



16 December 2010

Dear Members,

I am writing to you in relation to the adjourned Special General Meeting (SGM) scheduled to take place in Perth on Thursday 13 January 2011 to consider a special resolution on a new constitution for the Australia China Business Council (ACBC). You would recall that the special resolution was originally to be considered at a meeting of members on 18 November 2010. Those familiar with the organisation's history would know that the last substantive review took place with the introduction of the By-Laws in 2003 to accompany the original Memorandum and Articles of Association implemented in 1996.

Notwithstanding the overwhelming support received from a clear majority of members in a majority of Branches, a number of members and key stakeholders in Victoria requested an adjournment to allow more time for consultations between the Board of Directors and Members of the Company. The Board subsequently took the pragmatic view that it was important to carry the support of as many Members in as many Branches as possible to ensure a positive implementation of these constitutional changes.

Consultation Process

The consultation process that followed the adjournment resolution was designed to seek further input from Members on a range of issues such as appropriate provisions to ensure Branches retain the right to raise revenue, employ staff, collect membership fees and manage their own affairs and provisions to ensure that the constitution reflects ACBC's status as a membership driven organisation.

In consultation with Branches, the Board of Directors have agreed to a number of changes that deliver certainty to Branches in terms of their ongoing ability to deliver core member services and raise revenue. Furthermore, the revised document delivers the following:

- Total autonomy to branches in relation to the operation of Branch activities, member programs and the structure of Branch Executive Committees
- Clears up existing ambiguities between the collection of membership fees and formally empowers Branches to collect fees on behalf of the company
- Formalises and institutionalises the ex-officio board positions of the resident Ambassador in Beijing and CEO of Austrade
- Formalises terms of directors and puts provisions in place to ensure smooth leadership successions
- Formalised of the 7+4+4 board structure with appropriate provision in place to ensure Branches remain represented via prime nominee and ASIC listed alternates

China Representation

As I have noted before, the last two years have seen the Council take important steps forward through our representation in-country, including formalising the ex-officio national board position of the Australian Ambassador in China through the written endorsement of the Minister of Trade, as well as working with DFAT in China to deliver a range of events at Shanghai World Expo 2010 such as the Qantas SME Trade Mission, the Low Carbon Building event run in conjunction with UNSW and the NSW Government and the Council's dialogue held at the pavilion in partnership with the Australia Network.

I believe that getting our China strategy right is crucial to the organisation's future relevance as the peak body focused on the bilateral economic relationship. As outlined above, our presence in-country through the creation of a China-based Director as well as ongoing visits by Directors to date has delivered us immense value. It is important to note that by making reference to our activities in China specifically within the constitution, the Board is providing the focus and the transparency around process which our Members should expect from us.



Solid Board Framework

Lastly, the new constitution provides a solid board structure that effectively delivers a workable balance between strong Branch-based representatives, office bearers and directors that come to the Board to serve on a range of Subcommittees that are critical to the Council's corporate governance and member services at a national level.

I would also like to acknowledge the tireless efforts of ACBC NSW President Jim Harrowell and his team at Hunt & Hunt Lawyers, Audit and Governance Subcommittee Convener David Powell, Board Director Ben Foskett, Senior Vice-President Ian McCubbin and all Directors to reach agreement on a very pragmatic way forward that capitalises on the complementarities between the national body and the Branches.

Over the coming months the Board will be maintaining a dialogue with all Branches in relation to the establishment of further operating protocols to increase the efficiency of the organisation's processes, the quality of communication and the transparency of the Council's corporate governance process. I look forward to working constructively with all of our Members, Sponsors and major stakeholders.

I am confident that the revised constitution provides a framework that builds on our continued successes as a national organisation with a strong network of active local Branches and positions us well for future growth as the premier organisation in Australia dedicated to the promotion of trade and investment with China.

I would like to thank you again for your ongoing support of the Council and interest in our affairs.

Yours Sincerely,

Frank Tudor
Chairman of the Board and National President



SPECIAL GENERAL MEETING

Members are advised that the adjourned Special General Meeting of the Australia China Business Council will take place as follows:

Date: Thursday 13 January 2011

Time:

Perth	12:00pm (WST)
Darwin	1:30pm (CST)
Brisbane	2:00pm (EST)
Adelaide	2:30 pm (CDT)
Sydney/Melbourne	3:00pm (EDT)

Venue: KPMG Board Room,
Level 8, 235 St Georges Terrace,
Perth WA 6000

Purpose of Meeting:

To consider and, if thought fit, pass the following as a special resolution:

"That Australia China Business Council (ACBC):

- (a) Repeal the present Articles of Association and By-Laws of ACBC; and*
- (b) Adopt the new Constitution in the form set out in Annexure A*

Effective at the conclusion of the Special General Meeting".

Yours sincerely

Laurie Pearcey
National Executive Director & Company Secretary
Australia China Business Council
16 December 2010



Australia China Business Council
澳大利亚中国工商业委员会
(ACN 075 909 625)

Appointment of a Proxy Special General Meeting

I, of
(Member Nominating – please print) (Organisation)

being a member of the company hereby appoint

..... of
(Name of Person Nominated as Proxy) (Organisation)

or, failing him/her, as my proxy to vote for me and on my behalf at the **Special General Meeting** of the Company to be held on **Thursday 13 January 2011** and at any adjournment of that meeting.

My proxy is hereby authorised to vote ***IN FAVOUR OF / *AGAINST** the following resolution/s:

“That Australia China Business Council (ACBC):

- a) Repeal the present Memorandum and Articles of Association and By-Laws of ACBC; and
- b) Adopt the new Constitution in the form set out in Annexure A effective at the conclusion of the Special General Meeting.”

Note:

In the event of the member desiring to vote for or against any resolution he/she must instruct his proxy accordingly. Unless otherwise instructed your proxy may vote as he/she thinks fit.

**Strike out whichever is not desired.*

..... Signed thisday of 20.....
(Signature)

Please return by fax, mail, or scan and send by email as PDF attachment as below, to arrive by 5.00pm (EDT) on 12 January 2011.

By Email: national@acbc.com.au
By Fax: 02 9247 0340
By Mail: Australia China Business Council
Level 11 Gateway
1 Macquarie Place
Sydney NSW 2000

Constitution of

Australia China Business Council

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Corporations Act 2001

Constitution of

Australia China Business Council ACN 075 909 625

1. Name of the Company

The name of the Company is "Australia China Business Council".

2. Interpretation

2.1 Definitions

In the construction of this constitution:

"**Act**" means the *Corporations Act 2001* (Cth);

"**Branch**" has the meaning given in **clause 15.1**;

"**Branch Executive Committee**" has the meaning given in **clause 16.3**;

"**Chief Executive Officer**" means the person appointed pursuant to **clause 22**

"**Company**" means Australia China Business Council ACN 075 909 625;

"**Company Secretary**" means any person appointed to perform the duties of secretary of the Company and includes an assistant secretary or any person appointed to act as such temporarily;

"**corporate representative**" means a natural person appointed by a member which is a body corporate to be that body's representative at specified meetings of members of the Company or meetings of a Branch;

"**directors**" means the directors of the Company in office for the time being, or a quorum of the directors present at a board meeting;

"**Finance Committee**" means the committee established pursuant to **clause 23.8**;

"**Governance and Audit Committee**" means the governance and audit committee established pursuant to **clause 23.9**;

"**member**" means a member of the Company and includes any member of a Branch;

"**Membership, Marketing and Development Committee**" means the membership, marketing and development committee established pursuant to **clause 23.10**;

"**President**" means the person elected as President of the Company pursuant to **clause 13.4(a)**.

"**register**" means the register of members kept under the Act and includes any Branch register;

"**registered office**" means the registered office for the time being of the Company;

"**seal**" means the common seal of the Company and includes any official seal of the Company;

"special resolution" means a resolution of a meeting of members as defined in section 9 of the Act;

"Treasurer" means the person elected as treasurer pursuant to **clause 13.4(c)**; and

"Vice President" means each person elected as Vice-President of the Company pursuant to **clause 13.4(b)**.

