

**Australian Institute of Management Education and Training Pty Ltd  
(ACN 009 668 553)  
("Company")**

**Record of resolution of sole member**

Passed under section 249B of the *Corporations Act 2001* (Cth)

Scentia Australia Pty Ltd (ACN 603 477 363) is the only member of the Company.

**1 Background**

1.1 The Company proposes to adopt a new Constitution in substitution for its present Constitution.

**2 Resolutions**

Scentia Australia Pty Ltd is in favour of the following resolutions and resolves to pass them as a **special resolution**:

- 2.1 the document attached as Annexure A is adopted as the Constitution of the Company, in substitution for the present Constitution of the Company (which is repealed).
- 2.2 the benefit conferred on the directors and other officers of the Company by the indemnity and insurance provisions contained in article 21 of the new Constitution referred to in paragraph 2.1 is approved.

Dated: 23 May 2017

**EXECUTED by SCENTIA AUSTRALIA )  
PTY LTD in accordance with section )  
127(1) of the *Corporations Act 2001* )  
(Cth) by authority of its directors: )**

  
..... )  
Signature of director )

PETER MOBBS  
..... )  
Name of director )

  
..... )  
Signature of director/company secretary )

TRISHA MOK  
..... )  
Name of director/company secretary )

**For the purposes of section 251A(3) of the *Corporations Act* (Cth) 2001:**

  
..... )  
Signature of director )

ARVID PETERSEN  
..... )  
Name of director )

23 MAY 2017  
..... )  
Date )

## Annexure A – New Constitution

# Constitution

Australian Institute of Management Education and Training Pty Ltd (ACN 009 668 553) ("**Company**")

A proprietary company limited by shares

Adopted on 23 May 2017

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# Constitution

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# Constitution

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## 1 Interpretation

### 1.1 Definitions

In this Constitution unless the contrary intention appears:

**Alternate Director** means a person appointed as an alternate director under article 13.9.

**Committee** means a committee of Directors constituted under article 12.7.

**Company** means Australian Institute of Management Education and Training Pty Ltd (ACN 009 668 553), as that name may be changed from time to time.

**Constitution** means this constitution, and a reference to an article is a reference to an article of this constitution.

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

**Director** means a person holding office as a director of the Company and where appropriate includes an Alternate Director.

**Directors** means all or some of the Directors acting as a board.

**Executive Director** means a person appointed as an executive director under article 12.9.

**Higher Education Standards** means the current Higher Education Standards Framework issued under the *Tertiary Education Quality and Standards Agency Act 2011* (Cth).

**Managing Director** means a person appointed as a managing director under article 12.9.

**Member** means a person entered in the Register as a holder of shares in the capital of the Company.

**Prescribed Interest Rate** means the rate determined by the Directors for the purpose of this Constitution, and in the absence of a determination means 5% per annum.

**Register** means the register of Members of the Company under the Corporations Act and, if appropriate, includes a branch register.

**Registered Office** means the registered office of the Company.

**Representative** means a person appointed to represent a corporate Member at a general meeting of the Company in accordance with the Corporations Act.

**RTO standards** means the current Standards for Registered Training Organisations made under the *National Vocational Education and Training Regulator Act 2011* (Cth).



**Secretary** means a person appointed under article 14.1 as a secretary of the Company and where appropriate includes an acting secretary and a person appointed by the Directors to perform all or any of the duties of a secretary of the Company.

## 1.2 Interpretation

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

- (a) the singular includes the plural and vice versa;
- (b) words importing any gender include all other genders;
- (c) a reference to a document includes any variation or replacement of it;
- (d) the meaning of general words is not limited by specific examples introduced by "including", "for example", "such as" or similar expressions;
- (e) a reference to "**person**" includes an individual, a body corporate, a partnership, a joint venture, an unincorporated association and an authority or any other entity or organisation;
- (f) a reference to dollars, \$ or A\$ is a reference to the currency of Australia;
- (g) a reference to "**law**" includes common law, principles of equity and legislation (including regulations);
- (h) a reference to any legislation includes regulations under it and any consolidations, amendments, re-enactments or replacement of any of them;
- (i) a reference to "**regulations**" includes instruments of a legislative character under legislation (such as regulations, rules, by-laws, ordinances and proclamations);
- (j) a reference to a group of persons is a reference to any 2 or more of them jointly and to each of them individually;
- (k) a power, an authority or a discretion given to a Director, the Directors, the Company in general meeting or a Member may be exercised at any time and from time to time;
- (l) a reference to "**writing**" or "**written**" includes printing, typing and other modes of reproducing words in a visible form including any representation of words in a physical document or in an electronic communication or form or otherwise;
- (m) a chairman appointed under this Constitution may be referred to as a chairperson, chairwoman or as chair, as appropriate;
- (n) a reference to a person being "**present**" at a meeting includes participating using technology approved by the Directors in accordance with this Constitution; and
- (o) where a document (including a notice or consent) is required to be "**signed**", the requirement may be satisfied in relation to an electronic communication of the document in any manner:
  - (i) permitted by relevant law relating to electronic transmissions (including electronic signature); or

- (ii) approved by the Directors (which could include authentication by providing an allocated code or specified personal information).

### **1.3 Corporations Act**

In this Constitution unless the contrary intention appears:

- (a) a word or expression defined or used in the Corporations Act has the same meaning when used in this Constitution in a similar context; and
- (b) “section” means a section of the Corporations Act.

### **1.4 Replaceable rules not to apply**

The provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution and do not apply to the Company.

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## **2 Purpose and delegation**

### **2.1 Purpose**

The purpose of the Company is to promote high standards of education through:

- (a) the provision of higher education; and
- (b) the provision of vocational education and training.

### **2.2 Delegation of academic governance**

The Directors may establish an academic board or committee to which the Directors delegate certain responsibilities relating to the effective academic oversight of the higher education services provided by the Company, including strategic, management and operations aspects of its academic functions of the Company, with such membership and terms of reference as set from time to time by the Directors. Such board or committee will have responsibility for the provision of competent advice to the Directors and management on academic matters including advice on academic outcomes, policies and practices. The board or committee so formed may, with the approval of the Directors, establish one or more subcommittees with such membership and terms of reference as set from time to time.

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## **3 Share capital and variation of rights**

### **3.1 Directors to issue shares**

The issue of shares in the Company is under the control of the Directors who may:

- (a) issue, allot, cancel and otherwise dispose of shares in the Company;
- (b) grant options over unissued shares in the Company; and
- (c) settle the manner in which fractions of a share, however arising, are to be dealt with,

subject to the Corporations Act and any special rights conferred on the holders of any shares or class of shares.

### **3.2 Non-recognition of interests**

Except as required by law, the Company is not required to recognise:

- (a) a person as holding a share on any trust; or
  - (b) any other interest in any share or any other right in respect of a share except an absolute right of ownership in the registered holder,
- whether or not it has notice of the trust, interest or right.

