

CORPORATIONS ACT
A Public Company Limited by Guarantee

CONSTITUTION
of
LOWY INSTITUTE FOR INTERNATIONAL POLICY

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1. DEFINITIONS

In this Constitution:

Advisory Council means the Advisory Council referred to in clause 16. **Advisory Council Member** means a member of the Advisory Council. **Board** means the board of Directors of the Company.

Company means the Lowy Institute for International Policy.

Corporations Act means the Corporations Act 2001 (Commonwealth).

Director means a person appointed for the time being to perform the duties of a director of the Company, whilst ever the person is holding the office of director.

Institute means the Lowy Institute for International Policy.

Member means an individual whose name is entered for the time being in the Register as a member of the Company.

Office means the registered office for the time being of the Company.

Register means the register of Members kept by the Company under the Corporations Act.

Seal means, if the Company has one, the common seal of the Company.

Secretary means a person appointed for the time being to perform the duties of a secretary of the Company.

Termination Event means the death or bankruptcy of the Member concerned or the Member becoming of unsound mind or becoming a person whose property is liable to be dealt with under a law about mental health.

2. NATURE OF COMPANY AND LIABILITY

2.1. Nature of Company

The Company is a public company limited by guarantee.

2.2. Liability of each Member is limited to a maximum of ten dollars

The liability of each Member is limited. Each Member guarantees to contribute up to a maximum of ten dollars to the assets of the Company if it is wound up while he or she is a Member, or within one year afterwards, and at the time of winding up the debts and liabilities of the Company exceed its assets. The liability of each Member is limited to making such contribution and no more.

3. OBJECTIVES OF THE COMPANY

The objectives of the Company are:

- To facilitate the advancement of Australia internationally by the generation and promulgation of informed and creative ideas, research and opinion on economic and foreign policy issues, international affairs and matters of national importance;
- To facilitate and promote a world class forum for the informed discussion and debate of economic and foreign policy issues, international affairs and matters of national importance as regards Australia;
- To produce, publish, promote and disseminate distinctive and creative research and discussion papers on economic and foreign policy issues, international affairs and matters of national importance as regards Australia;
- "To undertake and disseminate applied research aimed at improving the formation of policy that affects Australia's national and international interests."
- To produce, publish, promote and disseminate economic and foreign policy options regarding international relations and Australia's economic and foreign policy;
- To facilitate and hold seminars, lectures and conferences on issues of economic and foreign policy, international affairs and matters of national importance as regards Australia;
- To raise money to further the objectives of the Company and to secure sufficient funds for the purposes of the Company;
- To receive any donations and to utilise them in a manner that best attains the objectives of the Company; and
- To do all such things as are incidental or conducive to the attainment of any of the objectives of the Company.

4. LEGAL CAPACITY AND POWERS OF THE COMPANY

The Company has all of the powers of a natural person and of a body corporate, including these set out in the Corporations Act.

5. MEMBERSHIP

5.1. Class of membership

The membership of the Company will consist of ordinary Members.

5.2. Ordinary Members

5.2.1. The ordinary Members of the Company are the Members at the date of incorporation of the Company and those Members who:

- (a) are individuals (at least 18 years of age at the date of application);
- (b) have an interest in the fields of Australian economic or foreign policy, international affairs and matters of national importance to Australia; and

- (c) have been admitted by a general meeting of the Company to membership of the Company as a member after making an application for membership pursuant to clause 5.3.

5.2.2. A member has:

- (a) the right to receive notices of and to attend and be heard at any general meeting of the Company; and
- (b) the right to vote at any general meeting of the Company.

5.3. Form of application

5.3.1. The existing Members or at least 2 of them may in writing invite a person to apply to be a member of the Company. If the person accepts the invitation the person's application for Membership must be:

- (a) signed by the applicant; and
- (b) accompanied by such documents or evidence as to eligibility in accordance with clause 5.2.

No person may be a Member unless the person has been invited as above.

5.4. No fees payable by Members

No subscription, membership, joining or annual fees are payable to the Company by any Member.