2.2 Interpretation

In the construction of this constitution:

- (a) headings are disregarded;
- (b) words importing persons include partnerships, associations, corporations, companies unincorporated and incorporated whether by Act of Parliament or otherwise, as well as individuals;
- (c) singular includes plural and vice versa and words importing any gender include all other genders;
- (d) except for the definitions in **clause 2.1**, an expression has, in a provision of this constitution that deals with a matter dealt with by a particular provision of the Act, the same meaning as in that provision of the Act; and
- (e) all references to statutory provisions are construed as references to any statutory modification or re-enactment for the time being in force.

2.3 Exclusion of replaceable rules

The replaceable rules in the Act do not apply to the Company.

3. Objects

The Company is a membership-based non-profit national organisation. The objects for which the Company is established are to:

- (a) be the premier organisation in Australia for the promotion of commercial links with China;
- (b) provide an opportunity for Australian businesses from all States and Territories to network on China business activities with their peers;
- (c) provide a forum for establishing high level contacts in the Australian and Chinese government, financial and business communities;
- (d) influence Australian and Chinese policy makers and act as a conduit between governments and the Australian business community;
- (e) develop and maintain a high level of support for the Company's activities from the respective governments and collaborating in relevant government initiated programs;
- (f) encourage and be involved in business education programs on doing business in China;
- (g) support the promotion of Australia's commercial interests;

- (h) be recognised as the peak body for promoting business links between Australia and China;
- (i) undertake its activities directly by employment for that purpose of its own servants, agents or contractors;
- (j) encourage the making of contributions in the shape of donations, annual subscriptions or otherwise to the Company to enable it to carry out its objectives;
- (k) disseminate information concerning the work of the Company;
- (l)
 - (1) employ, commission or instruct;
 - (2) pay or make contracts or other arrangements with;
 - (3) subscribe to and cooperate with;
 - (4) make gifts, donations, subscriptions, subsidies, subventions, grants or loans to; or
 - (5) assist in other ways,such persons as shall be necessary or beneficial or expedient for the effecting of any of the above purposes or purposes which are incidental or ancillary to them; and
- (m) do all such acts as are incidental and conducive to the furtherance of the above objects.

4. Limited liability

4.1 Members' Liability

The liability of the members is limited.

4.2 Members' Contributions

Every member of the Company undertakes to contribute to the assets of the Company if it is wound up while the member is a member, or within one year after the member ceases to be a member, for:

- (a) the payment of the debts and liabilities of the Company, contracted before the member ceased to be a member;
- (b) the expenses of winding up the Company; and
- (c) the adjustment of the rights of the contributories among themselves.

4.3 Amount of Members' Contributions

The amount of the contribution under **clause 4.2** must not exceed \$10.00 in any circumstances.

5. Use of property by the Company

5.1 Application of Company Property

All income and property of the Company must be applied for the objects of the Company as set out in **clause 2**. No portion of the income or property may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit or return of capital to members of the Company.

5.2 Payments of Company Expenses

Nothing in **clause 5.1** prevents the payment in good faith of reasonable and proper:

- (a) remuneration to any of the officers or servants of the Company or to any member in return for any services actually rendered to the Company;
- (b) interest on money borrowed from any member of the Company for any of the purposes of the Company (provided the interest rate does not exceed the rate charged by the Company's bank on similar borrowings);
- (c) rent for premises let by any member to the Company; nor
- (d) payment for any goods supplied to the Company by any member.

5.3 Remuneration Payments

No remuneration or other benefit (including, without limitation, salaries, wages, commissions, fees, rewards, allowances, bonuses, incentive schemes or profit sharing schemes) ("**remuneration**") may be paid or given by the Company to any director except:

- (a) for the reimbursement of out-of-pocket expenses incurred on reasonable commercial terms in carrying out the duties of a director where the amount does not exceed an amount previously approved by a resolution of the directors;
- (b) for any service rendered to the Company in a professional or technical capacity, where the terms of service are on reasonable commercial terms and has been previously approved by a resolution of the directors; or
- (c) as an employee of the Company, where the terms of employment are on reasonable commercial terms and has been previously approved by a resolution of the directors.

5.4 Conflict of Interest Resolution

At any meeting of the directors at which a resolution is put for the purposes of **clause 5.3** ("**conflict of interest resolution**"), the director who is or directors who are the object of a conflict of interest resolution and any member of their immediate family or families are not entitled to:

- (a) be heard in discussion on the conflict of interest resolution;
- (b) propose or second a conflict of interest resolution;
- (c) vote on a conflict of interest resolution; or
- (d) be present at the meeting when the conflict of interest resolution is put to the vote.

5.5 Ratification of a Conflict of Interest Resolution

At the next general meeting of the Company after the passing of a conflict of interest resolution, the resolution as passed by the directors must be included on the agenda of the meeting for the purpose of ratification.

5.6 Conflict of Interest Resolution Not Ratified

If a conflict of interest resolution is not ratified at the subsequent general meeting, the Company must immediately cease remuneration of the director. The director is not required to refund to the Company any remuneration received between the date the conflict of interest resolution was passed by the directors and the date ratification by the general meeting is rejected.

6. Use of property on winding up

6.1 Surplus

If, on the winding up or dissolution of the Company, after the satisfaction of all its debts and liabilities, any property remains ("**surplus**"), the surplus must not be paid or distributed among the members of the Company.

6.2 Transfer of Surplus

The surplus must be given or transferred to some other institution or institutions:

- (a) having objects similar to the objects of the Company; and
- (b) which come within Division 30 of the *Income Tax Assessment Act 1997* (Cth); and
- (c) whose constitution prohibits the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Company under or by virtue of **clauses 5 and 6**.

6.3 Choice of Transferee

The transferee entity under **clause 6.2** will be chosen by the directors (as the directors were constituted at the commencement of the winding up). If the directors do not choose an entity within a reasonable time, any member at the commencement of the winding up or the liquidator may apply to the Supreme Court of New South Wales to choose the entity.

7. Membership

7.1 Membership qualifications

A person cannot become a member of the Company unless the person applies to become a member. Joint members of the Company are not permitted.

7.2 Admitting members

A person who agrees to become a member of the Company and whose name is entered in the register, after satisfying the terms of **clause 7.3** and such other conditions as the directors may at any time determine, becomes a member of the Company.

7.3 Process for admission

- (a) Every applicant for membership must:
 - (1) sign an application for membership in such form as may from time to time be prescribed by the board of directors of the Company; and
 - (2) undertake, as a condition of admission, to pay to the Company such entrance fee (if any) and annual subscription as may from time to time be payable to the Company in accordance with this constitution.
- (b) At the next meeting of the Branch Executive Committee after the receipt of any application for membership, that application must be considered by the Branch Executive Committee, which must determine whether to admit or reject the applicant. In no case is the Branch Executive Committee required to give any reason for the rejection of an applicant.
- (c) When an applicant has been accepted for membership by the Branch Executive Committee, the secretary of the Branch Executive Committee must notify the Company Secretary in writing.
- (d) The secretary of the Branch Executive Committee must then, on behalf of the secretary of the Company, send to the applicant written notice of his or her acceptance and a request for payment of his or her entrance fee (if any) and first annual subscription.
- (e) Payment of the entrance fee (if any) and first annual subscription will be made to the secretary of the relevant Branch, which will receive such amounts on behalf of the secretary of the Company. Upon payment of the entrance fee (if any) and first annual subscription to the secretary of the relevant Branch, the applicant becomes a member of the Company in the relevant Branch. For the avoidance of doubt, the entrance fee and annual subscriptions will be received by the secretary of the relevant Branch on behalf of the secretary of the Company.
- (f) If the payment is not made within 2 calendar months after the date of the notice, the Company may in its discretion cancel its acceptance of the application for membership of the Company.
- (g) The Board may recognise exemplary contribution(s) to its activities by awarding Life Membership to a member who has demonstrated exceptions service to the Company.

8. Membership fees

8.1 Entrance fee

- (a) There is no entrance fee payable by a member as at the date of adoption of this constitution.
- (b) The board of directors may set the amount of the entrance fee from time to time by ordinary resolution.

