

# **AUSTRALASIAN LEGAL PRACTICE MANAGEMENT ASSOCIATION**

A COMPANY LIMITED BY GUARANTEE

## **CONSTITUTION**

## **1 NAME OF COMPANY**

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The name of the Company is AUSTRALASIAN LEGAL PRACTICE MANAGEMENT ASSOCIATION.

## **2 DEFINITIONS AND INTERPRETATION**

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### **2.1 Definitions**

In these Rules unless otherwise provided or unless there is something in the subject matter or context which is inconsistent, the following expressions have the definitions or meanings provided below.

**"Act"** means the Corporations Act 2001 (Commonwealth).

**"Affiliate Member"** means a person who is employed or engaged by a professional services Firm that has purchased a Corporate Subscription but their role within their Firm does not meet the definition of Eligible Member. Affiliate Member also applies to other membership categories introduced by the Directors from time to time, outside of Eligible Persons, including but not limited to students and consultants of a professional services firm and who the Directors consider it appropriate to offer membership.

**"Board"** means the board of Directors of the Company.

**"Branch"** means a grouping of Members in or within a particular State, Territory or geographic region of Australia, Members within New Zealand or Members in another country or region of the wider Asia Pacific region recognised as a Branch by resolution of the Board under Rule 6.

**"Branch Committee"** or **"Executive Committee"** means the committee of management in respect of each Branch, established by the Board pursuant to Rule 6.

**"Company"** means the company limited by guarantee called AUSTRALASIAN LEGAL PRACTICE MANAGEMENT ASSOCIATION.

**"Commissioner"** means the Commissioner of Taxation, a Second Commissioner of Taxation or a Deputy Commissioner of Taxation for the purposes of the *Income Tax Assessment Act 1997* (Cth).

**"Corporate Subscription"** means a subscription for membership for all persons employed or engaged by their professional services Firm from time to time. A person who is employed or engaged in a role within the Firm that meets the Eligible Person definition will be eligible to be a Member of the Company. A person employed or engaged by the Firm but who does not meet the definition of Eligible Person will be known as an "Affiliate Member", as defined in this Constitution.

**"Director"** means a director of the Company.

**"Eligible Person"** or **"Eligible Member"** means a person actively engaged in a practice management or functional management or leadership role within or for a professional services Firm, government or corporate department, industry society, educational organisation or professional association, including but not limited to the legal industry. In this definition, 'actively engaged' means a person who is actively involved in decision making or has decision making authority in relation to the management of the Firm, department, organisation or association in which they are involved, in any management capacity.

**"Firm"** means a firm that provides professional services in industries including but not limited to legal and finance or as otherwise determined by the Directors from time to time.

**"Indemnified Officer"** means each person who is or has been a Director and any other officers or former officers of the Company as the Directors in each case decide.

**"Legal Practice Management"** refers to the business skills and knowledge and practice management skills that are transferrable across professional service firms and industries.

**"Local Committee"** or **"Sub Committee"** means a committee determined by the Board to be a local committee under Rule 6.

**"Member"** means a person admitted to membership under Rule 7.2 but excluding Affiliate Members.

**"Membership"** means the group of persons who comprise the Members from time to time under the terms of this Constitution.

**"Membership Term"** means the term of the Membership that has been applied for and approved under clause 7.6.

**"President"** means any person appointed as the president of the Company under Rule 13.3.

**"Public Officer"** means any person appointed as public officer of the Company for the purposes of the Income Tax Assessment Act 1936.

**"Register"** means the register of Members of the Company.

**"Rules"** mean these Rules and all amendments or additions to these Rules contained in this Constitution.

**"Replaceable Rules"** means the replaceable rules contained at any time in the law.

**"Secretary"** means any person appointed to perform the duties of secretary of the Company.

**"Treasurer"** means any person appointed to perform the duties of treasurer of the Company.

**"Vice President"** means any person appointed as the vice president of the Company under Rule 13.3.

## **2.2 Interpretation**

In these Rules:

- (a) headings are inserted for convenience and do not affect the interpretation of these Rules;
- (b) words importing any gender include the other genders;
- (c) the singular includes the plural and vice versa;
- (d) a person means a natural person, unless the context requires otherwise;
- (e) a reference to a statute, code or the Corporations Act (or to a provision of same) means the statute, code, Corporations Act (or provision of same) as modified or amended and in operation for the time being, or any statute, code or provision enacted (whether by the State or Commonwealth of Australia) in lieu thereof and includes any regulation or Rule for the time being in force under the statute, code or Corporations Act;
- (f) an expression used in a particular part or division of the Act that is given by that part or division a special meaning for the purposes of that part or division has, in any of these Rules that deals with the matter dealt with by that part or division, unless the contrary intention appears, the same meaning as in that part or division; and
- (g) "writing" and "written" includes printing, typing and other modes of reproducing words in a visible form including, without limitation, any representation of words in a physical document or in an electronic communication or form or otherwise, and where, by a provision of this Constitution, a document is required to be signed, that requirement may be satisfied in relation to an electronic communication of the document in any manner permitted by law or by any State or Commonwealth law relating to electronic transmissions, or in any other manner approved by the Board.

## **3 OBJECTS AND POWERS**

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### **3.1 Object**

The objects of the Company are to encourage and promote effective practice management skills and education for professional services within Australia, New Zealand or other countries as approved by the Board for the public benefit.

### **3.2 Activities**

For the purposes of the above objects, the Company may, without limitation:

- (a) formulate and deliver services to assist Eligible Persons to develop skills and knowledge in matters pertaining to their practice management responsibilities including but not limited to

finance, human resources, information technology, risk management, marketing, quality assurance, general administration, partnership issues and ethics;

- (b) formulate and implement appropriate strategies which encourage equal opportunity, information sharing, educational training and experience sharing amongst Eligible Persons;
- (c) encourage and facilitate the co-ordination of the promotion of practice management skills and education;
- (d) strive for and maintain government and public recognition of the Company as a principal source of information and consultancy and educational training in practice management;
- (e) maintain and extend the activities of the Company through Branches and elsewhere;
- (f) where appropriate, establish affiliations with recognised professional associations and management and training bodies to further enhance through educational programs, training and other means, the professional development of Eligible Persons to enable them to perform their roles more effectively and efficiently;
- (g) act as trustee and perform and discharge the duties and functions incidental thereto where this is incidental or conducive to the attainment of these objects; and
- (h) do such other things as are incidental or conducive to the attainment of these objects.