5.5. Membership not transferable

No membership interest, benefit or right of any Member is capable of being sold or transferred in any manner whatsoever and a membership interest shall automatically lapse if there is any such purported sale or transfer or agreement to effect same.

6. ADMISSION TO MEMBERSHIP

6.1. Approval of application by Members

No application for membership may be considered by a general meeting of Members unless at least seventy-five per cent in number of the Members have consented in writing to the application being considered by a general meeting.

6.2. Consideration of application by a general meeting

If the application complies with clause 5.3.1 and if the Members have given consent pursuant to clause 6.1, (and in that event only), a general meeting of Members may consider an application for membership as soon as practicable after its receipt and determine, in their discretion, the acceptance or rejection of the application for membership.

6.3. Acceptance or rejection of membership application

6.3.1. If an application for membership is accepted:

- (a) the Secretary must notify the applicant of admission; and
- (b) the name and details of the applicant must be entered in the Register as a member and details of the applicant.

6.3.2. If an application for membership is rejected the Secretary must notify the applicant that the application has been rejected.

6.3.3. A general meeting does not have to give reasons for rejecting or accepting an application for membership.

6.4. Register of Members

6.4.1. A register of the Members of the Company must be kept in accordance with the Corporations Act.

6.4.2. The following must be entered in the Register in respect of each Member:

- (a) the full name of the Member;
- (b) the address, telephone and facsimile number, and electronic mail address if any, of the Member;
- (c) the date of admission to and cessation of membership; and
- (d) such other information as the Board may require.

6.5. Change of Member details

Each Member must notify the Secretary in writing of any change in that persons name, address, telephone, facsimile number, or electronic mail address within one month after the change.

7. REMOVAL AND CESSATION OF MEMBERSHIP

7.1. Resignation

7.1.1. A Member may resign from membership of the Company by leaving written notice to that effect at the Office addressed to the Secretary.

7.1.2. The resignation of a Member is deemed to take effect from the date such notice is left at the Office.

7.2. Lapsing of membership

7.2.1. A majority of Members may in writing convene a general meeting of Members to consider whether the membership of a person should for whatever reason lapse.

7.2.2. The Members so convening a general meeting do not have to give reasons for why they have convened a general meeting to consider whether the membership of a person should lapse.

7.2.3. The Members so convening a general meeting will be required to provide at least 28 days prior written notice to the person concerned of any intention to call the meeting referred to

in clause 7.2.1 so as to enable the person to provide any written representations to the other Members.

7.2.4. The general meeting of Members so convened may by special resolution resolve that a person shall cease to be a member of the Company. Upon the passing of such resolution the person concerned shall thereupon cease to be a member and the secretary will amend the Register accordingly.

7.2.5. A general meeting does not have to give reasons for resolving that a person shall cease to be a member of the Company.

7.3. Other cessation of membership:

A person ceases to be a member on any Termination Event occurring in respect of the Member. As soon as practical thereafter the Secretary will amend the Register accordingly.

8. NO PROFITS FOR MEMBERS

8.1. Transfer of income or property

The assets and income of the Company shall be applied solely in furtherance of the objectives of the Company and no portion of the income or assets of the Company may be paid or transferred, directly or indirectly to any Member, except as bona fide compensation for services rendered or expenses incurred on behalf of the Company.

8.2. Payments, services and information

Nothing in this clause 8.1 prevents the payment in good faith of:

- (a) remuneration to any officers or employees of the Company for services actually rendered to the Company;
- (b) an amount to any Member in return for any services actually rendered to the Company (whether by the Member or any corporation or partnership in which the Member has an interest or is a member) or for goods supplied in the ordinary and usual course of business;
- (c) reasonable and proper interest on money borrowed from any Member; or
- (d) reasonable and proper rent for premises let by any Member to the Company.

9. GENERAL MEETINGS

9.1. Convening of meetings

9.1.1. Annual general meetings of the Company shall be held in accordance with the provisions of the Corporations Act.

9.1.2. General meetings may be convened by the Board whenever it thinks fit or by requisition as provided by the Corporations Act or by a majority of the Members.