8.2 Annual subscription

- (a) Subject to **clause 8.2(d)**, the annual subscription payable by a member is:
 - (1) for a member other than a natural person, with annual turnover:

- (A) less than \$5 million: \$300.00
 - (B) \$5 million up to \$15 million: \$550.00
 - (C) \$15 million up to \$50 million: \$825.00
 - (D) greater than \$50 million: \$1,500.00
- (2) retirees, academics: \$100.00
 - (3) full-time students: \$60.00
 - (4) Life Members \$0.00
- (b) Subject to **clause 8.2(c)**, annual subscriptions are payable in advance on 1 July each year.
 - (c) If a member is admitted after 31 December in any year, the annual subscription payable will be half the amount otherwise payable.
 - (d) The board of directors may alter the amount of the annual subscription from time to time by ordinary resolution.

8.3 Waiver

The directors may at any time fix at different rates, suspend or waive payments of the annual subscription in favour of any member or category of members.

8.4 Annual subscription in arrears

If any member fails to pay that member's annual subscription within 2 month of the date determined by the directors, that member is not entitled, while the subscription remains due, to:

- (a) nominate a member as a candidate for election to the office of director;
- (b) be a member of a Branch Executive Committee
- (c) vote in any ballot;
- (d) receive notices of meeting of members; or
- (e) attend, be counted in forming a quorum for, exercise any vote at, or be a proxy or corporate representative for any member, for any meeting of members.
- (f) attend ACBC functions and events at the preferential or member discounted rate.

9. Cessation of membership

9.1 Cessation

A person ceases to be a member of the Company if the person:

- (a) dies;
- (b) resigns that membership;

- (c) fails to pay that person's annual subscription within 1 month from notice in writing from the secretary of the relevant Branch Executive Committee;
- (d) is expelled from the Company; or
- (e) whose actions in the opinion of the Branch Executive Committee brings the Company into serious disrepute.

9.2 Membership not transferable

A right, privilege or obligation which a person has by reason of being a member of the Company:

- (a) is not capable of being transferred or transmitted to another person; and
- (b) terminates upon cessation of the person's membership;

9.3 Resignation

A member of the Company may not resign that membership except in accordance with this clause. A member of the Company who has paid all amounts payable by the member to the Company in respect of the member's membership may resign that membership by first giving notice in writing to the secretary of the relevant Branch Executive Committee of the member's intention to resign. Once the period of notice (if any) specified in the document expires, the member ceases to be a member.

10. Discipline of members

10.1 Initial resolution of Branch Executive Committee

Where the Branch Executive Committee is of the opinion that a member of the Branch:

- (a) has refused or neglected to comply with a provision or provisions of this constitution; or
- (b) has acted in a manner prejudicial to the reputation or interests of the Company,

the Branch Executive Committee may, by resolution ("**initial resolution**"):

- (1) reprimand the member;
- (2) suspend the member from membership of the Company for a specified period; or
- (3) expel the member from the Company.

10.2 Notice to a Member

The secretary of the relevant Branch Executive Committee must, as soon as practicable following the passing of the initial resolution, by notice in writing, inform the member of the fact and the member's right to appeal pursuant to **clause 10.3**.

10.3 Right of appeal

- (a) If a member wishes to appeal against an initial resolution, the member must, within 7 days of the passing of the initial resolution, notify the Company Secretary in writing.

- (b) The Company Secretary must, as soon as practicable after receiving a notice under **clause 10.3(a)**, cause a notice in writing to be served on the member. The notice must:
 - (1) set out the initial resolution of the Branch Executive Committee;
 - (2) state that the member may personally address the directors at a meeting of the directors to be held not earlier than 14 days and not later than 28 days after service of the notice;
 - (3) state the date, place and time of that meeting of the directors; and
 - (4) inform the member that the member may submit to the directors at or prior to the date of that meeting written representations relating to that resolution and speak to the representation and raise only 1 other issue.
- (c) A meeting of the directors must be held not earlier than 14 days and not later than 28 days after service on the member of a notice under **clause 10.3(b)**.
- (d) At a meeting of the directors held as referred to in **clause 10.3(b)**, the directors must:
 - (1) give to the member an opportunity to speak to the written representations;
 - (2) give due consideration to any written representations submitted to the directors by the member at or prior to the meeting; and
 - (3) by resolution ("**confirming resolution**") confirm, vary or revoke the initial resolution.
- (e) There is no right of appeal against the confirming resolution of the directors.
- (f) The Company Secretary must, within 7 days of the passing of the confirming resolution, by notice in writing, inform the member of the fact and that there is no right of appeal against the confirming resolution.

10.4 Immediate or suspended effect

An initial resolution or confirming resolution may take effect immediately, after any period of time or only on conditions specified in the resolution.

11. Meetings of members

11.1 Calling of meetings

The Board may at any time call a meeting of members.

11.2 Requisition of meetings

Except as provided in section 249D of the Act, no member or members may call a meeting of members.

11.3 Notice of meeting

Every notice of a meeting of members must:

- (a) set out the place, day and time of meeting;

- (b) in the case of special business, state the general nature of the business;
- (c) if a special resolution is to be proposed, set out an intention to propose the special resolution and state the resolution; and
- (d) in the case of an election of directors, give the names of the candidates for election.

11.4 Entitlement to notice

Notice of a meeting of members must be given to;

- (a) each member, apart from any member who under this constitution or by the terms of issue of any membership is not entitled to the notice;
- (b) the auditor; and
- (c) each director.

11.5 Proxy Voting by Members

A member may appoint a proxy to attend and vote at any meeting at which the member is entitled to attend and vote. To be valid, a proxy must be in writing, provide for the voting intentions of the member to be recorded, and delivered to the place nominated by the directors in the notice of meeting (or, if no place is nominated, the registered office) at least 24 hours before the scheduled commencement of the meeting. A proxy may be delivered by facsimile transmission or by email as an attachment in PDF format.

11.6 Omission to give notice

The accidental omission to give notice of a meeting of members to, or the non receipt of any such notice by, a person entitled to receive it, or the accidental omission to advertise (if necessary) such meeting, does not invalidate the proceedings at, or any resolution passed at, any such meeting.

11.7 Consent to short notice

With the consent in writing of all the members of the Company for the time being entitled to vote at a meeting of members, any meeting of members may be called on short notice and in any manner they think fit and all provisions of this constitution are modified accordingly.

11.8 Cancellation or postponement of meeting

The directors may cancel or postpone the holding of any meeting of members. If the meeting was called by requisitioning members or in response to a requisition by members, the directors may only cancel or postpone the holding of it with the consent of a majority of the requisitioning members.

11.9 Notice of cancellation or postponement

The directors may notify the members of a cancellation or postponement of a meeting by such means as they see fit. If any meeting is postponed for 28 days or more, then no less than 5 days' notice must be sent to the members of the postponed meeting. It is not necessary to specify in such notice the nature of the business to be transacted at the postponed meeting.

11.10 Method of participation

The Company may hold a meeting of members at 2 or more venues using any technology that gives the members as a whole a reasonable opportunity to participate.

12. Representation at meetings

12.1 Persons entitled to attend

The right to attend a meeting of members is as follows:

- (a) each member may attend, apart from any member who under this constitution or by the terms of issue of any membership is not entitled to attend;
- (b) each director, Company Secretary and auditor may attend;
- (c) each person, whether a member or not, who is a proxy, corporate representative or attorney of a member may attend;
- (d) other persons may attend only with leave of the meeting or its chairperson and then only while the leave is on foot and in accordance with the terms of the leave.

The right of a person to attend is subject to the powers of the chairperson of the meeting, both at law and under this constitution.

13. Proceedings at meetings of members

13.1 Quorum

No business may be transacted at any meeting of members unless a quorum of members is present at the time when the meeting proceeds to business. Except as provided in **clause 13.2**, 5 members present are a quorum.

13.2 Failure of quorum

If a quorum is not present within 30 minutes from the time appointed for a meeting of members:

- (a) where the meeting was called by, or in response to, the requisition of members made under the Act, the meeting is dissolved; or
- (b) in any other case the meeting stands adjourned to such day, and at such time and place, as the directors determine.

If no determination of an adjourned meeting is made by the directors, the meeting stands adjourned to the same day in the second week following, at the same time and place. If at the adjourned meeting a quorum is not present within 15 minutes from the time appointed for the meeting, 3 members constitute a quorum, or where 3 members are not present, the meeting is dissolved.