### **3.3 General Powers**

The Company may, in any manner permitted by law:

- (a) exercise any power;
- (b) take any action; or
- (c) engage in any conduct or procedure,

which a company limited by guarantee may exercise, take or engage in if authorised by its constitution.

## **4 APPLICATION OF INCOME AND PROPERTY**

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### **4.1 Members**

The income and property of the Company must be applied solely towards the promotion of the objects of the Company and no portion may be paid or transferred directly or indirectly by way of bonus, dividend or otherwise howsoever by way of profit to the Members provided that nothing prevents the payment in good faith of:

- (a) reimbursement of out-of-pocket expenses to any Member for expenses incurred in the conduct of services rendered to the Company. Receipts for expenses incurred must be supplied to the Company for any entitlement to reimbursement to arise;
- (b) remuneration to any Member in return for any services actually rendered to the Company or for goods supplied in the ordinary and usual way of business;
- (c) interest on any money borrowed from any Member at a rate not exceeding commercial market rates of interest for money lent by trading banks from time to time; and
- (d) reasonable and proper rent for premises let to the Company by any Member.

### **4.2 Directors**

Directors may not be remunerated in their capacity as officers of the Company but nothing prevents the payment in good faith of:

- (a) Reimbursement of out-of-pocket expenses incurred in carrying out the duties of a Director where the payments do not exceed an amount previously approved by the Board;
- (b) a financial benefit to a Director to which Rule 22 refers;
- (c) any service rendered to the Company in a professional or technical capacity, where the provision of that service has the prior approval of the Board and is on reasonable commercial terms; and
- (d) as an employee of the Company, where the terms of employment have been approved by a resolution of the Board.

## **5 WINDING UP OR DISSOLUTION**

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### **5.1 Members contribution on winding up**

Every Member undertakes to contribute to the assets of the Company in the event of its being wound up while that person is a Member or within one (1) year afterwards for payment of the debts and liabilities of the Company contracted before that person ceases to be a Member and the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves provided that the amount that may be required from any Member may not exceed twenty dollars (\$20.00).

### **5.2 Distribution of surplus**

If upon the winding up or dissolution of the Company there remains after the satisfaction of all debts and liabilities any property whatsoever, the same may not be paid to or distributed among the Members but must be given or transferred to some other organisation which is charitable at law or practice management and which prohibits the distribution of its or their income and property among its or their members, and also is a fund, authority or institution which is similarly exempt from income tax under section 50-5 of the *Income Tax Assessment Act 1997*.

### **5.3 Members liability limited**

The liability of the Members is limited to the amount of the guarantee given in Rule 5.1.

## **6 BRANCHES, BRANCH COMMITTEES AND LOCAL COMMITTEES**

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- (a) The Board may determine in its discretion, by resolution, that a grouping of Members in or within a particular State, Territory or region of Australia, Members within New Zealand or in a country or region of the wider Asia Pacific region is either a Branch or a Local Committee.
- (b) If the Board makes a determination under Rule 6(a) that a grouping of Members is a Branch, the Board may also determine that:
  - (i) the Branch is eligible to appoint a Member to the Board under Rule 10.2; and
  - (ii) a person admitted as a Member is a member of that Branch.
- (c) The Board will maintain and update at its discretion a policy on Branches, Branch Committees or Executive Committees and Local Committees or Sub Committees, setting out their roles, functions and powers.
- (d) The policy adopted by the Board in relation to Branch Committees must provide for:
  - (i) the term of appointment of members of a Branch Committee;
  - (ii) the eligibility of persons to be nominated for and appointed to a Branch Committee;
  - (iii) nominations for appointment to a Branch Committee to be sought from the Members allocated to that Branch prior to each Annual General Meeting of the Company and set out the process for making such nominations; and
  - (iv) a process for Members allocated to a Branch to elect the members of the Branch Committee where the number of eligible nominations received from Members allocated to a Branch exceeds the number of positions on the Branch Committee.

## **7 MEMBERS**

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### **7.1 Number of members**

- (a) The minimum number of Members of the Company will be forty (40) or such greater number as the Directors determine from time to time, subject to that number complying with the Corporations Act.
- (b) The Members at the date of adoption of this Constitution and any person the Directors admit to Membership under Rule 7.2 are the Members of the Company.

### **7.2 Admission as a member**

The Directors may admit any person as a Member if the person is eligible under Rule 7.3 and agrees to be bound by this Constitution in any manner the Directors determine.

### **7.3 Membership Criteria**

- (a) To be eligible to be a Member, a person must:
  - (i) be an Eligible Person; and
  - (ii) consent in writing to become a Member.
- (b) For the avoidance of doubt, an Affiliate Member is not eligible to be a Member.
- (c) To be eligible to be an Affiliate Member, a person must:
  - (i) be employed or engaged within a Firm who has purchased a Corporate Subscription; and
  - (ii) be employed or engaged within a Firm in a role that does not meet the definition of an Eligible Person; or
  - (iii) otherwise hold a membership that is defined as an affiliate membership, as may be determined by the Directors from time to time; and
  - (iv) agree to be bound by a Code of Conduct.