9.2. Notice of Meetings

- 9.2.1. Subject to the provisions of the Corporations Act relating to special resolutions and consent to short notice, at least 21 days' notice (exclusive of the day on which the notice is served or received or deemed to be served or received and exclusive of the day for which notice is given) specifying the place, the day and the time of meeting and, in the case of special business, the general nature of that business, shall be given to persons entitled to receive such notices from the Company.
- 9.2.2. For the purposes of clause 9.2.1, all business that is transacted at a general meeting or annual general meeting, with the exception of the consideration of accounts, financial statements and the reports of the Board and auditors, shall be special business.
- 9.2.3. Accidental omission to give notice of a general meeting or annual general meeting by the Company to, or the non-receipt of notice of a meeting by, any Member shall not invalidate proceedings at a general meeting or annual general meeting.

9.3. Cancellation of general meetings

- 9.3.1. The Board may cancel a general meeting, other than a general meeting convened by a majority of Members or which the Board is required to convene and hold under the Corporations Act.
- 9.3.2. A meeting may only be cancelled in accordance with this clause if notice of the cancellation is given to all persons entitled to receive notice of the meeting at least 2 business days prior to the time of the meeting as specified in notice of meeting.

9.4. Quorum at general meetings

- 9.4.1. Business may not be transacted at a general meeting unless a quorum of Members is present at the time when the meeting proceeds to business.
- 9.4.2. A quorum is the presence in person or by proxy or attorney of 5 Members.
- 9.4.3. If a quorum is not present within half an hour from the time appointed for the meeting or a longer period allowed by the Chair the meeting is dissolved.

9.5. Appointment of Chair

- 9.5.1. (a) Frank P Lowy; or
- (b) if he is no longer a Member or is unwilling or incapable of acting and if any of his sons, David Lowy, Peter Lowy or Steven Lowy is a Member, willing and capable of acting then such of one of those sons approved by at least seventy-five per cent in number of the Members; or
- (c) if only one of such sons is a Member, willing and capable of acting then that son; or
- (d) if none of his sons are a Member or in existence or willing or capable of acting or approved, then such other person approved by at least seventy-five per cent in number of the Members

shall be entitled to chair all meetings of Members.

9.5.2. The Members present at a general meeting must by special resolution elect one of their number to chair the meeting if the person referred to in clause 9.5.1 is not present within fifteen minutes after the time appointed for the holding of the meeting.

9.6. Chair's powers

9.6.1. The ruling of the Chair on all matters relating to the order of business, procedure and conduct of a general meeting shall be final and no motion of dissent from a ruling of the Chair may be accepted.

9.6.2. The Chair, in his or her discretion may expel any Member or Director from a general meeting if the Chair reasonably considers that the Member or Director's conduct is inappropriate behaviour. The following conduct may be considered inappropriate in a general meeting:

- (a) the use of offensive or abusive language which is directed to any person, object or thing;
- (b) attendance at the meeting while under the influence of any kind of drug including but not limited to any alcoholic substance; or
- (c) the use or consumption of any drug by a person at the meeting.

9.7. Adjournment of meetings

9.7.1. The Chair may, with the consent of any meeting at which a quorum is present, and must if so directed by the meeting, adjourn the meeting to another time and place.

9.7.2. The only business that may be transacted at any adjourned meeting is the business left unfinished at the meeting from which the adjournment took place.

9.7.3. When a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting.

9.7.4. Except when a meeting is adjourned for 30 days or more, it is not necessary to give a notice of an adjournment or of the business to be transacted at an adjourned meeting.

9.8. Voting on show of hands

9.8.1. At a general meeting a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is demanded before that vote is taken or before the result is declared or immediately after the result is declared.

9.8.2. If a poll is not duly demanded, a declaration by the Chair that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact, without proof, of the number or proportion of the votes recorded in favour of or against the resolution.

9.9. Demand for a poll

9.9.1. A poll may be demanded by:

- (a) the Chair; or
- (b) by any Member, whether present in person, by proxy or attorney.