### **3.3 Joint holders of shares**

Where 2 or more persons are registered as the joint holders of shares then they are taken to hold the shares as joint tenants with rights of survivorship. However, the Company is not bound:

- (a) to register more than 3 persons as joint holders of a share; or
- (b) to issue more than one certificate or holding statement for shares jointly held.

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## **4 Lien**

### **4.1 Lien on share**

To the extent permitted by law, the Company has a first and paramount lien on every share for:

- (a) all due and unpaid calls and instalments in respect of that share;
- (b) all money which the Company is required by law to pay, and has paid, in respect of that share;
- (c) reasonable interest on the amount due from the date it becomes due until payment; and
- (d) reasonable expenses of the Company in respect of the default on payment.

### **4.2 Lien on distributions**

A lien on a share under article 4.1 extends to all distributions for that share, including dividends.

### **4.3 Exemption from article 4.1**

The Directors may at any time exempt a share wholly or in part from the provisions of article 4.1.

### **4.4 Extinguishment of lien**

The Company's lien on a share is extinguished if a transfer of the share is registered without the Company giving notice of the lien to the transferee.

### **4.5 Company's rights to recover payments**

A Member must reimburse the Company on demand in writing for all payments the Company makes to a government or taxing authority in respect of the

Member, the death of a Member or the Member's shares or any distributions on the Member's shares, including dividends, where the Company is either:

- (a) required by law to make the relevant payment; or
- (b) advised by a lawyer qualified to practice in the jurisdiction of the relevant government or taxing authority that the Company is required by law to make the relevant payment.

The Company is not obliged to advise the Member in advance of its intention to make the payment.

#### **4.6 Reimbursement is a debt due**

The obligation of the Member to reimburse the Company is a debt due to the Company as if it were a call on all the Member's shares, duly made at the time when the written demand for reimbursement is given by the Company to the Member. The provisions of this Constitution relating to non-payment of calls, including payment of interest and sale of the Member's shares under lien, apply to the debt.

#### **4.7 Sale under lien**

Subject to article 4.8, the Company may sell, in any manner the Directors think fit, any share on which the Company has a lien.

#### **4.8 Limitations on sale under lien**

A share on which the Company has a lien may not be sold by the Company unless:

- (a) an amount in respect of which the lien exists is presently payable; and
- (b) the Company has, not less than 14 days before the date of sale, given to the registered holder of the share or the person entitled to the share by reason of the death or bankruptcy of the registered holder, a notice setting out, and demanding payment of, the amount which is presently payable in respect of which the lien exists.

#### **4.9 Transfer on sale under lien**

For the purpose of giving effect to a sale under article 4.7, the Company may receive the consideration, if any, given for the share so sold and may execute a transfer of the share sold in favour of the purchaser of the share, or do all such other things as may be necessary or appropriate for it to do to effect the transfer. The purchaser is not bound to see to the application of the purchase money.

#### **4.10 Irregularity or invalidity**

The title of the purchaser to the share is not affected by any irregularity or invalidity in connection with the sale of the share under article 4.7.

#### **4.11 Proceeds of sale**

The proceeds of a sale under article 4.7 must be applied by the Company in payment of the amount in respect of which the lien exists as is presently payable, and the residue, if any, must be paid to the person entitled to the share immediately before the sale.

---

## **5 Calls on shares**

### **5.1 Directors to make calls**

The Directors may:

- (a) make calls on a Member in respect of any money unpaid on the shares of that Member, if the money is not by the terms of issue of those shares made payable at fixed times;
- (b) make a call payable by instalments; and
- (c) revoke or postpone a call.

### **5.2 Time of call**

A call is taken to be made at the time when the resolution of the Directors authorising the call is passed.

### **5.3 Members' liability**

On receiving not less than 30 business days' notice specifying the time or times and place of payment, each Member must pay to the Company by the time or times and at the place specified in the notice, the amount called on that Member's shares.

### **5.4 Joint holders' liability**

The joint holders of a share are jointly and individually liable to pay all calls in respect of the share.

### **5.5 Non-receipt of notice**

The non-receipt of a notice of any call by, or the accidental omission to give notice of a call to, a Member does not invalidate the call.

### **5.6 Interest on default**

If a sum called in respect of a share is not paid before or on the day appointed for payment of the sum, the person from whom the sum is due must pay interest on the sum from the day it is due to the time of actual payment at the Prescribed Interest Rate. The Directors may waive payment of that interest wholly or in part.

### **5.7 Fixed instalments**

If the terms of a share make a sum payable on issue of the share or at a fixed date, this is taken to be a call duly made and payable on the date on which by the terms of issue the sum becomes payable. In the case of non-payment, all the relevant provisions of this Constitution as to payment of interest and expenses, forfeiture or otherwise apply as if the sum had become payable by virtue of a call duly made and notified.

### **5.8 Differentiation between holders as to calls**

The Directors may, on the issue of shares, differentiate between the holders of the shares as to the amount of calls to be paid and the times of payment.

## **5.9 Prepayment of calls and interest**

The Directors may:

- (a) accept from a Member the whole or a part of the amount unpaid on a share even if no part of that amount has been called; and
- (b) authorise payment by the Company of interest on the whole or any part of an amount so accepted, until the amount becomes payable, at such rate, not exceeding the Prescribed Interest Rate, as is agreed between the Directors and the Member paying the sum.

---

## **6 Forfeiture of shares**

### **6.1 Notice requiring payment of call**

If a Member fails to pay a call, or instalment of a call, on the day appointed for payment of the call or instalment, the Directors may, at any time afterwards during such time as any part of the call or instalment remains unpaid, give a notice to the Member requiring payment of so much of the call or instalment as is unpaid, together with any interest that has accrued and all costs and expenses that may have been incurred by the Company by reason of that non-payment.

### **6.2 Contents of notice**

The notice must name a further day, which is at least 14 days from the date of service of the notice, on or before which the payment required by the notice is to be made and must state that, in the event of non-payment at or before the time appointed, the shares in respect of which the call was made will be liable to be forfeited.

### **6.3 Forfeiture for failure to comply with notice**

If a notice under article 6.1 has not been complied with by the date specified in the notice, the Directors may by resolution forfeit the relevant shares, at any time before the payment required by the notice has been made.

### **6.4 Dividends and distributions included in forfeiture**

A forfeiture under article 6.3 includes all dividends and other distributions to be made in respect of the forfeited shares which have not been paid or distributed before the forfeiture.

### **6.5 Sale or re-issue of forfeited shares**

Subject to the Corporations Act, a share forfeited under article 6.3 may be sold, re-issued or otherwise disposed of to such person and on such terms as the Directors think fit.

### **6.6 Notice of forfeiture**

If any share is forfeited under article 6.3, notice of the forfeiture must be given to the Member holding the share immediately before the forfeiture and an entry of the forfeiture and its date must be made in the Register. Any failure to give notice or enter the forfeiture in the Register does not invalidate the forfeiture.

### **6.7 Surrender instead of forfeiture**

The Directors may accept the surrender of any share which they are entitled to forfeit on any terms they think fit and any share so surrendered is taken to be a forfeited share.

