

Constitution



of

The Association of
Superannuation Funds
of Australia Limited
ACN 002 786 290

(As amended up to 2023)

A public company
limited by guarantee

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1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

The following words have these meanings in this Constitution:

“**Additional Director**” means a person appointed as an additional director under Article 12.4.

“**AGM**” means an annual general meeting of the Members.

“**Alternate Director**” means a person appointed as an alternate director under Article 12.6.

“**Article**” means an Article of this Constitution.

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

“**Board Charter**” means a written policy document that clearly defines the respective roles, responsibilities and authorities of the Board (both individually and collectively) and management in setting the direction, management and control of the Company.

“**Category**” means a class determined by the Board and comprising Voting Members designated to that class by the Board from time to time in accordance with Article 3.1(b)(ii), which classes include:

- (a) Public Sector Funds;
- (b) Industry Funds;
- (c) Retail Funds;
- (d) Service Providers and Service Provider Funds;
- (e) Corporates and Corporate Funds, and
- (f) such other Category as the Board from time to time determines in accordance with Article 3.1(f)(i).

“**Chairperson**” means the Director elected as chairperson in accordance with Article 10.3 or Article 16.1(a).

“**Chief Executive Officer**” means a person appointed as chief executive officer under Article 17.1(a).

“**Company**” means The Association of Superannuation Funds of Australia Limited ACN 002 786 290.

“**Company Secretary**” means a person appointed as company secretary of the Company.

“**Corporate**” means a Voting 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, an Industry Fund, a Retail Fund or a Service Provider Fund.

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

“**Deputy Chairperson**” means a Director elected as a deputy Chairperson in accordance with Article 16.2

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

“Eligible Representative” means an individual who is:

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

“Experienced Person” means a person with particular skills or experience with respect to aspects of the superannuation industry which the Board determines to be of relevance, value or importance to the Company from time to time.

“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.

“Group” means one of the classes of Non-Voting Members identified in paragraphs (a) to (p) of the definition of that term.

“Independent Director” means a director who is free of any interest, position, association or relationship that might influence, or reasonably be perceived to influence, in a material respect his or her capacity to bring an independent judgement to bear on issues before the Board and to act in the best interests of the Company and its Members generally.

“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 that are not all related bodies corporate;
- (j) whose trustee meets the basic equal representation rules as defined in the SIS Act;
- (k) which is sponsored by a union or group of unions and/or an employer association or group of employer associations; and
- (l) 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” means an individual 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, or to the superannuation industry, by that individual.

“Member” means a person whose name is entered in the Register of Members as a member of the Company.

“National Member Engagement Committee” means the committee established by the Board referred to in Article 8 and operated in accordance with the National Member Engagement Committee Rules.

“National Member Engagement Committee Rules” means the rules, regulations and by-laws governing the operation of the National Member Engagement Committee prescribed from time to time in accordance with Article 8.2.

“Nominated Representative” means any person appointed from time to time by a Member pursuant to Articles 3.5(a) to 3.5(c) to represent that Member for the purposes of the Company.

“Non-Voting Member” means an individual or a corporate Member that is not a Voting Member and, at the date of adopting this Constitution, includes any person designated by the Board to be in any one of the following Groups:

- (a) Life Member;
- (m) superannuation, provident, retirement, pension or similar fund for employees, self-employed persons or other persons, operating outside of Australia;
- (n) Service Provider operating outside of Australia;
- (o) industry association;
- (p) operator of a financial market (as that term is defined in the Corporations Act);
- (q) regulatory authority or employee of a regulatory authority;
- (r) trustee of a SMSF;
- (s) student of a tertiary institution;
- (t) academic at a tertiary institution;
- (u) tertiary institution;
- (v) company incorporated under State or Federal legislation that has an interest in the Objects;
- (w) State or Federal Government employee;
- (x) not-for-profit entity with similar aims and objectives to the Company;
- (y) individual interested in matters relating to any one or more of the Objects;
- (z) body or organisation with an interest in the Objects that is not otherwise a Voting Member; or
- (aa) such other Group as the Board from time to time determines in accordance with Article 3.1(f)(ii).

“Objects” means the objects of the Company stated in Article 2.1(a).

“Operating Officer” means, in relation to a Fund, a member of the Fund whose primary 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.

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

“Register of Members” means the register of members to be kept by the Company Secretary in accordance with Article 4.

“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
- (ab) 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 a person which carries on a business that includes the provision of goods or services to one or more Funds, including an actuary, superannuation administrator, law firm, bank, merchant bank, financial service provider, accounting firm, life office, insurer, investment manager, electronic data processing provider, computer hardware provider and computer software provider.

“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).

“SMSF” means a self managed superannuation fund as defined in the SIS Act.

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

- (a) is passed at a meeting of the Board of which at least 14 days written notice of the intention to propose the resolution as a special resolution has been given to each Director; and
- (ac) is passed by at least 75% of the votes cast by Directors present and entitled to vote on the resolution.

“Special Members’ Resolution” means a resolution of the Members:

- (a) of which notice of the intention to propose the resolution as a special resolution has been given, and the resolution stated; and
- (ad) that has been passed by at least 75% of the votes cast by Members entitled to vote on the resolution.

“Term” means, in respect of a Director, the period from the end of the AGM or Board meeting (as the case may be) immediately following his or her appointment or election and ending at the end of the AGM held in the second year following his or her appointment or election.