9.9.2. The demand for a poll may be withdrawn.

9.9.3. The demand for a poll does not prevent the continuance of a meeting for the transaction of business other than the question on which a poll is demanded.

9.9.4. If a poll is duly demanded, it must be taken in the manner and, except as to the election of a Chair or on a question of adjournment, either at once or after an interval or adjournment or otherwise as the Chair directs. The result of the poll is the resolution of the meeting at which the poll is demanded.

9.9.5. A poll demanded on the election of a Chair or on a question of adjournment must be taken immediately.

9.10. Voting rights

9.10.1. Members have the following voting rights:

- (a) on a show of hands, every person present who is a Member has one vote; and
- (b) on a poll, every Member present in person or by proxy or attorney has one vote.

9.11. Vote of the Chair at general meetings

The Chair of a general meeting is entitled to a second or casting vote.

9.12. Objections to voter qualification

9.12.1. No objection may be raised to the qualification of a voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered.

9.12.2. An objection to the qualification of a voter must be referred to the Chair, whose decision will be final.

9.12.3. A vote which is not disallowed by the Chair pursuant to this Constitution is valid for all purposes.

9.13. Mode of calling and holding general meetings

A general meeting may be:

- (a) called using any mode of communication which gives a Member written notice of the meeting, including facsimile and electronic mail; and
- (b) held using any technology that gives the Members as a whole a reasonable opportunity to participate.

9.14. Resolutions passed at a meeting

- 9.14.1. Each and every resolution passed at a general meeting of Members must be a special resolution.
- 9.14.2. A special resolution in writing signed by all Members is to be treated as a special resolution passed at a general meeting of Members.
- 9.14.3. A special resolution in writing may consist of several documents in like form, each signed by one or more Members and if so signed take effect on the latest date on which a Member signs one of the documents.
- 9.14.4. In relation to a resolution in writing:
- (a) a document generated by electronic means which purports to be a facsimile of a resolution of a general meeting is to be treated as a resolution in writing; and
 - (b) a document being a facsimile of a signature is to be treated as signed.

10. PROXIES AND REPRESENTATIVES

10.1. Proxies and representatives of Members

- 10.1.1. At meetings of Members each Member may vote in person or by proxy or by attorney.
- 10.1.2. Subject to the terms of the appointment, a person attending as a proxy, or as the attorney of a Member, has all the powers of a Member.

10.2. Appointment of proxies

- 10.2.1. A Member may appoint another person as the Member's proxy to attend and vote instead of the Member. A proxy need not be a Member.
- 10.2.2. A document appointing a proxy must be in writing, in any form permitted by the Corporations Act and signed by the Member making the appointment.

10.3. Authority of proxies

- 10.3.1. A document appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where the document so provides, the proxy is not entitled to vote on the resolution except as specified in the document.
- 10.3.2. Except as expressly provided by the document appointing a proxy, an appointment of a proxy confers authority to do all things that the Member can do in respect of a general meeting, except that the proxy is not entitled to vote on a show of hands.

10.4. Verification of proxies

- 10.4.1. Before the time for holding the meeting or adjourned meeting at which a proxy proposes to vote, there must be deposited with the Company:
- (a) the document appointing the proxy; and
 - (b) if the appointment is signed by the appointor's attorney, the authority under which the appointment was signed or a certified copy of that authority.

- 10.4.2. Those documents must be received at the Office, at a fax number at the Office or at another place, fax number or electronic address specified for that purpose in the notice convening the meeting, not less than 24 hours before the time for holding the meeting.
- 10.4.3. If a general meeting has been adjourned, an appointment and any authority received by the Company at least 24 hours before the resumption of the meeting are effective for the resumed part of the meeting.

10.5. Validity of proxies

A proxy document is invalid if it is not deposited or produced prior to a meeting in accordance with clause 10.4.2.

10.6. Revocation of appointment of proxy

- 10.6.1. A vote given in accordance with the terms of a proxy document or power of attorney is valid despite the occurrence of any one or more of the following events if no intimation in writing of any of those events has been received by the Company at the Office before the commencement of the meeting or adjourned meeting at which the document is used:
- (a) the previous death or unsoundness of mind of the principal; or
 - (b) the revocation of the instrument or of the authority under which the instrument was executed.

