

Constitution

**Real Estate Institute of South Australia Limited
ACN 008 652 597**

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1. Preliminary

1.1. Name of Company

The Company is the "Real Estate Institute of South Australia Limited"

1.2. Type of Company

- (a) The company is a public company limited by guarantee.

1.3. Guarantee

- (a) Subject to this Constitution, each person who is a Member and each person who was a Member during the year ending on the day of the commencement of the winding up of the Company, undertakes to contribute to the property of the Company for:

- i. payment of debts and liabilities of the Company;
- ii. payment of the costs, charges and expenses of winding up; and
- iii. any adjustment to the rights of the contributories among Members.

- (b) The amount that each Member or past Member is liable to contribute is limited to \$2.00.

1.4. Replaceable Rules

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

1.5. Objects

- (a) The object of the Company is to be a business organisation representing the prosperity and success of real estate enterprises and persons engaged in the vocation and in fulfilling this object, the Company will:

- i. promote and maintain the role of the real estate agency;
- ii. promote excellence, enterprise, education and integrity in the real estate profession;
- iii. promote the highest standards of ethics among real estate professionals;
- iv. provide services that enhance the competitiveness and market opportunities for real estate enterprises;
- v. engage with Members and key stakeholders to develop strategic priorities to maximise the impact and benefit of member services;
- vi. work with other organisations in the furtherance of the objects for which the Company was established;
- vii. to conduct professional advocacy where aligned with strategic priorities; and
- viii. advocate for real estate agencies to achieve a more productive and competitive environment in which to engage in commerce and innovation incorporating economic and social priorities.

1.6. Income and Property

- (a) The Company is a non-profit organisation and must not carry on business for the purpose of distributing profit to Members.
- (b) The income and property of the Company will only be applied towards the promotion of the Objects of the Company.

- (c) No income or property of the Company will be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus or otherwise to any Member of the Company. However, nothing in this Constitution will prevent payment in good faith of:
- i. remuneration to any officer or employee of the Company or to any Member in return for services actually rendered to the Company;
 - ii. reasonable allowance and expenses to Directors;
 - iii. the supply of goods or services in the ordinary and usual course of business by a Member to the Company;
 - iv. interest at a rate not exceeding current bank overdraft rates of interest for moneys lent to the Company; or
 - v. reasonable and proper rent for premises leased by any Member to the Company.

1.7. Definitions

Alleged Conduct has the meaning given to it in clause 4.2.

Breaching Member has the meaning given to it in clause 4.2.

Board Skills Matrix means the desired mix of skills, qualifications, experience for the Board, which shall be determined by the Board

Code of Conduct means any code of conduct or similar policy approved by the Board from time to time.

Control has the meaning given to it by the *Corporations Act*.

Disciplinary Meeting has the meaning given to it in clause 4.4.

Disciplinary Subcommittee has the meaning given to it in clause 4.3.

Independent means an individual who, either directly or indirectly:

- (a) is not in a position of Control of a legal entity that holds a Real Estate Licence; or
- (b) is not active in the business of a legal entity that holds a Real Estate Licence and has not been in the last 2 years; or
- (c) does not have a material financial interest in a legal entity that holds a Real Estate Licence.

Not For Profit best practice benchmarking means the Australian Board Remuneration Survey Report by the Governance Institute of Australia or similar.

REISA means Real Estate Institute of South Australia Incorporated.

Real Estate Licence means a licence issued by the Office of Consumer and Business Services ('CBS') under "Real Estate" registration categories, or such other equivalent licence type from time to time issued either by CBS or any successor entity to CBS which carries on the same or similar functions in relation to the regulation of the real estate industry.

Voting Member means a person who is given voting rights as determined by the Membership categories and benefits approved by the Board.

2. Transitional Provisions

- (a) On the date this amended Constitution is adopted:
- i. The Directors will consist of the current appointed members of the Board until the 2024 AGM
 - ii. To achieve staggered expiry terms:
 - On the date of the 2024 AGM 2 Independent Directors will resign, and 1 Member Director will resign
 - 1 Member Director will be extended by 1 year
 - 1 Independent Director will be extended by 1 year
 - 1 Member Director will be extended by 2 years
 - 1 Independent Director will be extended by 2 years
 - iii. The Directors will resolve the order in which these resignations and appointments are established by normal resolution.
 - iv. In the event the Directors cannot resolve the matter through normal resolution, following a formal Board Performance Review the Board will appoint an independent committee to establish the order of appointments and resignations.

3. Membership

3.1. Membership Categories

- (a) The Company will have the categories of Membership set out in the By Laws
- (b) The Directors may, from time to time, determine:
- (i) the various categories of membership of the Institute;
 - (ii) any restriction in the number of Members or the number of Members within each category;
 - (iii) the qualifications for admission to, and continuing membership of, each category; and
 - (iv) the rights attached to being a Member in each category.