“Voting Member” means a Member who is:

- (a) the trustee for the time being of one or more Funds;
- (ae) 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;

- (af) a firm or a company which is an employer of persons in Australia; or
- (ag) 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 any Service Provider,

and has been designated to a Category by the Board.

1.2 Interpretation

- (a) In this Constitution unless the contrary intention appears:
 - (i) words indicating a gender include all other genders;
 - (ii) the word “person” includes an individual, a body corporate, a partnership, a joint venture, an unincorporated body or association, an authority and a trust;
 - (iii) the singular includes the plural and vice versa;
 - (iv) where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
 - (v) the word “includes” in any form is not a word of limitation;
 - (vi) a reference to a law includes regulations and instruments made under the law;
 - (vii) a reference to a law or a provision of a law includes amendments, re-enactments or replacements of that law or provision, whether by the State or the Commonwealth of Australia or otherwise;
 - (viii) a reference to an Article, schedule, paragraph or sub-paragraph is to an Article, schedule, paragraph or sub-paragraph of this Constitution;
 - (ix) a reference to this Constitution is to this Constitution (and, where applicable, any of its provisions) as modified or repealed from time to time;
 - (x) a reference to a notice or document in writing includes a notice or document given by email, fax or any other form of written communication;
 - (xi) a reference to a financial year is a reference to the period commencing on 1 July and ending on the following 30 June;
 - (xii) a Member is taken to be present at a meeting of Members if the Member is present in person, or by proxy, attorney or Nominated Representative;
 - (xiii) 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; and
 - (xiv) headings are inserted for convenience and do not affect the interpretation of this Constitution.
- (b) The provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution and accordingly do not apply to the Company.

1.3 Severing Invalid Provisions

If, at any time, a provision of this Constitution is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that does not affect or impair:

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this Constitution; or
- (b) the legality, validity or enforceability under the law of any other jurisdiction of that or

any other provision of this Constitution.

2. OBJECTS OF THE COMPANY

2.1 Objects of the Company

- (a) The objects for which the Company is established are:
 - (i) to advance general public knowledge and understanding of matters affecting or relating to Funds or to superannuation generally;
 - (ii) to promote adequate and sustainable retirement income strategies;
 - (iii) to promote, organise and hold meetings, conferences, seminars and lectures for the purposes stated in any of the Objects;
 - (iv) to establish and maintain a secretariat to assist the Company in furtherance of the Objects;
 - (v) 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;
 - (vi) 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;
 - (vii) to establish, maintain and conduct, or assist in the establishment, maintenance and conduct of, libraries for any of the purposes stated in these Objects;
 - (viii) 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:
 - A. seminars, study groups and courses concerned with matters related or incidental to the administration and management of Funds; and
 - B. courses to assist employees and self-employed persons and their relatives in planning for retirement.
 - (ix) 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;
 - (x) 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;
 - (xi) to provide specialised services to Funds where doing so is in the interests of Members or a particular group of Members;
 - (xii) 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;

- (xiii) to print and publish papers, journals, periodicals, bulletins, newsletters and proceedings of conferences and meetings on matters relevant to the Objects;
- (xiv) 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;
- (xv) 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;
- (xvi) 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;
- (xvii) 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;
- (xviii) to protect, promote and advance the interests of Funds, their trustees and their members;
- (xix) to establish committees for the benefit of Members and to promote the Objects;
- (xx) 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;
- (xxi) 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;
- (xxii) to sign and execute deeds, documents and other instruments of every nature and kind whatsoever;
- (xxiii) to accept, undertake or execute any trust or gift and act as trustee of any trust which relates in any way to the Objects;
- (xxiv) 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;
- (xxv) 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;
- (xxvi) to raise funds from Members for the purpose of one or more of the Objects as permitted by this Constitution;
- (xxvii) 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;
- (xxviii) 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;

(xxix) 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;

(xxx) to carry on any business or transaction capable of being conducted so as to directly or indirectly benefit the Company;

(xxxii) 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; and

(xxxiii) to do all such other things as are incidental or conducive to the attainment of the Objects or any of them.

(b) Unless the contrary intention is stated:

(i) each Object is independent of the other Objects;

(ii) no Object is limited or restricted by reference or inference to any other Object; and

(iii) no Object excludes or limits any other Object.

(c) 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.

(d) Nothing in Article 2.1(c) prevents the payment in good faith of:

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

(ii) reasonable remuneration to any Independent Director with the prior approval of the Board;

(iii) 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

(iv) reasonable and proper rent for premises demised or let by any Member to the Company,

provided no Director or member of the National Member Engagement Committee is:

(v) appointed to any salaried office of the Company;

(vi) appointed to any office of the Company paid by fees; or

- (vii) 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 National Member Engagement Committee, except repayment of out-of-pocket expenses,

other than in accordance with Article 2.1(d)(i). Article 2.1(d)(vii) also applies to any person acting as an Alternate Director.