### **6.8 Cancellation of forfeiture**

At any time before a sale, re-issue or disposal of a share under article 6.5, the forfeiture of that share may be cancelled on such terms as the Directors think fit.

### **6.9 Effect of forfeiture on former holder's liability**

A person whose shares have been forfeited:

- (a) ceases to be a Member in respect of the forfeited shares; and
- (b) remains liable to pay the Company all money that, at the date of forfeiture, was payable by that person to the Company in respect of the shares, plus interest at the Prescribed Interest Rate from the date of forfeiture and the reasonable expenses of the sale of the shares, until the Company receives payment in full of all money (including interest and expenses) so payable in respect of the shares.

### **6.10 Evidence of forfeiture**

A written statement declaring that the person making the statement is a Director or a Secretary, and that a share in the Company has been forfeited in accordance with this Constitution on the date declared in the statement, is evidence of the facts in the statement as against all persons claiming to be entitled to the share.

### **6.11 Transfer of forfeited share**

The Company may receive any consideration given for a forfeited share on any sale, re-issue or disposal of the share under article 6.5 and may execute or effect a transfer of the share in favour of the person to whom the share is sold, re-issued or disposed.

### **6.12 Registration of transferee**

On the execution of the transfer, the transferee must be registered as the holder of the share and is not bound to see to the application of any money paid as consideration.

### **6.13 Irregularity or invalidity**

The title of the transferee to the share is not affected by any irregularity or invalidity in connection with the forfeiture, sale, re-issue or disposal of the share.

---

## **7 Transfer of shares**

### **7.1 Forms of instrument of transfer**

Subject to this Constitution, a share in the Company is transferable by any method of transfer required or permitted by the Corporations Act.

### **7.2 Execution and delivery of transfer**

If a duly completed instrument of transfer:

- (a) is used to transfer a share in accordance with article 7.1; and
- (b) is left for registration at the share registry of the Company, accompanied by any information that the Directors properly require to show the right of the transferor to make the transfer,

the Company must, subject to the powers vested in the Directors by this Constitution, register the transferee as the holder of the share.

### **7.3 Effect of registration**

A transferor of a share remains the holder of the share transferred until the transfer is registered and the name of the transferee is entered in the Register in respect of the share.

### **7.4 Company to retain instrument of transfer**

The Company must retain every instrument of transfer which is registered for the period required by any applicable law.

### **7.5 Directors' powers to refuse to register**

The Directors may refuse to register a transfer of shares, without having to give any reason.

### **7.6 Transfer to or by a secured party**

The Directors may not refuse to register a transfer of shares under article 7.5 if the transfer is either to a person holding a mortgage, charge, pledge or other security interest (or to a person acting as agent, trustee or nominee for such a person) ("**Secured Party**") which is given by a Member over their shares in the Company ("**Share Security**"), or is pursuant to the exercise by a Secured Party of rights in relation to a Share Security.

In any such case, the Directors must register the transferee as a Member. The Directors may request and rely on a written statement of the Secured Party certifying that the transfer is pursuant to an exercise of rights under a Share Security.

---

## **8 Transmission of shares**

### **8.1 Transmission of shares on death**

If a Member who does not hold shares jointly dies, the Company will recognise only the personal representative of the Member as being entitled to the Member's interest in the shares.

### **8.2 Information given by personal representative**

If the personal representative of the member who has died gives the Directors the information they reasonably require to establish the representative's entitlement to be registered as a holder of the shares:

- (a) the personal representative may:
  - (i) by giving a signed notice to the Company, elect to be registered as the holder of the shares; or



- (ii) by giving a completed transfer form to the Company, transfer the shares to another person; and
- (b) the personal representative is entitled, whether or not registered as the holder of the shares, to the same rights as the Member.

On receiving an election under article 8.2(a)(i), the Company must register the personal representative as the holder of the shares.

A transfer under article 8.2(a)(ii) is subject to the articles that apply to transfers generally.

### **8.3 Death of joint owner**

If a Member who holds shares jointly dies, the Company will recognise only the survivor as being entitled to the Member's interest in the shares. The estate of the Member is not released from any liability in respect of the shares.

### **8.4 Transmission of shares on bankruptcy**

If a person entitled to shares because of the bankruptcy of a Member gives the Directors the information they reasonably require to establish the person's entitlement to be registered as the holder of the shares, the person may:

- (a) by giving a signed notice to the Company, elect to be registered as the holder of the shares; or
- (b) by giving a completed transfer form to the Company, transfer the shares to another person.

On receiving an election under article 8.4(a), the Company must register the person as the holder of the shares.

A transfer under article 8.4(b) is subject to the articles that apply to transfers generally.

This article has effect subject to the *Bankruptcy Act 1966* (Cth).

### **8.5 Transmission of shares on mental incapacity**

If a person entitled to shares because of the mental incapacity of a Member gives the Directors the information they reasonably require to establish the person's entitlement to be registered as the holder of the shares:

- (a) the person may:
  - (i) by giving a signed notice to the Company, elect to be registered as the holder of the shares; or
  - (ii) by giving a completed transfer form to the Company, transfer the shares to another person; and
- (b) the person is entitled, whether or not registered as the holder of the shares, to the same rights as the Member.

On receiving an election under article 8.5(a)(i), the Company must register the person as the holder of the shares.

A transfer under article 8.5(a)(ii) is subject to the articles that apply to transfers generally.

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## **9 General meetings**

### **9.1 Convening a general meeting**

The Directors may convene and arrange to hold a general meeting of the Company whenever they think fit and must do so if required to do so under the Corporations Act.

### **9.2 Use of technology at general meetings**

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

### **9.3 Notice of general meeting**

Notice of a general meeting must be given in accordance with article 19 and the Corporations Act.

### **9.4 Calculation of period of notice**

In computing the period of notice under article 9.3, both the day on which the last notice to Members is given or taken to be given and the day of the meeting convened by it are to be disregarded.

### **9.5 Cancellation or postponement of a meeting**

Where a general meeting is convened by the Directors they may by notice, whenever they think fit, cancel the meeting or postpone the holding of the meeting to a date and time determined by them or change the place for the meeting.

This article 9.5 does not apply to a meeting convened in accordance with the Corporations Act by a single Director, by Members, by the Directors on the request of Members or to a meeting convened by a court.

### **9.6 Notice of cancellation or postponement of a meeting**

Notice of cancellation or postponement or change of place of a general meeting must state the reason for cancellation or postponement and be given:

- (a) to each Member; and
- (b) to each other person entitled to be given notice of a general meeting.

### **9.7 Contents of notice of postponement of meeting**

A notice of postponement of a general meeting must specify:

- (a) the postponed date and time for the holding of the meeting;
- (b) a place for the holding of the meeting which may be either the same as or different from the place specified in the notice convening the meeting; and
- (c) if the meeting is to be held in 2 or more places, the technology that will be used to facilitate the holding of the meeting in that manner.

