

**CONSTITUTION OF  
DESIGN MATTERS NATIONAL LIMITED**

**ACN [648 330 796]**

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**DESIGN MATTERS NATIONAL LIMITED****ACN [648 330 796]****A PUBLIC COMPANY LIMITED BY GUARANTEE****CONSTITUTION**

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**STATEMENTS OF RECOGNITION AND INCLUSIVITY**

The Company recognises the Aboriginal and Torres Strait Island people as the traditional custodians of the land in which it operates. This recognition generates acknowledgment and respect for Aboriginal and Torres Strait Islander cultures and communities and their ways of being, knowing and doing. The Company will engage and act meaningfully in its partnerships and relationships with Aboriginal and Torres Strait Islander peoples and embrace their involvement with the Company.

The Company is committed to creating an inclusive environment where its Members and personnel feel they belong, regardless of their culture, values, abilities, beliefs, background or gender identity. The Company respects, recognises and incorporates the diversity of cultures, languages, values, beliefs, interests and strengths of its Members and personnel.

The Company is an equal opportunity employer and will not tolerate discrimination or harassment in the workplace. In accordance with all relevant laws, the recruitment, evaluation, selection and promotion of its personnel will occur without regard to race, age, religious beliefs, marital status, membership of an ethnic or racial minority group or sexual preference.

**PRELIMINARY****1. Name of the Company**

1.1 The name of the Company is Design Matters National Limited (**Company**).

**2. Type of company**

2.1 The Company is a not-for-profit public company limited by guarantee.

**3. Limited liability of Members**

3.1 The liability of Members is limited to the amount of the guarantee in Rule 4.

**4. The guarantee**

Each Member must contribute an amount not more than \$10 (the guarantee) to the property of the Company if the Company is wound up while the Member is a Member, or within 12 months after they stop being a Member, and this contribution is required to pay for the:

- (a) debts and liabilities of the Company incurred before the Member stopped being a Member, or
- (b) costs of winding up.

## 5. Definitions

### 5.1 In this constitution:

**Affiliate Member** means a person admitted as a Member under Rule 10.5.

**Annual General Meeting** has the meaning given to this term in Rule 20.1.

**Auditor** means the Company's auditor from time to time.

**Business Day** means a day on which trading banks are generally open for business in Melbourne, Victoria, excluding a Saturday, Sunday and public holidays.

**Chairperson** means:

- (a) the person elected by the Directors from time to time to be the Company's chairperson under Rule 40; or
- (b) the person chosen by the Members to be the Company's chairperson for a particular General Meeting under Rule 26.2,

(whichever is applicable).

**Company** means the company referred to in Rule 1.

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

**Director** means a director for the time being of the Company.

**Directors' Circular Resolution** has the meaning given to this term in Rule 48.1.

**Directors' Quorum** has the meaning given to this term in Rule 52.1.

**Financial Year** has the meaning given to this term in Rule 64.

**Full Member** means an individual admitted as a Member under Rule 10.2.

**General Meeting** means a meeting of Members and includes an Annual General Meeting.

**Graduate Member** means an individual admitted as a Member under Rule 10.3.

**Independent Advisers** has the meaning given to this term in Rule 40.3.

**Initial Directors** has the meaning given to this term in Rule 39.2.

**Member** means the persons described in Rule 10.1 and **Membership** has a corresponding meaning.

**Members' Circular Resolution** has the meaning given to this term in Rule 31.1.

**Members Present** means, in connection with a General Meeting, Voting Members present in person (including via technology under Rule 25), by representative or by proxy at the venue or venues for the meeting.

**Members Register** has the meaning given to this term in Rule 10.7.

**Proxy Form** has the meaning given to this term in Rule 36.4.

**Quorum** means in respect of a General Meeting, the number of Voting Members specified in Rule 22.1.

**Representative Full Member** has the meaning given to this term in Rule 24.1.

**Rules** means the clauses of this constitution as amended from time to time in accordance with its terms and the Corporations Act (as applicable).

**Secretary** means the secretary for the time being of the Company.

**Special Resolution** means a resolution of Members at a General Meeting:

- (a) of which notice has been given under Rule 21.5(b), and
- (b) that has been passed by at least 75% of the votes cast by Members Present and entitled to vote on the resolution.

**Student Member** means an individual admitted as a Member under Rule 10.4.

**Surplus Assets** means any assets of the Company that remain after paying all debts and other liabilities of the Company, including the costs of winding up.

**Voting Members** means fully paid up Full Members and includes Representative Full Members appointed by Affiliate Members under Rule 24.1.

**Voting Members' Resolution** has the meaning given to this term in Rule 29.1(a).

**Voting Members' Statement** has the meaning given to this term in Rule 29.1(b).

## 5.2 Interpretation:

Unless the contrary intention appears, in these Rules:

- (a) these Rules are to be interpreted subject to the Corporations Act. However, the replaceable rules (other than those which apply as mandatory rules for public companies) under the Corporations Act do not apply to the Company;
- (b) words that are given a special meaning by the Corporations Act have the same meaning in these Rules as in those statutes;
- (c) a reference to a statute, regulation or other legislative instrument includes all statutes, regulations and other legislative instruments amending, consolidating or replacing it;
- (d) words importing the singular include the plural and vice versa and each gender includes each other gender;
- (e) the headings shall not affect the construction of these Rules;
- (f) a reference to a person includes that person's successors and legal personal representatives;

- (g) a reference to a person includes any club, corporation, body corporate, partnership or other body (whether or not the body is incorporated);
- (h) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings; and
- (i) any requirement that a person furnish a statement in writing shall, if the Directors in their absolute discretion so determine, require the statement in writing to be furnished in the form of a statutory declaration.

## **PURPOSES AND POWERS**

### **6. Purposes**

6.1 The Company's object is to pursue the following purposes:

- (a) to promote and advance the practice and profession of building design and associated industries;
- (b) to raise the status and advance the interests of building designers and associated professionals;
- (c) to promote honourable practice and encourage continuing professional education amongst Members; and
- (d) to provide a social outlet for Members and their families.

### **7. Powers**

7.1 Subject to Rule 8, the Company has the following powers, which may only be used to carry out its purposes set out in Rule 6:

- (a) the powers of an individual, and
- (b) all the powers of a company limited by guarantee under the Corporations Act.

### **8. Not-for-profit**

8.1 The Company must not distribute any income or assets directly or indirectly to its Members, except as provided in Rules 8.2 and 69.