3.2. Code of Conduct

All Members must comply with the Code of Conduct at all times.

3.3. Eligibility

- (a) In order to become a Member a person or entity must:
- (b)
 - i. apply for Membership in the form and manner determined by the Board from time to time;
 - ii. meet the requirements of the relevant Membership Category;
 - iii. agree to comply with the Code of Conduct;
 - iv. pay the applicable Membership Fee to the Secretary; and
 - v. be approved by the Board.
- (c) The Board must consider each application for Membership it receives and determine whether to accept or reject the application (which it may do in its absolute discretion).
- (d) The Board does not need to give any reason for rejecting an application. If the Board rejects an application, the Secretary will notify the applicant.
- (e) If the Board approves an application for Membership, the Secretary will enter the name of the applicant in the Register and notify them. The applicant becomes a Member when their name is entered in the Register.

3.4. Membership Fees

- (a) The Board will determine the Membership Fees annually, at a time determined by the Board.
- (b) Members must pay the applicable Membership Fee in the manner and timeframe specified by the Board.

3.5. Membership entitlements not transferable

The rights of being a Member are not transferable whether by operation of law or otherwise.

3.6. Cessation of Membership

- (a) A Member's membership will cease if:
 - i. that Member resigns in writing; or
 - ii. the membership ceases in accordance with this Constitution or the Code of Conduct; or
 - iii. that Member no longer satisfies the criteria for its respective category of membership; or
 - iv. that Member fails to pay their Membership fee or other monies due to the Company:
 - i. within thirty (30) days after it falls due; and
 - ii. fails to rectify this default within thirty (30) days of being notified by the Company, unless the Member is subject to disciplinary action procedures under clause 4.
- (b) The estate of a deceased Member is released from any liability in respect of that person being a Member, effective on receipt by REISA of written notice of the member's death.

3.7. Ongoing Liability

A member may at any time, resign as a Member but shall continue to be liable for:

- (a) any monies due by the Member to the Company, whether Membership Fees or fees for services provided by the Company; and

- (b) any sum for which the Member is liable as a Member of the Company.

4. Disciplinary action

4.1. Alleged Conduct

The Board may investigate conduct of members in accordance with the procedure in the REISA By Laws.

4.2. Grounds for taking disciplinary action

The Board may take disciplinary action against a Member (**Breaching Member**) in accordance with this clause if it determines that the Breaching Member:

- (a) has failed to comply with this Constitution or the Code of Conduct;
- (b) has acted in a way which indicates that the member will not support the Company's Objects; or
- (c) has engaged in conduct prejudicial to the Company, (**Alleged Conduct**).

4.3. Disciplinary subcommittee

- (a) The Board may appoint a subcommittee (**Disciplinary Subcommittee**) to determine whether the Alleged Conduct has occurred and what, if any, action to take against the Breaching Member.
- (b) The members of the Disciplinary Subcommittee:
 - i. may be Directors or third parties; and
 - ii. must not comprise any representatives of the Breaching Member
 - iii. any Member of the subcommittee must be free from any conflict

4.4. Notice to Member

- (a) The Disciplinary Subcommittee must hold a meeting to consider the Alleged Conduct and proposed disciplinary action against the Breaching Member (**Disciplinary Meeting**).
- (b) The Secretary must give a written notice to the Breaching Member which sets out:
 - i. that the Board has made a determination of the kind described in clause 4.2;
 - ii. details of the Alleged Conduct and the grounds for the proposed determination;
 - iii. the date, place and time of the Disciplinary Meeting;
 - iv. that the Breaching Member may do one or both of:
 - a. attending the Disciplinary Meeting and addressing the Disciplinary Subcommittee at that meeting; and
 - b. giving a written statement to the Disciplinary Subcommittee at any time before the Disciplinary Meeting; and
 - v. the Breaching Member's appeal rights under clause 4.6.
- (c) The Secretary must give the notice described in clause 4.4(b) to the Breaching Member at least 10 Business Days before the date of the Disciplinary Meeting.

4.5. Decision of Disciplinary Subcommittee

- (a) At the Disciplinary Meeting, the Disciplinary Subcommittee must:
- i. give the Breaching Member an opportunity to be heard; and
 - ii. consider any written statement submitted by the Breaching Member.
- (b) If it has complied with clause 4.5(a) at the Disciplinary Meeting the Disciplinary Subcommittee may determine:
- i. to take no further action against the Breaching Member;
 - ii. to suspend the Membership of the Breaching Member for a specified period; or
 - iii. that the Breaching Member's Membership will cease; or
 - iv. refer the matter to the relevant Regulatory Authority
- (c) The suspension or cessation of the Breaching Member's Membership will take effect upon the handing down by the Disciplinary Subcommittee of its determination.
- (d) A Member whose Membership has been suspended has a right to receive notices, but no right to vote, at any general meeting during the term of the suspension.