11. APPOINTMENT AND RETIREMENT OF DIRECTORS

11.1. Number of Directors

The Company in general meeting may decide the number of Directors of the Company but that number must be not less than 5 and not be more than 15.

11.2. Election by general meeting

Subject to the Corporations Act, this Constitution and to the number of Directors for the time being decided under clause 11.1 not being exceeded, the Company in general meeting may elect a person to be a Director at any time by special resolution provided that a Member cannot be appointed as a Director unless that Member is

- (a) Frank P Lowy, or
- (b) one of his issue, or
- (c) entitled to chair all meetings of Members under clause 9.5.1.

11.3. Period of Office

A person shall continue to hold office as Director until he retires, is removed from office or vacates his office.

11.4. Retirement of Directors

- (a) One third of the Directors in office on 31 December 2013 must retire from office at the annual general meeting held in 2014, one third must retire at the annual general meeting held in 2015 and the balance at the annual general meeting held in 2016. Where one third of the Directors in office on 31 December 2013 is not a round number, the number to retire shall be the higher round number at the 2014 and 2015 annual general meetings with the balance at the 2016 annual general meeting; for example if there are 14 Directors in office then 5 Directors must retire at the 2014 and 2015 annual general meetings with the remaining 4 at the 2016 annual general meeting.
- (b) Each Director appointed after 31 December 2013 must retire from office at the third annual general meeting held after the Director was elected or last re-elected.
- (c) A Director may elect to retire and seek re-election at an annual general meeting before the time required by clause 11.4(a) or 11.4(b), provided at least 45 business days (or any other period as the Board may determine) before the annual general meeting the Director has given the Board notice of his or her intention to do so. If the Director gives such a notice, the Director must then retire from office at the relevant annual general meeting.
- (d) A Director who retires under this clause 11.4 is eligible for re-election provided his or her re-election is approved by the Chair of Directors.

11.5. Selection of Directors to retire

Subject to the Corporations Act, the Directors who retire under clause 11.4(a) are the Directors who have held office the longest since last being elected or appointed. If 2 or more Directors have been in office for the same period, the Chair of Directors will decide who is to retire.

11.6. Time of retirement

A Director's retirement under clause 11.4 takes effect at the end of the relevant annual general meeting unless the Director is re-elected at that meeting.

11.7. Notice of retirement

A Director may retire from office by leaving at the Office a notice in writing to the Company of that Director's intention to retire. A notice of resignation takes effect at the time which is the later of:

- (a) the time of leaving the notice at the Office; or
- (b) the expiration of the period, if any, specified in the notice.

11.8. Cessation of Director's appointment

The office of a Director automatically becomes vacant if the person who holds the office:

- (a) becomes an insolvent under administration;

- (b) is not permitted by the Corporations Act (or an order made under the Corporations Act) to be a director or vacates office by force of the Corporations Act;
- (c) becomes of unsound mind or physically or mentally incapable of performing the functions of that office;
- (d) fails to attend 3 consecutive Board meetings (not including meetings of a committee of the Board) without leave of absence from the Board;
- (e) resigns by notice in writing to the Company; or
- (f) is removed from office under clause 11.9.

11.9. Removal from office

Subject to the Corporations Act, the Company in general meeting may by special resolution remove a Director from office (whether or not a Director's appointment was expressed to be for a specified period) with effect from the passing of that special resolution.

11.10. Too few Directors

If the number of Directors is reduced below the minimum required by clause 11.1, the continuing Directors may act as the Board only:

- (a) to convene a meeting of Members; or
- (b) in emergencies approved by the person who is entitled to chair all meetings of Members under clause 9.5.1.

12. CHIEF EXECUTIVE OFFICE

12.1. Appointment

The Board may appoint a person to hold the position of Chief Executive Officer. The appointment of a Chief Executive Officer may be for the period and on the terms determined by the Board.