8.2 Rule 8.1 does not stop the Company from doing the following things, provided they are done in good faith:

- (a) paying a Member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the Company, or
- (b) making a payment to a Member in carrying out the Company's purposes set out in Rule 6.



## **9. Amending this constitution**

- 9.1 Subject to Rule 9.2, Members may amend this constitution by passing a Special Resolution.
- 9.2 Members must not pass a Special Resolution that amends this constitution if passing it would remove the requirement for the Company to operate on a not-for-profit basis in accordance with Rule 8.

## **MEMBERS**

### **10. Membership and Members Register**

- 10.1 Members shall consist of persons who are in the following classes of Membership:

- (a) Full Members;
- (b) Graduate Members;
- (c) Student Members; and
- (d) Affiliate Members.

Subject to these Rules, the Directors shall have the power to prescribe additional classes of membership of the Company and to fix the qualifications, rights, privileges and obligations of all classes of Members.

#### **10.2 Full Members**

The Directors may admit as a Full Member such individuals who:

- (a) hold a Certificate 4, Diploma, Advanced Diploma or Degree (or the equivalent for individuals who have obtained their qualifications outside of Australia) in Building Design, Interior Design, Home Energy Assessment or in a related field of the built environment (including engineering, town planning, building surveying or architecture) and are currently working in any of fields described in this Rule 10.2(a); or
- (b) have a minimum of 3 years of relevant experience in any of the fields described in Rule 10.2(a) and has provided evidence of their proficiency to the satisfaction of the Directors,

and such individuals shall be entitled to all Membership rights and privileges and full voting rights under this constitution.

#### **10.3 Graduate Members**

The Directors may admit as a Graduate Member such individuals who have graduated within the previous 3 years and hold a Certificate 4, Diploma, Advanced Diploma or Degree (or the equivalent for individuals who have obtained their qualifications outside of Australia) in Building Design, Interior Design, Home Energy Assessment or in a related field of the built environment (including engineering, town planning, building surveying or architecture). Such individuals shall be entitled to all Membership rights and privileges, excluding any voting rights under this constitution.

#### 10.4 **Student Members**

The Directors may admit as a Student Member such individuals who are currently completing a Certificate 4, Diploma, Advanced Diploma or Degree (or the equivalent for individuals who are pursuing their qualifications outside of Australia) in Building Design, Interior Design, Home Energy Assessment or in a related field of the built environment (including engineering, town planning, building surveying or architecture). Such individuals shall be entitled to all Membership rights and privileges, excluding any voting rights under this constitution.

#### 10.5 **Affiliate Members**

- (a) The Directors may admit as an Affiliate Member any academic or educational institutions (including TAFEs, RTOs and universities) offering a Certificate 4, Diploma, Advanced Diploma or Degree (or the equivalent for Affiliate Members located outside of Australia) in Building Design, Interior Design, Home Energy Assessment or in a related field of the built environment (including engineering, town planning, building surveying or architecture).
- (b) The Directors may also admit as an Affiliate Member any industry associations involved in any of the fields described in Rule 10.5(a).
- (c) Affiliate Members are required to appoint a Representative Full Member under Rule 24.1 who must be employed by the Affiliate Member and must, if requested, provide the Directors with evidence of such employment to the satisfaction of the Directors.
- (d) Employees of Affiliate Members are entitled to all the benefits of being a Member except for voting rights, unless the relevant employee is the Affiliate Member's Representative Full Member (in which case Rule 10.5(e) will apply).
- (e) Without limiting the provisions of Rule 24.1, Affiliate Members shall be entitled to all Membership rights and privileges but may only vote under this constitution via their Representative Full Member (i.e. Affiliate Members are not entitled to any separate voting rights under this constitution).

10.6 Members are required to pay membership fees based on their respective class of Membership, as set by the Directors and published by the Secretary from time to time, provided that Representative Full Members will not be required to pay fees for their Membership as the membership fees paid by their appointing Affiliate Member will be deemed to include the cost of their Membership.

10.7 The Company must establish and maintain a register of Members (**Members Register**). The Members Register must be kept by the Secretary and must contain:

- (a) for each current Member:
  - (i) their name;
  - (ii) their address;
  - (iii) any alternative address nominated by the Member for the service of notices; and
  - (iv) the date the Member's name was entered in the Members Register; and

- (b) for each person who stopped being a Member in the previous 7 years:
  - (i) their name;
  - (ii) their address;
  - (iii) any alternative address nominated by the member for the service of notices, and
  - (iv) the dates their Membership started and ended.

10.8 Subject to Rule 10.9 Company must give current Members access to the Members Register.

10.9 Information that is accessed from the Members Register must only be used in a manner relevant to the interests or rights of all Members, as determined by the Directors.

## **11. Who can be a Member and effect of Membership**

11.1 A person who supports the purposes of the Company set out in Rule 6 and satisfies the requirements of the class of Membership for which they are applying is eligible to apply to be a Member of the Company under Rule 12.

11.2 Members acknowledge and agree:

- (a) these Rules constitute a contract between each of them and the Company and that they are bound by these Rules;
- (b) they shall observe these Rules and any other rules and regulations of the Company and decisions of the Directors in force from time to time;
- (c) they shall be bound, to their best of their ability, to further the purposes of the Company set out in Rule 6 and the objects, interests, influence and standing of the Company;
- (d) they shall not do or say anything that may bring the Company or its officers or employees into disrepute; and
- (e) these Rules are necessary and reasonable for promoting the purposes of the Company set out in Rule 6.

## **12. How to apply to become a Member**

A person may apply to become a Member of the Company by writing to the Secretary stating that they:

- (a) want to become a Member and the class of Membership they are applying for;
- (b) support the purposes of the Company as set out in Rule 6, and
- (c) agree to comply with these Rules, including paying the guarantee under Rule 4 if required.

## **13. Directors decide whether to approve Membership**

13.1 The Directors must consider an application for Membership within a reasonable time

after the Secretary receives the application and the Directors may delegate this task in accordance with Rule 44.

- 13.2 The Directors may, in their absolute discretion, reject an application for Membership.
- 13.3 If the Directors approve an application, the Secretary must as soon as possible:
  - (a) after receiving payment of the applicable fees, enter the new Member in the Members Register, and
  - (b) write to the applicant to tell them that their application was approved, and the date that their Membership started.
- 13.4 If the Directors reject an application for Membership, the Secretary must write to the applicant as soon as possible to tell them that their application has been rejected, but does not have to give reasons.
- 13.5 For the avoidance of doubt, the Directors may approve an application even if the application does not state the matters listed in Rules 12(a), 12(b) or 12(c). In that case, by applying to be a Member, the applicant is deemed to have agreed to those matters.
- 13.6 The Directors may suspend the admission of Members or class of Membership at such time and for such periods as they determine in their absolute discretion.