### **9.8 Number of clear days for postponement of meeting**

The number of clear days from the giving of a notice postponing the holding of a general meeting to the date specified in that notice for the holding of the postponed meeting must not be less than the number of clear days' notice of the general meeting required to be given by this Constitution or the Corporations Act.

### **9.9 Business at postponed meeting**

The only business that may be transacted at a postponed general meeting is the business specified in the original notice convening the meeting.

### **9.10 Proxy, attorney or Representative at postponed meeting**

Where by the terms of an instrument appointing a proxy or attorney or an appointment of a Representative:

- (a) the appointed person is authorised to attend and vote at a general meeting or general meetings to be held on or before a specified date; and
- (b) the date for holding the meeting is postponed to a date later than the date specified in the instrument of proxy, power of attorney or appointment of Representative,

then, that later date is substituted for and applies to the exclusion of the date specified in the instrument of proxy, power of attorney or appointment of Representative unless the Member appointing the proxy, attorney or Representative gives to the Company at its Registered Office written notice to the contrary not less than 48 hours before the time to which the holding of the meeting has been postponed.

### **9.11 Non-receipt of notice**

The non-receipt of notice of a general meeting or cancellation or postponement of a general meeting by, or the accidental omission to give notice of a general meeting or cancellation or postponement of a general meeting to, a person entitled to receive notice does not invalidate any resolution passed at the general meeting or at a postponed meeting or the cancellation or postponement of a meeting.

### **9.12 Director entitled to notice of meeting**

A Director is entitled to receive notice of and to attend all general meetings and all separate meetings of the holders of any class of shares in the capital of the Company and is entitled to speak at those meetings.

### **9.13 Appointment of proxy, Representative or attorney**

Subject to the Corporations Act, a Member who is entitled to participate in and vote at a meeting of the Company may appoint a person as the Member's proxy, or may appoint a Representative or an attorney, to participate in and vote at the meeting for the Member.

If a Member is entitled to cast two or more votes at the meeting, the Member may appoint two proxies who may each exercise half of the Member's votes at the meeting, unless the instrument appointing the proxies specifies the proportion or number of the Member's votes that each proxy may exercise.

### **9.14 Circulating resolutions**

The Company may pass a resolution without a general meeting being held if all the Members 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 the document may be used for signing by Members if the wording of the resolution and statement is identical in each copy.

The resolution is passed when the last Member signs.

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## **10 Proceedings at general meetings**

### **10.1 Number for a quorum**

Subject to article 10.4, the quorum for a general meeting is, where the Company has only one Member, that Member and otherwise, 2 Members, present in person or by proxy, attorney or Representative are a quorum at a general meeting. If an individual is attending both as a Member and as a proxy, attorney or Representative, that individual is to be counted once for that Member and once for each Member for whom that individual is attending as proxy, attorney or representative.

### **10.2 Requirement for a quorum**

An item of business may not be transacted at a general meeting unless a quorum is present when the meeting proceeds to consider it. If a quorum is present at the time the first item of business is transacted, it is taken to be present when the meeting proceeds to consider each subsequent item of business unless the chairman of the meeting (on the chairman's own motion or at the request of a Member, proxy, attorney or Representative who is present) declares otherwise.

### **10.3 If quorum not present**

If within 15 minutes after the time appointed for a meeting a quorum is not present, the meeting:

- (a) if convened by a Director, or at the request of Members, is dissolved; and
- (b) in any other case, stands adjourned to the same day in the next week and the same time and place, or to such other day, time and place as the Directors appoint by notice to the Members and others entitled to notice of the meeting.

### **10.4 Adjourned meeting**

At a meeting adjourned under article 10.3(b), where the Company has only one Member, the quorum is that Member, and otherwise, the quorum is 2 persons each being a Member (or the proxy, attorney or Representative of a Member) present at the meeting, are a quorum. If a quorum is not present within 15 minutes after the time appointed for the adjourned meeting, the meeting is dissolved.

### **10.5 Appointment of chairman of general meeting**

If the Directors have elected one of their number as chairman of their meetings, that person is entitled to preside as chairman at a general meeting.

## **10.6 Absence of chairman at general meeting**

If a general meeting is held and:

- (a) a chairman has not been elected by the Directors; or
- (b) the elected chairman is not present within 15 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the following may preside as chairman of the meeting (in order of precedence):

- (c) a Director chosen by a majority of the Directors present;
- (d) the only Director present; or
- (e) a Member chosen by a majority of the Members present in person or by proxy, attorney or Representative.

## **10.7 Conduct of general meetings**

The chairman of a general meeting:

- (a) has charge of the general conduct of the meeting and the procedures to be adopted at the meeting;
- (b) may require the adoption of any procedure which is in the chairman's opinion necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the general meeting; and
- (c) may, having regard where necessary to the Corporations Act, terminate discussion or debate on any matter whenever the chairman considers it necessary or desirable for the proper conduct of the meeting,

and a decision by the chairman under this article is final.

## **10.8 Adjournment of general meeting**

The chairman of a general meeting may at any time during the meeting adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting at any time and place, but:

- (a) in exercising the discretion to do so, the chairman may, but need not, seek the approval of the Members present in person or by proxy, attorney or Representative; and
- (b) only unfinished business is to be transacted at a meeting resumed after an adjournment.

Unless required by the chairman, a vote may not be taken or demanded by the Members present in person or by proxy, attorney or Representative in respect of any adjournment.

## **10.9 Notice of adjourned meeting**

It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for one month or more. In that case, notice of the adjourned meeting must be given as in the case of an original meeting.

#### **10.10 Questions decided by majority**

Subject to the requirements of the Corporations Act, a resolution is taken to be carried if a simple majority of the votes cast on the resolution are in favour of it.

#### **10.11 No casting vote for chairman**

If there is an equality of votes, either on a show of hands or on a poll, the chairman of the general meeting is not entitled to a casting vote in addition to any votes to which the chairman is entitled as a Member or proxy or attorney or Representative.

#### **10.12 Voting on show of hands**

At any general meeting a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is effectively demanded and the demand is not withdrawn. A declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact. Neither the chairman nor the minutes need state, and it is not necessary to prove, the number or proportion of the votes recorded in favour of or against the resolution.

#### **10.13 Poll**

If a poll is effectively demanded:

- (a) it must be taken in the manner and at the date and time directed by the chairman and the result of the poll is a resolution of the meeting at which the poll was demanded;
- (b) on the election of a chairman or on a question of adjournment, it must be taken immediately;
- (c) the demand may be withdrawn; and
- (d) the demand does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.

#### **10.14 Entitlement to vote**

Subject to this Constitution, the Corporations Act, and to any rights or restrictions for the time being attached to any class or classes of shares:

- (a) on a show of hands, each Member present in person and each other person present as a proxy, attorney or Representative of a Member has one vote; and
- (b) on a poll, each Member present in person has one vote for each fully paid share held by the Member and each person present as proxy, attorney or Representative of a Member has one vote for each fully paid share held by the Member that the person represents.