13.3 Business of annual general meeting

The business of an annual general meeting is to:

- (a) receive the Company's financial statements, the directors' statement and report and the auditor's report on the financial statements;

- (b) elect the office bearers of the Company in accordance with **clause 13.4**; and
- (c) transact any other business which under this constitution or the Act ought to be transacted at an annual general meeting.

All other business transacted at an annual general meeting, and all business transacted at other meetings of members, is deemed special.

13.4 Election of office bearers

At the annual general meeting of the Company, the members of the Company will elect:

- (a) President;
- (b) Vice President; and
- (c) Treasurer.

The role of each of the office bearers is set out in **clause 18**.

13.5 Term of office

- (a) The office bearers specified in **clause 13.4** hold office until the next annual general meeting of the Company after which time they must resign and are eligible for re-election subject to **clause 13.5(b)**.
- (b) A person who has held office pursuant to **clause 13.4** for 6 consecutive terms will not be eligible for election as an office bearer at the annual general meeting of the Company at which their sixth term as an office bearer expires.

13.6 Candidates requiring nomination

Only members or persons nominated by a member which is not a natural person are eligible to nominate for election as an office bearer of the Company. No person is eligible for election in accordance with **clause 13.4** at any meeting of members unless duly nominated.

13.7 Valid nominations

- (a) Nominations must be made to the Company Secretary. Nominations close at 5.00 pm local time on the day which is 21 days before the date for the holding of the meeting. For a nomination to be valid:
 - (1) the nomination must name the candidate and be signed by a member;
 - (2) the person nominated must consent to act if elected; and
 - (3) the nomination and consent must be received before the close of nominations.
- (b) A consent is sufficient if the person signs a form of consent on the nomination paper. The Company Secretary may accept any other form of consent, whether or not accompanied by the nomination paper, that the Company Secretary deems satisfactory, and such acceptance is to be final.
- (c) A member which is not a natural person is permitted to nominate a maximum of one person to stand for election pursuant to **clause 13.4**, unless the nomination of a second person is approved by the board. The nominee may

be the corporate representative of the member or another person nominated by the member.

- (d) A Branch Executive Committee member is eligible to stand for election pursuant to **clause 13.4** subject to being duly nominated in accordance with the terms of this constitution. For the avoidance of doubt, if a Branch Executive Committee member is elected to the board, that member is only entitled to one vote at board meetings.

13.8 Special business

No special business may be transacted at any meeting of members other than that stated in the notice calling the meeting unless it is a matter that is required by this constitution or the Act to be transacted at such meeting.

13.9 Chairperson of meeting

The President, or in that person's absence the deputy chairperson of the directors (if any), is entitled to take the chair at each meeting of members. If neither of those persons is present at any meeting of members within 15 minutes after the time appointed for holding such meeting, or neither of them is willing to take the chair, the directors present may choose one of their number as a chairperson. If no director present is willing to take the chair, the directors may choose a person, whether a member or not, as chairperson of the meeting. If the directors fail to choose a person as a chairperson, the members present must elect a person, whether a member or not, to be chairperson of the meeting.

13.10 Passing the chair

If the chairperson of a meeting of members is unwilling or unable to be the chairperson for any part of the business of the meeting:

- (a) that chairperson may withdraw as chairperson for that part of the business and may nominate any person who would be entitled under **clause 13.9** to chair the meeting for that part of the business; and
- (b) after that part of the business is completed; the person so nominated must cease to chair the meeting upon the request of the prior chairperson. The prior chairperson is then entitled to resume as the chairperson of the meeting.

13.11 Responsibilities of chairperson

The chairperson of a meeting of members is responsible for the general conduct of the meeting and to ascertain the sense of the meeting concerning any item of business which is properly before the meeting. For these purposes the chairperson of the meeting may, without limitation:

- (a) delay the commencement of the meeting if that person determines it is desirable for the better conduct of the meeting;
- (b) make, vary or rescind rulings;
- (c) prescribe, vary or revoke procedures;
- (d) in addition to other powers to adjourn, adjourn the meeting, or any item of business of the meeting, without the consent of the meeting if that person determines it is desirable for the orderly conduct of the meeting or the conduct of a poll; and

- (e) determine conclusively any dispute concerning the admission, validity or rejection of a vote.

13.12 Admission to meetings

The chairperson of a meeting of members may refuse admission to, or require to leave and remain out of, the meeting any person:

- (a) in possession of a pictorial-recording or sound-recording device;
- (b) in possession of a placard or banner;
- (c) in possession of an article considered by the chairperson to be dangerous, offensive or liable to cause disruption;
- (d) who refuses to produce or to permit examination of any article, or the contents of any article, in the person's possession;
- (e) who behaves or threatens to behave in a dangerous, offensive or disruptive manner; or
- (f) who is not entitled under this constitution to attend the meeting.

13.13 Adjournment of meeting

The chairperson of a meeting of members at which a quorum is present may, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place as the chairperson determines.

13.14 Business at adjourned meeting

No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. No notice need be given of an adjournment, or of the business to be transacted at an adjourned meeting. However if any meeting is adjourned for 30 business days or more, notice of the adjourned meeting must be given.

14. Voting at meetings of members

14.1 Entitlement to vote

Subject to this constitution and the terms of issue of any membership, each natural person who is present at a meeting of members may vote if he or she is member or an attorney or corporate representative of a member. If any member's annual subscription is more than 1 month in arrears at the date of the meeting, that member is not entitled to vote at any meetings of members.

14.2 Number of votes

Each member who is, under **clause 14.1**, entitled to vote has:

- (a) on a show of hands (or on the voices) only one vote; and
- (b) on a poll, one vote.

14.3 Voting restrictions

If permitted or contemplated by the Act or this constitution, the directors may direct that particular persons (whether specified by name or description) do not cast a vote on

particular business of a meeting. In relation to that business, votes cast by the prohibited persons are to be disregarded.

14.4 Method of voting

Every resolution put to a vote at a meeting of members (except where there is an election of directors by ballot) must be determined by the voices or a show of hands (as determined by the chairperson of the meeting) unless a poll is properly demanded either before or on the declaration of the result of the voices or the show of hands.

14.5 Demand for poll

A demand for a poll under **clause 14.4** may be made by:

- (a) the chairperson of the meeting; or
- (b) at least 5 persons present having the right to vote at the meeting.

14.6 Declaring result of vote on show of hands

In respect of any meeting of members (unless a poll is so demanded):

- (a) a declaration by the chairperson of the meeting that a resolution has been carried, or carried by a particular majority, or lost, or has not been carried by a particular majority; and
- (b) an entry made in the book containing the minutes of proceedings of the Company,

is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

14.7 Conduct of poll

The demand for a poll may be withdrawn. If a poll is duly demanded (and the demand not withdrawn) it must be taken in such manner and at such time (either at once or after an interval or adjournment or otherwise) as the chairperson of the meeting directs. The result of the poll is the resolution of the meeting at which the poll was demanded. A poll demanded on the election of a chairman or on any question of adjournment must be taken at the meeting and without an adjournment. The demand for a poll does not prevent the continuance of the meeting for the transaction of any business other than the question on which a poll has been demanded.

14.8 Casting vote of chairperson

If, on a show of hands or on a poll, the votes are equal the chairperson of the meeting is not entitled to a second or casting vote. If there is an equality of votes for and against the motion, the motion is lost.

14.9 Objections

No objection may be made to the validity of any vote except at the meeting or adjourned meeting or poll at which such vote is tendered. Every vote allowed at any such meeting or poll is treated as valid. In recording votes the latest copy of the register held in the registered office must be adopted and acted on as the voting roll.

14.10 Ruling on votes

The chairperson of the meeting is the sole judge of the validity of every vote tendered at the meeting and the determination of the chairperson is final and conclusive.

15. Branches

15.1 Establishment of Branches

Upon adoption of this constitution, the directors are deemed to have established the following 6 branches:

- (a) New South Wales ("NSW") Branch;
- (b) South Australia ("SA") Branch;
- (c) Queensland ("QLD") Branch;
- (d) Victoria ("VIC") Branch;
- (e) Northern Territory ("NT") Branch; and
- (f) Western Australia ("WA") Branch.