#### **14. When a person becomes a Member**

- 14.1 An applicant will become a Member when they are entered in the Members Register.
- 14.2 Unless otherwise permitted by the terms of a class of Membership, as prescribed by the Directors from time to time, Membership of the Company is personal to a Member and is not transferable.

#### **15. When a person stops being a Member**

A person immediately stops being a Member:

- (a) if they die;
- (b) if they are wound up or otherwise dissolved or deregistered (for an incorporated Member);
- (c) if they resign, by writing to the Secretary;
- (d) if they are expelled by the Directors under Rule 17;
- (e) if they fail to pay their membership fee within 3 months of the due date and/or have not responded within 3 months to a written request from the Secretary that they confirm in writing that they want to remain a Member;
- (f) if they are a Representative Full Member and their appointing Affiliate Member stops being a Member;
- (g) if they are a Representative Full Member and their appointing Affiliate Member notifies the Company that they are no longer a Representative Full Member; or

- (h) to the extent applicable, in any other circumstances prescribed in the terms of Membership applicable to the Member or in any undertaking given by the Member upon their admission as a Member.

## **DISPUTE RESOLUTION AND DISCIPLINARY PROCEDURES**

### **16. Dispute resolution**

- 16.1 The dispute resolution procedure in this Rule 16 applies to disputes under this constitution between a Member or Director and:
  - (a) one or more Members
  - (b) one or more Directors, or
  - (c) the Company.
- 16.2 A Member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under Rule 17 until the disciplinary procedure is completed.
- 16.3 Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.
- 16.4 If those involved in the dispute do not resolve it under Rule 16.3, they must then within 14 days:
  - (a) tell the Directors about the dispute in writing;
  - (b) agree or request that a mediator be appointed, and
  - (c) attempt in good faith to settle the dispute by mediation.
- 16.5 The mediator must:
  - (a) be chosen by agreement of those involved, or
  - (b) where those involved do not agree:
    - (i) for disputes between Members, be a person chosen by the Directors, or
    - (ii) for all other disputes, be a person chosen by the president of the law institute or law society in the state or territory in which the Company has its registered office.
- 16.6 A mediator chosen by the Directors under Rule 16.5(b):
  - (a) may be a Member or former Member;
  - (b) must not have a personal interest in the dispute, and
  - (c) must not be biased towards or against anyone involved in the dispute.
- 16.7 When conducting the mediation, the mediator must:

- (a) allow those involved a reasonable chance to be heard;
- (b) allow those involved a reasonable chance to review any written statements;
- (c) ensure that those involved are given natural justice;
- (d) not make a decision on the dispute; and
- (e) encourage parties to resolve the dispute.

## **17. Disciplining Members**

17.1 In accordance with this Rule, the Directors may resolve to warn, suspend or expel a Member from the Company if the Directors, having regard to and complying with the principles of natural justice, reasonably consider that:

- (a) the Member has breached this constitution, any code of conduct provided or made available by the Company to Members, any undertaking given by the Member upon their admission to Membership or any other terms applicable to their Membership, or
- (b) the Member's behaviour is causing, has caused, or is likely to cause harm to the Company.

17.2 At least 14 days before the Directors' meeting at which a resolution under Rule 17.1 will be considered, the Secretary must notify the relevant Member in writing:

- (a) that the Directors are considering a resolution to warn, suspend or expel the Member;
- (b) that this resolution will be considered at a Directors' meeting and the date of that meeting;
- (c) what the Member is said to have done or not done;
- (d) the nature of the resolution that has been proposed, and
- (e) that the Member may provide an explanation to the Directors, and details of how to do so.

17.3 Before the Directors pass any resolution under Rule 17.1, the Member must be given a chance to explain or defend themselves by:

- (a) sending the Directors a written explanation before that Directors' meeting, and/or
- (b) speaking at the Directors' meeting.

17.4 After considering any explanation given by the Member under Rule 17.3, the Directors may:

- (a) take no further action;
- (b) warn the Member;
- (c) suspend the Member's rights as a Member for a period of no more than 12

months;

- (d) expel the Member;
- (e) refer the decision to an unbiased, independent person on conditions that the Directors consider appropriate (however, the person can only make a decision that the Directors could have made under this Rule), or
- (f) require the matter to be determined at a General Meeting.

17.5 The Directors cannot fine a Member.

17.6 The Secretary must give written notice to the Member of the decision under Rule 17.4 as soon as possible.

17.7 Disciplinary procedures must be completed as soon as reasonably practical.

17.8 The Company and the Directors will bear no liability for any loss or injury suffered by the Member as a result of any decision made in good faith under this Rule.

## **GENERAL MEETINGS OF MEMBERS**

### **18. General Meetings called by Directors**

18.1 The Directors may call a General Meeting.

18.2 If Voting Members with at least 5% of the votes that may be cast at a General Meeting make a written request to the Company for a General Meeting to be held, the Directors must:

- (a) within 21 days of the request, give all Voting Members notice of a General Meeting, and
- (b) hold the General Meeting within 2 months of the request.

18.3 The percentage of votes that the relevant Voting Members have (in Rule 18.2) is to be worked out as at midnight before the relevant Voting Members request the meeting.

18.4 The Voting Members who make the request for a General Meeting must:

- (a) state in the request any resolution to be proposed at the meeting;
- (b) sign the request, and
- (c) give the request to the Company.

18.5 Separate copies of a document setting out the request may be signed by the relevant Voting Members if the wording of the request is the same in each copy.

### **19. General Meetings called by Voting Members**

19.1 If the Directors do not call the meeting within 21 days of being requested under Rule 18.2, 50% or more of the Voting Members who made the request may call and arrange to hold a General Meeting.

- 19.2 To call and hold a meeting under Rule 19.1 the relevant Voting Members must:
- (a) as far as possible, follow the procedures for General Meetings set out in this constitution;
  - (b) call the meeting using the list of Voting Members in the Members Register, which the Company must provide at no cost, and
  - (c) hold the General Meeting within 3 months after the request was given to the Company.
- 19.3 The Company must pay the Voting Members who request the General Meeting any reasonable expenses they incur because the Directors did not call and hold the meeting.