3. MEMBERSHIP

3.1 Categories and Groups of Members

- (a) The membership of the Company consists of those applicants the Board accepts for membership, and persons elected by the Company as Life Members under Article 3.2.
- (b) The Board will designate:
 - (i) each Member as either a Voting Member or a Non-Voting Member;
 - (ii) each Voting Member to a Category; and
 - (iii) each Non-Voting Member to a Group.
- (c) The Board will in its absolute discretion designate a Voting Member to the Category which the Board thinks fit;
- (d) The Board may change the Category to which a Voting Member is designated at any time and in its absolute discretion; and
- (e) Each Voting Member may apply to the Board in writing setting out the Category or Group to which it thinks it should be designated.
- (f) Subject to Corporations Act, the Board may from time to time create or determine:
 - (i) by Special Board Resolution, to add or remove a Category;
 - (ii) to add or remove a Group;
 - (iii) any restriction in the number of Members within a Category or Group of Members;
 - (iv) the criteria for designation of a Member to a Category or Group; and
 - (v) the rights, benefits and obligations attaching to Members of any Category or Group.
- (g) If the Company wishes to vary or cancel rights of Members in a class of Members those rights may only be varied or cancelled by Special Members' Resolution and:
 - (i) by Special Members' Resolution passed at a meeting of the class of Members whose rights are being varied or cancelled; or
 - (ii) with the written consent of Members with at least 75% of the votes in the class.

The Company must give written notice of the variation or cancellation to the Members of the class within 7 day after the variation or cancellation is made.

- (h) If the Members in a Category or Group are divided into further classes of Members and after the division the rights of all of those Members are not the same:
 - (i) the division is taken to vary the rights of every Member that was in the Category or Group existing before the division; and
 - (ii) Members that have the same rights after the division form a separate Category or Group (as the case may be).

3.2 **Life Members**

The Company may elect an individual as a Life Member by resolution passed at an AGM. 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 AGM at which the relevant motion is to be put.

3.3 **Applications for membership**

- (a) Every application for admission as a Member must be approved by the Board. The Board may in its absolute discretion refuse to accept any application for membership of the Company.
- (b) An application for membership must be accompanied by:
 - (i) the subscription required under this Constitution; and
 - (ii) any other information which the Board requests to enable it to decide whether the applicant is eligible for membership.
- (c) A person eligible to be a Voting Member may, with the consent of the Board, apply instead to be a Non-Voting Member. The membership as a Non-Voting Member of a person who is eligible to be a Voting Member will automatically terminate if and when that Member becomes a Voting Member.

3.4 **Rights of Members**

- (a) 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 3.4(b) to 3.4(d).
- (b) Subject to the Corporations Act, Non-Voting Members have no right in their capacity as such Members to:
 - (i) vote at general meetings (including AGMs) of the Company;
 - (ii) nominate a person for election to the Board; or
 - (iii) vote at elections of Directors.
- (c) The Board may by way of resolution specify the services which Members in any Group of Non-Voting Members are entitled to receive and the terms on which they may receive them, including with respect to the fees (if any) payable for those services.
- (d) The Board may by way of resolution specify the services which Members in any Cate-

gory of Voting Members are entitled to receive and the terms on which they may receive them, including with respect to the fees (if any) payable for those services.

- (e) Notwithstanding Article 3.4(b), Non-Voting 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 and who became “Individual Members” by virtue of the amendments made on 15 November 2007 and who have not at any time subsequently ceased to be Individual Members (as that term was previously defined) may vote as Members at general meetings, including AGMs, of the Company.

3.5 **Nominated Representative**

- (a) A Voting Member that is a body corporate may appoint a Nominated Representative in accordance with section 250D of the Corporations Act. An appointment made in accordance with this Article 3.5 is not effective until written notice of it is received by the Company at its registered office.
- (b) 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.
- (c) 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 3.5 is not effective until written notice of it is received by the Company at its registered office.

3.6 **Resignation as Member**

A Member may resign from membership by notice in writing to the Company Secretary at the Company’s registered office. 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.

3.7 **Termination of Membership**

- (a) The Board may resolve to remove the name of a Member in default under Article 7(a) from the 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.
- (b) The Board may terminate any Member’s membership with immediate effect by passing a resolution to remove the name of that Member from the Register of Members if the Board determines that:
 - (i) the Member or its Nominated Representative has committed a breach of one or more of the provisions of this Constitution or the National Member Engagement Committee Rules; or
 - (ii) the Member or its Nominated Representative has acted contrary to the interests of the Company; or
 - (iii) termination of the membership is in the best interests of the Company.
- (c) A resolution under Article 3.7(b) 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 will cease to be a Member of the Company. Termination does not affect the liability of the Member for any annual subscription or any other moneys owing by that Member to the Company at the time of termination.

- (d) Notwithstanding the provisions of Article 3.2, 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 will cease to be a Member of the Company.

3.8 **Effect of Resignation or Termination**

Any claim to or interest of any nature:

- (a) in any of the funds or assets of the Company;
- (b) against any Director or member of the National Member Engagement Committee; 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.

4. **REGISTER OF MEMBERS**

The Company Secretary must keep a Register of Members in accordance with the Corporations Act. The Register of Members must also contain particulars of each class of membership. The 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.

5. **SUBSCRIPTIONS**

- (a) The Board will determine the subscription to be paid by the Members of the Company (other than Life Members, who will 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.
- (b) Subscriptions are payable on admission and on the first day of July of every subsequent year.
- (c) A Member is not required to pay the full subscription payable in accordance with Article 5(a) 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:
 - (i) 75% of the annual rate if the admission falls between 1st October and 31st December;
 - (ii) 50% of the annual rate if the admission falls between 1st January and 31st March; and

- (iii) 25% of the annual rate if the admission falls between 1st April and 30th June.
- (d) If a Voting Member becomes a Non-Voting Member, then the subscription paid by that person will be applied towards the subscription payable by the Member upon admission as a Non-Voting Member.