4.6. Appeal rights

- (a) A Breaching Member whose Membership has been suspended or which has ceased under clause 4.5(b) may appeal the suspension or cancellation by giving notice (**Appeal Notice**):
- i. to the Disciplinary Subcommittee immediately after the Disciplinary Meeting if a determination is made at the Disciplinary Meeting; or
 - ii. to the Secretary within 48 hours after the end of the Disciplinary Meeting, if a determination is made at the Disciplinary Meeting
 - iii. to the Secretary within 48 hours after the handing down by the Disciplinary Subcommittee of its determination in the case that the determination is handed down after the Disciplinary Meeting.
- (b) If a Breaching Member has given an Appeal Notice as required by clause 4.6(a), the Board must call a general meeting of Members (**Disciplinary Appeal Meeting**) in accordance with clause 5.2.
- (c) Notice of the Disciplinary Appeal Meeting must be given as soon as practicable to each member of the Disciplinary Subcommittee and each Member who is entitled to vote and must include:
- i. the time and date of the Disciplinary Appeal Meeting;
 - ii. the name of the Breaching Member;
 - iii. the grounds for taking disciplinary action; and
 - iv. that, at the Disciplinary Appeal Meeting, the Members must vote on whether the decision to suspend or cease the Breaching Member's Membership should be upheld or revoked.
- (d) A Member may not vote by proxy or attorney at a Disciplinary Appeal Meeting.

4.7. Conduct of Disciplinary Appeal Meeting

- (a) At a Disciplinary Appeal Meeting:
- i. no business other than the question of the appeal may be conducted; and
 - ii. the Breaching Member must be given an opportunity to be heard.

- (b) If clause 4.7(a) is complied with, the Members present and entitled to vote at the meeting must vote by secret ballot on the question whether the decision to suspend or cancel the Breaching Member's Membership should be upheld or revoked. A decision to suspend or cease the Breaching Member's Membership is upheld if at least 75% of the Members voting at the Disciplinary Appeal Meeting vote in favour of the decision.

GENERAL MEETINGS

5. Convening of General Meetings

5.1. Annual General Meetings

- (a) The Board must convene an Annual General Meeting in accordance with the requirements of the Corporations Act.
- (b) The business of an Annual General Meeting may include any of the following, even if not referred to in the notice of the meeting:
- i. the consideration of the Annual Financial Report, Directors' Report and Auditor's Report;
 - ii. the appointment of the Auditor; and
 - iii. the appointment of Directors.
 - iv. the remuneration of Directors;

5.2. Convening of General Meetings

- (a) The Board may convene a general meeting of the Company, whenever it thinks fit, subject to fifty percent (50%) of Directors (rounded down to the next integer) so requiring.
- (b) The Members may call a general meeting, and the Company will do so, in accordance with the provisions of Part 2G.2 of the Corporations Act pertaining to the rights of members to call a general meeting.
- (c) A general meeting of the Company may be convened at two (2) or more venues using any technology that gives the Members a reasonable opportunity to participate in the meeting.

5.3. Special and ordinary resolutions

- (a) All resolutions put to General Meetings, whether those meetings are Annual General Meetings or Special General Meetings, shall be ordinary resolutions determined by a simple majority vote excepting resolutions required by these rules or by the Corporations Act to be Special Resolutions.
- (b) Where a resolution is required by these rules or under the Corporations Act to be a Special Resolution, notice of the meeting at which that resolution will be put must specify the intention to propose the resolution as a Special Resolution.

6. Notice of General Meeting

- (a) Subject to consent to shorter notice being given in accordance with the Corporations Act, at least twenty-one (21) days' notice of any general meeting must be given specifying:
- i. the place day and hour of the meeting;
 - ii. the general nature of any business to be transacted at the meeting;
 - iii. if a Special Resolution is to be proposed, the details of and intention to propose it;
 - iv. if the meeting is to be held in two or more places, the technology that will be used to facilitate this; and
 - v. any other information required by the Corporations Act.

- (b) The accidental omission to give notice of any general meeting to or the non- receipt of notice of a meeting by any person entitled to receive notice will not invalidate the proceedings at, or any resolution passed at, the meeting.
- (c) Notice of every general meeting must be given in any manner authorised by this Constitution to:
 - i. each Member entitled to vote;
 - ii. each Director; and
 - iii. the auditor for the time being of the Company.

7. Cancellation or Postponement of General Meeting

7.1. Cancellation or Postponement of General Meeting

- (a) Subject to the provisions of the Corporations Act and this Constitution, the Board may cancel a general meeting of the Company:
 - i. convened by the Board; or
 - ii. which has been convened by the Members pursuant to 5.2(b) upon receipt by the Company of a written notice withdrawing the requisition signed by the Members who convened the meeting.