(each a "**Branch**")

15.2 NSW Branch

NSW Branch consists of members from time to time which, in the case of members which are not natural persons, carry on business in New South Wales or, in the case of natural persons, normally reside in New South Wales.

15.3 SA Branch

SA Branch consists of members from time to time which, in the case of members which are not natural persons, carry on business in South Australia or, in the case of natural persons, normally reside in South Australia.

15.4 QLD Branch

QLD Branch consists of members from time to time which, in the case of members which are not natural persons, carry on business in Queensland or, in the case of natural persons, normally reside in Queensland.

15.5 VIC Branch

VIC Branch consists of members from time to time which, in the case of members which are not natural persons, carry on business in Victoria or, in the case of natural persons, normally reside in Victoria.

15.6 NT Branch

NT Branch consists of members from time to time which, in the case of members which are not natural persons, carry on business in the Northern Territory or, in the case of natural persons, normally reside in the Northern Territory.

15.7 WA Branch

WA Branch consists of members from time to time which, in the case of members which are not natural persons, carry on business in Western Australia or, in the case of natural persons, normally reside in Western Australia.

15.8 Participation

Subject to clause 16.11(b), a member is only eligible to participate in the activities of a Branch (including, without limitation, participating in the election of the Branch Executive Committee) if the Branch is in a state or territory in which, in the case of a member which is not a natural person, the member carries on business or, in the case of a natural person, the member normally resides.

15.9 Additional Branches

The directors may establish additional branches of the Company in their discretion by ordinary resolution at a meeting of directors.

16. Branch Executive Committees and Branch meetings

16.1 Powers of Branch Executive Committee

Upon adoption of this constitution, the directors are deemed to have delegated to each Branch Executive Committee the following powers within the limits of its own Branch to:

- (a) the management of its own Branch activities and operations in accordance with agreed operating protocols;
- (b) the management of funds raised or to be raised by the Branch through membership subscriptions, sponsorships, events and by any other means in accordance with reporting guidelines agreed with the Board
- (c) operate a bank account in the name of the Branch of the company and in accordance with guidelines agreed with the Board
- (d) receive applications for admission as members of the Company on the terms set out in **clause 7.3**;
- (e) refuse to accept any such application mentioned in **clause 16.1(a)** in its discretion and without being required to assign any reason;
- (f) furnish each year to the Board, a copy of the accounts and a report of the activities of the Branch during the previous year, a list of the members in the Branch and such other information as the board may require;
- (g) ensure all annual subscriptions are paid to the Company;
- (h) pay the costs, charges and expenses incidental to the promotion, management and regulation of the Branch;
- (i) employ staff, subject to compliance with any budgetary limits set by the board and any other requirements of the board from time to time; and
- (j) raise money

16.2 Meetings

- (a) The Branch Executive Committee of a Branch may call a meeting of the members of the Branch at any time.
- (b) Each Branch will hold an annual general meeting of the members of the Branch. The annual general meeting of each Branch must be held prior to the annual general meeting of the Company each year.

16.3 Branch Executive Committee members

At the annual general meeting of each Branch, the members of the Branch will elect:

- (a) Branch President;
 - (b) at least 2 Branch Vice Presidents;
 - (c) Branch Treasurer;
 - (d) a representative of the Branch who will be appointed as a director of the Company in accordance with **clause 17.7(a)**; and
 - (e) such other positions as are deemed necessary by the members of the Branch.
- (together, "**Branch Executive Committee**")

For the avoidance of doubt:

- (1) a person elected as a representative pursuant to **clause 16.3(d)** may also hold another position on the Branch Executive Committee; and
- (2) subject to **clause 16.7**, any number of Vice Presidents or other office holders may be elected by the members of the Branch.

16.4 Term of Branch President and Branch Vice Presidents

- (a) A Branch President or Branch Vice President holds office until the next annual general meeting of the Branch, when they must retire and are eligible for re-election subject to **clause 16.4(b)**.
- (b) A person who has been a Branch President or Branch Vice President for 6 consecutive terms will not be eligible for election as Branch President or Branch Vice President at the annual general meeting of the Branch at which their sixth term expires.

16.5 Candidates requiring nomination

No person is eligible for election to the Branch Executive Committee at any meeting of members unless duly nominated, except for:

- (a) a casual appointee; or
- (b) a member recommended by the Branch Executive Committee for election.

16.6 Valid nominations

- (a) Nominations must be made to the secretary of the Branch at the registered office. Nominations close at 5.00 pm local time on the day which is 21 days before the date for the holding of the meeting. For a nomination to be valid:

- (1) the nomination must name the candidate and be signed by a member;
 - (2) the person nominated must consent to act if elected; and
 - (3) the nomination and consent must be received before the close of nominations.
- (b) A consent is sufficient if the person signs a form of consent on the nomination paper. The secretary of the Branch may accept any other form of consent, whether or not accompanied by the nomination paper, that the secretary deems satisfactory, and such acceptance is final.
- (c) A member which is not a natural person is permitted to nominate a maximum of one person to stand for election to a Branch Executive Committee (unless the nomination of a second person is approved by the Branch Executive Committee), provided that the relevant Branch is in a state or territory in which the member carries on business. The nominee may be the corporate representative of the member or another person nominated by the member.

16.7 Number of Branch Executive Committee members

Each Branch Executive Committee in office at the time of the adoption of this constitution will be deemed to be the Executive Committee of their respective Branch effective until the next AGM of such branch. Each Branch Executive Committee must consist of at least 5 persons but no more than 10 persons. The numbers can be increased or decreased as the Branch Executive Committee may at any time determine subject to there being a minimum of 5 members.

16.8 Branch Executive Committee membership qualification

A Branch Executive Committee member must be:

- (a) a member or a member's corporate representative; or
- (b) a person nominated by a member in accordance with **clause 16.6(c)**.

16.9 Proceedings at meetings of a Branch

Subject to the terms of this **clause 15**, the members of each Branch will meet together for the dispatch of business, adjourn and regulate their Branch meetings in the same manner as applicable to general meetings of the Company set out in this constitution so far as those provisions are applicable.

16.10 Proceedings at meetings of a Branch Executive Committee

Subject to the terms of this **clause 15**, the members of each Branch Executive Committee will meet together for the dispatch of business, adjourn and regulate their Branch Executive Committee meetings in the same manner as applicable to meetings of directors of the Company set out in this constitution so far as those provisions are applicable.

16.11 Voting

- (a) Subject to this constitution and the terms of issue of any membership, each natural person who is present at a meeting of a Branch may vote if he or she is a member or an attorney or corporate representative of a member. If any member's annual subscription is more than 1 month in arrears at the date of the meeting, that member is not entitled to vote at any meetings of a Branch.

- (b) If a member which is not a natural person carries on business in more than one state or territory, that member is entitled to one vote at the annual general meeting of each relevant Branch for the sole purpose of electing a Branch Executive Committee pursuant to clause 16.3 but not otherwise entitled to vote.

16.12 Branch Executive Committee budgets

- (a) Each Branch Executive Committee must draw up a budget for the next financial year ("**Branch Budget**").
- (b) All Branch Budgets for the next financial year must be submitted to the Finance Committee of the board in May of the current financial year for consultation, agreement and approval by the board.
- (c) Branches are required to seek approval of the Finance Committee before incurring any unbudgeted expenditure which is greater than an agreed percentage of that Branch's approved budgeted expenditure. When such unbudgeted expenditure and associated revenue anticipates a breakeven or a surplus net position, the expenditure will ordinarily be approved. Any net deficit position will be considered as to the benefit to the company and approval granted or denied by the Finance Committee. Where, in exceptional circumstances, the Board (or the Finance Committee) and a Branch cannot reach agreement on an annual budget or on an unbudgeted expenditure item, the Board's decision will prevail. All deliberations contemplated in this clause will be undertaken and determined in good faith and in a timely fashion.

17. Appointment and removal of directors

17.1 Number of Directors

The Company must have at least 3 directors but not more than 15 directors. The numbers can be increased or decreased by special resolution of the Company.