### **7.4 Membership Process**

#### **Eligible Person**

- (a) The application for Membership as a Member must be made:
  - (i) in writing, signed by the applicant or submitted to the Company electronically or otherwise; or
  - (ii) in such form as the Directors from time to time prescribe; and
  - (iii) accompanied by the membership fee (if any) imposed by the Directors from time to time.
- (b) Each application for Membership must be considered by the appropriate Branch Committee (based on the location of the applicant at the next meeting first occurring after the application is made). At that meeting the Branch Committee must determine whether to approve or reject the applicant and submit their decision for Membership to the Directors of the Company to consider at their next meeting.
- (c) When an applicant has then been accepted or rejected by the Directors for Membership an appointee of the Board must immediately notify the Branch Committee Chair, or their delegate, to advise the applicant of the decision of the Directors.
- (d) Applications that are approved admit the Eligible Person to be a Member of the Company.

#### **Affiliate Members**

- (e) An application for an Affiliate Membership, whether under a Corporate Subscription or otherwise, must be made:
  - (i) in writing, signed by the applicant or in the case of a Corporate Subscription by an authorised person; or
  - (ii) in such form as the Directors from time to time prescribe; and
  - (iii) accompanied by the membership fee (if any) imposed by the Directors from time to time.
- (f) Applications will be tabled at the next meeting of the appropriate Branch Committee (based on location) for noting. Branch Committees will submit reviewed Affiliate Member applications to the Board and may also escalate any concerns with Affiliate Member applications for consideration by the Board, if deemed appropriate. The Board will then consider, at their next available meeting, and decide the outcome of the application.
- (g) Application for an Affiliate Membership will not result in the person being admitted as a Member.

#### **Corporate Subscription**

- (h) Where a Firm is applying for a Corporate Subscription the Firm will supply a list of persons within their Firm who satisfy the Eligible Person and Affiliate Member definitions.

- (i) Eligible Persons will automatically proceed through Rule 7.4(a) to (d).
  - (ii) Affiliate Members will automatically proceed through Rule 7.4(e) to (g).
  - (iii) The Firm must update the Company of any changes to their Eligible Members or Affiliate Members under their Corporate Subscription as soon as reasonably practicable.
- (i) For the avoidance of doubt, the process for Membership as set out in this clause 7.4 applies to all persons, Members, Affiliate Members and applications for such other Memberships as may be determined by the Directors from time to time.

### **7.5 Directors' discretion to admit or refuse admission as a Member**

- (a) The Directors have the discretion to refuse any person's application to be a Member without giving any reason for refusing.
- (b) The Directors may also refuse any person's application to be an Affiliate Member without giving any reason for refusing.

### **7.6 Membership terms**

From the date of adoption of this Constitution, all Membership of the Company will expire at the end of each financial year unless approved by the Board. At the end of each financial year, or membership period (**Membership Term**) approved by the Board, each Member must reapply for Membership.

### **7.7 Ceasing to be a Member**

- (a) A Member ceases to be a Member on:
  - (i) death;
  - (ii) resignation by written notice to the Company having immediate effect or with effect from a specified date occurring not more than seven days after the service of the notice;
  - (iii) failing to pay any subscription that may be prescribed by the Directors from time to time for a period of two (2) months after the subscription was due and payable, unless otherwise agreed by the Directors;
  - (iv) the Directors becoming aware and being satisfied that the Member has ceased to meet the requirements for eligibility as a Member;
  - (v) becoming of unsound mind or a person whose personal estate is liable to be dealt with in any way under a law related to mental health;
  - (vi) becoming bankrupt or insolvent or making an arrangement or composition with creditors of a person's joint or separate estate generally;
  - (vii) the passing of a resolution by the Directors or Members in a General Meeting pursuant to Rule 7.8;
  - (viii) that Member's term of Membership expiring pursuant to Rule 7.6, unless the Member had applied for and been admitted as a Member for the following term; or
  - (ix) when a Member forms part of a Corporate Subscription but then ceases employment with that Firm.
- (b) An Affiliate Member ceases to hold a Membership:
  - (i) upon death;
  - (ii) when the membership forms part of a Corporate Subscription but employment ceases with that Firm;
  - (iii) failing to pay any subscription (Membership Terms) that may be prescribed by the Directors from time to time for a period of two (2) months after the subscription was due and payable, unless otherwise agreed by the Directors;
  - (iv) the passing of a resolution by the Directors or Members in a General Meeting pursuant to Rule 7.8; or
  - (v) as otherwise prescribed by the Directors from time to time.

## **7.8 Termination of Membership**

- (a) Subject to this Constitution the Directors or Members in a General Meeting may at any time terminate the membership of a Member or Affiliate Member if the Members deem the Member or Affiliate Member:
- (i) refuses or neglects to comply with this Constitution or any applicable Rules or regulations made by the Directors;
  - (ii) engages in conduct which in the opinion of the Directors is unbecoming of the Member or Affiliate Member or prejudicial to the interests of the Company; or
  - (iii) fails to pay any debt due to the Company for a period of two (2) months after the date for payment.
- (b) For a decision of the Directors or the Members in a General Meeting under Rule 7.8 to be effective the dispute resolution procedure contained in Rule 27 must be followed. The general nature of the allegations made against the Member or Affiliate Member must be notified to the Member or Affiliate Member and for the purposes of Rule 27 this notification will be the notice of the Dispute.

## **7.9 No transfer of Membership**

Membership of the Company is personal to the Member and is not transferable other than in circumstances whereby the Member's annual fees were purchased under a Corporate Subscription and not by the individual, in which case the Membership remains with the Firm.

## **8 GENERAL MEETINGS OF MEMBERS**

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### **8.1 Annual general meeting of Members**

Subject to the Act, annual general meetings of the Company must be held in each year at such time and place or by such other lawful means or combination of means of communication as the Board determines.

### **8.2 Business of annual general meeting of Members**

The business of the annual general meeting is to:

- (a) read and confirm minutes of the previous annual general meeting and of any extraordinary general meeting held during the preceding year;
- (b) receive the annual reports;
- (c) receive the auditor's reports;
- (d) receive the accounts;
- (e) recognise the incoming Directors; and
- (f) consider any other business the general nature of which has been specified in the notice convening the meeting or which the chairperson of the meeting permits to be brought before the meeting.

### **8.3 Extraordinary general meetings of Members**

All general meetings, other than annual general meetings, are extraordinary general meetings.