7.2. Failure to Notify in Writing

Any failure to notify in writing any person entitled to receive notice of the meeting or failure of a person to receive a written notice shall not affect the validity of the cancellation, the change of venue or the postponement of the meeting.

PROCEEDINGS AT GENERAL MEETINGS

8. Quorum

- (a) No business may be transacted at any general meeting unless there is a quorum of Members Present at all times during the meeting.
- (b) Subject to clause 8(c), 12 Voting Members who are present shall constitute a quorum for all general meetings.
- (c) If the Company ever has fewer than 12 Voting Members, the number of Members present which represents the majority of the total number of Members, rounded up to the nearest integer, shall constitute a quorum for all general meetings.
- (d) If within thirty (30) minutes after the time appointed for holding a general meeting a quorum is not present:
 - i. the meeting, if convened upon the requisition of Members, shall be dissolved; or
 - ii. in any other case:
 - a. it will stand adjourned to such other day time and place as the Board may by notice to the Members appoint; and
 - b. if at such adjourned meeting a quorum is not present within thirty (30) minutes after the time appointed for the holding of the meeting, the meeting shall be dissolved.

9. Electronic Voting

- (a) The Directors may from time to time determine:

- i. that Members may record their votes at a general meeting and/or in relation to the selection of their nominee Director using an electronic voting system;
 - ii. the manner in which eligible voting members will be identified for the purposes of an election using an electronic voting system;
 - iii. the rules and instructions for electronic voting and lodgement of electronic ballot papers;
 - iv. the information required by eligible voting members that is reasonably necessary to facilitate electronic voting;
 - v. the manner of delivery of that information to eligible voting members; and
 - vi. any other matters reasonably necessary to facilitate electronic voting using an electronic voting system.
- (b) If the Directors make a determination under clause 9(a), the relevant voting procedures must incorporate the requirements of those determinations.

10. Chair

- (a) The Chair must (if present within 15 minutes after the time appointed for the holding of the meeting and willing to act) chair each meeting of Members.
- (b) If at a meeting of Members:
- i. there is no Chair;
 - ii. the Chair is not present within 15 minutes after the time appointed for the holding of a meeting of Members; or
 - iii. the Chair is present within that time but is not willing to chair all or part of that meeting,
- the Directors present may, by majority vote, elect another Director or another person present to chair all or part of the meeting of Members.
- (c) Subject to clause 10(a), if at a meeting of Members:
- i. a chair of that meeting has not been elected by the Directors under clause 10(b); or
 - ii. the chair elected by the Directors is not willing to chair all or part of a meeting of Members,
- the Members present must elect another person, present and willing to act, to chair all or part of that meeting.

11. Adjournments

- (a) The Chair of a general meeting at which a quorum is present:
- i. may adjourn a meeting with the consent of the meeting; and
 - ii. must adjourn the meeting if the meeting so directs,
- to a time and place as determined.
- (b) No business may be transacted at any adjourned general meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) A resolution passed at a meeting resumed after an adjournment is passed on the day it was passed.
- (d) It is not necessary to give any notice of an adjournment of a general meeting or of the business to be transacted at the adjourned meeting except if the meeting is adjourned for thirty (30) days or more in which case notice of the adjourned meeting must be given as in the case of an original meeting.

12. Polls

- (a) A poll may be demanded on any resolution at a meeting of Members except:
 - i. the election of a chair of that meeting; or
 - ii. the adjournment of that meeting.
- (b) A poll on a resolution at a meeting of Members may be demanded by:
 - i. at least five Members present and entitled to vote on that resolution;
 - ii. Members with at least 5% of the votes that may be cast on the resolution on a poll; or
 - iii. the chair of that meeting.
- (c) A poll on a resolution at a meeting of Members may be demanded:
 - i. before a vote on that resolution is taken; or
 - ii. before, or immediately after, the result of the vote on that resolution on a show of hands is declared.
- (d) A demand for a poll may be withdrawn.
- (e) A poll demanded on a resolution at a meeting of Members must be taken in the manner and at the time and place the chair directs.
- (f) The result of a poll demanded on a resolution of a meeting of Members is a resolution of that meeting.
- (g) A demand for a poll on a resolution of a meeting of Members does not prevent the continuance of that meeting or that meeting dealing with any other business.

13. Voting Rights

A Voting Member has the number of votes determined in accordance with Member benefits outlined in the By Laws

14. Disqualification

No person other than:

- (a) a Voting Member; or
- (b) a proxy or attorney of a Voting Member,

shall be entitled to vote at a general meeting.