6. LEVY

- (a) The Board may impose a levy upon Voting Members and Non-Voting Members (other than Life Members) equal to a specified proportion of the amount of each Member's annual subscription.
- (b) No more than one levy may be imposed in any financial year.
- (c) No levy may be imposed without a Special Board Resolution.
- (d) 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.

7. UNFINANCIAL MEMBERS

- (a) A Member will be in default if a subscription or levy payable by the Member is not received within two (2) months after it becomes due.
- (b) A Member in default in accordance with Article 7(a) may not vote on a ballot held to elect Directors or nominate members of the National Member Engagement Committee until the default has been remedied by payment of the subscription or levy owing.
- (c) A Member in default in accordance with Article 7(a) is not entitled, either personally or through its Nominated Representative, to:
 - (i) attend or be heard or vote at any meeting of the Company or any meeting of the National Member Engagement Committee; or
 - (ii) nominate a person for election as Director; or
 - (iii) receive any of the benefits of membership including Member discount, and the entitlement of a Member and the Member's nominee to receive professional accreditation points and Company publications,

until the default has been remedied by payment of the subscription and/or levy owing.

8. NATIONAL MEMBER ENGAGEMENT COMMITTEE

8.1 Formation

- (a) The Board may establish and maintain a National Member Engagement Committee in accordance with this Article 8 for the purposes of assisting the Company in fulfilling the Objects. The Board will determine the specific responsibilities of the National Member Engagement Committee and its members from time to time which may include, without limitation:
 - (i) assisting with delivery of the Company's annual event program by advising on topics

and speakers, which align with the Company's national calendar of events;

- (ii) consulting with, and providing information, advice and recommendations to the Chief Executive Officer and acting as a conduit for Member views and feedback to the Board, Chief Executive Officer and the Company Secretary;
 - (iii) participating in discussion groups concerning matters relevant to the Company;
 - (iv) oversight of the Superfunds' Editorial Committee;
 - (v) acting as ambassadors for the Company including Member outreach and recruitment including attending the Company's events and discussion groups; and
 - (vi) assisting with delivery of the Company's learning offerings by advising on content and speakers.
- (b) The maximum number of members comprising the National Member Engagement Committee must not exceed 19 or such other number as determined by the Board).
 - (c) All appointments to the National Member Engagement Committee will be made by the Board. The Board may, at its discretion, remove a person from the National Member Engagement Committee before the expiry of the person's term for any reason.
 - (d) The National Member Engagement Committee must have a chairperson and a deputy chairperson, each of whom will be nominated by the Board. In respect of each remaining position, each Member will be entitled to nominate a person for appointment to the National Member Engagement Committee by delivering written notice to the Company Secretary.
 - (e) Unless otherwise determined by the Board, a person will only be eligible to be on the National Member Engagement Committee if they are an officer or employee of the Company or of a Member.
 - (f) Each person on the National Member Engagement Committee will be appointed by the Board for a term of two years. At the end of the person's term, they shall be eligible for re-appointment by the Board.

8.2 Rules and regulations

- (a) The National Member Engagement Committee Rules will be determined by the Board. These rules may describe the activities of the National Member Engagement Committee and the method by which its members are nominated and elected or appointed.
- (b) The Board may vary or amend the National Member Engagement Committee Rules from time to time at its discretion whether on the initiative of the Board, or otherwise.
- (c) If any National Member Engagement Committee Rule is inconsistent with any Article, the National Member Engagement Committee Rule will be void to the extent of the inconsistency.
- (d) No:
 - (i) resolution passed by members of the National Member Engagement Committee; or
 - (ii) action or decision of the National Member Engagement Committee,

will be binding on the Company or any of its Members, unless so determined by the Board.

8.3 **National Member Engagement Committee Activities**

The members of the National Member Engagement Committee may regulate their own proceedings as they think fit provided their actions are consistent with this Constitution and the National Member Engagement Committee Rules.

8.4 **Dissolution by Board**

- (a) The Board may dissolve and re-establish the National Member Engagement Committee at its discretion including, without limitation, if:
 - (i) in the opinion of the Board the number of members of the National Member Engagement Committee has become so few as to render its continued existence impractical or uneconomical;
 - (ii) in the opinion of the Board, the National Member Engagement Committee has acted contrary to or with disregard for this Constitution, the National Member Engagement Committee Rules or a direction of the Board; or
 - (iii) in the opinion of the Board, the National Member Engagement Committee has acted in any manner prejudicial to the interests of the Company.
- (b) The Board may take possession of all the assets and records of the National Member Engagement Committee if it is dissolved in accordance with this Article.
- (c) A dissolution of the National Member Engagement Committee pursuant to Article 8.4(a) will be effective from the time that the Company Secretary:
 - (i) gives written notice of dissolution to the last chairperson or secretary of the National Member Engagement Committee known to the Company Secretary; or
 - (ii) publishes such notice in the Company's journal or in a national newspaper.
- (d) Any notice given or published in accordance with this Article 8.4 must quote the relevant resolution of the Board.

9. **GENERAL MEETINGS**

9.1 **AGMs**

An AGM of the Company must be held in accordance with the provisions of the Corporations Act.

9.2 **General Meetings**

Voting Members may:

- (a) give the Company notice of a resolution that they propose to move at a general meeting;
or
- (b) request that the Company give to all Members a statement provided by the Voting 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.