### **8.4 Business of extraordinary general meetings of Members**

The business of an extraordinary general meeting is to consider the business, the general nature of which has been lawfully specified in the requisition and that which the chairperson of the meeting lawfully permits to be brought before the meeting.

### **8.5 Notice of general meetings of Members**

At least 21 days' notice specifying the date, day and time of a general meeting and the business to be transacted at the meeting must be given to the Members in the manner hereinafter mentioned or in such manner if any as may be prescribed by the Board from time to time.

### **8.6 Ordinary business**

All business that is transacted at an:



- (a) extraordinary general meeting; or
- (b) annual general meeting, except for those matters specified in paragraphs (a) to (e) (inclusive) of Rule 8.2,

is, subject to the Act, these Rules or a decision of the Board, special business.

### **8.7 Voting rights**

- (a) Subject to these Rules and to any rights or restrictions attached to any class of membership, at a general meeting every Member present has one (1) vote.
- (b) A proxy or attorney is entitled to a separate vote for each Member the person represents, in addition to any vote the person may have as a Member in his or her own right.

### **8.8 Representation at general meetings**

- (a) Subject to this Constitution, each Member entitled to vote at a meeting of Members may vote:
  - (i) in person;
  - (ii) by one (1) proxy; or
  - (iii) by one (1) attorney.
- (b) The Board may determine that Members may vote in person at a general meeting using electronic means of communication. If a determination is made under this Rule 8.8(b) the Board may determine the process for voting (including as to counting of votes) and any such determination is final and conclusive.
- (c) A proxy or attorney may, but need not, be a Member of the Company.
- (d) A proxy or attorney may be appointed for all general meetings, or for any number of general meetings, or for a particular general meeting.

### **8.9 Authority of proxy or attorney**

- (a) Unless otherwise provided in the instrument, an instrument appointing a proxy or attorney is to be taken to confer authority to agree to:
  - (i) a meeting being convened by shorter notice than is required by the Act or by this Constitution; and
  - (ii) a resolution being proposed and passed as a special resolution at a meeting of which less than the period of notice required by the Act has been given.
- (b) Even though the instrument (appointing a proxy or attorney) may refer to specific resolutions and may direct the proxy or attorney how to vote on those resolutions, unless otherwise provided, it is taken to confer authority to:
  - (i) vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
  - (ii) vote on any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the meeting; and
  - (iii) act generally at the meeting.
- (c) An instrument appointing a proxy or attorney may direct the manner in which the proxy or attorney is to vote in respect of a particular resolution and, where an instrument so provides, the proxy or attorney is not entitled to vote on the proposed resolution except as directed in the instrument.
- (d) Subject to Rule 8.9(e) an instrument appointing a proxy or attorney need not be in any particular form as long as it is in writing, legally valid and signed electronically or otherwise by or on behalf of the appointer or the appointer's attorney. Electronic submission is deemed valid when the member is identified, and a date and time stamp recorded.
- (e) A proxy or attorney may not vote at a general meeting or adjourned meeting or on a poll unless the instrument appointing the proxy or attorney, and the authority under which the instrument is signed or a certified copy of the authority, are:

- (i) received at the registered office of the Company, a fax number at the Company's registered office or at another place, fax number or electronic address specified for that purpose in the notice convening the meeting before the time specified in the notice;
  - (ii) in the case of a meeting or an adjourned meeting, tabled at the meeting or adjourned meeting at which the person named in the instrument proposes to vote; or
  - (iii) in the case of a poll, produced when the poll is taken.
- (f) The Directors may waive all or any of the requirements of Rules 8.9(d) and 8.9(e) and in particular may, on the production of such other evidence as the Directors require to prove the validity of the appointment of a proxy or attorney, accept:
- (i) an oral appointment of a proxy or attorney;
  - (ii) an appointment of a proxy, attorney or representative which is not signed in the manner required by Rule 8.9(d); and
  - (iii) the deposit, tabling or production of a copy (including a copy sent by electronic means) of an instrument appointing a proxy or attorney or of the power of attorney or other authority under which the instrument is signed.
- (g) A vote given in accordance with the terms of an instrument appointing a proxy or attorney is valid despite the revocation of the instrument or of the authority under which the instrument was executed, if no written notice of the revocation has been received by the Company by the time and at one of the places at which the instrument appointing the proxy or attorney is required to be deposited, tabled or produced under Rule 8.9(e).
- (h) The appointment of a proxy or attorney is not revoked by the appointer attending and taking part in the general meeting but, if the appointer votes on a resolution, the person acting as proxy or attorney for the appointer is not entitled to vote, and must not vote, as the appointer's proxy or attorney on the resolution.

## **9 PROCEEDINGS OF GENERAL MEETINGS OF MEMBERS**

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### **9.1 Quorum**

The number of Members required to make a quorum at any general meeting shall be 25% of the Members or fifty (50) Members, whichever is the lesser number, and no business may be transacted at any general meeting unless a quorum is present in person or by proxy or attorney.

### **9.2 Lack of quorum**

- (a) If within one (1) hour from the time appointed for the meeting a quorum is not present, the general meeting stands adjourned to the same day in the next week at the same time and place or to such other day (not being more than 14 days after such meeting), time and place as the chairperson or the Secretary appoints.
- (b) If at such adjourned meeting a quorum of Members is not present within one (1) hour from the time appointed for the meeting, the meeting is dissolved.

### **9.3 Chairperson**

- (a) The President presides as chairperson at every general meeting unless the Board elects one of the Directors as an alternative.
- (b) If there is no chairperson or the chairperson is not present at any meeting within 15 minutes after the time appointed for the holding of such meeting or is unwilling to act, the Members present in person may choose from their number a chairperson of the meeting.