#### **10.15 Joint shareholders' vote**

If a share is held jointly and more than one Member votes in respect of that share, only the vote of the Member whose name appears first in the Register counts.

### **10.16 Effect of unpaid call**

A Member is not entitled at a general meeting to cast a vote attached to a share on which a call is due and payable and has not been paid.

### **10.17 Validity of vote in certain circumstances**

Unless the Company has received written notice of the matter before the start or resumption of the meeting at which a person votes as a proxy, attorney or Representative, a vote cast by that person is valid even if, before the person votes:

- (a) the appointing Member dies;
- (b) the Member is mentally incapacitated;
- (c) the Member revokes the appointment or authority;
- (d) the Member revokes the authority under which the appointment was made by a third party; or
- (e) the Member transfers the share in respect of which the appointment or authority was given.

### **10.18 Objection to voting qualification**

An objection to the right of a person to attend or vote at the meeting or adjourned meeting:

- (a) may not be raised except at that meeting or adjourned meeting; and
- (b) must be referred to the chairman of the meeting, whose decision is final.

A vote not disallowed under the objection is valid for all purposes.

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## **11 The Directors**

### **11.1 Number and composition of Directors**

The Company must have at least three Directors. At least two of the Directors must be considered to be independent Directors.

### **11.2 Change of number of Directors**

The Company in general meeting may by resolution increase or reduce the number of Directors provided it has at least two Directors.

### **11.3 Director qualifications**

Each Director must:

- (a) ordinarily reside in Australia; and
- (b) be a fit and proper person under the Higher Education Standards and under the RTO Standards.

#### **11.4 Casual vacancy or additional Director**

The Company in general meeting or the Directors may at any time appoint any person to be a Director, either to fill a casual vacancy or as an additional Director.

#### **11.5 Removal of Director**

The Company in general meeting may by resolution remove a Director from office as a Director.

Whether or not the appointment of a managing or executive director was expressed to be for a specified term, the appointment of a managing or executive director terminates if the managing or executive director ceases to be employed by the Company or a related body corporate.

#### **11.6 Remuneration of Directors**

The Directors are to be remunerated for their services as Directors as determined by the Company in general meeting by resolution. The remuneration is taken to accrue from day to day.

#### **11.7 Additional or special duties**

If a Director at the request of the Directors performs additional or special duties for the Company, the Company may remunerate that Director as determined by the Directors and that remuneration may be either in addition to or in substitution for that Director's remuneration under article 11.6.

#### **11.8 Retirement benefit**

Subject to the Corporations Act, the Company may pay a former Director, or the personal representative of a Director who dies in office, a retirement benefit in recognition of past services of an amount determined by the Directors. The Company may also enter into a contract with a Director providing for payment of a retirement benefit. A retirement benefit paid under this article is not remuneration to which article 11.6 applies.

#### **11.9 Expenses**

A Director is entitled to be reimbursed out of the funds of the Company such reasonable travelling, accommodation and other expenses as the Director may incur when travelling to or from meetings of the Directors or a Committee or when otherwise engaged on the business of the Company.

#### **11.10 Director's interests**

Subject to complying with the Corporations Act regarding disclosure of and voting on matters involving material personal interests, a Director may:

- (a) hold any office or place of profit in the Company, except that of auditor;
- (b) hold any office or place of profit in any other company, body corporate, trust or entity promoted by the Company or in which it has an interest of any kind;
- (c) enter into any contract or arrangement with the Company;
- (d) participate in any association, institution, fund, trust or scheme for past or present employees of the Company or Directors or persons dependent on or connected with them;



- (e) act in a professional capacity (or be a member of a firm or an officer or employee of a body corporate which acts in a professional capacity) for the Company, except as auditor;
- (f) participate in, vote on and be counted in a quorum for any meeting, resolution or decision of the Directors and may be present at any meeting where any matter is being considered by the Directors;
- (g) sign or participate in the execution of a document by or on behalf of the Company;
- (h) do any of the above despite the fiduciary relationship of the Director's office:
  - (i) without any liability to account to the Company for any direct or indirect benefit accruing to the Director; and
  - (ii) without affecting the validity of any contract or arrangement; and
- (i) exercise the voting power conferred by securities in any entity held by the Company, in accordance with the terms of their appointment, even in circumstances where a Director may be interested in the exercise (such as a resolution appointing a Director as an officer of the entity or providing for the payment of remuneration to officers of the entity);
- (j) act as a nominee or representative of a shareholder of the Company, on terms agreed with the Company.

A reference to the Company in this article 11.10 is also a reference to each related body corporate of the Company.

### **11.11 Vacation of office of Director**

In addition to the circumstances in which the office of a Director becomes vacant under the Corporations Act, the office of a Director becomes vacant if the Director:

- (a) is a Managing or Executive Director and ceases to be employed by the Company or a related body corporate;
- (b) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (c) resigns from the office by notice in writing to the Company;
- (d) is not present personally or by proxy or Alternate Director at meetings of the Directors for a continuous period of 4 months without leave of absence from the Directors; or
- (e) is removed from office by resolution under article 11.5, but without depriving the Director of any compensation or damages payable to the Director in respect of the termination of the Director's appointment as a Director or of an appointment terminating with that appointment.

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## **12 Powers and duties of Directors**

### **12.1 Directors to manage Company**

- (a) The Directors are responsible for overseeing the proper management of the business of the Company. They may exercise all the powers of the

Company as are not, by the Corporations Act or by this Constitution, required to be exercised by the Company in general meeting.

- (b) The Directors are accountable for all of the Company's operations in or from Australia, including:
  - (i) for the award of higher education qualifications,
  - (ii) for continuing to meet the requirements of the Higher Education Standards;
  - (iii) for continuing to comply with the RTO Standards; and
  - (iv) the Company's representation of itself.

## **12.2 Specific powers of Directors**

Without limiting the generality of article 12.1, the Directors may exercise all the powers of the Company to borrow or raise money, to charge any property or business of the Company or all or any of its uncalled capital and to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.

## **12.3 Interests of holding company**

The Directors are authorised to act in the best interests of any company of which the Company is a wholly-owned subsidiary in the circumstances contemplated by section 187 of the Corporations Act.

## **12.4 Appointment of attorney**

The Directors may, by power of attorney, appoint any person or persons to be the attorney or attorneys of the Company for the purposes and with the powers, authorities and discretions vested in or exercisable by the Directors for such period and subject to such conditions as they think fit.

## **12.5 Provisions in power of attorney**

A power of attorney granted under article 12.4 may contain such provisions for the protection and convenience of persons dealing with the attorney as the Directors think fit and may also authorise the attorney to delegate (including by way of appointment of a substitute attorney) all or any of the powers, authorities and discretions vested in the attorney.

## **12.6 Signing of receipts and negotiable instruments**

The Directors may determine the manner in which and persons by whom cheques, promissory notes, bankers' drafts, bills of exchange and other negotiable instruments, and receipts for money paid to the Company, may be signed, drawn, accepted, endorsed or otherwise executed.