12.2. Powers of Chief Executive Officer

The Board may confer on a Chief Executive Officer any of the powers exercisable by it on terms and conditions and with restrictions determined by the Board from time to time. The Board may revoke, withdraw, alter or vary from time to time all of any of the powers of a Chief Executive Officer.

13. DIRECTORS' REMUNERATION

13.1. Directors fees

13.1.1. Subject to clause 13.2, the Directors (other than the Chief Executive Office) are not entitled to any fees for their services as Directors.

13.1.2. Each Director is entitled to reimbursement of his or her reasonable expenses incurred in performing the duties as a Director provided such expenses are approved by the Board.

13.2. Payment for services

- 13.2.1. Subject to clause 8, a Director who is called upon to perform extra services or to make a special exertion or to undertake executive or other work for the Company beyond or outside of the Director's ordinary duties or is engaged to provide any other service, may be paid a reasonable sum by the Company for those services, exertions or work.
- 13.2.2. Any amount referred to in clause 13.2.1 may be paid either by fixed sum or as otherwise determined by the Board.

13.3. Prior Approval by Directors

- 13.3.1. Notwithstanding anything else in this Constitution no payment of any kind which is permitted to be paid to a Director by this Constitution can be made by the Company to a Director until that payment is approved by the Directors or a majority of them.

14. POWERS OF DIRECTORS

Subject to this Constitution the business, affairs and property of the Company shall be managed by the Board, and the Board may exercise all those powers of the Company as are not, by the Corporations Act or by this Constitution, required to be exercised by the Members in general meeting or otherwise.

15. PROCEEDINGS OF THE BOARD

15.1. Convening of Board meetings

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

15.2. Proceedings of the Board

The Board may meet together for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit.

15.3. Meetings by Technology

15.3.1. If:

- (a) the Directors confer by radio, telephone, closed circuit television or other electronic means of audio or audio-visual communications,
- (b) all the Directors who for the time being are entitled to receive notice of a meeting of the Directors receive notice of the conference and have access to the means by which the conference is to take place (whether or not they use the access), and
- (c) each of the Directors taking part in the conference is able to hear each of the other Directors taking part in the conference,

then all the provisions of this Constitution relating to meetings of the Board shall apply to the conference as if such conference were a meeting of the Board and as if the Directors taking part in the conference were physically present together at a meeting, and any

resolution passed by such conference shall be deemed to have been passed at a meeting of the Board held on the day on which and at the time at which the conference was held.

- 15.3.2. The fact that a Director is taking part in the conference shall be made known to all the other Directors taking part, and no Director may disconnect or cease to have access to his or her means of communication or otherwise cease to take part in the conference unless he or she makes known to all other Directors taking part that he or she is ceasing to take part in the conference. Until a Director makes it known that he or she is ceasing to take part in the conference he or she shall be deemed to continue to be present and to continue to form part of the quorum.

15.4. Quorum at Board meetings

15.4.1. Quorum

Unless the Board decides otherwise, the quorum for a Board meeting is 3 Directors and a quorum must be present for the whole meeting. A Director is treated as present at a meeting held by any technology if the Director is able to communicate with all others attending. If a meeting is held in another way permitted by the Corporations Act, the Board must resolve the basis on which Directors are treated as present.

- 15.4.2. If the number of Directors is reduced below the number necessary for a quorum of the Board, the continuing Director or Directors may act only to appoint additional Directors to the number necessary for a quorum or to convene a general meeting of the Company. This power of appointing additional directors is in addition to the power conferred on Members by clause 11.3.

15.4.3. Majority decisions

A resolution of the Board must be passed by a majority of the votes cast by Directors present and entitled to vote on the resolution. If an equal number of votes is cast for and against a resolution the chair of the meeting has a second or casting vote unless only 2 Directors are entitled to vote or the chair of the meeting is not entitled to vote. If the chair does not have a second or casting vote, the matter is decided in the negative.

15.5. Voting at Board Meetings

Questions arising at a meeting of the Board must be decided by a majority of votes of Directors present and voting. A decision of the majority is for all purposes a decision of the Board. Each Director shall have one vote.

