applicable Division Rules.

“**Fund**” means any existing or future superannuation, provident, retirement, pension or similar fund, scheme or plan for employees, self employed persons or other persons in Australia.

“**Fund Director**” means a director elected by Ordinary Members in accordance with this Constitution.

“**Individual Member**” has the meaning given to it in Article 9.

“**Industry Fund**” means a Fund which is not a Public Sector Fund and:

- (a) which accepts contributions in relation to employees from a number of employers which are not all related bodies corporate;

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- (b) whose trustee meets the basic equal representation rules as defined in the SIS Act;
  - (c) which is sponsored by a union or group of unions and/or an employer association or group of employer associations; and
  - (d) which is operated on a mutual basis, solely for the benefit of the members and where no profits made by the trustee are distributed to shareholders.

“**Life Member**” has the meaning given to it in Article 10.

“**Member**” means any member of the Company.

“**Members of a Division**” means the members of the Company who are attached to that Division in accordance with Articles 18 to 20.

“**Nominated Representative**” means any person appointed from time to time by a Member pursuant to Articles 21 to 23 to represent that Member for the purposes of the Company.

“**Objects**” means the objects of the Company stated in Article 2.

“**Operating Officer**” means, in relation to a Fund, a member of the Fund whose major job responsibilities include matters related to the day to day operation and/or administration of the Fund and who is employed by the trustee of the Fund, a sponsoring employer of the Fund or a subsidiary of either the trustee or a sponsoring employer.

“**Ordinary Member**” has the meaning given to it in Article 8.

“**Public Sector Fund**” means a public sector superannuation scheme as defined in the SIS Act.

“**Regulations**” means the rules, regulations and by-laws prescribed from time to time by the Board or by the Company in accordance with this Constitution.

“**Relevant Bodies**” means the Government of the Commonwealth of Australia, any State or Territory Government and any government department, commission or other body or organisation interested in or concerned with Funds or superannuation.

“**Retail Fund**” means a Fund which is a public offer superannuation fund as defined in the SIS Act and which, in the opinion of the Board, is open to:

- (a) the general public for application for membership; or
  - (b) employers generally for application for their employees to be members,
- and which is not an Industry Fund or a Public Sector Fund.

“**Service Provider**” means an Ordinary Member which carries on a business that includes the provision of goods or services to one or more Funds and includes

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persons who are actuaries, superannuation administrators, legal firms, banks, merchant banks, financial service providers, accountancy firms, life offices, insurers, investment managers, electronic data processing providers, computer hardware providers and computer software providers.

“**Service Provider Fund**” means a Fund which is sponsored by a Service Provider to provide benefits for its employees and which is not a Public Sector Fund, an Industry Fund or a Retail Fund.

“**SIS Act**” means the Superannuation Industry (Supervision) Act 1993 (Cth) as amended from time to time.

“**Special Board Resolution**” means a resolution of the Board that:

- (i) is passed at a meeting of the Board, being a meeting of which at least 14 days written notice specifying the intention to propose the resolution as a special resolution has been given to each Director; and
  - (ii) is passed at a meeting referred to in paragraph (a) by a majority of at least three-quarters of the Directors present at that meeting who are entitled to vote on the resolution.
- (b) In this Constitution unless the contrary intention appears:
- (i) words importing any gender include all other genders;
  - (ii) the word “person” includes a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association or an authority;
  - (iii) the singular includes the plural and vice versa;
  - (iv) a reference to a law includes regulations and instruments made under the law;
  - (v) a reference to a law or a provision of a law includes amendments, re-enactments or replacements of that law or the provision, whether by the State or the Commonwealth of Australia or otherwise; and
  - (vi) a reference to a financial year is a reference to the period commencing on 1 July and ending on the following 30 June.
- (c) An expression used in an Article which deals with a matter which is also dealt with by a provision of the Corporations Act has the same meaning as in that provision of the Corporations Act unless the contrary intention appears.
- (d) Headings are inserted for convenience and do not affect the interpretation of this Constitution.
- (e) The provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution and accordingly do not apply to the Company.

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## OBJECTS OF THE COMPANY

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- 2 The objects for which the Company is established are:
- (a) To advance general public knowledge and understanding of matters affecting or relating to Funds or to superannuation generally.
  - (b) To promote adequate and sustainable retirement income strategies.
  - (c) To promote, organise and hold meetings, conferences, seminars and lectures for the purposes stated in any of the Objects.
  - (d) To establish and maintain a secretariat to assist the Company in furtherance of the Objects.
  - (e) To ascertain and so far as possible advise Members of changes in the law or in practice affecting Funds or relating to superannuation generally or any aspect of either.
  - (f) To collate and provide or make available to Members and to the public generally, information of interest or relevance to Funds, including matters connected with the provision in other countries of superannuation, provident, retirement, pension or similar benefits for employees and self-employed persons (and, in the event of their death, for their dependants), including parliamentary and government departmental reports and official and other papers dealing with such information.
  - (g) To establish, maintain and conduct, or assist in the establishment, maintenance and conduct of, libraries for any of the purposes stated in these Objects.
  - (h) To promote, organise and hold educational, training and counselling courses concerned with any of the Objects, including, without limiting the generality of the foregoing promoting, organising and holding:
    - (i) seminars, study groups and courses concerned with matters related or incidental to the administration and management of Funds; and
    - (ii) courses to assist employees and self-employed persons and their relatives in planning for retirement.
  - (i) To secure unity of action for Members in matters affecting Members' legal obligations, rights or interests in Funds or in matters relating to superannuation or aspects of superannuation, and to make representations about the same to Relevant Bodies.
  - (j) To establish and maintain close relations with associations, societies, corporations and institutes having similar objects to those of the Company, whether in Australia or elsewhere, and to exchange information with them.
  - (k) To provide specialised services to Funds where doing so is in the interests of Members or a particular group of Members.