9.3 Convening a General Meeting

- (a) The Board may convene a general meeting whenever it thinks fit.
- (b) The Board must convene a general meeting on the requisition of the lesser of:
 - (i) one hundred (100) or more Voting Members who are entitled to vote at the general meeting; or
 - (ii) Voting Members with at least 5% of the votes that may be cast at the general meeting,
- (c) 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
 - (iv) be sent or delivered to the Company's registered office and addressed to the Company Secretary.
- (d) Separate copies of a document setting out the requisition may be used for signing by Voting Members if the wording of the requisition is identical in each copy.
- (e) The Board must convene a meeting requisitioned in accordance with Article 9.3(b), provided it is called for a proper purpose, as soon as possible. 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.
- (f) Any meeting purporting to be held in accordance with a requisition made in accordance with Article 9.3(b) is not a valid meeting if held after the expiration of three (3) months from the date that that requisition was deposited.
- (g) The requisitionists referred to in Article 9.3(b), 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 9.3(b) 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:
 - (i) must be limited to the purposes specified in the requisition; and
 - (ii) must be convened as nearly as possible in the same manner as that in which meetings are to be convened by the Board.
- (h) Any meeting convened in accordance with Article 9.3(g) is not a valid meeting if held after the expiration of three (3) months from the date that the relevant requisition was deposited.
- (i) If at any time there are insufficient Directors to form a quorum as required under Article 15.2(a) to resolve to convene a general meeting in accordance with Article 9.3(e), 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.

9.4 Notice

- (a) Twenty one (21) days' notice of an AGM 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 a meeting may be given if given in accordance with the Corporations Act.
- (b) 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.

10. PROCEEDINGS AT GENERAL MEETINGS

10.1 Attendance

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

10.2 Quorum

- (a) No business may be transacted at any general meeting unless a quorum is present at the commencement of that meeting.
- (b) A quorum for the purposes of Article 10.2(a) means seven (7) Voting 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 10.2(a) may be changed by resolution of the Company in general meeting.
- (c) A meeting convened upon the requisition of Voting Members will 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 will 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 Voting Member or Voting Members present and entitled to vote may form a quorum and transact the business for which the meeting was called.

10.3 Chairperson

The Chairperson, or in his or her absence the Deputy Chairperson, will take the chair at every general meeting. The Voting 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 Chairperson nor the Deputy 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 will be the Voting Member whose name appears first in the Register of Members or that Voting Member's Nominated Representative present at the meeting who is willing to act as Chairperson.

10.4 Voting on a resolution

- (a) 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:
 - (i) by the Chairperson; or

- (ii) by at least five (5) Voting 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.

- (b) Unless a poll is demanded in accordance with Article 10.4(a), 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 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.
- (c) If a poll is demanded in accordance with Article 10.4(a), it will 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 will be the resolution of the meeting at which the poll was demanded.
- (d) On a show of hands, each Voting 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.
- (e) On a poll, each Voting Member present at a meeting in person and entitled to vote, or the proxy, attorney or Nominated Representative of such Voting Member which is not present and voting, has one vote.
- (f) 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 Voting Member or otherwise.

10.5 **Adjournment**

- (a) 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.
- (b) No business may be transacted at any adjourned meeting other than the business left unfinished.
- (c) No Voting 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.

10.6 **Class meetings**

The provisions in this Constitution (and, in particular, this Article 10) concerning meetings of Members apply to a meeting of Members in a class, with the necessary changes.

11. PROXIES AND POWERS OF ATTORNEY

- (a) A proxy or attorney need not be a Member of the Company.
- (b) A person appointed as a Voting Member's proxy may be an individual or a body corporate.

- (c) 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 Voting 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.
- (d) Any instrument of proxy deposited in accordance with this Constitution in which the name of the appointee is not filled will be deemed to be given in favour of the Chairperson of the meeting to which it relates.
- (e) 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 (including electronic form):

**“THE ASSOCIATION OF SUPERANNUATION FUNDS OF AUSTRALIA LIMITED
ACN 002 786 290**

I/We _____ of _____ being a Voting Member of the Association of Superannuation Funds of Australia Limited ACN 002 786 290 (Company) appoint _____ or if that person cannot or will not act _____ as my/our proxy to vote for me/us on my/our behalf at the (AGM or general meeting, as the case may be) of the Company to be held on the _____ day of _____ and at any adjournment of that meeting.

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

Dated this _____ day of _____”

- (f) 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 Company’s registered office, any fax number at the registered office or any place, fax number or electronic address specified for that purpose in the notice of meeting, 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.
- (g) A vote cast in accordance with the instrument appointing a proxy or a power of attorney will 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:
 - (i) 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
 - (ii) the place of the meeting or adjourned meeting at which that vote is cast before that vote is cast.

12. APPOINTMENT AND QUALIFICATIONS OF DIRECTORS

12.1 Board Composition and Number of Directors

- (a) The Board will consist of those persons elected or appointed as Directors in accordance with this Article 12.
- (b) Subject to Article 12.2(e), the Board may comprise up to 12 Directors.