### **9.4 Adjournment of meeting**

The chairperson of a general meeting may, with the consent of the meeting at which a quorum is present (and must if so directed by the meeting), adjourn the meeting from time to time and from place to place but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

## **9.5 Notice of adjournment**

- (a) When a general meeting at which a quorum was present is adjourned for 30 days or more, notice of such adjournment must be given to the Members and, so far as is practicable, in the same manner as the original meeting.
- (b) Save as aforesaid, it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

## **9.6 Method of voting**

A resolution submitted to a general meeting is decided by electronic voting for online meetings or for an in person meeting by a show of hands unless before, or upon the declaration of the show of hands, a poll is demanded by:

- (a) the chairperson of the meeting; or
- (b) not less than 10% of the Members present and entitled to vote at the meeting.

## **9.7 Poll**

The Board must determine, from time to time, the manner for conducting a poll.

## **9.8 Evidence of vote**

Unless a poll is demanded as provided by Rule 9.6 at a general meeting, a declaration by the chairperson of the meeting that a resolution has been carried or carried by a particular majority or lost or not carried by a particular majority and an entry to that effect in the minute book of the Company is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

## **9.9 Dispute as to vote**

An objection to the qualification of a person to vote at a general meeting must be raised before or at the meeting at which the vote objected to is given or tendered. In the case of any dispute as to the admission or rejection of a vote, the chairperson of the meeting must determine the dispute and such determination is final and conclusive.

## **9.10 Resolutions**

- (a) A resolution of any business at any general meeting, other than special business, is decided by a majority of votes of those Members present, entitled to vote and voting.
- (b) A resolution of any special business is decided by a majority of three quarters of votes of those Members present, entitled to vote and voting.

## **9.11 Electronic communication**

- (a) For the purposes of these Rules, the contemporaneous linking together by telephone, radio, closed circuit television or other electronic means of audio or audio-visual communication or other means of communication of a number of Members not less than the quorum together with the Secretary, whether or not any one or more of the Members are present in person at a place designated for the meeting or is out of the Commonwealth of Australia, is deemed to constitute a general meeting of the Company and all the provisions in these Rules as to meetings of the Members apply to such meetings as long as the following conditions are met:
  - (i) all the Members for the time being entitled to receive notice of a meeting of the Company may receive notice of such a meeting in the manner specified by these Rules; and
  - (ii) each of the Members taking part in the meeting by telephone or other means of communication and the Secretary must have a reasonable opportunity to participate at the meeting.
- (b) A Member may not leave the meeting by disconnecting their telephone or other means of communication unless they have previously obtained the express consent of the chairperson of the meeting and a Member is conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting unless they have previously obtained the express consent of the chairperson of the meeting to leave the

meeting. Any failure by a Member to comply with this Rule 9.11(b) does not affect the validity of the general meeting.

- (c) A minute of the proceedings at such meeting by telephone or other means of communication is sufficient evidence of such proceedings and of the observance of all necessary formalities if certified as a correct minute by the chairperson of the meeting and by the Secretary.

### **9.12 No Casting vote**

The chairperson of any general meeting is entitled to vote and in the case of an equality of votes the chairperson is not entitled to a casting vote in addition to their deliberative vote and consequently the question is decided in the negative.

## **10 MANAGEMENT BY THE BOARD**

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### **10.1 The Board**

The Company is managed by the Board in accordance with the powers and duties set out in Rule 13.

### **10.2 Appointment of Directors on the Board**

- (a) The Board consists of a minimum of eight (8) and a maximum of twelve (12) positions to be filled by one (1) Director appointed by each Branch that is eligible to appoint a Director (as determined by the Board under Rule (b)).
- (b) Each Branch that is eligible to appoint a Director must appoint a Committee member of that Branch to the Board. All appointments are subject to Board approval. In the circumstances that the Branch does not have a Branch Committee member to appoint to the Board then the fulfilment of this position will be decided by the Board. Without limiting Rule 15, the Board may appoint a Director to be a Chairperson of a committee of the Board, if required in the circumstances.
- (c) If the number of positions filled under Rule 10.2(a) is less than eight (8) in total, additional positions will be filled at the Board's discretion based on a minimum 75% Board majority vote.
- (d) If the Board decides to appoint additional Directors, over and above the minimum of maximum amount specified in Rule 10.2 (a), these will be appointed at the Board's discretion based on a minimum 75% Board majority vote.
- (e) If additional Directors are appointed to the Board to fill skill shortages and these Directors are not currently Members of the Company, there will be no requirement for incoming Directors to become members of the Company in order to fulfil their Directors duties.

### **10.3 Term of Directors to the Board**

- (a) All Directors must hold office for two (2) year terms, unless the Board otherwise determines.
- (b) A Director of the Board can be appointed for a maximum of four (4) consecutive terms.

### **10.4 Appointment to Board portfolios**

The Board must convene a Board meeting as soon as practicable following each annual general meeting to elect from amongst themselves a President, Vice President and Secretary. Any casual vacancy in one of these positions must be filled by the Board.

### **10.5 Casual vacancies**

- (a) Any casual vacancy in the office of a Director appointed by a Branch must be filled by the Branch who appointed the former Director by appointing a Committee Member as the Branch Committee decides.
- (b) A person nominated to fill a casual vacancy holds office for the balance of the term of the Director in respect of whom the vacancy occurred.
- (c) In the event that the number of members of the Board is reduced to less than three (3) then and in such case, the continuing members of the Board may only act in an emergency or for the purpose of filling the vacancies until there are at least three (3) members of the Board.

## **10.6 Cessation of membership of the Board**

In addition to the circumstances prescribed by the Act, a Director ceases to be a Director and their position as Director becomes vacant accordingly if:

- (a) the Director dies;
- (b) the Director retires or resigns their position by notice in writing to the Secretary;
- (c) without permission of the President, the Director fails to attend three (3) consecutive meetings of the Board; or
- (d) the Director fails materially to comply with any of these Rules or Company policies.
- (e) in respect of a Director nominated by a Branch, the Director ceases to be a Committee member of that Branch.

## **11 MEETINGS OF THE BOARD**

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### **11.1 Meeting times**

The Board must meet at the completion of the annual general meeting or as soon as practicable thereafter and in addition at least eight (8) times a year for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit.