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- (l) To make representations to Relevant Bodies, collect and give evidence to Relevant Bodies and to prepare and make submissions to Relevant Bodies on behalf of the Members or a particular group of Members.
  - (m) To print and publish papers, journals, periodicals, bulletins, newsletters and proceedings of conferences and meetings on matters relevant to the Objects.
  - (n) To hold or promote competitions or examinations of any description authorised by law on subjects which relate in any way to the Objects and to provide prizes consisting of cash, scholarships or other terminable payments or gifts of any other description in respect of the same.
  - (o) To subscribe to or otherwise aid benevolent, charitable, national or other institutions or objects of a public character which relate in any way to the Objects and which in the opinion of the Company warrant support.
  - (p) To make services and facilities of the Company available to any Funds, persons, firms or companies, whether or not they are Members, on terms and conditions that the Board thinks fit.
  - (q) To promote, support or oppose by any lawful means, any legislative or other measures affecting or likely to affect trustees of Funds or managers of Funds or members of Funds.
  - (r) To protect, promote and advance the interests of Funds, their trustees and their members.
  - (s) To establish committees for the benefit of Members and to promote the Objects.
  - (t) To purchase, take on lease or in exchange, hire, or otherwise acquire real or personal property of any kind, and to sell, lease, exchange or otherwise dispose of or deal with any real or personal property of the Company on such terms as the Board thinks fit.
  - (u) To erect, construct, alter or maintain or cause to be erected, constructed, altered or maintained, any buildings, works, improvements, plant or machinery which the Board considers necessary or convenient for any of the purposes of the Company.
  - (v) To sign and execute deeds, documents and other instruments of every nature and kind whatsoever.
  - (w) To accept, undertake or execute any trust or gift and act as trustee of any trust which relates in any way to the Objects.
  - (x) To lend, borrow or raise or secure the payment of money in any manner which and upon such terms and conditions (including using the assets of the Company as security for repayment) as the Board thinks fit.
  - (y) To invest or otherwise deal with the moneys of the Company not immediately required in such manner as the Board thinks fit and to hold, sell or otherwise deal with such investments or moneys in such manner as the Board thinks fit.

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- (z) To raise funds from Members for the purpose of one or more of the Objects as permitted by this Constitution.
  - (aa) To employ and remunerate staff and to provide such benefits on retirement from or leaving or death while in service on such terms and conditions as the Board thinks fit.
  - (bb) To establish and support, or aid in the establishment and support of, and act as trustee of or hold any other equivalent office in, associations, institutions, funds, trusts and conveniences designed to benefit employees or past employees of the Company or the dependents or connections of any such persons and to make superannuation payments and grant allowances and to make payment towards insurance and assurance in respect of any such persons.
  - (cc) To purchase or otherwise acquire and undertake all or any part of the property, assets, liabilities and engagements of any one or more of the persons, corporations, associations, societies, organisations or institutions with which the Company is authorised to amalgamate.
  - (dd) To carry on any business or transaction capable of being conducted so as to directly or indirectly benefit the Company.
  - (ee) To amalgamate or enter into any arrangement for sharing of profits, union of interest, cooperation, joint venture, reciprocal concession or other arrangement with any person, corporation, association, society, organisation or institution carrying on or engaged in any business or transaction, or about to carry on or engage in any business or transaction, which the Company is authorised to carry on or engage in, so as to directly or indirectly benefit the Company.
  - (ff) To do all such other things as are incidental or conducive to the attainment of the Objects or any of them.

3 Unless the contrary intention is stated:

- (a) each Object is independent of the other Objects;
- (b) no Object is limited or restricted by reference or inference to any other Object;  
and
- (c) no Object excludes or limits any other Object.

4 All income earned by the Company and all property owned or acquired by the Company must be applied solely towards the promotion of the Objects. No portion of any such income or property may be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise to the Members or any of them.

5 Nothing in Article 4 prevents the payment in good faith of:

- (a) reasonable and proper remuneration to any officer or employee of the Company, Division or Member for services rendered to the Company or for goods supplied in the ordinary course of business;

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- (b) interest at a rate not exceeding the maximum rate of interest for the time being charged by the Commonwealth Bank of Australia on overdraft accounts of similar amounts on money borrowed from any Member; or
  - (c) reasonable and proper rent for premises demised or let by any Member to the Company,

so long as no Director or member of the Executive Committee of any Division is:

- (i) appointed to any salaried office of the Company;
- (ii) appointed to any office of the Company paid by fees; or
- (iii) paid remuneration or other benefit in money or money's worth by the Company in connection with his or her holding office as or acting as a Director or a member of the Executive Committee of a Division, except repayment of out-of-pocket expenses.

Sub-paragraph (iii) also applies to any other person acting as an alternate Director or alternate Executive Committee member appointed in accordance with this Constitution or otherwise.

## MEMBERSHIP

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### Classes of Members

- 6 The membership of the Company consists of those applicants whom the Board accepts for Membership, and persons elected by the Company as Life Members.
- 7 Each Member must be an Ordinary Member, an Individual Member or a Life Member.
- 8 An Ordinary Member is a Member who is:
  - (a) the trustee for the time being of one or more Funds;
  - (b) a Fund constituted pursuant to:
    - (i) legislation or subordinate legislation of the Commonwealth of Australia or of any of the States or Territories forming part of the Commonwealth of Australia or under its control;
    - (ii) a royal charter; or
    - (iii) any other competent instrument,and having a separate legal existence distinct from its members;
  - (c) a firm or a corporation which is an employer of persons in Australia; or
  - (d) an individual who is an employer of persons in Australia or who provides goods or services to any persons described in (a) or (b), including (but not limited to) actuaries, superannuation fund administrators, legal advisers, investment bankers,

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financial service providers, accountants, investment managers, electronic data processing providers, computer hardware providers and computer software providers.

- 9 An Individual Member is an individual person, who is interested in matters relating to any one or more of the Objects.
- 10 A Life Member is an individual person whom the Company wishes to honour in a special way by granting him or her membership of the Company for life because of services rendered to the Company by that individual. The Company may elect an individual as a Life Member by resolution passed at an annual general meeting of the Company. Such a resolution may only be made following a recommendation of the Board. Any such recommendation must be sent to Members with the notice of meeting convening the annual general meeting at which the relevant motion is to be put.
- 11 Every application for admission as an Ordinary Member or Individual Member must be approved by the Board. The Board may in its absolute discretion refuse to accept any application for membership of the Company.
- 12 An application for membership must be accompanied by:
- (a) the subscription required under this Constitution; and
  - (b) any other information which the Board requests to enable it to decide whether the applicant is eligible for membership,
- and must indicate to which Division the applicant wishes to be attached.
- 13 An individual eligible to be an Ordinary Member under Article 8 may, with the consent of the Board, apply instead to be an Individual Member. The membership as an Individual Member of an Individual Member who is eligible to be an Ordinary Member under Article 8 will automatically terminate if and when that Member becomes an Ordinary Member.