12.2 Category-Representative Directors

- (a) The Members of each Category may elect up to 2 Directors.
- (b) The following voting procedure must be followed in respect of elections held under this Article 12.2:
 - (i) the Board must set a date for commencing election of those Directors whose term of office expires at the end of the next AGM which is not less than 2 months before that AGM;
 - (ii) the Company Secretary must, within 7 days of that date, send a notice to Voting 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;
 - (iii) a candidate for election as a Director in respect of a Category must be an Eligible Representative of a Voting Member which has been designated to that Category. An Eligible Representative may only stand for election as a Director in respect of a Category if nominated by a Voting Member which has been designated to that Category;
 - (iv) a Voting Member who wishes to nominate an individual to stand for election as a Director must do so in writing to the Company Secretary at the Company's registered office 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 relevant Category;
 - (v) 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;
 - (vi) if an election is necessary not less than 1 month before the date of the next AGM the Company Secretary must send a ballot paper to each Voting Member entitled to vote for a Director which contains the names of all the candidates for election as representative Director of that Voting Member's Category, together with voting instructions. Members must have 14 days to vote;
 - (vii) 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;
 - (viii) eligibility to vote for Directors is to be determined at the date 5 days before dispatch of ballot papers; and
 - (ix) in each election of Directors:
 - A. each Member entitled to vote has only one vote; and
 - B. where there are two or more candidates for one position as a Director in respect of a Category and two candidates receive the most but an equal number of votes, then the person elected as Director will be decided by confidential postal ballot. Names will be placed in a ballot box and the name drawn by the Company Secretary in the presence of 2 or more executives of the Company. The person whose name is drawn first will be deemed to have been elected as a Director.

- (c) Each person elected in accordance with this Article 12.2:
 - (i) will assume office as a Director from the end of the AGM immediately following his or her election and will hold office for a Term; and
 - (ii) is eligible for re-election at the end of his or her Term but must not serve more than 3 consecutive Terms (excluding any time served in a casual vacancy under Article 12.5).
- (d) For the purposes of Article 12.2(c)(ii) in respect of a Director any Term which commenced prior to 31 October 2013 is to be disregarded.
- (e) If the Board creates a new Category in accordance with Article 3.1(f)(i), then Articles 12.2(a) and 12.2(b) will apply from the AGM following the date on which the new Category is created.

12.3 Independent Director

- (a) The Board may seek the authorisation of Members, by ordinary resolution at an AGM, for the appointment by the Board of an Independent Director (**ID Member Authorisation**) at any time within a period of time authorised by Members ending no later than the third AGM after ID Member Authorisation is given (**ID Authorised Period**).
- (b) Where the Board has obtained ID Member Authorisation, the Board may appoint an Independent Director by Special Board Resolution for a term being the lesser of the period ending on the last day of the ID Authorised Period and such shorter term as the Board determines (**ID Specified Term**) at any Board meeting occurring after ID Member Authorisation but before the expiration of the ID Authorised Period.
- (c) An Independent Director appointed under Article 12.3(b) will assume office from the end of the Board meeting immediately following his or her appointment and will hold office until the expiration of the ID Specified Term.
- (d) An Independent Director must resign at the end of the ID Specified Term but is eligible for re-appointment for a further term or terms determined by the Board subject to:
 - (i) there being a current ID Member Authorisation; and
 - (ii) the maximum period an Independent Director may serve being 6 consecutive years (except that the Independent Director as at the Company's AGM in 2021 may serve a maximum period of 7 consecutive years).
- (e) Where during an ID Authorised Period an Independent Director does not seek re-appointment at the end of the ID Specified Term, or the Board does not resolve to re-appoint the Independent Director, the Board may in its discretion appoint another Independent Director and Articles 12.3(b) to 12.3(d) will apply to that appointment.

12.4 Additional Director

- (a) In taking into consideration the benefit to the Company of appointing to the Board an Experienced Person, the Board may seek the authorisation of Members, by ordinary resolution at an AGM, for the appointment by the Board of an additional Director identified (**AD Member Authorisation**) at any time within a period of time authorised by Members of ending no later than the third AGM after AD Member Authorisation is given (**AD Authorised Period**).
- (b) Where the Board has obtained AD Member Authorisation, the Board may appoint an Additional Director by Special Board Resolution for a term being the lesser of the period

ending on the last day of the AD Authorised Period and such shorter term as the Board determines (**AD Specified Term**) at any Board meeting occurring after AD Member Authorisation but before the expiration of the AD Authorised Period.

- (c) An Additional Director appointed under Article 12.4(b) will assume office from the end of the Board meeting immediately following his or her appointment and will hold office until the expiration of the AD Specified Term.
- (d) An Additional Director must resign at the end of the AD Specified Term but is eligible for re-appointment for a further term or terms determined by the Board subject to:
 - (i) there being a current AD Member Authorisation; and
 - (ii) the maximum period an Additional Director may serve being 6 consecutive years.
- (e) Where during an AD Authorised Period an Additional Director does not seek re-appointment at the end of the AD Specified Term, or the Board does not resolve to re-appoint the Additional Director, the Board may in its discretion appoint another Additional Director and Articles 12.4(b) to 12.4(d) will apply to that appointment.