## **12.7 Committees**

The Directors may delegate any of their powers, other than powers required by law to be dealt with by Directors as a board, to a Committee or Committees consisting of one or more of their number as they think fit.

## **12.8 Powers delegated to Committees**

A Committee to which any powers have been delegated under article 12.7 must exercise those powers in accordance with any directions of the Directors.

## **12.9 Appointment of Managing and Executive Directors**

The Directors may appoint one or more of themselves to the office of Managing Director or as an Executive Director or to any other office (except auditor) or any position of employment with the Company for the period and on the terms they think fit.

## **12.10 Ceasing to be a Managing or Executive Director**

Whether or not the appointment of a Managing Director or Executive Director was expressed to be for a specified term, the appointment of a Managing Director or Executive Director terminates if:

- (a) the Managing Director or Executive Director ceases for any reason to be a Director;
- (b) the Directors remove the Managing Director or Executive Director from the office of Managing Director or Executive Director (which, subject to any contract between the Company and the Managing Director or Executive Director, the Directors have power to do); or
- (c) the Managing Director or the Executive Director ceases to be employed by the Company or a related body corporate.

## **12.11 Remuneration of Managing and Executive Directors**

The remuneration of a Managing Director or an Executive Director may be fixed by the Directors and may be by way of salary or commission or participation in profits or by all or any of those modes, but may not be by a commission on or percentage of operating revenue.

## **12.12 Powers of Managing and Executive Directors**

The Directors may:

- (a) confer on a Managing Director or an Executive Director such of the powers exercisable by them, on such terms and conditions and with such restrictions, as they think fit; and
- (b) withdraw or vary any of the powers conferred on a Managing Director or an Executive Director.

## **12.13 Delegation of Directors' powers**

The Directors may delegate any of their powers to any persons they select for any period, to be exercised for any objects and purposes on any terms and subject to any conditions and restrictions as they think fit, and may revoke, withdraw, alter or vary the delegation of any of those powers.

The powers of delegation expressly or impliedly conferred by this Constitution on the Directors are conferred in substitution for, and to the exclusion of, the power conferred by section 198D of the Corporations Act.

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## **13 Proceedings of Directors**

### **13.1 Directors' meetings**

The Directors may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit.

### **13.2 Director may convene a meeting**

A Director may at any time, and the Secretary must on the written request of a Director, convene a meeting of the Directors.

### **13.3 Use of technology for Directors' meetings**

A Directors' meeting may be called or held using any technology consented to by all the Directors. The consent may be a standing one. A Director may only withdraw their consent within a reasonable period before the meeting.

### **13.4 Questions decided by majority**

A question arising at a meeting of Directors is to be decided by a majority of votes of Directors present and entitled to vote and that decision is for all purposes a decision of the Directors.

### **13.5 Alternate Director or proxy and voting**

A person who is present at a meeting of Directors as an Alternate Director or as a proxy for another Director has one vote for each absent Director who would be entitled to vote if present at the meeting and for whom that person is an Alternate Director or proxy and, if that person is also a Director, has one vote as a Director in that capacity.

### **13.6 Chairman of Directors**

The Directors may elect one of their number as chairman of their meetings and may also determine the period for which the person elected as chairman is to hold office.

### **13.7 Absence of chairman at Directors' meeting**

If a Directors' meeting is held and:

- (a) a chairman has not been elected under article 13.6; or
- (b) the chairman is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the Directors present must elect one of their number to be a chairman of the meeting.

### **13.8 Chairman's casting vote at Directors' meetings**

If there are an equal number of votes for and against a question, the chairman of the Directors' meeting has a casting vote, unless only 2 Directors are present and entitled to vote on the question.

### **13.9 Appointment of Alternate Director**

Subject to the Corporations Act, a Director may appoint a person approved by a majority of the other Directors to be an Alternate Director in the Director's place during any period as the Director thinks fit.

### **13.10 Alternate Director and meetings**

An Alternate Director is entitled to notice of all meetings of the Directors and, if the appointor does not participate in a meeting, the Alternate Director is entitled to participate and vote in the appointor's place.

### **13.11 Alternate Director's powers**

An Alternate Director may exercise all the powers of the appointor except the power to appoint an Alternate Director and, subject to the Corporations Act, may perform all the duties of the appointor except to the extent that the appointor has exercised or performed them.

### **13.12 Alternate Director responsible for own acts and defaults**

While acting as a Director, an Alternate Director:

- (a) is an officer of the Company and not the agent of the appointor; and
- (b) is responsible to the exclusion of the appointor for the Alternate Director's own acts and defaults.

### **13.13 Alternate Director and remuneration**

An Alternate Director is not entitled to receive from the Company any remuneration or benefit under article 11.6 or 11.8.

### **13.14 Termination of appointment of Alternate Director**

The appointment of an Alternate Director may be terminated at any time by the appointor even if the period of the appointment of the Alternate Director has not expired, and terminates in any event if the appointor ceases to be a Director for any reason.

### **13.15 Appointment or termination**

An appointment, or the termination of an appointment, of an Alternate Director must be effected by a notice signed by the Director who makes or made the appointment and delivered to the Company.

### **13.16 Alternate Director and number of Directors**

An Alternate Director is not to be taken into account separately from the appointor in determining the number of Directors.

### **13.17 Director attending and voting by proxy**

A Director may participate in and vote by proxy at a meeting of the Directors if the proxy:

- (a) is another Director; and
- (b) the appointment is signed by the appointor.

The appointment may be general or for one or more particular meetings. A Director present as a proxy for another Director, who would be entitled to vote if present at the meeting, has one vote for the appointor and one vote in his or her own capacity as a Director.

### **13.18 Quorum for Directors' meeting**

At a meeting of Directors, the number of Directors whose presence in person or by proxy is necessary to constitute a quorum is:

- (a) where there is only one Director, that Director; and
- (b) where there is more than one Director, 2 Directors, unless otherwise determined by the Directors.

### **13.19 Continuing Directors may act**

The continuing Directors may act despite a vacancy in their number. If their number is reduced below the minimum fixed by article 11.1, the continuing Directors may, except in an emergency, act only for the purpose of filling vacancies to the extent necessary to bring their number up to that minimum or to convene a general meeting.

### **13.20 Chairman of Committee**

The members of a Committee may elect one of their number as chairman of their meetings. If a meeting of a Committee is held and:

- (a) a chairman has not been elected; or
- (b) the chairman is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the members involved may elect one of their number to be chairman of the meeting.

### **13.21 Meetings of Committee**

A Committee may meet and adjourn as it thinks proper.

### **13.22 Determination of questions**

Questions arising at a meeting of a Committee are to be determined by a majority of votes of the members of the Committee present and voting.

If there are an equal number of votes for and against a question, the chairman of the meeting has a casting vote, unless only 2 members of the Committee are present and entitled to vote on the question.