### **Rights of Members**

- 14 All Members may participate in the activities of the Company, receive notices and publications, and attend and speak and vote at any general meeting except as stated in Articles 15 to 17.
- 15 Individual Members and Life Members have no right in their capacity as such Members to:
- (a) nominate a person for election to the Board; or
  - (b) vote at elections of Directors, and
- may not become a member of the Board or the Executive Committee of a Division.
- 16 Individual Members have no right or entitlement in their capacity as Individual Members to vote at general meetings (including annual general meetings) of the Company. The Board may by way of resolution also specify the services which Individual Members are entitled to receive and the terms on which they may receive them.

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- 17 Notwithstanding Article 16, Individual Members who were “Associate Members” as defined by this Constitution prior to the amendments made to it by special resolution of the Members on 14 July 1999 who become Individual Members under this Constitution by virtue of the amendments made to it on that date and who have not at any time subsequently ceased to be Individual Members may vote as Members at general meetings, including annual general meetings, of the Company.

### **Divisions**

- 18 Each Member will be attached to a Division as follows:
- (a) Ordinary Members: where the Member is a Fund or the trustee of a Fund, to the Division in which that Fund is administered; and  
  
otherwise, to the Division within whose area the Member has its principal place of business.
  - (b) Life Members and Individual Members: to the Division within whose area the Member has his or her primary residence.
- 19 Any Member:
- (a) which is a company which carries on business in more than one Division; or
  - (b) which is the trustee of a Fund which is administered in the area of more than one Division; or
  - (c) which is a Fund which is administered in the area of more than one Division,
- will be attached to the Division within whose area the Member has its principal place of business.
- 20 For the purposes of Articles 18 and 19, a Fund is “administered” within an area if the trustees or other persons in whom the assets of the Fund are vested, or who have the management and control of the Fund:
- (a) are resident in that area; or
  - (b) in the case of such trustees or other persons who are companies, are incorporated and carry on business in that area; or
  - (c) are accustomed to meet and make decisions relating to the Fund within that area.

### **Nominated Representative**

- 21 Ordinary Members may appoint a Nominated Representative in accordance with section 250D of the Corporations Act. An appointment made in accordance with this Article is not effective until written notice of it is received by the Company at its registered office.
- 22 A Life Member may be appointed as a Nominated Representative, and in that capacity will be entitled to exercise all the rights and enjoy all the privileges of a Nominated Representative.

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- 23 A Member may revoke the appointment of a Nominated Representative appointed by it at any time and may appoint a new Nominated Representative to replace a Nominated Representative so revoked at any time. An appointment or revocation made in accordance with this Article is not effective until written notice of it is received by the Company at its registered office.

### **Resignation as Member**

- 24 A Member may resign from membership by notice in writing to the company secretary at the registered office of the Company. The resignation of a Member does not affect the liability of the resigning Member for any annual subscription or any other moneys owing by that Member to the Company at the time of resignation.

### **Termination of Membership**

- 25 The Board may resolve to remove the name of a Member in default under Article 39 from the Central Register of Members with effect from the date specified in the resolution. Upon the passing of such a resolution, the relevant Member will cease to be a Member of the Company.
- 26 The Board may terminate any Member's membership with immediate effect by passing a resolution to remove the name of that Member from the Central Register of Members if the Board determines that:
- (a) the Member or its Nominated Representative has committed a breach of one or more of the provisions of this Constitution or the Division Rules; or
  - (b) the Member or its Nominated Representative has acted contrary to the interests of the Company; or
  - (c) termination of the membership is in the best interests of the Company.

Such a resolution will not be effective unless the Board has:

- (i) given the Member and the relevant Nominated Representative fourteen (14) days notice of its intention to pass such a resolution; and
- (ii) given the relevant Member or its Nominated Representative the opportunity to appear before the Board to be heard in respect of the alleged grounds for termination.

Upon the passing of such a resolution, the relevant Member shall cease to be a Member of the Company. Termination does not affect the liability of the Members for any annual subscription or any other moneys owing by that Member to the Company at the time of registration.

- 27 Notwithstanding the provisions of Article 10, the Board may direct, by resolution with immediate effect, that a Life Member cease to be a Life Member for such cause as the Board thinks fit. Upon the passing of such a resolution, the relevant Member shall cease to be a Member of the Company.

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**Effect of Resignation or Termination**

28 Any claim to or interest of any nature:

- (a) in any of the funds or assets of the Company; or
- (b) against any Director or member of the Executive Committee of a Division; or
- (c) against any member of the salaried staff of the Company,

which a Member may have ceases upon that Member's resignation from or termination of that Member's membership.

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**CENTRAL REGISTER OF MEMBERS**

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29 The company secretary must keep a Central Register of Members in accordance with the Corporations Act. The Central Register of Members must also contain particulars of each Division, and of each class of membership. The Central Register of Members must record the names and addresses of all Members and the dates of their admission to membership, the names and addresses of all Nominated Representatives and any other particulars required by the Board.

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**SUBSCRIPTIONS**

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30 The Board will determine the subscription to be paid by the Members of the Company (other than Life Members, who shall not be required to pay any subscription) for each financial year commencing 1 July prior to the commencement of that financial year. The basis for calculating subscriptions for Members may vary between classes and between types or categories of Members.

31 Subscriptions are payable on admission and on the first day of July of every subsequent year.

32 Any moneys received by a Division on behalf of the Company, being payment for subscription or otherwise, must be forwarded immediately to the company secretary at the registered office of the Company unless the Board agrees otherwise.

33 A Member is not required to pay the full subscription payable in accordance with Article 35 if that Member is admitted more than three (3) months after the commencement of a financial year. The percentage of the subscription payable by such a Member for that financial year will be:

- (a) 75% of the annual rate if the admission falls between 1st October and 31st December;
- (b) 50% of the annual rate if the admission falls between 1st January and 31st March; and
- (c) 25% of the annual rate if the admission falls between 1st April and 30th June.

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- 34 If an Individual Member becomes an Ordinary Member, then the subscription paid by that Individual Member will be applied towards the subscription payable by the Member upon admission as an Ordinary Member.