12.4A **Interim authorisation to appoint Additional Directors**

- (a) This Article 12.4A applies only for the period beginning on the 2020 AGM Date and ending on the 2025 AGM Date (**Interim Period**). Immediately after the 2025 AGM Date, this Article 12.4A shall cease to have any further force or effect.
- (b) To the extent there is any inconsistency between this Article 12.4A and any other Article in this Constitution, the provisions of this Article 12.4A shall prevail to the extent of the inconsistency during the Interim Period.
- (c) In this Article 12.4A, the following words have these meanings:
 - “**2020 AGM Date**” means the date of the Company’s AGM held in calendar year 2020.
 - “**2025 AGM Date**” means the date of the Company’s AGM held in calendar year 2025.
 - “**Interim Period**” has the meaning given in Article 12.4A(a).
- (d) Notwithstanding Article 12.1(b), in the Interim Period the Board may comprise of up to 13 Directors.
- (e) At any time during the Interim Period, the Board may appoint up to two Additional Directors (including any replacement of them from time to time), by Special Board Resolution, for a term ending on or before the 2025 AGM Date.
- (f) An Additional Director appointed under Article 12.4A(e) will assume office from the end of the Board meeting immediately following his or her appointment by the Board and will hold office until the 2025 AGM Date (or such earlier date determined by the Board).
- (g) An Additional Director must resign at the end of the Interim Period (or such earlier date in accordance with that Additional Director’s term approved by the Board).
- (h) For the avoidance of doubt, the Board may not seek authorisation for the appointment of an Additional Director under Article 12.4 until the 2025 AGM Date, at the earliest.

12.5 **Casual Vacancies**

- (a) 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 AGM following an election for Directors in that Category.
- (b) The Board may function notwithstanding any vacancy in its body.

12.6 **Alternate Directors**

- (a) A Director (**Appointor**) (not including an Independent Director or an Additional Director), may appoint a person as his or her alternate for any period where that Director is required to take an extended leave of absence and that leave of absence has been approved by the Chairperson.
- (b) The Alternate Director must be:
 - (i) a person that is acceptable to a majority of the Board, acting reasonably (taking into account factors such as seniority, experience, ability to contribute to Board discussions and time to fill the role); and
 - (ii) a Member from the same Category as the Appointor.
- (c) The Appointor may terminate the appointment of his or her Alternate Director at any time.
- (d) A notice of appointment, or termination of appointment, of an Alternate Director is effective only if:
 - (i) the notice is in writing;
 - (ii) the notice is signed by the Appointor; and
 - (iii) the Company is given a copy of the notice,
- (e) If the Appointor is not present at a Board meeting, his or her Alternate Director may, subject to this Constitution and the Corporations Act:
 - (i) Attend, count in the quorum of, speak at, and vote at that meeting in place of the Appointor; and
 - (ii) Exercise any other powers that the Appointor may exercise.
- (f) An Alternate Director cannot exercise any powers of his or her Appointor if the Appointor ceases to be a Director.
- (g) An Alternate Director is an officer of the Company and not an agent of his or her Appointor.
- (h) If an Appointor ceases to be a Director, his or her Alternate Director (if any) immediately ceases to be an Alternate Director except that when an Appointor resigns but is eligible for re-appointment for a further term and is re-appointed as a Director for a further term, his or her Alternate Director (if any) will remain an Alternate Director for that Appointor unless the instrument of appointment, or terms on which that Alternate Director was appointed, otherwise provides.

13. **DISQUALIFICATION, RESIGNATION AND REMOVAL OF DI-**

RECTORS AND CONTRACTS WITH DIRECTORS

- (a) Each Director appointed under Article 12.2 must be an Eligible Representative in respect of a Voting 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.
- (b) A Director appointed under Article 12.2 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 Representative 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.
- (c) A Director may resign from office by notice in writing with immediate effect.
- (d) 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.
- (e) 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:
 - (i) is absent from two consecutive meetings of the Board without leave;
 - (ii) is in breach of this Constitution; or
 - (iii) 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.
- (f) The Board must give a Director who is to be the subject of a resolution under this Article 13 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.
- (g) A Director will be automatically removed from office with immediate effect if:
 - (i) that Director becomes bankrupt or makes any arrangement or composition with his or her creditors generally;
 - (ii) that Director becomes prohibited from being a director of a company by reason of any order made under the Corporations Act;
 - (iii) that Director ceases to be a Director by operation of any provision of the Corporations Act;
 - (iv) that Director or that Director's estate becomes liable to be dealt with in any way under the law relating to mental health; or
 - (v) that Director holds any office of profit under the Company.

14. POWERS AND DUTIES OF THE BOARD

- (a) The business and affairs of the Company are to be managed by the Board. In doing so, the Board may:
 - (i) use Company funds to pay all expenses incurred in promoting and registering the

Company;

- (ii) 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; and
- (iii) create Board Charters to document the policies and guidelines that guide the Company's governance (including with respect to the assessment of Director performance and disciplining of Directors);

(b) The Board may delegate any of its powers to:

- (i) a committee of Directors;
- (ii) a Director;
- (iii) an employee of the Company; or
- (iv) any other person,

and may collaborate with any other organisation in order to advance the interests of the Company and promote any of its Objects.

(c) 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.

(d) The Board must cause minutes to be made:

- (i) of all appointments of officers;
- (ii) of names of Directors present at all general meetings of the Company and meetings of the Board;
- (iii) of all proceedings and meetings of the Company, and all meetings of the Board; and
- (iv) 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.

(e) The Board may appoint one or more advisory boards consisting of such persons as the Board thinks fit. Such advisory boards will act in an advisory capacity only. They must conform to any regulations that may be imposed by the Board. Subject to any regulations so imposed:

- (i) an advisory board will have power to co-opt any persons; and
- (ii) all members of such advisory boards will have one vote.

15. MEETINGS OF BOARD

15.1 Time and Place of Meeting

The Board may fix the time and place of its meetings. Special meetings may be convened at the discre-

tion of the Chairperson, or, if his or her office is vacant, at the discretion of the Deputy Chairperson, or upon a requisition signed by not less than one-half of the Directors for the time being.