### **11.2 Quorum**

A quorum consists of a majority of the Directors in office at the time and no business may be transacted at any meeting of the Board unless a quorum is present at the commencement of the meeting.

### **11.3 Notice of Board meetings**

- (a) The Secretary must give not less than 14 days' notice to each Director entitled to receive notice of a Board meeting.
- (b) The accidental omission to give notice or the non-receipt of any notice by any of the Directors does not invalidate any meeting or any resolution passed at any meeting.

### **11.4 Special meetings of the Board**

- (a) A majority of Directors may requisition a special meeting of the Board at any time whereupon the Secretary must convene a meeting of the Board.
- (b) At least 14 days' notice of the time and place of a special meeting of the Board must be given in writing to every Director. The business of the meeting need not be specified in the notice.
- (c) Notice of a meeting must be sent in accordance with Rule 20.1.

### **11.5 Chairperson**

- (a) The President or, in their absence, the Vice President presides as chairperson at every Board meeting unless the Board appoints another Director as chairperson by giving notice of such appointment to the Board in the notice convening the Board meeting.
- (b) If there is no chairperson or the chairperson is not present at any meeting within 15 minutes after the time appointed for the holding of such meeting or is unwilling to act, the Directors present in person or communicating electronically under Rule 9.11 may choose from their number a chairperson of the meeting.

### **11.6 Voting at Board meetings**

Each Director present or communicating electronically is entitled to one (1) vote on any question arising at any meeting of the Board.

### **11.7 Resolution**

A resolution on any matter arising at any meeting of the Board is decided by a majority of the votes of the total number of Directors in office.

### **11.8 Resolution in writing**

- (a) A resolution in writing signed by all Directors is as valid and effective as if it had been passed at a meeting of the Board duly called and constituted.
- (b) Any such resolution may consist of several documents in like form each signed by one or more Directors.

### **11.9 Electronic communication**

- (a) For the purposes of these Rules, and subject to the consent of 75% of the Directors, the contemporaneous linking together by telephone, radio, closed circuit television or other electronic means of audio or audio-visual communication or other means of communication of a number of Directors not less than the quorum, whether or not any one or more of the Directors are present in person at a place designated for the meeting or is out of the Commonwealth of Australia, constitutes a Board meeting and all the provisions in these Rules as to Board meetings apply to such meetings as long as the following conditions are met:
  - (i) All the Directors for the time being entitled to receive notice of a Board meeting must receive notice of such a meeting by telephone or other means of communication.
  - (ii) Each of the Directors taking part in the meeting may be linked by telephone or other means of communication.
  - (iii) Each of the Directors taking part in the meeting by telephone or other means of communication must have a reasonable opportunity to participate at the meeting.
- (b) A Director may not leave the meeting by disconnecting their telephone or other means of communication unless they have previously obtained the express consent of the chairperson of the meeting and a Director is conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting by telephone or other means of communication unless they have previously obtained the express consent of the chairperson of the meeting to leave the meeting. Any failure by a Director to comply with Rule 11.9(b) does not affect the validity of the meeting.
- (c) A minute of the proceedings at such meeting by telephone or other means of communication is sufficient evidence of such proceedings and of the observance of all necessary formalities if certified as a correct minute by the chairperson of the meeting and by the Secretary.

### **11.10 No casting vote for Chairperson**

In the event of an equality of votes cast for and against a question, the Chairperson of the Board meeting does not have a second or casting vote, and consequently the question is decided in the negative.

## **12 MINUTE BOOK**

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- (a) The Secretary must cause minutes to be duly entered in the books provided for the purpose of recording:
  - (i) all appointments of Directors by the Board or a Branch;
  - (ii) the names of the persons present at each meeting of the Board and each general meeting;
  - (iii) all resolutions and proceedings of each meeting of the Board and each general meeting; and
  - (iv) all resolutions and recommendations of any committees appointed by the Board.
- (b) For the purposes of ensuring the accuracy of the recording such minutes, the minutes of every meeting of the Board must be signed by the chairperson of that meeting or the chairperson of the next succeeding Board meeting verifying their accuracy.
- (c) Subject to Rule 12(d), the minutes of every annual general meeting must be signed by the chairperson of that meeting or the chairperson of the next succeeding annual general meeting.
- (d) The minutes of any extraordinary general meeting must be signed by the chairperson of that meeting or the chairperson of the next succeeding extraordinary general meeting or annual general meeting, whichever occurs first.

## **13 BOARD FUNCTIONS, POWERS AND POSITIONS**

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### **13.1 Specific Board functions**

The Board has the following functions.

- (a) to arrange Board meetings;
- (b) to arrange annual general meetings;
- (c) to arrange for Board meetings and general meetings to be held by telephone or other means of communication and postal and electronic votes;
- (d) to provide information to Members and the Board;
- (e) to undertake any other functions to further the objects of the Company;
- (f) financial management - including but not limited to decisions surrounding financial methods and procedures, cash flow management, debtor and creditor control, negotiating and managing bank overdraft facilities and securities and any other matter required to effectively manage and control the Company's financial circumstances and affairs;
- (g) restructuring initiatives - including but not limited to decisions surrounding the methods and procedures that the Company can use to effectively operate its activities, including the negotiation of terms and conditions and the contractual basis of any sale, licensing or sub-contracting arrangements for any part or division of the Company;
- (h) allocation of resources and staffing - the effective utilisation of assets and resources of the Company's alliance partners and/or suppliers or any other person or entity - including but not limited to negotiation, terms and conditions or such contracts, nature of relationships and any financial terms associated with such contracts;
- (i) to control, and manage the administration of the affairs, property and funds of the Company;
- (j) to pay all expenses incurred in forming the Company; and
- (k) to exercise all such powers of the Company as are not, by the Act or by these Rules required to be exercised by the Company in the general meeting.