## LEVY

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- 35 The Board may impose a levy upon Ordinary Members and Individual Members equal to a specified proportion of the amount of each Member's annual subscription.
- 36 No more than one levy may be imposed in any financial year.
- 37 No levy may be imposed without a Special Board Resolution.
- 38 No levy imposed on a Member may exceed the subscription payable by that Member during the financial year in which the levy is imposed without the sanction of a resolution of a general meeting of the Company.

## UNFINANCIAL MEMBERS

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- 39 A Member will be in default if a subscription or levy payable by it is not received within two (2) months after it becomes due.
- 40 A Member in default in accordance with Article 39 may not vote on a ballot held to elect Directors or members of the Executive Committee of a Division until the default has been remedied by payment of the subscription or levy owing.
- 41 A Member in default in accordance with Article 39 is not entitled, either personally or through its Nominated Representative, to:
- (a) attend or be heard or vote at any meeting of the Company or any meeting of a Division; or
  - (b) nominate a person for election as Director; or
  - (c) receive any of the benefits of membership including Member's discounts, and the entitlements of the Member and its nominees to receive professional accreditation points and Company publications,
- until the default has been remedied by payment of the subscription or levy owing.

## DIVISIONS

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### Formation

- 42 The initial Divisions and the areas which they cover are:

| Division            | Area  |
|---------------------|---|
| (a) New South Wales | New South Wales and the Australian Capital Territory. |

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- (b) Victoria                      Victoria and Tasmania.
  - (c) Queensland                      Queensland.
  - (d) South Australia                      South Australia and the Northern Territory.
  - (e) Western Australia                      Western Australia.

43      The Board may create new Divisions or alter the boundaries of existing Divisions from time to time provided that all areas of Australia are covered by a Division at all times.

#### **Rules and regulations**

- 44      The Division Rules of each Division will be determined by the Board. These rules may describe the activities of Divisions and the method by which Divisional representatives are elected or appointed.
- 45      The Board may vary or amend the Division Rules of a Division from time to time at its discretion whether on the initiative of the Board, or otherwise.
- 46      If any Division Rule of a Division is inconsistent with any Article, the Division Rule will be void to the extent of the inconsistency.
- 47      No resolution passed by members of a Division nor any action nor decision of a Division or its Executive Committee will be binding on the Company or any of its Members (other than members of that Division), unless so determined by the Board.

#### **Division Activities**

- 48      The members of a Division may regulate their own proceedings as they think fit so long as their actions are consistent with this Constitution and the relevant Division Rules.

#### **Dissolution by Board**

- 49      The Board may dissolve any Division and reallocate the boundaries of the remaining Divisions at any time if:
- (a)      in the opinion of the Board the number of members of the Division has become so few as to render the continued existence of the Division impractical or uneconomical;
  - (b)      the Division fails to forward to the company secretary at the registered office of the Company any moneys held for or owing by it to the Company by the date any such monies are due to be forwarded under this Constitution or otherwise;
  - (c)      in the opinion of the Board the Division has acted contrary to or with disregard for this Constitution, the Division's Division Rules or a direction of the Board; or
  - (d)      in the opinion of the Board the Division has acted in any manner prejudicial to the interests of the Company.

The Board may take possession of all the assets and records of a Division dissolved by it in accordance with this Article.

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- 50 A dissolution of a Division pursuant to Article 49 will be effective from the time that the company secretary:
- (a) gives written notice of dissolution to the last chairperson or division secretary of the Division known to the company secretary; or
  - (b) publishes such notice in the Company's journal or in a newspaper circulating in the Division's area.

Any notice given or published in accordance with this Article must quote the relevant resolution of the Board.

## **GENERAL MEETINGS**

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### **Annual General Meeting**

- 51 An annual general meeting of the Company shall be held in accordance with the provisions of the Corporations Act.

### **General Meetings**

- 52 Members may:
- (a) give the Company notice of a resolution that they propose to move at a general meeting; or
  - (b) request the Company to give to all Members a statement provided by the Members about a resolution that is proposed to be moved at a general meeting or any other matter that may be properly considered at a general meeting,

in accordance with the Corporations Act, and the Company must distribute to the other Members notice of any such resolution given or statement requested to be given in accordance with the Corporations Act.

### **Convening a General Meeting**

- 53 The Board may convene a general meeting whenever it thinks fit.
- 54 The Board must convene a general meeting on the requisition of the lesser of:
- (a) one hundred (100) or more Members who are entitled to vote at the general meeting; or
  - (b) Members with at least 5% of the votes that may be cast at the general meeting,

The requisition must:

- (i) be in writing;
- (ii) state the resolution to be proposed at the meeting;
- (iii) be signed by the Members making the request; and

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- (iv) be sent or delivered to the registered office of the Company and addressed to the company secretary.

Separate copies of a document setting out the requisition may be used for signing by Members if the wording of the requisition is identical in each copy.

- 55 The Board must convene a meeting requisitioned in accordance with Article 54 as soon as possible. Any such meeting must be convened no later than two (2) months after the requisition is received. Any such meeting must be held for the purposes specified in the requisition and for any other purposes which the Board thinks fit, provided that any such additional purpose is specified in the relevant notice of meeting.
- 56 Any meeting purporting to be held in accordance with a requisition made in accordance with Article 54 is not a valid meeting if held after the expiration of three (3) months from the date that that requisition was deposited.
- 57 The requisitionists referred to in Article 54, or any of them representing more than one-half of the total voting rights of all of them, may convene a meeting requisitioned in accordance with Article 54 if the Board does not do so within twenty-one (21) days from the date of deposit of that requisition. Any meeting so convened by the requisitionists:
- (a) must be limited to the purposes specified in the requisition; and
  - (b) must be convened as nearly as possible in the same manner as that in which meetings are to be convened by the Board.
- 58 Any meeting convened in accordance with Article 57 is not a valid meeting if held after the expiration of three (3) months from the date that the relevant requisition was deposited.
- 59 If at any time there are insufficient Directors to form a quorum as required under Article 114 to resolve to convene a general meeting in accordance with Article 55, the Directors who are capable of acting may convene a general meeting. If there are no Directors, then any Member may convene a general meeting.

## Notice

- 60 Twenty one (21) days' notice of an annual general meeting or a general meeting (exclusive of the day on which the notice is served or deemed to be served and inclusive of the day for which notice is given) must be given to all persons entitled to receive such notice from the Company. The notice must specify the place, the day and the hour of the meeting and the general nature of business to be transacted at the meeting. Shorter notice of meeting may be given if given in accordance with the Corporations Act.
- 61 The accidental failure to give notice of a meeting to a Member, or the non-receipt by a Member of the same, does not invalidate the proceedings at the relevant meeting, including any resolutions passed at it.