15. Objection to Disqualification to Vote

Any challenge as to the qualification of a person to vote at a general meeting or the validity of any vote tendered may only be raised at the meeting and must be determined by the Chair whose decision shall be final and conclusive and a vote allowed by the Chair shall be valid for all purposes.

16. No Casting Vote

In the case of an equality of votes, whether on a show of hands or on a poll, the Chair of the meeting at which the show of hands is taken or at which the poll is demanded is not entitled to a casting vote in addition to a deliberative vote.

17. Proxies and attorneys

- (a) Voting Members, may vote on a show of hands and on a poll:

- i. in person;
 - ii. by not more than one proxy; or
 - iii. by not more than one attorney.
- (b) A proxy or attorney of a Voting Member need not be a Member.
- (c) A Voting Member may appoint a proxy or attorney for:
 - i. all meetings of Members; or
 - ii. any one or more specified meetings of Members.
- (d) An instrument appointing a proxy is valid if it is signed by the Voting Member making the appointment and contains:
 - i. the name and address of that Voting Member;
 - ii. the name of the Company;
 - iii. the name of the proxy or the name of the office held by the proxy; and
 - iv. the meetings of Members at which the proxy may be used.
- (e) The chair of a meeting of Members may determine that an instrument appointing a proxy is valid even if it contains only some of the information specified in clause 17(d).
- (f) An instrument appointing an attorney must be in a form as the Directors may prescribe or accept, from time to time.
- (g) Subject to the Corporations Act, the decision of the chair of a meeting of Members as to the validity of an instrument appointing a proxy or attorney is final and conclusive.
- (h) Unless otherwise provided in the Corporations Act or in the appointment, a proxy or attorney may:
 - i. agree to a meeting of Members being called by shorter notice than is required by the Corporations Act or this Constitution;
 - ii. agree to a resolution being either or both proposed and passed at a meeting of Members of which notice of less than the Prescribed Period is given;
 - iii. speak on any resolution at a meeting of Members on which the proxy or attorney may vote;
 - iv. vote at a meeting of Members (but only to the extent allowed by the appointment);
 - v. demand or join in demanding a poll on any resolution at a meeting of Members on which the proxy or attorney may vote; and
 - vi. attend and vote at any meeting of Members which is rescheduled or adjourned.
- (i) Unless otherwise provided in the Corporations Act or in the appointment, a proxy or attorney may vote on:
 - i. any amendment to a resolution on which the proxy or attorney may vote;
 - ii. any motion not to put that resolution or any similar motion; and
 - iii. any procedural motion relating to that resolution, including a motion to elect the chair of a meeting of Members, vacate the chair or adjourn that meeting,
 - iv. even if the appointment directs the proxy or attorney how to vote on that resolution.

- (j) The Company must only send a form of proxy to Members in respect of a meeting of Members which provides for the Member:
 - i. to appoint a proxy of the Member's choice, but may specify who is to be appointed as proxy if the Member does not choose; and
 - ii. to vote for or against each resolution, and may also provide for the Member to abstain from voting on each resolution.
- (k) If the name of the proxy or the name of the office of the proxy in a proxy form of a Voting Member is not filled in, the proxy of that Member is:
 - i. the person specified by the Company in the form of proxy in the case the Member does not choose; or
 - ii. if no person is so specified, the chair of that meeting.
- (l) A Voting Member may specify the manner in which a proxy or attorney is to vote on a particular resolution at a meeting of Members but, unless specified, the proxy or attorney may vote as he or she thinks fit.
- (m) An appointment of proxy or attorney for a meeting of Members is effective only if the Company receives the appointment (and any authority under which the appointment was signed or a certified copy of the authority) not less than 48 hours before the time scheduled for commencement of that meeting (or any adjournment of that meeting).
- (n) Unless the Company has received notice in writing before the time scheduled for the commencement or resumption of a meeting of Members, a vote cast at that meeting by a person appointed by a Member as a proxy or attorney is, subject to this Constitution, valid even if, before the person votes, the appointing Member:
 - i. dies; or
 - ii. is mentally incapacitated; or
 - iii. revokes the appointment of that person; or
 - iv. revokes the authority under which the person was appointed by a third party.

DIRECTORS

18. Number and Appointment of Directors

18.1. Number of Directors

- (a) The Board of Directors shall consist of a minimum of six (6) and a maximum of eight (8) persons.
- (b) Subject to section 201P of the Corporations Act, the Board may by resolution vary the number of Directors holding office from that referred to in clause 18.1(a).

18.2. Composition of Board

- (a) A Director shall be a natural person.
- (b) The Board shall be comprised of:
 - i. up to four (4) Directors who are Members of the Company who hold a current License and actively practice as an Agent, Salesperson or Property Manager with Consumer & Business Services SA ; and
 - ii. up to four (4) Directors who are Independent.