### **13.2 General Board powers**

- (a) The Board may exercise all the powers of the Company to:
  - (i) borrow or raise or secure the payment of money in such manner as the members of the Board may think fit and secure the same or the payment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the Company in any way;
  - (ii) charge any property or business of the Company;
  - (iii) issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person or body corporate;
  - (iv) invest in such manner as the Board may from time to time determine;
  - (v) make, amend or repeal policies, not inconsistent with these Rules for the general conduct and management of the Company and the business of the Company;
  - (vi) appoint, employ, remove or suspend such employees, contractors, agents, consultants and other persons as may be necessary or convenient for the purposes to the Company on such terms and conditions as determined by the Board;
  - (vii) delegate any of its powers to a committee, individual Director or any other person; and
  - (viii) enter into any trust arrangements with a trustee, corporate or otherwise, for the purpose of creating or administering a trust fund.
- (b) When exercising functions under Rules 13.1, 13.2 or any other Rule, even when delegated from time to time, the Board must:
  - (i) ensure that all expenditure complies with policies set by the Board from time to time; and

- (ii) ensure that its decisions, acts and omissions remain within the scope of policies adopted by the Board from time to time.

### **13.3 President and Vice President**

The Directors may elect from their number a President and a Vice President and may also determine the period for which the persons elected as President and Vice President are to hold office.

### **13.4 Secretary**

- (a) There must be at least one Secretary who is to be appointed by the Directors.
- (b) The Directors may suspend or remove a Secretary from that office.
- (c) A Secretary holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, as determined by the Directors. The exercise of those powers and authorities and the performance of those duties by a Secretary are subject at all times to the control of the Directors.

## **14 TRANSACTIONS WITH DIRECTORS**

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Directors may not receive any salary or dividend for their services as Directors. By resolution of the Board, subject to Rule 4.2, a reasonable sum for expenses (if any) may be allowed for attendance by a Director at each general meeting of the Company or Board meeting.

## **15 COMMITTEES**

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### **15.1 Appointment of Committees**

- (a) The Board may from time to time appoint committees consisting of at least one (1) Director and any other persons (whether or not Members) and may delegate to the committees such business or matters as the Board may deem fit.
- (b) Notwithstanding anything else in this Rule 15 or any policy on Branches, Branch Committees or Local Committees established under Rule 6(c), each committee (including Branch Committees and Local Committees) is subject to the direction of the Board from time to time.

### **15.2 Quorum**

At every meeting of a committee, a simple majority of the number of members appointed to the committee constitutes a quorum.

### **15.3 Chairperson**

The Chairperson of each committee must be elected by the members of the committee.

### **15.4 Committee can co-opt others**

Subject to any policy of the Board in respect of particular committees, each committee may co-opt any person to serve on that committee and may establish such sub-committees as it considers necessary or desirable provided that membership of sub-committees is not confined to Directors.

### **15.5 Meetings of committees**

The meetings and proceedings of each committee or sub-committee is governed by such rules as may from time to time be made by the members of such committee or sub-committee or by the Board and, in default of such rules, by the provisions contained in these Rules, where applicable, for regulating the meetings and proceedings of the Board.

### **15.6 Minutes or Action Items of meetings**

Minutes of any resolutions and recommendations arising from meetings and proceedings of each committee or sub-committee must be recorded and provided to the Board as soon as practicable after being made. In the absence of any resolutions or recommendations the committee or sub-committee will note action items arising from these meetings and submit these to the Board's delegate as soon as practicable after the meeting with a view to be tabled at the next scheduled Board meeting.



## **16 SIGNING OF DOCUMENTS**

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### **16.1 Election**

The Company may execute a document under common seal in accordance with Rule 16.2 or the Company may execute a document under hand in accordance with Rule 16.3.

### **16.2 Signing under seal**

The Company may execute a document under common seal by affixing the seal to the document and witnessing the signing of the seal by any two (2) Directors.

### **16.3 Signing without a seal**

The Company may execute a document without using a common seal provided the document is signed by any two (2) Directors.

### **16.4 Signing of documents**

The Company must not execute any document unless it does so with the authority and at the direction of the Board, which may be given before or after the document is executed.

### **16.5 Seal register**

The Board must maintain a seal register into which records of the use of the seal are kept, in accordance with the directions of the Board from time to time.

## **17 INSPECTION OF RECORDS**

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Subject to law, the Board must determine whether and to what extent (if any) and at what time and places and under what conditions, the accounting records and other documents of the Company or any of them will be open for the inspection of Members in their capacity as Members and a Member in his, her or its capacity as a Member does not have the right to inspect any document of the Company except as provided by law or authorised by the Board.

## **18 FUNDS**

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### **18.1 Funds to be banked**

All moneys when received on account of the Company must be paid into the account or accounts of the Company at a financial institution decided by the Board.

### **18.2 Signing of cheques**

All bills of exchange, promissory notes or other negotiable instruments must be accepted, made, drawn or endorsed on behalf of the Company by any two (2) Directors.

### **18.3 Books of account.**

Proper books of account must be kept and maintained either in written or printed form showing correctly the financial affairs of the Company and the particulars usually shown in books of a like nature.

## **19 ACCOUNTS OF THE COMPANY**

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### **19.1 Consideration of accounts**

At each annual general meeting the accounts of the Company for the previous financial year ended June 30 must be received and considered.

### **19.2 Audit of accounts**

- (a) The accounts of the Company for each year ended June 30 must be examined and reported on by one (1) or more auditors.
- (b) The auditors of the Company must be appointed by the Board from time to time provided that no person may be appointed auditor unless the auditor is a member of the Institute of Chartered Accountants in Australia or the Australian Society of Certified Practising Accountants and provided that no person who is a Director of the Company may be appointed auditor of the Company.
- (c) The auditors hold office until their successors are appointed and they are eligible for reappointment.

- (d) The Board must fill any casual vacancy in the office of auditor but while any such vacancy continues the surviving or continuing auditor or auditors (if any) may act.
- (e) The Board must fix the remuneration of the auditors.