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## PROCEEDINGS AT GENERAL MEETINGS

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### Attendance

- 62 A Member may attend or be represented by any one of his, her or its proxy, attorney or Nominated Representative at any general meeting. Any Member or his, her or its proxy, attorney or Nominated Representative is entitled to speak at any general meeting.

### Quorum

- 63 No business may be transacted at any general meeting unless a quorum is present at the commencement of that meeting.
- 64 A quorum for the purposes of Article 63 means seven (7) Members who are entitled to vote personally present or represented by one of their Nominated Representative, proxy or attorney. The requirements for a quorum for the purposes of Article 63 may be changed by resolution of the Company in general meeting.
- 65 A meeting convened upon the requisition of Members shall be dissolved if a quorum is not present within thirty (30) minutes from the time appointed for that meeting. In any other case, the meeting shall stand adjourned to a day and time in the following week determined by the chairperson. If at a meeting adjourned in accordance with this Article, a quorum is not present within thirty (30) minutes from the time appointed for the meeting, the Member or Members present and entitled to vote may form a quorum and transact the business for which the meeting was called.

### Chairperson

- 66 The ASFA Chairperson, or in his or her absence the Deputy ASFA Chairperson, will take the chair at every general meeting. The Members personally present or represented by one of their Nominated Representative, proxy or attorney and entitled to vote may choose one of their number to be chairperson if neither the ASFA Chairperson nor the Deputy ASFA Chairperson is present at that meeting within fifteen (15) minutes after the appointed starting time. In the case of an equality of votes, the chairperson shall be the Member whose name appears first in the Central Register of Members or that Member's Nominated Representative present at the meeting who is willing to act as chairperson.

### Voting on a resolution

- 67 At any general meeting a resolution put to the vote of the meeting will be decided on a show of hands unless a poll is demanded:
- (a) by the chairperson; or
  - (b) by at least five (5) Members personally present or represented by one of their Nominated Representative, proxy or attorney,

before the vote is taken, before the result of the show of hands is declared or immediately after the voting result on a show of hands is declared. A demand for a poll may be withdrawn.

- 68 Unless a poll is demanded in accordance with Article 67, a declaration by the chairperson of the result of a resolution on a show of hands, and an entry of the result in the book

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containing the minutes of the meeting, is conclusive evidence of the result of the resolution without proof of the number or proportion of the votes recorded for or against the resolution.

- 69 If a poll is demanded in accordance with Article 67, it shall be taken in a manner determined by the chairperson. The poll may be taken at once, after an interval, adjournment or otherwise as the chairperson directs, except that a poll demanded on the election of a chairperson or on a question of adjournment must be taken immediately. The result of the poll shall be the resolution of the meeting at which the poll was demanded.
- 70 On a show of hands, each Member present at a meeting in person and entitled to vote, or the proxy, attorney or Nominated Representative of such member which is not present and voting, has one vote.
- 71 On a poll, each Member present at the meeting in person and entitled to vote, or the proxy, attorney or Nominated Representative of such Member which is not present and voting, has one vote.
- 72 In the case of an equality of votes either on a show of hands or on a poll, the chairperson is to have a casting vote in addition to any other vote or votes which the chairperson may be entitled to exercise as a Member or otherwise.

### **Adjournment**

- 73 The chairperson may adjourn a general meeting from time to time and from place to place with the consent of a majority of those present who are entitled to vote. The chairperson must adjourn a general meeting when and in accordance with a direction to do so by a majority of those present who are entitled to vote.
- 74 No business may be transacted at any adjourned meeting other than the business left unfinished.
- 75 No Member is entitled to any notice of any adjourned meeting or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for more than fourteen (14) days, in which case at least seven (7) days' notice of the adjourned meeting must be given in the same manner as required for the original meeting.

### **PROXIES AND POWERS OF ATTORNEY**

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- 76 A proxy or attorney need not be a member of the Company.
- 77 The instrument appointing a proxy must be in writing and must be executed by or on behalf of the appointer or of his, her or its attorney duly authorised in writing. The instrument appointing a proxy is deemed to confer authority to demand or join in demanding a poll. A member may instruct his, her or its proxy to vote in favour of or against a proposed resolution. Unless otherwise instructed by his or her appointer, a proxy may vote as he or she thinks fit.
- 78 The instrument appointing a proxy may be in the following form, or in a common or usual form or other form approved by the Board:-

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**“ THE ASSOCIATION OF SUPERANNUATION FUNDS OF AUSTRALIA LIMITED**

I/We \_\_\_\_\_ being an Ordinary/Individual/Life Member of the Association of Superannuation Funds of Australia Limited (“the Company”) hereby appoint \_\_\_\_\_ or failing that person \_\_\_\_\_ as my/our proxy to vote for me/us on my/our behalf at the (annual general meeting or general meeting, as the case may be) of the Company to be held on the \_\_\_\_\_ day of \_\_\_\_\_ and at any adjournment thereof.

My proxy is authorised to vote in favour of/against the following resolutions.

Dated this \_\_\_\_\_ day of \_\_\_\_\_”

- 79 The instrument appointing the proxy and the power of attorney (if any) under which it is executed must be addressed to the company secretary and deposited at or delivered to the registered office of the Company not less than twenty-four (24) hours before the time appointed for holding the meeting or adjourned meeting, as the case may be, at which the person appointed as proxy proposes to vote.
- 80 A vote cast in accordance with the instrument appointing a proxy or a power of attorney shall be valid notwithstanding the previous death of the principal or revocation of the instrument or of the power of attorney unless the Company has received written notice of that death or revocation in writing delivered to:
- (a) the Company’s registered office not less than twenty-four (24) hours before the time appointed for holding the meeting or adjourned meeting at which the person appointed as proxy or attorney casts the vote; or
  - (b) the place of the meeting or adjourned meeting at which that vote is cast before that vote is cast.