17.2 Membership qualification

A director must be:

- (a) a member or a member's corporate representative; or
- (b) a person nominated by a member in accordance with **clause 13.7(c)**.

17.3 Membership restriction for corporate members

- (a) A member which is not a natural person must ensure that it has a maximum of one nominee or corporate representative who is a director of the Company, unless the appointment of a second person has been approved by the board.
- (b) For the avoidance of doubt, **clause 17.3(a)** means that if a nominee or corporate representative of a member has been elected as the representative of more than one Branch in accordance with **clause 16.3(d)**, then only one of those persons will be eligible for appointment as a director.

17.4 Initial directors

- (a) The directors holding office at the date of adoption of this constitution continue in office subject to this constitution. The directors, other than the directors described in **clause 17.4(b)**, will retire at the first annual general meeting of

the Company after the date of adoption of this constitution, but will be eligible for re-election.

- (b) Within 7 days of the adoption of this Constitution each Branch Executive shall advise the President which of the persons who were directors representing their branch immediately before the adoption of this Constitution shall continue as director, the other person shall then be the alternate to the nominated continuing director.

If a Branch Executive Committee does advise the President within 7 days then that Branch will immediately seek nominations for the election of a Branch reprehensive director.

17.5 Casual appointment

The directors may at any time appoint any person as a director, either to fill a casual vacancy or as an addition to the directors ("**casual appointee**").

17.6 Retirement of casual appointee

A casual appointee, following his or her appointment by the directors, holds office only until the conclusion of the next annual general meeting of the Company and is then eligible for re-election.

17.7 Election of directors

Following the resignation of the initial directors pursuant to **clause 17.4**, the board of directors will consist of the following:

- (a) a representative from each Branch elected in accordance with **clause 16.3(d)**;
- (b) the persons elected at the annual general meeting of the Company in accordance with **clause 13.4**;
- (c) the immediate past President;
- (d) China Based Director appointed in accordance with **clause** Error! Reference source not found. (if any); and
- (e) up to 4 additional persons who are not otherwise elected by a Branch, appointed in accordance with **clause 17.9(a)**.

17.8 Branch representative directors

- (a) The directors specified in **clauses 17.7(a)** will hold office until the next annual general meeting of the relevant Branch after their appointment when they must retire and are eligible for re-election subject to **clause 17.8(b)**.
- (b) A person who has been a director specified in **clause 17.7(a)** for 6 consecutive terms will not be eligible for election as a director at the annual general meeting of the Branch at which their sixth term expires. For the avoidance of doubt, if a director is elected as an office bearer pursuant to **clause 13.4**, any subsequent term as a director is non-consecutive.
- (c) If a director specified in **clause 17.7(a)** is subsequently elected as President or Vice President as specified in **clause 13.4**, the relevant Branch has the right to elect another person as their representative to the board for the purposes of **clause 17.7(a)**.

17.9 Appointed directors

- (a) At the first board meeting after the annual general meeting of the Company, the directors specified in **clauses 17.7(a)** and **17.7(b)** may invite up to 4 additional persons to be directors and appoint those persons as directors by ordinary resolution.
- (b) The directors appointed pursuant to clause **17.9(a)** will hold office until the first board meeting after the next annual general meeting of the Company when they must retire and are eligible for re-appointment subject to **clause 17.9(c)**.
- (c) A person who has been appointed as a director under clause **17.9(a)** for 6 consecutive terms will not be eligible for appointment at the first board meeting after the annual general meeting of the Company at which their sixth term expires.

17.10 China Based Director

The Council endorses the continuation of an in-country role to be based in China to conduct Council business and other matters as determined by the Board. The Board will endeavour to appoint an in-country based director on an annual basis with scope and governance as determined by the Board. This role is an integral part of the Board.

17.11 Immediate past President

- (a) The immediate past President may hold office as a director of the Company until such time as they cease to be the immediate past President.
- (b) For the avoidance of doubt, if the immediate past President declines to be appointed as a director of the Company or resigns or is otherwise removed, there is no obligation on the Company to appoint another director in their place.

17.12 Power to appoint alternate director

Each director may at any time appoint any member to act as an alternate director in the appointor's place.

17.13 Suspension of appointment

The appointor may vary, suspend, or terminate the appointment of any alternate.

17.14 Notice of appointment

Notice of each such appointment, suspension or termination must be made in writing to the alternate, signed by the appointor, and a copy served on the Company.

17.15 Termination of alternate's appointment

The appointment of an alternate director is automatically terminated, if:

- (a) the alternate resigns such appointment;
- (b) the appointment of the alternate is terminated by the appointor;
- (c) the appointment is to act as alternate for 1 or more directors and all of those named directors have vacated office as directors; or

- (d) on the happening of any event which, if the alternate were a director, would cause the alternate to vacate the office of director.

17.16 Resignation of director

Any director may retire from office by giving notice in writing to the Company of the director's intention to do so. Such resignation takes effect immediately unless the resignation is stated in the notice to take effect at some future time. However the resignation must take effect within 3 months from the date of the giving of the notice.

17.17 Vacation of office

In addition to the circumstances in which the office of director becomes vacant by virtue of the law or other provisions of this constitution, the office of director, is vacated automatically if the director.

- (a) becomes mentally incapable or the director's estate is liable to be dealt with in any way under the law relating to mental health; or
- (b) is absent from more than 3 consecutive meetings of directors without the prior leave of the directors irrespective of any apology. Where the office of director is vacated under this **clause 17.17(b)**, the director is not eligible for re-election.

17.18 Less than minimum number of directors

The continuing directors may act despite any vacancy in their body. If the number falls below the minimum number fixed in accordance with this constitution, the directors may act only:

- (a) to appoint directors up to that minimum number;
- (b) to call a meeting of members; or
- (c) in emergencies.

18. Office bearers

18.1 President

The President, subject to the directions of the board:

- (a) will act as chairperson of meetings of the Company and meetings of directors;
- (b) will act as the spokesman for the Company in respect of all media announcements, interviews and other communications to the public. The President may in writing appoint a delegate to act as media spokesman for the Company; and
- (c) will perform such other functions as determined from time to time by the directors.

18.2 Vice President

The Vice President will perform such functions as determined from time to time by the directors.

18.3 China Based Director

The China Based Director will perform such functions as determined from time to time by the directors.

18.4 Company Secretary

- (a) The Company Secretary must be appointed by the directors and holds office until the Company Secretary's services are terminated by the directors.
- (b) The Company Secretary must perform such duties as are required of that person by the Act and the constitution. The Company Secretary must also perform such duties and exercise such powers as may at any time be directed by the directors.

18.5 Treasurer

- (a) The Treasurer must ensure the company maintains accurate and full accounts which reflect its business activities, and report to the Finance Committee on the state of the Company's financial affairs.
- (b) The Treasurer must establish a budget for each financial year, which budget must be presented to the directors for approval.
- (c) In order to ensure that the Treasurer is able to carry out the Treasurer's obligations under this **clause 18.1**, the Treasurer must be given full and unrestricted access to all records, financial or otherwise, in the possession of each Branch or under the control of the Company.

18.6 Ex-Officio

Australia's incumbent Ambassador to China and the incumbent CEO of Austrade or their respective nominees shall be invited to join the Board as non-voting members of the Board.

18.7 Remuneration of directors

No director is entitled to any remuneration for services to the Company as a director.

18.8 Expenses of directors

Subject to **clause 5** of this constitution, each director may be entitled to be paid expenses incurred by him or her in the course of his or her duties as a director.

19. Proceedings of directors

19.1 Mode of meeting

- (a) Subject to **clause 19.1(b)**, the directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit.
- (b) The directors will meet at least 4 times each year and on such other occasions as the directors may determine from time to time.
- (c) Without limiting **clause 19.1(a)**, each director on becoming a director or on adoption of this constitution consents to the use of the following technology for calling or holding a directors' meeting:
 - (1) video;

- (2) telephone;
- (3) any other technology which permits each director to communicate with every other director; or
- (4) any combination of the technologies described in **clauses 19.1(c)(1) to 19.1(c)(3)** inclusive.

19.2 Quorum

A quorum for a meeting of directors is 6 directors.