## **20. Annual General Meeting**

- 20.1 Subject to the provisions of the Corporations Act, an annual General Meeting must be held at least once in every calendar year and within 5 months after the end of the preceding Financial Year (**Annual General Meeting**).
- 20.2 Even if these items are not set out in the notice of meeting, the business of an Annual General Meeting may include:
- (a) a review of the Company's activities;
  - (b) a review of the Company's finances;
  - (c) any Auditor's report;
  - (d) the election of Directors, and
  - (e) the appointment and payment of Auditors (if any).
- 20.3 Before or at the Annual General Meeting, the Directors must give information to the Members on the Company's activities and finances during the period since the last Annual General Meeting.
- 20.4 The Chairperson must give Voting Members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the Company.
- 20.5 All Members are entitled to attend General Meetings but only Voting Members are, subject to these Rules, entitled to vote.

## **21. Notice of General Meetings**

- 21.1 Notice of a General Meeting must be given to:
- (a) each Voting Member;
  - (b) each Director, and
  - (c) the Auditor (if any).
- 21.2 Notice of a General Meeting must be provided in writing at least 21 days before the



General Meeting.

- 21.3 Subject to Rule 21.4, notice of a General Meeting may be provided less than 21 days before such meeting if:
- (a) for an Annual General Meeting, all the Voting Members agree beforehand, or
  - (b) for any other General Meeting, Voting Members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- 21.4 Notice of a General Meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:
- (a) remove a Director;
  - (b) appoint a Director in order to replace a Director who was removed, or
  - (c) remove an Auditor (if any).
- 21.5 Notice of a General Meeting must include:
- (a) the place, date and time for the meeting (and if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this);
  - (b) the general nature of the meeting's business;
  - (c) if applicable, that a Special Resolution is to be proposed and the words of the proposed resolution;
  - (d) a statement that Voting Members have the right to appoint proxies and that, if a Voting Member appoints a proxy:
    - (i) the proxy does not need to be a Voting Member of the Company
    - (ii) the Proxy Form must be delivered to the Company at its registered address or the address (including an electronic address) specified in the notice of the meeting, and
    - (iii) the Proxy Form must be delivered to the Company at least 48 hours before the meeting.
- 21.6 If a General Meeting is adjourned for one month or more, Voting Members must be given a new notice of the resumed meeting.

## 22. Quorum at General Meetings

- 22.1 For a General Meeting to be held, at least 20 Members Present (**Quorum**) must be present (in person, by proxy or by representative) for the whole meeting. When determining whether a Quorum is present, a person may only be counted once (even if that person is a representative or proxy of more than one Voting Member).
- 22.2 No business may be conducted at a General Meeting if a Quorum is not present.
- 22.3 If there is no Quorum present within 30 minutes after the starting time stated in the notice of General Meeting, the General Meeting is adjourned to the date, time and

place that the Chairperson specifies. If the Chairperson does not specify one or more of those things, the General Meeting is adjourned to:

- (a) if the date is not specified – the same day in the next week
- (b) if the time is not specified – the same time, and
- (c) if the place is not specified – the same place.

22.4 If no Quorum is present at the resumed General Meeting within 30 minutes after the starting time set for that General Meeting, that General Meeting is cancelled.

### **23. Auditor's right to attend General Meetings**

23.1 The Auditor (if any) is entitled to attend any General Meeting and to be heard by the Members on any part of the business of the meeting that concerns the Auditor in the capacity of Auditor.

23.2 The Company must give the Auditor (if any) any communications relating to the General Meeting that a Member of the Company is entitled to receive.

### **24. Representatives of Affiliate Members**

24.1 Each Affiliate Member must appoint one individual to be their representative Full Member (**Representative Full Member**) who, provided they satisfy the requirements to be a Full Member, will have the following rights:

- (a) to represent and vote on behalf of their appointing Affiliate Member at General Meetings and to sign Members' Circular Resolutions under Rule 31, and
- (b) to be appointed or elected as a Director.

For the avoidance of doubt, Affiliate Members may only vote via their respective Representative Full Member and do not have a separate vote. Representative Full Members may only vote on behalf of their appointing Affiliate Member and do not have an additional vote.

24.2 The appointment of a Representative Full Member must:

- (a) be in writing;
- (b) include the name of the representative;
- (c) be signed on behalf of the appointing Affiliate Member, and
- (d) be given to the Company or, for representation at a General Meeting, be given to the Chairperson before the General Meeting starts.

24.3 The appointment of a Representative Full Member may be ongoing.

### **25. Using technology to hold meetings**

25.1 The Company may hold a General Meeting at 2 or more venues using any technology that gives Voting Members as a whole a reasonable opportunity to participate, including to hear and be heard.

- 25.2 Anyone using this technology is taken to be present in person at the meeting.

## **26. Chairperson for General Meetings**

- 26.1 The Chairperson is entitled to chair General Meetings.
- 26.2 The Members Present who are entitled to vote at a General Meeting may choose a Director or Member to act as Chairperson of that meeting only if:
- (a) there is no current Chairperson, or
  - (b) the current Chairperson is not present within 30 minutes after the starting time set for the meeting, or
  - (c) the current Chairperson is present but says they do not wish to act as chairperson of the meeting.

## **27. Role of the Chairperson and Independent Advisers at General Meetings**

- 27.1 The Chairperson is responsible for the conduct of the General Meeting, and for this purpose must give Members a reasonable opportunity to make comments and ask questions (including to the Auditor (if any)).
- 27.2 The Chairperson has a casting vote.
- 27.3 Independent Advisers will not have any specific powers in respect of a General Meeting, other than the right to attend (but in an observer capacity only and with no voting rights).

## **28. Adjournment of General Meetings**

- 28.1 If a Quorum is present, a General Meeting must be adjourned if a majority of Members Present direct the Chairperson to adjourn it.
- 28.2 Only unfinished business may be dealt with at a General Meeting resumed after an adjournment.

# **VOTING MEMBERS' RESOLUTIONS AND STATEMENTS**

## **29. Voting Members' resolutions and statements**

- 29.1 Voting Members with at least 5% of the votes that may be cast on a resolution may give:
- (a) written notice to the Company of a resolution they propose to move at a General Meeting (**Voting Members' Resolution**), and/or
  - (b) a written request to the Company that the Company give all of its Voting Members a statement about a proposed resolution or any other matter that may properly be considered at a General Meeting (**Voting Members' Statement**).
- 29.2 A notice of a Voting Members' Resolution must set out the wording of the proposed resolution and be signed by the Voting Members proposing the resolution.