## **APPOINTMENT AND QUALIFICATIONS OF DIRECTORS**

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- 81 The Board will consist of the persons elected or appointed as Directors in accordance with Article 82 to Article 96.
- 82 The Regulations are repealed with effect from the amendment of this Constitution on 15 November 2007.
- 83 The Directors in office at the time of repeal of the Regulations will be taken to have been elected or appointed in accordance with this Constitution as if they had been elected under this Constitution by the relevant Category Members at the time they were elected under the applicable Regulations and will continue in office subject to this Constitution, for the term they were appointed for under the Regulations.
- 84 The Board may create new Categories or dissolve existing Categories from time to time by Special Board Resolution.

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- 85 If the Board by Special Board Resolution creates a new Category then the Board may nominate two persons to fill each extra Director position created by the creation of that new Category. A person nominated in accordance with this clause will hold office until the end of the annual general meeting following the election of two Directors to represent the new Category in accordance with Article 88. The persons appointed as interim Directors in accordance with this clause may be elected as the new Directors if they are qualified to be so elected.
- 86 For the purposes of elections of Directors:
- (a) each Ordinary Member must be designated by the Board as one of:
    - (i) a Public Sector Fund;
    - (ii) an Industry Fund;
    - (iii) a Retail Fund;
    - (iv) a Service Provider or Service Provider Fund; or
    - (v) a Corporate or Corporate Fund;
  - (b) the Board will in its absolute discretion designate an Ordinary Member to the Category which the Board thinks fit;
  - (c) the Board may change the Category to which an Ordinary Member is designated at any time and in its absolute discretion; and
  - (d) each Ordinary Member may apply to the Board in writing setting out the Category to which it thinks it should be designated.
- 87 The Board will comprise two Fund Directors in respect of each category. At the date of revision of this Constitution on 15 November there will be 10 Directors.
- 88 Other than appointment of a Director by the Board under Article 85 or Article 94, a Director may only be elected by the Members in each Category to represent the Category to which they or the Funds that they are associated with belong.
- 89 Each person elected in accordance with Article 88 will assume office as a Director from the end of the annual general meeting immediately following his or her election and will hold office for a term ending at the end of the annual general meeting held in the second year following his or her year of appointment.
- 90 Each Director is eligible for re-election at the end of his or her term.
- 91 Nomination of Directors will occur as follows:
- (a) a candidate for election as a Director in respect of a Category must be an Eligible Representative of an Ordinary Member which belongs to that Category;

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- (b) an Eligible Representative may only stand for election as a Director in respect of a Category if nominated by an Ordinary Member which belongs to that Category; and
  - (c) an Ordinary Member who wants to nominate an individual to stand for election as a Director must do so in writing to the company secretary at the registered office of the Company if requested by the Board to do so, and when doing so must attach any documents which the Board requests be attached for the purpose of showing that the nominee is an Eligible Representative of a member of the Category to which that Ordinary Member belongs.
- 92 The company secretary must arrange a secret ballot for election of Directors amongst those Members entitled to vote for that Director, in such a manner as the company secretary deems to be fair, but subject to the provisions of the Constitution, and subject to the overriding direction of the Board.
- 93 The voting procedure at elections set out in this Article must be followed:
- (a) the Board must set a date for commencing election of those Directors whose term of office expires at the end of the next annual general meeting which is not less than 2 months before that annual general meeting;
  - (b) the company secretary must, within 7 days of that date, send a notice to Ordinary Members informing them about the election and inviting nominations for candidates to stand for election. The notice must set out the procedures for nomination and the necessary qualifications of candidates. Members have 14 days to nominate a person for election;
  - (c) in the event that the number of nominations for representatives of a Category is less than or equal to the number of vacancies, the person or persons nominated will be deemed elected and no election will be necessary;
  - (d) if an election is necessary not less than 1 month before the date of the next annual general meeting the company secretary must send a ballot paper to each Ordinary Member entitled to vote for a Director which contains the names of all the candidates for election as representative Director of that Ordinary Member's Category, together with voting instructions. Members must have 14 days to vote;
  - (e) on the expiry of the 14 days for voting the company secretary will declare the ballot closed and any ballot papers received after that date will not be counted. The company secretary will then determine the successful candidates in each Category;
  - (f) eligibility to vote for Directors is to be determined at the date 5 days before dispatch of ballot papers; and
  - (g) in each election of Directors:
    - (i) the method of voting is to be determined by the Board; and
    - (ii) each Member entitled to vote has only one vote.

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- 94 In the event of a vacancy in the position of a Director, the Board may nominate a person who is an Eligible Representative in respect of the relevant Category to serve as a Director until the end of the annual general meeting following an election for Directors in that Category.
- 95 The Board may function notwithstanding any vacancy in its body.

## **DISQUALIFICATION, RESIGNATION AND REMOVAL OF DIRECTORS AND CONTRACTS WITH DIRECTORS**

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- 96 Each Director must be an Eligible Representative in respect of an Ordinary Member which is in the same Category as the one to which the Members which elected that person belong, except that a Director who was such an Eligible Representative at the time of his or her election or appointment may continue to hold office for 3 months after ceasing to be such an Eligible Representative.
- 97 A Director who has ceased to be an Eligible Representative will be taken to have resigned from the office of Director 3 months after that cessation, unless that Director has become an Eligible Representation of a Member in the same Category as that of which he or she was an Eligible Representative at the time of his or her election.
- 98 A Director may resign from office by notice in writing with immediate effect.
- 99 The Board may recommend to Members the removal of a Director from office in accordance with the procedures set out in section 203D of the Corporations Act.
- 100 A Director will be automatically removed from office with immediate effect if a majority of the Board resolves to remove that Director from office as a Director because he or she:
- (a) is absent from two consecutive meetings of the Board without leave;
  - (b) is in breach of this Constitution ; or
  - (c) has engaged in an act, proceeding or practice which is dishonourable or inconsistent with his or her position as a Director, is calculated to bring discredit on the Company or is otherwise contrary to the interests of the Company.

The Board must give a Director who is to be the subject of a resolution under this Article a reasonable opportunity to be heard on any matter concerning his or her conduct before the Board passes a resolution to remove him or her for such conduct.

- 101 A Director will be automatically removed from office with immediate effect if:
- (a) that Director becomes bankrupt or makes any arrangement or composition with his or her creditors generally;
  - (b) that Director becomes prohibited from being a director of a company by reason of any order made under the Corporations Act;
  - (c) that Director ceases to be a Director by operation of any provision of the Corporations Act;

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- (d) that Director or that Director's estate becomes liable to be dealt with in any way under the law relating to mental health; or
  - (e) that Director holds any office of profit under the Company.