15.2 **Quorum**

- (a) 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.
- (b) 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 cannot be less than the quorum stated in Article 15.2(a).
- (c) A duly convened meeting of the Board for the time being at which a quorum is present will be competent to exercise all or any of the authorities, powers and discretions vested in it or exercisable by the Board generally.
- (d) 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 15.4(a) as if the members of such committees were Directors.

15.3 **Chairperson**

The Chairperson will be Chairperson of all meetings of the Board at which he or she is present. In his or her absence, the Deputy Chairperson will be Chairperson. If neither the Chairperson nor the Deputy 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 will be determined by drawing lots.

15.4 **Voting**

- (a) Subject to any other provisions of this Constitution, questions arising at any meeting of the Board will be decided by a majority of votes. In the case of an equality of votes, the Chairperson of the meeting will have a second or casting vote.
- (b) A Director must 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.
- (c) 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.

15.5 **Committees**

- (a) 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 must conform to any regulations imposed by the Board. Subject to any regulations imposed by the Board:
 - (i) a committee appointed in accordance with this Article will have power to co-opt any persons; and

(ii) all members of such a committee will have one vote.

- (b) 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 will have a second or casting vote. The Chairperson is to be determined by the Board or as the Board otherwise directs.

15.6 Validation

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.

16. CHAIRPERSON AND DEPUTY CHAIRPERSON

16.1 Chairperson

- (a) The Board may appoint a Chairperson from time to time.
- (b) The Board must appoint a person as Chairperson at the first Board meeting convened after the Company's AGM.
- (c) The Chairperson may be an Independent Director.
- (d) The Chairperson will hold office from the date of his or her appointment to the first to occur of the following:
- (i) the Chairperson ceasing to be a Director; or
- (ii) the first Director's meeting convened after the AGM immediately following the meeting referred to in Article 16.1(b).
- (e) At the end of the term referred to in Article 16.1(d), the Director may offer him or herself for re-election as Chairperson for a further term not exceeding 2 years.

16.2 Deputy Chairperson

- (a) The Board may appoint a Director to each of the following positions:
- (i) ASFA National Member Engagement Chairperson (being the chair of the National Member Engagement Committee);
- (ii) ASFA Finance and Risk Chairperson;
- (iii) ASFA Policy Chairperson,

and may determine the period for which a person appointed to any of these positions is to hold office.

- (b) The Board may declare the office of Chairperson or Deputy Chairperson or any of the

offices listed in Article 16.2(a) vacant at any time.

- (c) The Board may elect any Director to fill any vacancy in a position as Chairperson or Deputy Chairperson or any of the offices listed in Article 16.2(a).

16.3 **Equality of Votes**

In the case of an equality of votes upon the appointment of the Chairperson or Deputy Chairperson or any of the offices listed in Article 16.2(a), the candidates receiving the same number of votes will (unless they otherwise agree among themselves) draw lots and the successful candidate will be declared elected.

17. CHIEF EXECUTIVE OFFICER AND COMPANY SECRETARY

17.1 **Chief Executive Officer**

- (a) 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.
- (b) 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.
- (c) 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.
- (d) 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.

17.2 **Company Secretary**

- (a) 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 in its absolute discretion.
- (b) A Company Secretary may, subject to the terms of any agreement entered into in a particular case, receive such remuneration as the Board determines.
- (c) 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.
- (d) The Board may confer on the Company Secretary 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 so conferred on a Company Secretary.

18. SEAL

The Board will provide for the safe custody of the seal. The seal may only be used within the authori-

ty 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 must be signed by a Director and must be countersigned by the Company Secretary or by a second Director or by some other person appointed by the Board for that purpose.

19. ACCOUNTS

- (a) 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 Company's registered office or at such other place or places as the Board thinks fit.
- (b) 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.
- (c) Subject to and in accordance with the provisions of the Corporations Act, the Board will cause to be made out and laid before each AGM 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.
- (d) Subject to and in accordance with the Corporations Act, a copy of every document referred to in Article 19(c), 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 AGM.
- (e) 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.

20. LIABILITY OF MEMBERS

- (a) The liability of the Members is limited.
- (b) 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:
 - (i) debts and liabilities of the Company (contracted before that Member ceases to be a Member);
 - (ii) costs, charges and expenses of the winding up; and
 - (iii) any adjustment of the rights of the Members agreed among themselves.

21. SURPLUS ASSETS ON A WINDING UP OR DISSOLUTION

- (a) 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.

- (b) The Members may determine the institution(s) which the Company is to give or transfer any surplus assets in accordance with Article 21(a). The Company must apply to the 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.

22. AUDIT

- (a) 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.
- (b) 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.

23. NOTICES

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

23.1 General Meetings

- (a) Notice of every general meeting must be given to:
 - (i) every Member; and
 - (ii) the auditor for the time being of the Company.
- (b) No other person is entitled to receive notices of general meetings.

24. INSURANCE AND INDEMNITY

24.1 Insurance

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 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.

24.2 **Indemnity**

The Company must indemnify any current or former Director, Company 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:

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

24.3 **Contract**

The Company may enter into an agreement with a person referred to in Articles 24.1 and 24.2 with respect to the matters covered by these Articles. An agreement entered into pursuant to this Article 24.3 may include provisions relating to rights of access to the books of the Company conferred by the Corporations Act or otherwise by law.

25. **CONFIDENTIALITY**

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 may 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.