18.3. Appointment of Directors

- (a) In addition to the requirements of the *Corporations Act*, to be eligible to act as a Director a person must:
 - (i) be of sound mind;

- (ii) not:
 - A. have been convicted of any indictable offence or any offence under the legislation concerning trust accounts;
 - B. have committed an act of malpractice, professional misconduct or unprofessional conduct or practice according to a finding or decision of any court or tribunal
 - C. be an undischarged bankrupt.
 - E. a partner, employee or consultant of the auditor of the Institute.
- (b) In addition to be eligible to act as a Member Director the person:
 - (i) at the date of nomination as a Member Director; or
 - (ii) at the date of the relevant general meeting at which his or her appointment is being considered as an Member Director, (as the case requires), must be a Member entitled to vote at general meetings; and
- (c) Subject to the maximum number of Non-Member Directors permitted under Clause 18.2 the Board may appoint a person who is eligible under 18.3.a. to be a Non-Member Director. In exercising the power to appoint a Non-Member Director, the Board shall have regard to any desirable skills, experience or qualifications which may not be possessed by the members of the Board at the time of the appointment.
 - (vii) Directors are appointed for a term of three years with a maximum tenure of 9 years. At the third AGM a director must resign from office.
 - (vii) No more than two (1 Member and 1 Independent) Directors are required to retire at any AGM;
 - (vii) The procedures for the conduct of postal and electronic ballots for the election of the position of those Member Directors are set out in the By-Laws.
 - (vii) A Director may resign from office by giving the Institute notice in writing.
 - (vii) Subject to the *Corporations Act* and Clause 5.1(b), the Institute in general meeting convened on Prescribed Notice, may, by ordinary resolution, remove any Director and, if thought fit, appoint another person in place of, and in the same capacity, as that Director
- (i) A Director ceases to be a Director if the *Corporations Act* so provides or that Director:
 - (i) in the case of a Member Director ceases to be a Member of the Institute or has their membership suspended;
 - (vii) becomes of unsound mind or a person whose property is liable to be dealt with under a law relating to mental health;
 - (vii) is absent without the consent of the Directors from all meetings of the Directors held during a period of six months and the other Directors resolve that his or her office be vacated;
 - (iv) resigns or is removed under this Constitution;
 - (vii) becomes an insolvent under administration;
 - (vi) is found guilty of a breach of the Institute's rules;
 - (vii) in the opinion of the Directors, brings the Institute into disrepute

18.4. Remuneration of Directors

- (a) The Directors, including the Chair, may be remunerated for their services.
- (b) Directors are also entitled to be paid or reimbursed expenses properly incurred in the performance of duties for the Company or in their role as Director of the Company.
- (c) Remuneration will be reviewed annually against the Not For Profit Best Practice Benchmarking

19. General Right to Act in Emergencies

The Board may act despite any vacancy in their body, but if the number falls below the minimum fixed in accordance with clause 19.1(a) the Board may act:

- (a) for the purpose of:
 - i. increasing the number of Directors to the minimum; or
 - ii. convening a general meeting; or
 - (b) in emergencies,
- but for no other purpose.

20. Vacation of Office

- (a) Any Director may resign from office on giving written notice to the Company at the Office of his or her intention to resign and the resignation shall take effect at the time expressed in the notice (provided the time is not earlier than the date of delivery of the written notice to the Company).
- (b) The office of a Director shall become vacant if the Director:
 - i. dies;
 - ii. becomes bankrupt or makes any arrangement or composition with creditors generally;
 - iii. becomes prohibited from being a director of, or managing, a company by reason of any order made under the Corporations Act;
 - iv. becomes of unsound mind or a person whose personal estate is liable to be dealt with in any way under the law relating to mental health;
 - v. is removed from office by the Company in general meeting;
 - vi. resigns by notice in writing to the Company; or
 - vii. fails to attend three (3) consecutive meetings of the Board, unless the Board resolves that this should not constitute resignation.

21. Filling of Vacancies on the Board

- (a) In the event of a casual vacancy occurring on the Board the Directors can appoint any person to fill that vacancy, subject to that person:
 - i. not being the subject of a vote of Members at General Meeting which failed to appoint the relevant person
- (b) Any Director appointed pursuant to clause 21(a) shall hold office for a period as defined by the Board, but not exceeding a period beyond the next AGM at which time the Director may either stand for election if they are a Member Director, or for a Independent Director their appointment may be reconsidered by the Board.
- (c) Time spent filling a casual vacancy pursuant to clause 22(b) does not count towards the maximum consecutive term limit set out in clause 18.3(d).

22. Alternate Directors

Alternate Directors shall not be permitted.

POWERS AND DUTIES OF DIRECTORS

23. Powers of Directors

The control, management and conduct of the Company shall be vested in the Board who shall exercise all such powers of the Company as are not by the Corporations Act or by this Constitution required to be exercised in any other manner.