- 29.3 A request to distribute a Voting Members' Statement must set out the statement to be distributed and be signed by the Voting Members making the request.
- 29.4 Separate copies of a document setting out the notice or request may be signed by Voting Members if the wording is the same in each copy.
- 29.5 The percentage of votes that Voting Members have (as described in Rule 29.1) is to be worked out as at midnight before the request or notice is given to the Company.
- 29.6 If the Company has been given notice of a Voting Members' Resolution under Rule 29.1(a), the resolution must be considered at the next General Meeting held more than 2 months after the notice is given.
- 29.7 This Rule does not limit any other right that a Voting Member has to propose a resolution at a General Meeting.

### **30. Company must give notice of proposed resolution or distribute statement**

- 30.1 If the Company has been given a notice or request under Rule 29:
  - (a) in time to send the notice of proposed Voting Members' Resolution or a copy of the Voting Members' Statement to Voting Members with a notice of meeting, it must do so at the Company's cost, or
  - (b) too late to send the notice of proposed Voting Members' Resolution or a copy of the Voting Members' Statement to Voting Members with a notice of meeting, then the Voting Members who proposed the resolution or made the request must pay the expenses reasonably incurred by the Company in giving Voting Members notice of the proposed Voting Members' Resolution or a copy of the Voting Members' Statement. However, at a General Meeting, the Voting Members may pass a resolution that the Company will pay these expenses.
- 30.2 The Company does not need to send the notice of the proposed Voting Members' Resolution or a copy of the Voting Members' Statement to Voting Members if:
  - (a) it is more than 1,000 words long;
  - (b) the Directors, acting reasonably, consider it may be defamatory
  - (c) Rule 30.1(b) applies, and the Voting Members who proposed the resolution or made the request have not paid the Company enough money to cover the cost of sending the notice of the proposed Voting Members' Resolution or a copy of the Voting Members' Statement to Voting Members, or
  - (d) in the case of a proposed Voting Members' Resolution, the resolution does not relate to a matter that may be properly considered at a General Meeting or is otherwise not a valid resolution able to be put to Voting Members.

### **31. Members' Circular Resolutions**

- 31.1 Subject to Rule 31.3, the Directors may put a resolution to the Voting Members to be passed without a General Meeting being held (**Members' Circular Resolution**).
- 31.2 The Directors must notify the Auditor (if any) as soon as possible that a Members' Circular Resolution has or will be put to Members, and set out the wording of the

resolution.

31.3 Members' Circular Resolutions cannot be used:

- (a) for a resolution to remove an Auditor (if any), appoint a Director or remove a Director;
- (b) for passing a Special Resolution, or
- (c) where the Corporations Act or this constitution requires a meeting to be held.

31.4 A Members' Circular Resolution is passed if all the Voting Members entitled to vote on the resolution sign or agree to the circular resolution, in the manner set out in Rule 31.5 or Rule 31.6.

31.5 Voting Members may sign:

- (a) a single document setting out the Members' Circular Resolution and containing a statement that they agree to the resolution, or
- (b) separate copies of that document, as long as the wording is the same in each copy.

31.6 The Company may send a Members' Circular Resolution by email to Voting Members and Voting Members may agree by sending a reply email to that effect, including the text of the resolution in their reply.

31.7 A Members' Circular Resolution is passed when the last Voting Member signs or otherwise agrees to the resolution in the manner set out in Rule 31.5 or Rule 31.6.

## **VOTING AT GENERAL MEETINGS**

### **32. How many votes a Voting Member has**

Each Voting Member has one vote.

### **33. Challenge to a Voting Member's right to vote**

33.1 At a General Meeting, any Voting Member or the Chairperson may only challenge a person's right to vote at that meeting.

33.2 If a challenge is made under Rule 33.1, the Chairperson must decide whether or not the person may vote. The Chairperson's decision is final.

### **34. How voting is carried out**

34.1 Voting must be conducted and decided by:

- (a) a show of hands;
- (b) a vote in writing, or
- (c) another method chosen by the Chairperson that is fair and reasonable in the circumstances.

34.2 Before a vote is taken, the Chairperson must state whether any proxy votes have

been received and, if so, how the proxy votes will be cast.

34.3 On a show of hands, the Chairperson's decision is conclusive evidence of the result of the vote.

34.4 The Chairperson and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.

### **35. When and how a vote in writing must be held**

35.1 A vote in writing may be demanded on any resolution instead of, or after, a vote by a show of hands by:

- (a) at least five Members Present;
- (b) Members Present with at least 5% of the votes that may be passed on the resolution on the vote in writing (worked out as at the midnight before the vote in writing is demanded), or
- (c) the Chairperson.

35.2 A vote in writing must be taken when and how the Chairperson directs, unless Rule 35.3 applies.

35.3 A vote in writing must be held immediately if it is demanded under Rule 35.1:

- (a) for the election of a Chairperson under Rule 26.2, or
- (b) to decide whether to adjourn the meeting.

35.4 A demand for a vote in writing may be withdrawn.

### **36. Appointment of proxy**

36.1 A Voting Member may appoint a proxy to attend and vote at a General Meeting on their behalf.

36.2 A proxy does not need to be a Voting Member.

36.3 A proxy appointed to attend and vote for a Voting Member has the same rights as the Member to:

- (a) speak at the meeting
- (b) vote in a vote in writing (but only to the extent allowed by the appointment), and
- (c) join in to demand a vote in writing under Rule 35.1.

36.4 An appointment of proxy (**Proxy Form**) must be signed by the Voting Member appointing the proxy and must contain:

- (a) the Voting Member's name and address;
- (b) the Company's name;

- (c) the proxy's name or the name of the office held by the proxy, and
  - (d) the meeting(s) at which the appointment may be used.
- 36.5 A proxy appointment may be ongoing.
- 36.6 Proxy Forms must be received by the Company at the address stated in the notice under Rule 21.5 or at the Company's registered address at least 48 hours before the General Meeting.
- 36.7 A proxy does not have the authority to speak and vote for a Voting Member at a General Meeting while such Voting Member is also in attendance.
- 36.8 Unless the Company receives written notice before the start or resumption of a General Meeting at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing Voting Member:
  - (a) dies;
  - (b) is mentally incapacitated;
  - (c) revokes the proxy's appointment, or
  - (d) revokes the authority of a representative or agent who appointed the proxy.
- 36.9 A proxy appointment may specify the way the proxy must vote on a particular resolution.
- 37. Voting by proxy**
- 37.1 A proxy is not entitled to vote on a show of hands (but this does not prevent a Voting Member appointed as a proxy from voting for itself on a show of hands).
- 37.2 When a vote in writing is held, a proxy:
  - (a) does not need to vote, unless the proxy appointment specifies the way they must vote
  - (b) if the way they must vote is specified on the Proxy Form, must vote that way, and
  - (c) if the proxy is also a Voting Member or holds more than one proxy, may cast the votes held in different ways.