19.3 Chairperson calling a meeting

The chairperson of the directors may at any time call a meeting of the directors to be held at such time and place as the chairperson chooses. The meeting is not invalidated by reason only of lack of convenience if a quorum of directors forms.

19.4 Company Secretary calling a meeting

The Company Secretary, upon the request of any other director, must call a meeting of the directors to be held at such time and place as is convenient to the directors.

19.5 Notice of meeting

Notice of each meeting of the directors:

- (a) may be given by such means as is convenient, including by telephone or electronic transmission; and
- (b) must be given to all eligible directors and all eligible alternate directors.

19.6 Accidental Omission to Give notice of Meeting

The accidental omission to give notice of any meeting of the directors to, or the non-receipt of any such notice by, a person entitled to receive that notice does not invalidate the calling of the meeting or any resolution passed at any such meeting.

19.7 Appointment of chairperson

The President is the chairperson of the meetings of directors. In the absence of the President, the directors may elect one of their number to be chairperson of their meetings and may determine the period for which that person is to hold that office. Such person is entitled to use the title, "Chair" or "Chairperson". If:

- (a) no chairperson is elected; or
- (b) at any meeting of the directors the President is not present within 15 minutes of the time appointed for holding the meeting,

subject to **clause 19.8**, the directors present must choose one of their number to be chairperson of such meeting.

19.8 Votes of directors

- (a) Questions arising at any meeting of the directors must be decided by a majority of votes cast.
- (b) Each director has one vote.

- (c) A person who is an alternate director is entitled (in addition to his or her own vote if a director) to one vote on behalf of each director whom the alternate director represents (as an alternate director at the meeting). The alternate director may only vote if the director is not personally present.
- (d) If there is an equality of votes, the chairperson of the meeting is not entitled to a second or casting vote. If there is an equality of votes for and against the motion, the motion is lost.

19.9 Circular resolution of directors

- (a) Subject to **clause 19.9(b)**:
 - (1) if a majority of directors have signed a document containing a statement that they are in favour of a resolution of the directors in terms set out in the document, a resolution in those terms is treated as having been passed at a meeting of the directors held on the day on which the document was signed;
 - (2) if the directors sign the document referred to in **clause 19.9(a)** on different days, then a resolution is treated as having been passed on the day on which the document was last signed by a director which then constituted a majority in number of the eligible directors; and
 - (3) a resolution is not treated as passed on the day mentioned in **clause 19.9(a)** or **clause 19.9(a)(2)** if the document, by its terms, is said to take effect from a different date.
- (b) A resolution pursuant to **clause 19.9(a)** is not passed unless all directors were given prior written notice of the resolution.

19.10 Signing of circular resolution

For the purposes of **clause 19.9**:

- (a) the "**eligible directors**" are all directors for the time being but excluding:
 - (1) all alternate directors;
 - (2) those who, at a meeting of directors, would not be entitled to vote on the resolution;
- (b) each director, other than one not entitled to vote on the resolution, may sign the document;
- (c) if a person who is not entitled to vote on the resolution signs the document, it does not invalidate the resolution if it is otherwise valid;
- (d) Each alternate director may sign the document on behalf of each director whom the alternate director represents (appointor) if:
 - (1) the alternate director reasonably believes that the appointor is unavailable to sign the document; and
 - (2) the alternate director has not suspended the appointment of the alternate.

An alternate director may sign even if the available appointor could not have voted on the resolution. An alternate director who represents more than 1 director may sign as many times accordingly;

- (e) an electronic transmission purporting to be signed by a director or alternate director is treated as being in writing signed by such person; and
- (f) 2 or more separate documents containing statements in identical terms each of which is signed by one or more directors are together treated as constituting one document containing a statement in those terms signed by those directors on the respective days on which they signed the separate documents.

19.11 Deemed minute

The document or documents referred to in **clauses 19.10 and 19.11** are treated as constituting a minute of that meeting and must be entered in books kept for that purpose.

19.12 Validity of acts of directors

All acts done in respect of any meeting of:

- (a) the directors; or
- (b) a committee of directors; or
- (c) other persons or by any person acting as a director; or
- (d) any person purporting to act as an attorney under power of the Company,

are, despite the fact that later it is discovered that there was some defect in the appointment or continuance in office of such director, person or attorney so acting or that they or any of them were disqualified or were not entitled to vote, as valid as if every such person had been duly appointed or had duly continued in office and was qualified to be a director or attorney and was entitled to vote.

19.13 Invitees

The board of directors may invite such persons as it deems necessary from time to time to attend meetings of the board in an ex-officio non-voting capacity.

20. Director's contracts with Company

20.1 Director's contracts and conflicts of interest

In relation to director's contracts and conflicts of interest, but subject to **clause 5** of this constitution:

- (a) despite any rule of law or equity to the contrary, no director is disqualified by the office from contracting with the Company;
- (b) no director may be an employee of the Company;
- (c) any such contract, or any contract entered into by or on behalf of the Company in which any director is in any way interested, is not avoided;
- (d) any director so contracting or being so interested is not liable to account to the Company for any profit realised by any such contract by reason only of such director holding that office or of the fiduciary relationship thereby established;

- (e) the nature of the director's interests must be disclosed by that director at the meeting of the directors at which the contract is determined on if that interest then exists and has not been disclosed. In any other case at the first meeting of the directors after the acquisition of those interests; and
- (f) a director may not vote in that capacity in respect of any contract or arrangements in which the director is interested. However, such director:
 - (1) may be counted, for the purpose of any resolution regarding it, in the quorum present at the meeting; and
 - (2) may, despite that interest, participate in the execution of any instrument by or on behalf of the Company, whether through signing or sealing it or otherwise.

20.2 Requirement to leave the meeting

Despite anything in **clause 20.1**, a director's entitlement to vote, or be present, at a meeting of the directors of any director who has a material personal interest in a matter that is being considered at the meeting is restricted in accordance with section 195 of the Act (and every other mandatory law) as it may apply from time to time to the Company.

20.3 Notice of Interest

A general notice given to the directors by any director to the effect that he or she:

- (a) is an officer or a member of, or interested in, any specified firm or body corporate; and
- (b) is to be regarded as interested in all transactions with such firm or body,

is sufficient disclosure as required by the Act as regards such director and those transactions. After such general notice it is not necessary for such director to give any special notice relating to any transaction with such firm or body.

20.4 Office in another company

A director of the Company may be, or become, a director or other officer of, or otherwise interested in, any body corporate promoted by the Company or in which the Company may be interested, or which holds any membership in the Company. No such director is accountable to the Company for any remuneration or other benefits received by him or her as a director or officer of, or from his or her interest in, such body corporate. The directors may exercise the voting power conferred by the shares or owned by the Company, or exercisable by them as directors of such other body corporate in such manner in all respects as they think fit. This includes the exercise of that voting power in favour of any resolution appointing themselves, or any of them as directors or other officers of such body corporate. Any director may vote in favour of the exercise of such voting power in that manner despite the fact that he or she may be, or be about to be, appointed a director or other officer of such corporation and as such is, or may become, interested in the exercise of such voting power in that manner.

21. Powers and duties of directors

21.1 Powers generally

Subject to the Act and to any other provisions of this constitution, the management and control of the Company and of the business and affairs of the Company is vested in the

directors who may exercise all such powers of the Company and do all such acts or things not expressly required by this constitution or by the Act to be exercised or done by a meeting of members. No clause adopted or resolution passed by a meeting of members invalidates any prior act of the directors which would have been valid if that clause or resolution had not been adopted or passed.

21.2 Borrowing

The directors have the power to raise or borrow any sum or sums of money and to secure the payment or repayment of such moneys and any other obligation or liability of the Company in such manner and on such terms as they think fit. This includes:

- (a) upon the security of any mortgage; or
- (b) by the issue of debentures or debenture stock of the Company charged upon all or any of the property of the Company (both present and future) including its goodwill and undertaking for the time being; or
- (c) upon bills of exchange, promissory notes or other obligations or otherwise.

21.3 Execution of negotiable instruments

All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for money paid to the Company may be signed, drawn, accepted, endorsed or otherwise executed as the case may be, in such manner as the directors at any time determine.