### **13.23 Circulating resolutions**

- (a) The Directors may pass a resolution without a Directors' meeting being held if a majority of the Directors entitled to vote on the resolution have consented to the resolution in accordance with this article 13.23. The resolution is passed when the last participating Director consents to the resolution in accordance with this article 13.23. The resolution is not invalidated if it is consented to by a Director who is not entitled to vote.

- (b) A Director may consent to a resolution by signing a document that sets out the terms of the resolution and contains a statement to the effect that the Director is in favour of the resolution.
- (c) Alternatively, a Director may consent to a resolution by giving the Company a written notice (including by fax or other electronic means) addressed to and received by the Secretary or the Chairman:
  - (i) that signifies the Director's assent to the resolution;
  - (ii) that sets out the terms of the resolution or identifies those terms; and
  - (iii) if the Director has notified the Company in writing of a specified means by which his or her consent must be authenticated (including by providing particular personal information or an allocated code), that authenticates the Director's consent by those specified means.
- (d) Any document referred to in this article may be in the form of a fax or electronic notification. Separate copies of a document (including in electronic form) may be signed by the Directors if the wording of the resolution and statement is identical in each copy.
- (e) This article 13.23 applies to resolutions of Committees as if the references to Directors were references to Committee members.

### **13.24 Validity of acts of Directors**

All acts done at a meeting of the Directors or of a Committee, or by a person acting as a Director are, even if it is afterwards discovered that:

- (a) there was a defect in the appointment or continuance in office of a person as a Director or of the person so acting; or
- (b) a person acting as a Director was disqualified or was not entitled to vote,

as valid as if the relevant person had been duly appointed or had duly continued in office and was qualified and entitled to vote.

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## **14 Secretary**

### **14.1 Appointment of Secretary**

The Company may, but need not, have one or more Secretaries who are to be appointed by the Directors.

### **14.2 Suspension and removal of Secretary**

The Directors may suspend or remove a Secretary from that office.

### **14.3 Powers, duties and authorities of Secretary**

A Secretary holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, as determined by the Directors. The exercise of those powers and authorities and the performance of those duties by a Secretary is subject at all times to the control of the Directors.

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## **15 Seals**

### **15.1 Safe custody of common seals**

The Directors must provide for the safe custody of any seal of the Company.

### **15.2 Use of common seal**

If the Company has a common seal or duplicate common seal:

- (a) it may be used only by the authority of the Directors, or of a Committee authorised by the Directors to authorise its use; and
- (b) every document to which it is affixed must be signed by a Director and be countersigned by another Director, a Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included.

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## **16 Inspection of records**

### **16.1 Inspection by Members**

Subject to the Corporations Act, the Directors may determine whether, to what extent, at what time and places and under what conditions the accounting records and other documents of the Company or any of them will be open to the inspection of Members (other than Directors and, if relevant, a holding company of the Company).

### **16.2 Right of a Member or other person to inspect**

A Member or other person (other than a Director or, if relevant, a holding company of the Company) does not have the right to inspect any document of the Company except as provided by law or authorised by the Directors or by the Company in general meeting.

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## **17 Dividends and reserves**

### **17.1 Payment of dividend**

Subject to the Corporations Act, this Constitution and the terms of issue or rights of any Shares with special rights to dividends, the Directors may determine that a dividend is payable, fix the amount and the time for payment and authorise the payment or crediting by the Company to, or at the direction of, each Member entitled to that dividend. The Directors may rescind or alter any such determination before payment is made.

### **17.2 No interest on dividends**

Interest is not payable by the Company on a dividend.

### **17.3 Calculation and apportionment of dividends**

Subject to the rights of any persons entitled to shares with special rights as to dividend and to the terms of issue of any shares to the contrary, all sums that the Company determines are to be distributed among the Members as dividends are divisible among the Members so that, on each occasion on which a dividend is paid:



- (a) the same sum is paid on each fully-paid share; and
- (b) the sum paid on a share on which all amounts payable have not been paid is the proportion of the sum referred to in article 17.3(a) that the amount paid on the shares bears to the total of the amounts paid and payable on the share.

To determine the amount paid on a share, exclude any amount:

- (c) paid or credited as paid in advance of a call; and
- (d) credited as paid on a share to the extent that it exceeds the value (ascertained at the time of issue of the share) of the consideration received for the issue of the share.

All dividends are to be apportioned and paid proportionately to the amounts paid on the shares during any portion or portions of the period for which the dividend is paid, but, if any share is issued on terms providing that it will rank for dividend as from a particular date, that share ranks for dividend accordingly.

#### **17.4 Deductions from dividends**

The Directors may deduct from any dividend payable to, or at the direction of, a Member any sums presently payable by that Member to the Company on account of calls or otherwise in relation to shares.

#### **17.5 Distribution of specific assets**

When resolving to pay a dividend or to return capital by a reduction of capital or otherwise, the Directors may:

- (a) resolve that the dividend or return of capital be satisfied either wholly or partly by the distribution of specific assets to some or all of the persons entitled to the dividend or return of capital including shares, debentures or other securities of the Company or any other body corporate or trust; and
- (b) direct that the dividend or return of capital payable in respect of any particular shares be satisfied wholly or partly by such a distribution and that the dividend or return of capital payable in respect of other shares be paid in cash.

#### **17.6 Ancillary powers regarding distributions**

- (a) In relation to any decision to pay a dividend or to return capital by a reduction of capital or otherwise, the Directors may:
  - (i) settle any difficulty that arises in making the distribution as they think expedient and in particular:
    - (A) make cash payments in cases where Members are entitled to fractions of shares, debentures or other securities;
    - (B) decide that amounts or fractions of less than a particular value decided by the Directors may be disregarded in order to adjust the rights of all parties by withholding assets, cash, shares, debentures or other securities where the Company is required to make a payment in respect of the Member to a government or taxing authority in relation to the distribution or issue; and

- (C) decide to make distributions by disregarding transfers of shares or aggregating parcels of shares where they form the opinion that shareholdings have been split or aggregated to obtain the benefit of rounding on fractions of shares;
  - (ii) fix the value for distribution of any specific assets;
  - (iii) pay cash or issue shares, debentures or other securities to any Member in order to adjust the rights of all parties;
  - (iv) vest any of those specific assets, cash, shares, debentures or other securities in a trustee or nominee on trust for the persons entitled to the distribution or capitalised amount, on any terms that seem expedient to the Directors; and
  - (v) authorise any person to make, on behalf of the Members, or a particular Member, entitled to any specific assets, cash, shares, debentures or other securities as a result of the decision, an agreement (including in writing) with the Company or another person which provides as appropriate, for the distribution or issue to them of the assets, cash, shares, debentures or other securities and by applying to them their respective proportions of the amount resolved to be distributed.
- (b) Any agreement made under an authority referred to in article 17.6(a)(v) is effective and binds all Members concerned;
- (c) Instead of making a distribution or issue of specific assets, shares, debentures or other securities to a particular Member, the Directors may make a cash payment to that Member or allocate some or all of the assets, shares, debentures or other securities to a trustee to be sold on behalf of, and for the benefit of, or in respect of, that Member, if:
- (i) the distribution or issue would otherwise be illegal or unlawful;
  - (ii) in the Directors' discretion, the distribution or issue would, for any reason, be impracticable; or
  - (iii) the Member so agrees.
- (d) If the Company distributes to Members (either generally or to specific Members) shares, debentures or securities of the Company or another body corporate or trust (whether as a dividend or return of capital or otherwise and whether or not for value), each of those Members appoints the Company and any officer of the Company nominated on their behalf by the Directors, as his or her agent or attorney to do anything needed or desirable to give effect, or assist in giving effect, to that distribution, including agreeing to become a member, holder of shares, holder of debentures or holder of securities of the Company or that other body corporate or trust.