## **DIRECTORS**

### **38. Number of Directors**

The Company must have at least 3 and no more than 7 Directors and a majority of the Directors must be practising building designers.

### **39. Election and appointment of Directors**

- 39.1 The initial Directors are the people who have agreed to act as Directors and who are named as the proposed Directors in the application for registration of the Company

**(Initial Directors).**

- 39.2 Apart from the first appointment of the Initial Directors (in accordance with the application for registration of the Company) and any Directors appointed under Rule 39.5, Voting Members may elect a Director by a resolution passed in a General Meeting.
- 39.3 Each of the Directors must be appointed by a separate resolution, unless:
- (a) the Members Present have first passed a resolution that the appointments may be voted on together, and
  - (b) no votes were cast against that resolution.
- 39.4 An individual is eligible for election or re-election as a Director if they:
- (a) are a Voting Member of the Company;
  - (b) are nominated by 2 Voting Members (unless the individual was previously elected as a Director at an Annual General Meeting and has remained a Director since that meeting);
  - (c) give the Company their signed consent to act as a Director of the Company (unless the individual was previously appointed as a Director under Rule 39.5 and has remained a Director since that appointment or was previously elected as a Director at an Annual General Meeting and has remained a Director since that meeting);
  - (d) would not, as a result of their election or re-election, have held office as a Director for more than 6 years in total at the end of their appointment; and
  - (e) are not ineligible to be a Director under the Corporations Act.
- 39.5 The Directors may appoint an individual as a Director to fill a casual vacancy or as an additional Director if that individual:
- (a) is a Voting Member;
  - (b) gives the Company their signed consent to act as a Director; and
  - (c) is not ineligible to be a Director under the Corporations Act.
- Directors appointed under this Rule 39.5 are required to retire at the next Annual General Meeting in accordance with Rule 41.2 but are entitled to stand for election or re-election in accordance with Rule 39.4.
- 39.6 The election of Directors at an Annual General Meeting will occur in accordance with the following procedure:
- (a) if the number of individuals seeking election or re-election as a Director does not exceed the number of Director vacancies to be filled at the relevant election, then those individuals seeking election or re-election shall be deemed to have been duly elected without the need for an election to occur; and



- (b) if the number of individuals seeking election or re-election as a Director exceeds the number of Director vacancies to be filled at the relevant election, then those individuals seeking election or re-election shall be elected by a resolution of the Voting Members on a 'first-past-the-post' basis.

39.7 If, following the election of Directors at an Annual General Meeting, the number of Directors is reduced to fewer than 3 or is less than the number required in order to comply with Rule 39.1, the continuing Directors may appoint one or more individuals to be a Director in accordance with Rule 39.5 for the purpose of increasing the number of Directors to 3 (or higher if required in order to comply with Rule 39.1).

#### **40. Chairperson and Independent Advisers**

40.1 Subject to Rule 40.2, at the first meeting of Directors following an Annual General Meeting the Directors must elect a Director to be Chairperson and the term of such appointment will be for a maximum of 3 years.

40.2 If the appointed Chairperson ceases to be a Director, whether due to the expiry of the term of their appointment or for any other reason (including removal by the Directors as the appointed Chairperson), the Directors must elect a new Chairperson at the next meeting of Directors. For the avoidance of doubt, while the term of an appointed Chairperson remains current, no election for the position of Chairperson will be held under Rule 40.1.

40.3 Subject to Rule 40.4, at the first meeting of Directors following an Annual General Meeting the Directors may, in their absolute discretion may appoint up to 2 independent persons (being neither Directors or Members) which the Directors may consult with for advice on any aspect of the operations of the Company (**Independent Advisers**) and the term of any such appointment will be for a single term of 3 years.

40.4 The following provisions apply in respect of the appointment of Independent Advisers:

- (a) the Directors may receive nominations for the appointment of Independent Advisers from any Director or any Member but the Directors are not required to make any such appointment and are not required to follow any advice or recommendations provided by the Independent Advisers;
- (b) a maximum of 2 Independent Advisers may be appointed at any time;
- (c) during the term of their appointment, Independent Advisers may attend meetings of Directors (but in an observer capacity only and with no voting rights);
- (d) the Company may pay Independent Advisers for their services to the Company and may reimburse Independent Advisers for any expenses properly incurred by them in connection with the affairs of the Company; and
- (e) an Independent Adviser's appointment ends upon earlier of the expiry of their 3 year term or the termination of their appointment for any reason (including due to resignation or removal by the Directors in their absolute discretion).

#### **41. Term of office for Directors**

41.1 Subject to Rules 41.3, 41.4, 42 and 70 and excluding Directors appointed under Rule

39.5, a Director's term of office starts at the end of the Annual General Meeting at which they are elected and expires at the Annual General Meeting which occurs 3 years after they were elected.

41.2 At each Annual General Meeting:

- (a) any Director appointed by the Directors to fill a casual vacancy or as an additional Director in accordance with Rule 39.5 must retire, and
- (b) any Director whose term of office has expired under Rule 41.1 must retire.

41.3 Subject to Rule 41.4, a Director who is required to retire at an Annual General Meeting under Rule 41.2 may nominate for election or re-election at that Annual General Meeting.

41.4 A Director may not nominate for election or re-election if they would, as a result of their election or re-election, have held office as a Director for more than 6 years in total at the end of their appointment.

## **42. When a Director stops being a Director**

A Director stops being a Director if they:

- (a) give written notice of their resignation as a Director to the Company;
- (b) die;
- (c) are removed as a Director by a resolution of the Voting Members;
- (d) stop being a Voting Member of the Company;
- (e) are a Representative Full Member and their appointing Affiliate Member stops being a Member;
- (f) are a Representative Full Member and their appointing Affiliate Member notifies the Company that they are no longer a Representative Full Member;
- (g) are absent for 3 consecutive Directors' meetings without approval from the Directors, or
- (h) become ineligible to be a Director under the Corporations Act.

## **POWERS OF DIRECTORS**

### **43. Powers of Directors**

43.1 The Directors are responsible for managing and directing the activities of the Company to achieve the purposes set out in Rule 6.

43.2 The Directors may use all the powers of the Company except for powers that, under the Corporations Act or this constitution, may only be used by Members.

43.3 The Directors must decide on the responsible financial management of the Company including:

- (a) any suitable written delegations of power under Rule 44, and
- (b) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.