15.6. The Chair

- 15.6.1. The person entitled to chair all general meetings of Members shall be entitled to chair all meetings of Directors.
- 15.6.2. If a Chair has not been elected, or if at any meeting the Chair is not present within 10 minutes after the time appointed for holding the meeting or is unwilling to act, the meeting shall lapse.

15.7. Chair's vote at Board meetings

15.7.1. The Chair has a second or casting vote at meetings of the Board.

15.8. Director's contracts

15.8.1. If a Director is interested in a contract or proposed contract with the Company and the financial benefit to the Director under the contract is not prohibited by the Corporations Act:

- (a) the Director is not disqualified by holding office as Director from contracting or entering into any arrangement with the Company, whether as vendor, purchaser or otherwise;
- (b) a contract or arrangement entered into by or on behalf of the Company in which the Director is in any way, whether directly or indirectly, interested, is not liable to be avoided; and
- (c) the Director is not liable to account to the Company for a profit realised from that contract or arrangement by reason of the Director holding that office.

15.8.2. A Director and a firm in which the Director is interested may act in a professional capacity for the Company. The Director and that firm are entitled to remuneration for professional services as if the Director was not a Director of the Company.

15.8.3. Nothing in this clause authorises a Director or a firm in which the Director is interested to act as auditor of the Company.

15.9. Declaration of Interests

15.9.1. Declaration of interests

A Director must comply with the Corporations Act in relation to disclosure of interests.

15.9.2. Director interested in a matter

Each Director must comply with the Corporations Act in relation to not being present, or voting, at a Board meeting that considers a matter in which the Director has a material personal interest. Subject to the Corporations Act:

- (a) a Director may be counted in a quorum at a Board meeting that considers, and may vote on:
 - (i) any matter in which the Director has an interest; and
 - (ii) without limiting subparagraph (i), whether the Company enters into an agreement or proposed agreement in which that Director has an interest;
- (b) the Company may enter into such an agreement and the Director may participate in the execution of any relevant document by or on behalf of the Company;
- (c) the Director may be counted in a quorum at a Board meeting that considers, and may vote on, matters involving such an agreement; and
- (d) if any disclosure required under the Corporations Act is made before such an agreement is entered into:

- (i) the Director may retain benefits under the agreement even though the Director has an interest in the agreement; and
- (ii) the Company cannot avoid the agreement merely because of the existence of the Director's interest.

15.9.3. Agreements with third parties

The Company cannot avoid an agreement with a third party merely because a Director:

- (a) fails to make a disclosure required under the Corporations Act; or
- (b) is present at, or counted in the quorum for, a meeting that considers, votes on, or participates in the execution of, that agreement in breach of the Corporations Act.

15.9.4. Obligation of secrecy

Every Director and Secretary must keep the transactions and affairs of the Company and the state of its accounts confidential unless required to disclose them:

- (a) in the course of duties as an officer of the Company;
- (b) by the Board or the Company in general meeting; or
- (c) by law.

The Company may require a Director, Secretary, auditor, trustee, committee member or other person engaged by it to sign a confidentiality undertaking consistent with this clause. A Director or Secretary must do so if required by the Company.

15.10. Appointment of Alternates

A Director may not appoint a person to act as his or her alternate to attend a Board meeting or a meeting of a committee of the Board or act as a Director.

15.11. Delegation of powers to committee

15.11.1. The Board may delegate any of their powers to committees consisting of Directors or other persons as it thinks fit to act in Australia or elsewhere.

15.11.2. The exercise of a power by a committee in accordance with this Constitution is to be treated as the exercise of that power by the Board.

15.11.3. In the exercise of any powers delegated to it, a committee formed by the Board must conform to the directions of the Board.

15.12. Proceedings of committees

Except as provided in a direction of the Board, the meetings and proceedings of a committee formed by the Board is governed by the provisions of this Constitution, in so far as they are applicable, as if meetings and proceedings of the committee were meetings and proceedings of the Board.