## **20 NOTICE**

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### **20.1 Notice Requirements**

- (a) A notice may be given by the Company to any Member or Director personally or by sending it either:
  - (i) by post to the Member or Director at the Member's or Director's registered address; or
  - (ii) by facsimile to the Member's or Director's registered facsimile number; or
  - (iii) by email to the Member's or Director's registered email address.
- (b) Where a notice is sent by post, service of the notice is deemed to be effected by properly addressing, prepaying and posting a letter containing the notice, whether the notice forms part of or is accompanied by other material, and to have been effected in the case of a notice of a meeting, on the day after the date of its posting, and in any other case at the time at which the letter would be delivered in the ordinary course of post.
- (c) Where a notice is sent by facsimile, service of the notice is deemed to be effected on the date of its transmission.
- (d) Where a notice is sent by email, service of the notice is deemed to be effected on the date of its transmission provided that the recipient's latest email address is used and there is no evidence of non-receipt.

### **20.2 Notice by Members or Directors to the Company**

Subject to this Constitution, a notice may be given by a Member or Director to the Company by:

- (a) serving it on the Company at the registered office of the Company;
- (b) sending it by post in a prepaid envelope to the registered office of the Company; or
- (c) by fax or electronic means to the principal fax number or the principal electronic address of the Company at its registered office.

### **20.3 Notice of general meetings**

Notice of every general meeting must be given in any manner authorised in these Rules to:

- (a) every Member whose name and address are recorded in the Register; and
- (b) the auditor.

## **21 FINANCIAL YEAR**

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The financial year of the Company ends on 30 June in each year.

## **22 INDEMNITY AND INSURANCE**

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### **22.1 Persons to whom the indemnity and insurance apply**

The indemnity and insurance referred to in this Rule 22 apply to Indemnified Officers.

### **22.2 Indemnity**

- (a) The Company must indemnify, on a full indemnity basis and to the full extent permitted by law, each Indemnified Officer against all losses or liabilities (including costs and expenses) incurred by the person as an officer of the Company.
- (b) This indemnity:
  - (i) is a continuing obligation and is enforceable by an Indemnified Officer even though that person has ceased to be an officer of the Company; and
  - (ii) operates only to the extent that the loss or liability in question is not covered by insurance.

### **22.3 Insurance**

The Company may, to the extent permitted by law, purchase and maintain insurance or pay or agree to pay a premium for insurance, for any Indemnified Officer against any liability incurred by the person as an officer of the Company where the Directors consider it appropriate to do so.

### **22.4 Savings**

Nothing in this Rule 22:

- (a) affects any other right or remedy that an Indemnified Officer may have in respect of any loss or liability referred to in this indemnity or insurance; or
- (b) limits the capacity of the Company to indemnify or provide or pay for insurance for any person to whom this Rule 22 does not apply.

## **23 INTERPRETATION OF THESE RULES**

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If any doubt arises as to the proper construction or meaning of any of these Rules or of any expression used therein the decision of the Board thereon is final and conclusive provided such decision be reduced to writing and recorded in the minute book of the proceedings of the Board.

## **24 ALTERATION OF RULES**

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- (a) These Rules, for the time being in force, may be altered, rescinded or repealed and new Rules may be made by the Company in a general meeting in the manner prescribed by the Act. Nothing whether contained in these Rules for the time being in force or otherwise howsoever may be construed as implying or creating any privilege, priority or right in favour of any Member so as to limit the power of the Company at any time to alter, rescind or repeat the same or to make new Rules in their place.
- (b) The Company must not pass a special resolution making a material alteration to, or materially affecting, Rules 3, 4 or 5, or any other alteration to the Rules, if, as a result, the Company is no longer a charity.
- (c) In addition to notification required under the Act, the Company must notify the Commissioner if
  - (i) a special resolution is passed materially altering Rule 3; or
  - (ii) the Company is no longer eligible to be endorsed as a charity as a result of a change in its constitution or activities or otherwise.

## **25 REPLACEABLE RULES AND APPLICATION OF THE ACT**

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- (a) These Rules displace each provision of a section or subsection of the Act that applies (or would apply but for this Rule) to the Company.
- (b) The replaceable rules do not apply to the Company except those which operate as mandatory rules for public companies under the Act.
- (c) Unless the contrary intention appears:
  - (i) an expression used in a Rule that deals with a matter dealt with by a provision of the Act has the same meaning as in that provision; and
  - (ii) subject to Rule 25(c)(i), an expression in a Rule that has a defined meaning for the purposes of the Act has the same meaning as in the Act.

## **26 GENERAL**

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### **26.1 Submission to jurisdiction**

Each Member submits to the non-exclusive jurisdiction of the Supreme Court of Victoria, the Federal Court of Australia and the courts which may hear appeals from those courts.

### **26.2 Prohibition and enforceability**

- (a) Any provision of, or the application of any provision of, these Rules which is prohibited in any place is, in that place, ineffective only to the extent of that prohibition.

- (b) Any provision of, or the application of any provision of, these Rules which is void, illegal or unenforceable in any place does not affect the validity, legality or enforceability of that provision in any other place or of the remaining provisions in that or any other place.

## **27 DISPUTES AND MEDIATION**

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- (a) The grievance procedure set out in this Rule applies to disputes under these Rules between:
- (i) a Member and another Member; or
  - (ii) a Member and the Company.
- (b) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all the parties.
- (c) If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within ten (10) days, hold a meeting in the presence of a mediator.
- (d) The mediator must be:
- (i) a person chosen by agreement between the parties; or
  - (ii) in the case of a dispute between a Member and another Member, a person appointed by the Board; or
  - (iii) in the case of a dispute between a Member and the Company, a person who is a mediator appointed or employed by a State Resolution or Dispute Settlement Organisation.
- (e) A Member of the Company can be a mediator.
- (f) The mediator cannot be a Member who is a party to the dispute.
- (g) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- (h) The mediator, in conducting the mediation, must:
- (i) give the parties to the mediation process every opportunity to be heard;
  - (ii) allow due consideration by all parties of any written statement submitted by any party; and
  - (iii) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.