43.4 The Directors cannot resolve to remove a Director or an Auditor (if any). Directors and Auditors (if any) may only be removed by a Voting Members' Resolution at a General Meeting.

#### **44. Delegation of Directors' powers**

44.1 The Directors may delegate any of their powers and functions to a committee, a Director, an employee of the Company (such as a chief executive officer) or any other person, as they consider appropriate.

44.2 The delegation must be recorded in the Company's minute book.

#### **45. Payments to Directors**

45.1 The Company will not pay fees to a Director for acting as a Director unless otherwise determined by the Directors in their absolute discretion and on a case-by-case basis.

45.2 The Company may:

- (a) pay a Director for work they do for the Company, other than as a Director, if the amount is no more than a reasonable fee for the work done, or
- (b) reimburse a Director for expenses properly incurred by the Director in connection with the affairs of the Company.

45.3 Any payment made under Rule 45.2 must be approved by the Directors.

45.4 The Company may pay premiums for insurance indemnifying Directors, as allowed for by law (including the Corporations Act) and this constitution.

#### **46. Execution of documents**

The Company may execute a document without using a common seal if the document is signed by:

- (a) 2 Directors of the Company, or
- (b) a Director and the Secretary.

### **DUTIES OF DIRECTORS**

#### **47. Duties of Directors**

The Directors must comply with their duties under the Corporations Act, other applicable legislation and common law (judge-made law), including:

- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a Director;

- (b) to act in good faith in the best interests of the Company and to further the purposes of the Company set out in Rule 6;
- (c) not to misuse their position as a Director;
- (d) not to misuse information they gain in their role as a Director;
- (e) to disclose any perceived or actual material conflicts of interest in the manner set out in Rule 48;
- (f) to ensure that the financial affairs of the Company are managed responsibly, and
- (g) not to allow the Company to operate while it is insolvent.

#### **48. Conflicts of interest**

48.1 A Director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of Directors (or that is proposed in a circular resolution of Directors (**Directors' Circular Resolution**)):

- (a) to the other Directors, or
- (b) if all of the Directors have the same conflict of interest, to the Voting Members at the next General Meeting, or at an earlier time if reasonable to do so.

48.2 The disclosure of a conflict of interest by a Director must be recorded in the minutes of the Directors' meeting.

48.3 Each Director who has a material personal interest in a matter that is being considered at a meeting of Directors (or that is proposed in a Directors' Circular Resolution) must not, except as provided under Rule 48.4:

- (a) be present at the meeting while the matter is being discussed; or
- (b) vote on the matter.

48.4 A Director may still be present and vote if:

- (a) their interest arises because they are a Member and the other Members have the same interest;
- (b) their interest relates to an insurance contract that insures, or would insure, the Director against liabilities incurred as a Director (see Rule 66);
- (c) their interest relates to a payment by the Company under Rule 65 (indemnity), or any contract relating to an indemnity that is allowed under the Corporations Act;
- (d) the Australian Securities and Investments Commission makes an order allowing the Director to vote on the matter, or
- (e) the Directors who do not have a material personal interest in the matter pass a resolution that:

- (i) identifies the Director, the nature and extent of the Director's interest in the matter and how it relates to the affairs of the Company, and
- (ii) records that they are satisfied that the interest should not stop the Director from voting or being present.

## **DIRECTORS' MEETINGS**

### **49. When the Directors meet**

The Directors may decide how where and when they meet, provided that at least 6 meetings are held each year approximately 2 months apart.

### **50. Calling Directors' meetings**

50.1 A Director may call a Directors' meeting by giving reasonable notice to all of the other Directors.

50.2 A Director may give notice of a Directors' meeting in writing or by any other means of communication that has previously been agreed to by all of the Directors.

### **51. Role of the Chairperson at Directors' meetings**

51.1 The Chairperson is entitled to chair Directors' meetings and has a casting vote.

51.2 The Directors at a Directors' meeting may choose a Director to be the chairperson for that meeting if the Chairperson is:

- (a) not present within 30 minutes after the starting time set for the meeting, or
- (b) present but does not want to act as chairperson of the meeting.

### **52. Directors' Quorum**

52.1 Unless the Directors determine otherwise, the quorum for a Directors' meeting is a majority (more than 50%) of Directors (**Directors' Quorum**).

52.2 A Directors' Quorum must be present for the whole Directors' meeting.

### **53. Using technology to hold Directors' meetings**

53.1 The Directors may hold their meetings by using any technology (such as video or teleconferencing) that is agreed to by all of the Directors, provided that at least one in-person meeting is held each year.

53.2 The Directors' agreement regarding using technology may be ongoing.

53.3 A Director may only withdraw their consent within a reasonable period before the meeting.

### **54. Passing Directors' resolutions**

A Directors' resolution must be passed by a majority of the votes cast by Directors present and entitled to vote on the resolution.

## **55. Directors' Circular Resolutions**

- 55.1 The Directors may pass a Directors' Circular Resolution without a Directors' meeting being held.
- 55.2 A Directors' Circular Resolution is passed if all the Directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in Rule 55.3(a) or Rule 55.3(b).
- 55.3 Each Director may sign:
- (a) a single document setting out the Directors' Circular Resolution and containing a statement that they agree to the resolution, or
  - (b) separate copies of that document, as long as the wording of the resolution is the same in each copy.
- 55.4 The Company may send a Directors' Circular Resolution by email to the Directors and the Directors may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.

A Directors' Circular Resolution is passed when the last Director signs or otherwise agrees to the resolution in the manner set out in Rule 55.3.

## **SECRETARY**

### **56. Appointment and role of Secretary**

- 56.1 The Company must have at least one secretary, who may also be a Director.
- 56.2 The Secretary must be appointed by the Directors (after giving the Company their signed consent to act as secretary of the Company) and may be removed by the Directors.
- 56.3 The Directors must decide the terms and conditions under which the Secretary is appointed, including any remuneration.
- 56.4 The role of the Secretary includes:
- (a) maintaining the Members Register, and
  - (b) maintaining the minutes and other records of General Meetings (including notices of meetings), Directors' meetings, Members' Circular Resolutions and Directors' Circular Resolutions.