## 17.7 Payments in respect of shares

A dividend, interest or other money payable in cash in respect of shares may be paid using any payment method chosen by the Company, including:

- (a) by means of a direct credit as determined by the Directors to the latest payment account details for the relevant holding as provided in writing by the holder or holders shown on the Register; or

- (b) by cheque sent through the post directed to the address in the Register of the holder or, in the case of joint holders, to the address of the joint holder first named in the Register or to such other address as the holder or joint holder directs in writing.

Payment of money is at the risk of the holder or holders to whom it is sent.

### **17.8 Effectual receipt from one joint holder**

Any one of two or more joint holders may give an effectual receipt for any dividend, interest or other money payable in respect of the shares held by them as joint holders.

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## **18 Capitalisation of profits**

### **18.1 Capitalisation of reserves and profits**

The Directors:

- (a) may resolve to capitalise any sum, being the whole or a part of the amount for the time being standing to the credit of any reserve account or the profit and loss account or otherwise available for distribution to Members; and
- (b) may, but need not, resolve to apply the sum in any of the ways mentioned in article 18.2, for the benefit of Members in the proportions to which those Members would have been entitled in a distribution of that sum by way of dividend.

### **18.2 Applying a sum for the benefit of Members**

The ways in which a sum may be applied for the benefit of Members under article 18.1 are:

- (a) in paying up any amounts unpaid on shares held by Members;
- (b) in paying up in full unissued shares or debentures to be issued to Members as fully paid; or
- (c) partly as mentioned in article 18.1(a) and partly as mentioned in article 18.1(b).

### **18.3 Implementing the resolution**

The Directors may do all things necessary to give effect to a resolution under article 18.1 and in particular, to the extent necessary to adjust the rights of the Members among themselves, may:

- (a) make cash payments in cases where shares or debentures become issuable in fractions;
- (b) authorise any person to make, on behalf of all or any of the Members entitled to any further shares or debentures on the capitalisation, an agreement with the Company providing for:
  - (i) the issue to them, credited as fully paid up, of any further shares or debentures; or

- (ii) the payment by the Company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing shares by the application of their respective proportions of the sum resolved to be capitalised,

and any agreement so made is effective and binding on all the Members concerned;

- (c) fix the value of specified assets; or
- (d) vest property in trustees.

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## **19 Service of documents**

### **19.1 Document includes notice**

In this article 19, a reference to a document includes a notice and a notification by electronic means.

### **19.2 Form of document**

Unless expressly stated otherwise in this Constitution, all notices, certificates, statements, demands, appointments, directions and other documents referred to in this Constitution must be in writing.

### **19.3 Methods of service**

The Company may give a document to a Member:

- (a) personally;
- (b) by delivering it or sending it by post to the address for the Member in the Register or an alternative address nominated by the Member;
- (c) by sending it to a fax number or electronic address nominated by the Member; or
- (d) by notifying the Member by an electronic means nominated by the Member that:
  - (i) the document is available; and
  - (ii) how the Member may use the nominated access means to access the document.

### **19.4 Post**

A document sent by post:

- (a) if sent to an address in Australia, may be sent by ordinary post; and
- (b) if sent to an address outside Australia, must be sent by airmail,

and, in either case, is taken to have been given and received on the day after the day of its posting.

### **19.5 Fax or other electronic means**

A document sent or given by fax or other electronic means:

- (a) is taken to be effected by properly addressing and transmitting the fax or other electronic transmission; and
- (b) is taken to have been given and received on the day after the date of its transmission.

#### **19.6 Evidence of service**

A certificate signed by a Director or a Secretary stating that a document was sent, delivered or given to a Member personally, by post, fax or other electronic means on a particular date is evidence that the document was sent, delivered or given on that date and by that means.

#### **19.7 Joint holders**

A document may be given by the Company to the joint holders of a share by giving it to the joint holder first named in the Register for the share.

#### **19.8 Persons entitled to shares**

A person who by operation of law, transfer or other means whatsoever becomes entitled to any share is absolutely bound by every document given in accordance with this article 19 to the person from whom that person derives title prior to registration of that person's title in the Register.

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## **20 Winding up**

### **20.1 Distribution of assets**

If the Company is wound up, the liquidator may, with the sanction of a special resolution of the Company, divide among the Members in kind the whole or any part of the property of the Company and may for that purpose set such value as the liquidator considers fair on any property to be so divided and may determine how the division is to be carried out as between the Members or different classes of Members.

### **20.2 Powers of liquidator to vest property**

The liquidator may, with the sanction of a special resolution of the Company, vest the whole or any part of any such property in trustees on such trusts for the benefit of the contributories as the liquidator thinks fit, but so that no Member is compelled to accept any shares or other securities in respect of which there is any liability.

### **20.3 Shares issued on special terms**

Articles 20.1 and 20.2 do not prejudice or affect the rights of a Member holding shares issued on special terms and conditions.

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## **21 Indemnity and insurance**

### **21.1 Indemnity**

The Company will indemnify any current or former Director or Secretary of the Company out of the property of the Company against:

- (a) any liability incurred by the person in that capacity (except a liability for legal costs);

(b) 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; and

(c) legal costs incurred in good faith in obtaining legal advice on issues relevant to the performance of their functions and discharge of their duties as an officer of the Company or a subsidiary, if that expenditure has been approved in accordance with the Company's policy,

except to the extent that:

(d) the Company is forbidden by law to indemnify the person against the liability or legal costs; or

(e) an indemnity by the Company of the person against the liability or legal costs, if given, would be made void by law.

## 21.2 Insurance

The Company may 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 or Secretary 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 law to pay or agree to pay the premium; or

(b) the contract would, if the Company paid the premium, be made void by law.

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## 22 Proprietary Company

The Company is a proprietary company and accordingly:

(a) the number of Members:

(i) counting joint holders of a particular parcel of shares in the Company as one person; and

(ii) excluding:

(A) each Member who is an employee of the Company or of a subsidiary of the Company; and

(B) each Member who became a Member at a time when that member was an employee of the Company or of a subsidiary of the Company

must not exceed 50; and

(b) the Company may not engage in anything that would require disclosure to investors under Chapter 6D of the Corporations Act, other than an offer of shares to:

(i) a Member; or

(ii) a person in the employment of the Company or of a subsidiary of the Company.