24. Duties of Directors

The Directors must comply with their duties as a Director at law (including under the Corporations Act and at Common Law).

DIRECTORS' DISCLOSURE OF INTEREST

25. Contracts

- (a) The Company may enter into contracts or arrangements with other companies or bodies in which a Director has an interest, provided it does so according to the usual commercial terms and conditions which apply to such contracts or arrangements.
- (b) Any interest of a Director must be dealt with in accordance with the provisions of the Corporations Act, which shall include disclosing an interest and having the Secretary record all declarations in the minutes of the relevant meeting.
- (c) A Director who has an interest in a contract or arrangement made by the Company and has disclosed this interest to the Board may:
 - i. not be present while the matter is being considered at a meeting;
 - ii. not vote on the matter;
 - iii. still be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement;
 - iv. not sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and
 - v. not vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.
- (d) A Director's failure to make disclosure under this clause does not render void or voidable a contract or arrangement in which the Director has a direct or indirect interest.
- (e) A general notice given to the Board by a Director that the Director is an officer, a member of, or otherwise interested in any specified corporation or firm stating the nature and the extent of the Director's interest in the corporation or firm shall, in relation to any matter involving the Company and that corporation or firm after the giving of the notice, be a sufficient disclosure of the Director's interest, provided that the extent of the interest is no greater at the time of first consideration of the relevant matter by the Board than was stated in the notice.

PROCEEDINGS OF DIRECTORS

26. Meetings of Directors

- (a) The Board may meet together for the despatch of business, adjourn and otherwise regulate their meetings and proceedings as it thinks fit.
- (b) Notice of a meeting of the Board need not be in writing.

- (c) A Board meeting may be convened or held using any technology consented to by a majority of Directors. The consent may be a standing one.
- (d) The particular technology used to convene or hold a Board meeting must be available and accessible to all Directors who wish to attend the Board meeting.
- (e) All resolutions of the Directors passed at a meeting of the Board where a quorum is present but where notice of the meeting has not been given as required to each Director, or any act carried out pursuant to such resolution, shall, provided each Director to whom notice was not given subsequently agrees to waive the same, be as valid as if notice of the meeting had been duly given to all Directors. Attendance by a Director at a meeting of Directors waives any objection which that Director may have to a failure to give notice of the meeting.

27. Quorum

The quorum necessary for the transaction of the Board's business is Directors being personally present (or in conference in accordance with clause 26) who represent more than 50% of the total number of Directors and in addition, must include at least one Independent Director and one Member Director.

- (a) A quorum must be present at all times during the meeting.
- (b) A Director who is disqualified from voting on a matter pursuant to clause 25 shall be counted in the quorum despite that disqualification.

28. Chair

- (a) The Chair may be elected from any member of the Board by a simple majority vote of the Board
- (b) The term for the Chair while determined by the Board should be no less than one year.
- (c) The Directors may elect one of their number as Deputy Chair for a term to be determined by the Directors.
- (d) The Chair of the Directors must chair each meeting of the Directors.
- (e) If a meeting of the Board is held and:
 - i. there is no Chair of Directors; or
 - ii. that Chair is not present within 15 minutes after the time appointed for the holding of a meeting of the Directors; or
 - iii. that Chair is present within that time but is not willing to Chair all or part of that meeting,the Directors present must elect one of themselves to chair all or part of the meeting.

29. Voting

- (a) A resolution of the Board must be passed by a majority of votes of the Directors present at the meeting who vote on the resolution, except as otherwise provided for in this Constitution. A resolution passed by the requisite majority of the votes cast by the Directors will for all purposes be taken to be a determination of the Board.
- (b) Each Director shall have one (1) vote.
- (c) In case of an equality of votes at a meeting of the Board, the Chair is entitled to a casting vote in addition to a deliberative vote.

30. Resolutions by Directors

- (a) The Board may pass a resolution without a Board meeting being held if:
 - i. all the Directors sign a document containing a statement that they are in favour of the resolution set out in that document; and
 - ii. no Directors sign a document containing a statement that they are against the resolution set out in that document.
- (b) For this purpose, signatures can be contained in more than one document.
- (c) An email transmission which is received by the Company and which purports to have been sent by a Director shall, for the purposes of this clause be taken to be in writing and signed by that Director at the time of the receipt of the email transmission by the Company.
- (d) A vote made by a Director using an online voting platform operated or commissioned by the Company shall for the purposes of this clause be taken to be in writing and signed by that Director at the time the vote was received by the online voting platform.

31. Committees

The Board may establish committees of the Board as they may determine, from time to time.