## **MINUTES AND RECORDS**

### **57. Minutes and records**

- 57.1 The Company must, within one month, make and keep the following records:
- (a) minutes of proceedings and resolutions of General Meetings;
  - (b) minutes of Members' Circular Resolutions;

- (c) a copy of a notice of each General Meeting, and
  - (d) a copy of a Voting Members' Statement distributed to Members under Rule 30.
- 57.2 The Company must, within one month, make and keep the following records:
- (a) minutes of proceedings and resolutions of Directors' meetings (including meetings of any committees), and
  - (b) minutes of Directors' Circular Resolutions.
- 57.3 To allow a Voting Member to inspect the Company's records should they request to do so in writing:
- (a) the Company must give the Voting Member access to the records set out in Rule 57.1, and
  - (b) the Directors may authorise a Voting Member to inspect other records of the Company, including records referred to in Rule 57.2 and Rule 58.1.
- 57.4 The Directors must ensure that minutes of a General Meeting or a Directors' meeting are signed within a reasonable time after the meeting by:
- (a) the chairperson of that meeting, or
  - (b) the chairperson of the next meeting.
- 57.5 The Directors must ensure that minutes of the passing of Members' Circular Resolutions and Directors' Circular Resolutions are signed by a Director within a reasonable time after the resolution is passed.
- 58. Financial and related records**
- 58.1 The Company must make and keep written financial records that:
- (a) correctly record and explain its transactions and financial position and performance, and
  - (b) enable true and fair financial statements to be prepared and to be audited.
- 58.2 The Company must also keep written records that correctly record its operations.
- 58.3 The Company must retain its records for at least 7 years.
- 58.4 The Directors must take reasonable steps to ensure that the Company's records are kept safe.

## **BY-LAWS**

### **59. By-laws**

- 59.1 The Directors may pass a resolution to make by-laws to give effect to this constitution.
- 59.2 Members and Directors must comply with by-laws as if they were part of this constitution.

## NOTICE

### 60. What is notice

- 60.1 Anything written to or from the Company under any Rule in this constitution is written notice and is subject to Rules 61 to 63, unless specified otherwise.
- 60.2 Rules 61 to 63 do not apply to a notice of proxy under Rule 36.6.

### 61. Notice to the Company

Written notice or any communication under this constitution may be given to the Company, the Directors or the Secretary by:

- (a) delivering it to the Company's registered office;
- (b) posting it to the Company's registered office or to another address chosen by the Company for notice to be provided; or
- (c) sending it to an email address or other electronic address notified by the Company to the Members as the Company's email address or other electronic address.

### 62. Notice to Members

- 62.1 Written notice or any communication under this constitution may be given to a Member:
- (a) in person;
  - (b) by posting it to, or leaving it at the address of the Member specified in the Members Register or an alternative address (if any) nominated by the Member for service of notices;
  - (c) sending it to the email or other electronic address nominated by the Member as an alternative address for service of notices (if any); or
  - (d) if agreed to by the Member, by notifying the Member at an email or other electronic address nominated by the Member, that the notice is available at a specified place or address (including an electronic address).
- 62.2 If the Company does not have an address for the Member, the Company is not required to give notice in person.

### 63. When notice is taken to be given

A notice:

- (a) delivered in person, or left at the recipient's address, is taken to be given on the day it is delivered;
- (b) sent by post, is taken to be given on the third Business Day after it is posted with the correct payment of postage costs;
- (c) sent by email or other electronic method, is taken to be given on the day it



is sent, and

- (d) given under Rule 62.1(d) is taken to be given on the day the notification that the notice is available is sent.

## **FINANCIAL YEAR**

### **64. Company's financial year**

The Company's financial year is from 1 July to 30 June, unless changed by a resolution of the Directors (**Financial Year**).

## **INDEMNITY, INSURANCE AND ACCESS**

### **65. Indemnity**

- 65.1 The Company indemnifies each officer of the Company out of the assets of the Company, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person as an officer of the Company.
- 65.2 In this Rule, 'officer' means a Director or Secretary and includes a Director or Secretary after they have ceased to hold that office.
- 65.3 In this Rule, 'to the relevant extent' means:
- (a) to the extent that the Company is not precluded by law (including the Corporations Act) from doing so, and
  - (b) for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).
- 65.4 The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer.

### **66. Insurance**

To the extent permitted by law (including the Corporations Act), and if the Directors consider it appropriate, the Company may pay or agree to pay a premium for a contract insuring a person who is or has been an officer against any liability incurred by the person as an officer.

### **67. Directors' access to documents**

- 67.1 A Director has a right of access to the financial records of the Company at all reasonable times upon proving reasonable notice.
- 67.2 If the Directors agree, the Company must give a Director or former Director access to:
- (a) certain documents, including documents provided for or available to the Directors, and
  - (b) any other documents referred to in those documents.

## WINDING UP

### 68. Surplus Assets not to be distributed to Members

If the Company is wound up, any Surplus Assets must not be distributed to a Member or a former Member of the Company, unless that Member or former Member is an institution described in Rule 69.1.

### 69. Distribution of Surplus Assets

69.1 Subject to the Corporations Act and any other applicable Act and any court order, any Surplus Assets that remain after the Company is wound up must be distributed to one or more institutions:

- (a) having objects and/or purposes substantially similar to, or inclusive of, the Company's purposes set out in Rule 6, and
- (b) which also prohibit the distribution of its income and property to its Members to at least the same extent as the Company.

69.2 The decision as to the institution or institutions to be given the Surplus Assets must be made by a Special Resolution of Members at or before the time of winding up. If the Members do not make this decision, the Company may apply to the Supreme Court of Victoria or such court as may have or acquire jurisdiction in the matter to make this decision.

## TRANSITIONAL RULES

### 70. Transitional Rules

70.1 Notwithstanding any contrary provision of these Rules with regard to the appointment of Directors or the term of appointment of any Director, the following transitional rules will apply:

- (a) the Initial Directors will be:
  - (i) Peter Lombo (**Peter**);
  - (ii) Darron Lyons (**Darron**);
  - (iii) Jason Saunders (**Jason**);
  - (iv) Jeremy Spencer (**Jeremy**);
  - (v) Greg Blanch (**Greg**);
  - (vi) Catherine Ciavarella (**Catherine**); and
  - (vii) Luke Middleton (**Luke**);
- (b) at the 2023 Annual General Meeting, Jason, Jeremy and Greg will retire as Directors but will be eligible for re-election;
- (c) at the 2024 Annual General Meeting, Peter, Darron, Catherine and Luke will retire as Directors but will be eligible for re-election;

- (d) in respect of any Director who is required to retire in accordance with this Rule 70.1 and is successfully re-elected at an Annual General Meeting:
- (i) the term of their appointment upon such first re-election will be equivalent to 3 years less the term already served as a Director in accordance with these Rules; and
  - (ii) the term of their appointment upon any subsequent re-election will be 3 years,
- with the intention being that no Initial Director will hold such office for more than 6 years in total.