## **POWERS AND DUTIES OF THE BOARD**

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- 102 The business and affairs of the Company are to be managed by the Board. In doing so, the Board may:
- (a) use Company funds to pay all expenses incurred in promoting and registering the Company; and
  - (b) exercise all powers of the Company which are not required to be exercised by the Company in general meeting by virtue of the Corporations Act or this Constitution, subject to the other provisions of this Constitution.
- 103 All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments of the Company must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by two Directors, or by a Director and the company secretary, unless the Board resolves otherwise.
- 104 The Board must cause minutes to be made:
- (a) of all appointments of officers;
  - (b) of names of Directors present at all general meetings of the Company and meetings of the Board;
  - (c) of all proceedings and meetings of the Company, and all meetings of the Board; and
  - (d) of all Directors who were granted leave of absence from a meeting of the Board.

Such minutes must be signed by the chairperson of the meeting at which the proceedings were held, or by the chairperson of the next succeeding meeting.

## **MEETINGS OF BOARD**

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- 105 The Board may fix the time and place of its meetings. Special meetings may be convened at the discretion of the ASFA Chairperson, or, if his or her office is vacant, at the discretion of the Deputy ASFA Chairperson, or upon a requisition signed by not less than one-half of the Directors for the time being.

### **Quorum**

- 106 The quorum for a meeting of the Board is one third (or, if the number of Directors is not a multiple of 3, the nearest number to and greater than one third) of the total number of Directors, unless altered by the Board under Article 107.

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- 107 The Board may from time to time by Special Board Resolution alter the quorum required for any meeting of the Board PROVIDED THAT the quorum prescribed by the Board can not be less than the quorum stated in Article 105.
- 108 A duly convened meeting of the Board for the time being at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions vested in it or exercisable by the Board generally.
- 109 The Directors may conduct meetings without Directors being in the physical presence of other Directors provided that all the Directors involved in the meeting are able to hear each other and to participate in discussion simultaneously. This Article applies to meetings of Directors' committees established under Article 114 as if the members of such committees were Directors.

### **Chairperson**

- 110 The ASFA Chairperson will be chairperson of all meetings of the Board at which he or she is present. In his or her absence, the Deputy ASFA Chairperson will be chairperson. If neither the ASFA Chairperson nor the Deputy ASFA Chairperson is present, the Directors present may elect one of their number to be chairperson of the meeting. In the case of an equality of votes, the chairperson shall be determined by drawing lots.

### **Voting**

- 111 Subject to any other provisions of this Constitution, questions arising at any meeting of the Board shall be decided by a majority of votes. In the case of equality of votes, the chairperson of the meeting shall have a second or casting vote.
- 112 A Director shall not vote in respect of any contract or proposed contract with the Company in which he or she is interested, or any matter arising in relation to such a contract. Any vote cast by such a Director in respect of such a matter will not be counted.
- 113 The Directors may pass a resolution without a Directors' meeting being held if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. 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. The resolution made in accordance with this Article is passed when the last Director signs.

### **Committees**

- 114 The Board may delegate any of its powers and/or functions (not being duties imposed on the Board as the directors of the Company by the Corporations Act or the general law) to one or more committees consisting of such persons as the Board thinks fit. Any committee so formed shall conform to any regulations imposed by the Board. Subject to any regulations imposed by the Board:
- (a) a committee appointed in accordance with this Article will have power to co-opt any persons; and
  - (b) all members of such a committee shall have one vote.

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- 115 A committee may meet and adjourn as it thinks proper. Questions arising at any meeting must be determined by a majority of votes of the members of the committee present. In the case of an equality of votes, the chairperson shall have a second or casting vote. The chairperson is to be determined by the Board or as the Board otherwise directs.

### **Validation**

- 116 All acts done by any meeting of the Board or of a committee of Directors or by any person acting as a Director will be valid as if every such person had been duly appointed and qualified notwithstanding that it is subsequently discovered that:
- (a) there was a defect in the appointment of a Director or person so acting in such a meeting; or
  - (b) the Directors or any of them were disqualified.

### **Advisory Boards**

- 117 The Board may appoint one or more advisory boards consisting of such persons as the Board thinks fit. Such advisory boards shall act in an advisory capacity only. They shall conform to any regulations that may be imposed by the Board. Subject to any regulations so imposed:
- (a) an advisory board shall have power to co-opt any persons; and
  - (b) all members of such advisory boards shall have one vote.

## **ASFA CHAIRPERSON AND DEPUTY ASFA CHAIRPERSON**

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- 118 Each year, the Board must appoint a Director to act as ASFA Chairperson to hold office for a maximum of one year. Each year, the Board may also appoint one of the chairpersons appointed under Article 119 to act as Deputy ASFA Chairperson for the purposes of Article 66 and Article 110, for a maximum of one year. A person may be reappointed as a Chairperson or Deputy Chairperson.
- 119 The Board may appoint a Director to each of the following positions:
- (a) ASFA Member Services Chairperson;
  - (b) ASFA Administration and Finance Chairperson;
  - (c) ASFA Policy Chairperson,
- and may determine the period for which a person appointed to any of these positions is to hold office.
- 120 The Board may declare the office of ASFA Chairperson or the office of Deputy ASFA Chairperson or any of the offices listed in Article 119 vacant at any time.
- 121 The Board may elect any Director to fill any vacancy in a position as ASFA Chairperson or Deputy ASFA Chairperson or any of the offices listed in Article 119.

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- 122 In the event of an equality of votes upon the appointment of the ASFA Chairperson or Deputy ASFA Chairperson or any of the offices listed in Article 119, the candidates receiving the same number of votes shall (unless they otherwise agree among themselves) draw lots and the successful candidates shall be declared elected.

## **CHIEF EXECUTIVE OFFICER AND COMPANY SECRETARY**

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### **Chief Executive Officer**

- 123 The Board may designate a person to be Chief Executive Officer for such period and on such terms as it thinks fit and, subject to the terms of any agreement entered into in a particular case, may revoke any such appointment in its absolute discretion.
- 124 A Chief Executive Officer may, subject to the terms of any agreement entered into in a particular case, receive such remuneration as the Board determines.
- 125 A Chief Executive Officer is entitled to attend all meetings of the Board and all general meetings of the Company and may be heard on any matter unless the Board directs that the Chief Executive Officer may not attend a particular meeting of the Board.
- 126 The Board may confer on the Chief Executive Officer any of the powers exercisable by it on such terms and conditions and with such restrictions as it thinks fit. Any powers so conferred may be concurrent with, or be to the exclusion of, the powers of the Board. The Board may at any time withdraw or vary any of the powers conferred on a Chief Executive Officer.