21.4 Official seal

The directors may exercise all the powers of the Company in relation to any official seal for use outside the State where its common seal is kept and in relation to Branch registers.

21.5 Appointment of attorney

The directors may at any time, by power of attorney, appoint any person or persons to be the attorney or attorneys of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the directors under this constitution) and for such period and subject to such conditions as they may think fit. Any such powers of attorney may:

- (a) contain such provisions for the protection and convenience of persons dealing with any such attorney as the directors may think fit; and
- (b) authorise any such attorney to delegate all or any of the powers authorities and discretions vested in the attorney.

21.6 Delegation

The directors may at any time confer upon any director, or such other person as they may select, such of the powers exercisable under the constitution by the directors for such time as they may think fit and to be exercised for such objects and purposes and upon such terms and with such restrictions as they think expedient. They may confer such powers whether collaterally with, or to the exclusion of and in substitution for, all or any of the powers of the directors in that respect. They may at any time revoke, withdraw, alter or vary all or any of such powers.

21.7 Validity of acts

Despite anything contained in this constitution, if it is found that some formality required by this constitution to be done has been inadvertently omitted or has not been carried out, such omission does not invalidate any resolution, act, matter or thing which but for such omission would have been valid.

21.8 Corporate plan

The directors must formulate a rolling 3 year corporate plan which must be submitted annually to members of the Company at general meetings of the Company.

22. Chief Executive Officer

- (a) The Chief Executive Officer may be appointed by the board for such term, and upon such conditions as it thinks fit, and any Chief Executive Officer so appointed may be removed by it. Nothing prevents the board from appointing a member of the Company or a member's representative as Chief Executive Officer.
- (b) Subject to the direction and control of the board, the Chief Executive Officer must:
 - (1) attend to the day to day business of the Company, including the appointment and removal of staff of the National Office; and
 - (2) perform such other duties as the board may from time to time prescribe.

23. Committees

23.1 Delegation to committee

The directors may:

- (a) delegate any of their powers to committees consisting of such one or more persons, whether directors or not, as they think fit; and
- (b) establish advisory committees (or other committees not having delegated power of directors) consisting of such person or persons as they think fit.

23.2 Branch Representation on Committees

Any Branch may nominate a person for consideration for appointment by the Board to any Committee established by the Directors.

23.3 Committee powers

Any committee so formed or person or persons so appointed must, in the exercise of the powers so delegated, or functions entrusted, conform to any regulations that may at any time be imposed by the directors.

23.4 Committee meetings

The meetings and proceedings of any committee consisting of 2 or more persons are governed by the provisions in this constitution for regulating the meetings and proceedings of the directors so far as those provisions are applicable and not affected by any resolution or regulation made by the directors under **clause 23.2**.

23.5 Committee members as officers

Each person appointed to a committee under **clause 23.1(a)**, if not otherwise an officer of the Company, is, when exercising the powers so delegated or functions entrusted, an officer of the Company.

23.6 Invitees

A Committee may invite such persons as it deems necessary from time to time to attend meetings of the Committee in a non-voting capacity.

23.7 Voting

A person is only entitled to vote at meetings of a Committee if they are a member or a member's corporate representative.

23.8 Finance Committee

- (a) The directors must establish a Finance Committee.
- (b) The Finance Committee must consist of the Treasurer (who will serve as chair) and at least 1 other member to be appointed by the board. The President shall be an ex-officio member of the Finance Committee.
- (c) The Finance Committee must meet at least once each quarter.
- (d) The Finance Committee must review the following matters, and report its findings to the board on a semi-annual basis:
 - (1) annual financial statements prior to their being considered and adopted by the board;
 - (2) all policies, practices and disclosures relating to the finances of the Company;
 - (3) existing and emerging financial risks and mitigation activities; and
 - (4) adequacy and effectiveness of internal financial controls.
- (e) The Finance Committee must approve the budgets of each Branch.

23.9 Governance and Audit Committee

- (a) The directors must establish a Governance and Audit Committee.
- (b) The Governance and Audit Committee must consist of a director (who will serve as chair) and at least 1 other member to be appointed by the board. The President shall be an ex-officio member of this Committee.
- (c) The Governance and Audit Committee must meet at least once each quarter.
- (d) The Governance and Audit Committee must review the following matters and report its findings to the board on a semi-annual basis:
 - (1) Company operations and policies;
 - (2) insurance;
 - (3) any other matter assigned to it by the board; and

- (4) auditor plans, reports and performance.

23.10 Membership, Marketing and Development Committee

- (a) The directors must establish a Membership, Marketing and Development Committee.
- (b) The Membership, Marketing and Development Committee must consist of a member of a Branch Executive Committee appointed by the President (who will serve as chair) and at least 1 other member to be appointed by the board. The President shall be an ex-officio member of this committee.
- (c) The Membership, Marketing and Development Committee must meet at least once each quarter.
- (d) The Membership, Marketing and Development Committee must review membership benefits and programs. The committee will also be responsible for implementing new membership benefits and programs, reviewing fees charged per membership and working with the Branches to develop consistent membership programs and benefits throughout the Company.

24. Minutes

24.1 Minutes as evidence

If any minutes of a meeting of members or of the directors are signed by any person purporting to be either the chairperson of such meeting, or the chairperson of the next succeeding meeting, those minutes must be received in evidence without any further proof that the matters and things recorded by or appearing in such minutes actually took place or happened at a meeting duly called and held.

25. Seal

25.1 Use of common seal

The seal must not be affixed to any document unless it is done by the authority of directors or of a committee of them.

25.2 Mode of execution by common seal

Every document to which the seal is affixed must be signed, to attest the affixing of the seal, by 2 persons. One must be a director. The other must be the Company Secretary, another director, or such other person as the directors may appoint for that purpose. No person may sign in more than 1 capacity.

25.3 Delegation of authority to use common seal

The directors may delegate to the President or any other director the power and authority to affix the seal to such documents as the directors may at any time by resolution determine. When affixed and signed by the President or such other director, it is binding on the Company in all respects as if it were duly signed by 2 directors.

26. Notices

26.1 Service of notices

Where the constitution, the Act or other legislation require or permit a document to be served on, given, sent or dispatched to, any person, whether any such expression or any other expression is used (in this clause referred to as "served"), the document may be served on the person:

- (a) by delivering it to the person personally;
- (b) by dispatching it, whether by post, contractor, agent, electronic means or otherwise, to:
 - (1) the address of the place of residence; or
 - (2) business of the person last known to the person serving the document; or
 - (3) in the case of a member, to the address of the member entered in the register,the document, by such dispatch, is regarded as left at that address; or
- (c) subject to the Act, by publication in a newspaper circulating generally in the State in which the registered office is located.

26.2 Date of deemed service

A document served under **clause 26.1** is treated as having been duly served, regardless of whether it is actually received:

- (a) where **clause 26.1(b)** applies - on the day following the day when dispatch occurred; and
- (b) where **clause 26.1(c)** applies - on the day the newspaper is first published.

26.3 Overseas members

It is not necessary to give a notice to any member where that member's address in the register is outside Australia. Such a member may give notice to the Company specifying an address within Australia which is to be treated as the address of the member for the giving of notices. Where the Company proposes to send a notice to a member by pre-paid post and the notice is to be sent outside Australia, the Company must send the notice by airmail.

26.4 Counting of days

Subject to the Act, where a specified number of days' notice or notice extending over any period is required to be given, both the day of service and the day upon which such notice will expire are included in such number of days or other period.

26.5 Service on Company or its officers

Every document required to be served upon the Company or upon any officer of the Company may be served by leaving it at the registered office.

26.6 Signature

The signature to any document to be given by the Company may be written, printed or stamped.

27. Indemnity

27.1 Indemnity for officers

To the extent that the Act allows it, each officer of the Company and each officer of a related body corporate of the Company, must be indemnified by the Company against any liability incurred by that person in that capacity.

27.2 Insurance premiums

The Company may at any time pay premiums in respect of a contract insuring a person (whether with others or not) who is an officer of the Company against a liability incurred by the person as such an officer, or as an officer of a related body corporate. The liability insured against may not include that which the Act prohibits. Any such premium in relation to a director is in addition to, and not regarded as part of, the remuneration approved by members under this constitution.