32. Validation of Acts of Directors

All acts done:

- (a) at any meeting of the Board; or
- (b) by any person acting as a Director,

shall, even if it is discovered afterwards that there was a defect in the appointment or continuance in office of any such Director or person or that they or any of them were disqualified or were not entitled to vote, be as valid as if every such person had been duly appointed or had continued in office and was duly qualified to be a Director and had been entitled to vote.

SECRETARY

33. Appointment and Tenure

- (a) As at the date of adoption of this Constitution, the Company Secretary is the person specified as company Secretary in the ASIC Register.
- (b) A Secretary or Secretaries may be appointed by the Board of Directors for any period and on any terms (including as to remuneration) as the Directors resolve.
- (c) Subject to any agreement between the Company and a Secretary, the Directors may remove or dismiss a Secretary at any time, with or without cause.
- (d) The Directors may revoke or vary the appointment of a Secretary.

NOTICES

34. Services of Notices

- (a) A notice may be given by the Company to a Member by:
 - i. sending it to the electronic address supplied by the Member to the Company for the giving of notices;
 - ii. sending it by post to the Member or leaving it at the Member's address shown in the Register or otherwise the address supplied by the Member to the Company for the giving of notices; or
 - iii. serving it on the Member personally.
- (b) Where a Member has not left at or sent to the Office its address for inclusion in the Register as the place at which notices may be given, that Member shall not be entitled to receive any notice.
- (c) Subject to this Constitution, a notice may be given under this Constitution to any Director by:
 - i. sending it to the electronic address supplied by the Director to the Company for the giving of notices;
 - ii. sending it by post to the Director or leaving it at the Director's usual residential or business address; or
 - iii. serving it on the Director personally.
- (d) Subject to this Constitution, a notice may be given by a Member or Director to the Company by:
 - i. email to the Company's principal email address;

- ii. sending it by post to the Office; or
 - iii. serving it on the Company's registered office.
- (e) Where a notice is sent by facsimile or other electronic means, service of the notice shall be taken to be effected by properly addressing and sending the notice and in such case shall be taken to have been effected on the Business Day after it is sent.
- (f) Where a notice is sent by post, service of the notice shall be taken to be effected by properly addressing, prepaying and posting a letter containing the notice and shall be deemed to have been effected on the sixth (6th) Business Day after the date of posting.

WINDING UP

35. Winding Up

35.1. Transfer of surplus

On a winding up of the Company, the Members must determine one or more companies, associations or institutions whose constitutions:

- (a) require them to pursue only objects similar to those in clause 1.5 and to apply their income in promoting those objects;
- (b) prohibit them from making distributions to their members to at least the same extent as in clause 1.6; and
- (c) if companies, prohibit them from paying fees to their directors and require their directors to approve all other payments the companies make to their directors,

to whom the liquidator must give or transfer any surplus on winding up.

35.2. Application to Supreme Court

If the Members fail to make a determination under clause 36.1 within twenty (20) Business Days of the winding up of the Company, the liquidator must make an application to the Supreme Court of South Australia to make that determination.

INDEMNITY

36. Indemnity

To the extent permitted by law every Officer (and former Officer) of the Company shall be indemnified out of the funds of the Company against all costs, expenses and liabilities incurred as such an Officer or employee (or former Officer or employee). However, no such Officer (or former Officer) shall be indemnified out of the funds of the Company under this clause unless:

- (a) it is in respect of a liability to another person (other than the Company or a related body corporate to the Company) where the liability to the other person does not arise out of conduct involving a lack of good faith; or
- (b) it is in respect of a liability for costs and expenses incurred:
 - i. in defending proceedings, whether civil or criminal, in which judgment is given in favour of the Officer (or former Officer) or in which the Officer (or former Officer) is acquitted; or
 - ii. in connection with an application, in relation to such proceedings, in which the court grants relief to the Officer (or former Officer) under the Corporations Act.

37. Payment of Indemnity Policy Premium

- (a) To the extent permitted by law the Company may at the discretion of the Board enter into and/or pay a premium in respect of a policy of insurance insuring an Officer (or former Officer) of the Company against

any liability incurred by such person in that capacity (whether in respect of acts or omissions prior to or after the date of the issue of the policy or both) except for:

- i. a liability arising out of conduct involving a wilful breach of duty in relation to the Company; or
 - ii. a contravention of sections 182 or 183 of the Corporations Act.
- (b) The Board shall have the discretion to approve the terms and conditions of any such policy of insurance.
- (c) Where an Officer (or former Officer) has the benefit of an indemnity pursuant to an insurance policy in respect of his or her actions or omissions, then the Company shall not be required to indemnify the Officer under clause 37, except to the extent that the indemnity affected by the insurance policy does not fully cover the person's liability.

38. Indemnity to Continue

The indemnity granted by the Company contained in clauses 37 and 38 shall continue in full force and effect notwithstanding the deletion or modification of that clause, in respect of acts and omissions occurring before the date of the deletion or modification