### **Company secretary**

- 127 The Board will appoint a person to the office of company secretary for such period and on such terms as it thinks fit, and, subject to the terms of any agreement entered into in a particular case, may revoke any such appointment.
- 128 A company secretary may, subject to the terms of any agreement entered into in a particular case, receive such remuneration as the Board determines.
- 129 A company secretary is entitled to attend all meetings of the Board and all general meetings of the Company and may be heard on any matter unless the Board directs that the company secretary may not attend a particular meeting of the Board.
- 130 The Board may, on such terms and conditions and with such restrictions as it thinks fit, confer on the company secretary any of the powers exercisable by it. Any powers so conferred may be concurrent with, or be to the exclusion of, the powers of the Board. The Board may at any time withdraw or vary any of the powers so conferred on a company secretary.

## **SEAL**

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- 131 The Board will provide for the safe custody of the seal. The seal may only be used by the authority of the Board or of a committee of the Board authorised by the Board to grant such authority. Every instrument to which the seal is affixed shall be signed by a Director and shall be countersigned by the company secretary or by a second Director or by some other person appointed by the Board for that purpose.

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## ACCOUNTS

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- 132 The Board will cause proper accounting and other records to be kept as required by the Corporations Act. Such records will be kept at the registered office of the Company or at such other place or places as the Board thinks fit.
- 133 The company accounts must be available for inspection by the Members, subject to any reasonable restrictions as to time and manner of inspection imposed by the Board.
- 134 Subject to and in accordance with the provisions of the Corporations Act, the Board will cause to be made out and laid before each annual general meeting of the Company held in accordance with the Corporations Act, a profit and loss statement, balance sheet, cash flow statement, Directors' report, auditors report, statement by Directors and any other document required by the Corporations Act.
- 135 Subject to and in accordance with the Corporations Act, a copy of every document referred to in Article 134, including every document required by law to be annexed or attached to any such document, must be served on each of the persons entitled to receive notice of general meetings of the Company not less than twenty-one (21) days before each annual general meeting.
- 136 The company secretary must prepare and submit to each meeting of the Board an up-to-date financial statement of the affairs of the Company in a form approved by the Board.

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## LIABILITY OF MEMBERS

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- 137 The liability of the Members is limited.
- 138 Every Member of the Company must contribute an amount up to a maximum of \$20 to the property of the Company in the event of the Company being wound up while that Member is a Member, or within one year after that Member ceases to be a Member, by way of contribution towards:
- (a) debts and liabilities of the Company (contracted before that Member ceases to be a Member);
  - (b) costs, charges and expenses of the winding up; and
  - (c) any adjustment of the rights of the Members agreed among themselves.

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## SURPLUS ASSETS ON A WINDING UP OR DISSOLUTION

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- 139 If the assets of the Company are not exhausted after all of the debts and liabilities of the Company are satisfied in the winding up of the Company, the remaining assets must not be paid or distributed to Members. Such assets must be given or transferred to some other institution(s) which has objects similar to the Objects, and whose Constitution restricts the distribution of its income and the distribution of its property among its members to the same extent or to a greater extent as is imposed on the Company under this Constitution.
- 140 The Members may determine the institution(s) which the Company is to give or transfer any surplus assets in accordance with Article 139. The Company must apply to the

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Supreme Court of New South Wales for a determination on the institution(s) which the Company is to give or transfer those assets if the Members do not or are unable to determine this issue themselves.

## AUDIT

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- 141 The accounting and other records of the Company must be examined and a report prepared by a registered company auditor in accordance with the Corporations Act no less than once a year.
- 142 The appointment, removal, remuneration, functions, rights, duties and liability of the registered company auditor are regulated by and subject to the provisions of the Corporations Act.

## NOTICES

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- 143 The Company may give a document to a Member:
- (a) personally;
  - (b) by sending it by post to the address for the Member in the Central Register of Members or an alternative address nominated by the Member; or
  - (c) by sending it to a fax number or electronic address nominated by the Member.
- 144 If a document is sent by post, delivery of the document is deemed to be effected by properly addressing, prepaying and posting a letter containing the document, and the document is deemed to have been delivered on the day after the date of its posting.
- 145 If a document is sent by facsimile or electronic transmission, delivery of the document is to be deemed:
- (a) to be effected by properly addressing and transmitting the facsimile or electronic transmission, and
  - (b) to have been delivered on the day following its despatch.

### General Meetings

- 146 Notice of every general meeting must be given to:
- (a) every Member; and
  - (b) the auditor for the time being of the Company.

No other person is entitled to receive notices of general meetings.

## INSURANCE AND INDEMNITY

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### Insurance

- 147 The Company must pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a Director, secretary or

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executive officer of the Company or of a related body corporate of the Company against liability incurred by the person in that capacity, including a liability for legal costs, unless:

- (a) the Company is forbidden by statute to pay or agree to pay the premium; or
- (b) the contract would, if the Company paid the premium, be made void by statute.

The extent of the insurance to be paid for under this Article will be determined by the Board.

### **Indemnity**

148 The Company must indemnify any current or former Director, secretary or executive officer of the Company or of a related body corporate of the Company out of the property of the Company against:

- (a) every liability incurred by the person in that capacity (except a liability for legal costs); and
- (b) all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity,

except to the extent that:

- (i) the Company is forbidden by statute to indemnify the person against the liability or legal costs; or
- (ii) an indemnity by the Company of the person against the liability or legal costs would, if given, be made void by statute.

### **Contract**

149 The Company may enter into an agreement with a person referred to in Articles 147 and 148 with respect to the matters covered by these Articles. An agreement entered into pursuant to this Article may include provisions relating to rights of access to the books of the Company conferred by the Corporations Act or otherwise by law.

## **SECRECY**

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150 No one connected with the Company who by reason of his or her office or in the course of his or her duties acquires knowledge of the affairs of any of the Members shall divulge anything of those affairs to the extent that the name of the Member concerned is identified with them without the written consent of that Member.



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