15.13. Validity of acts of the Board

All acts done by a meeting of the Board or of a committee of Directors or other persons are valid even if it is later discovered that there is a defect in the appointment of a person to be a Director or a member of the committee or that they or any of them were disqualified or were not entitled to vote.

15.14. Minutes

15.14.1. The Board must cause minutes of all proceedings of general meetings, of meetings of the Board and of committees formed by the Board to be entered after the relevant meeting is held, in books kept for the purpose.

15.14.2. The Board must cause all minutes, except resolutions in writing treated as determinations of the Board, to be signed by the Chair of the meeting at which the proceedings took place or by the Chair of the next succeeding meeting.

15.15. Resolution in writing

A resolution in writing signed by all Directors, excluding Directors who have been given leave of absence, is to be treated as a determination of the Board passed at a meeting of the Board duly convened and held.

15.16. Form of resolution in writing

15.16.1. A resolution in writing may consist of several documents in like form, each signed by one or more Directors and if so signed it takes effect on the latest date on which a Director signs one of the documents.

15.16.2. In relation to a resolution in writing:

- (a) a document generated by electronic means which purports to be a facsimile of a resolution of the Board is to be treated as a resolution in writing; and
- (b) a document bearing a facsimile of a signature is to be treated as signed.

15.17. Notice of Board meeting

- (a) The convenor of each Board meeting:
 - (i) must give reasonable notice of the meeting (and, if it is adjourned, of its resumption) individually to each Director.
 - (ii) May give that notice orally (including by telephone) or in writing.
- (b) Each Director must notify to the Company an address in Australia and may notify a fax number or electronic address, as the Director's address to which notices of Board meetings are to be given.
- (c) Accidental failure to give notice to, or non-receipt of notice by, a Director does not result in a Board meeting being invalid.

16. ADVISORY COUNCIL

16.1. Establishment of Advisory Council

The Board may establish an Advisory Council comprising members who are resident in Australia or overseas and who, in the opinion of the Board, have the capacity and experience to make a material contribution in assisting the Company to achieve one or more of its objectives.

16.2. Appointment and removal of Advisory Council Members

16.2.1. The members of the Advisory Council shall be appointed by the Board upon terms determined by the Board and for a fixed period (which may expire only if the person's appointment lapses as provided in clause 16.2.3).

16.2.2. The person shall cease to be a member of the Advisory Council immediately upon the expiration of the period of his appointment or earlier upon the lapsing of his appointment.

16.2.3. The Board may at any time by notice in writing to any Advisory Council Member notify him or her that from a nominated date his membership of the Advisory Council shall lapse. The Board is not required to give to the Advisory Council Member reasons for the decision.

16.3. Role of Advisory Council

16.3.1. The role of Advisory Council is to be a body of Advisory Council Members who are available to assist, advise and make recommendations to the Board from time to time in relation to matters on which the Board seeks the assistance, advice or recommendations of one or more Advisory Council Members.

16.3.2. Advisory Council Members may provide the Board with access to persons who individually, or on occasions if thought appropriate collectively, may be called upon to advise, assist or make recommendations to the Board.

16.3.3. The Board may from time to time seek advice, assistance or recommendations on any matter from any one or more Advisory Council Members without reference to other Advisory Council Members.

16.4. Chair of Advisory Council

The Chair of the Advisory Council shall be the person entitled to chair all meetings of Directors unless otherwise determined by that Chair.

16.5. Meetings of Advisory Council

The Board may call meetings of the Advisory Council. A quorum shall be 3 Advisory Council Members. Advisory Council Members may meet with the assistance of technology in the same way as Directors may meet pursuant to clause 15.3, and may pass a resolution without a meeting in the manner provided for in clause 15.15.

16.6. Committees of Advisory Council

The Advisory Council shall have the same power to delegate any of their powers and functions to a committee consisting of Advisory Council Members or other persons in the same way as the Directors can delegate to a committee pursuant to clause 15.11.

16.7. Advisory Council Members not Directors

An Advisory Council Member who has not been appointed as a Director shall not by reason of being an Advisory Council Member be a director of the Company nor be held out as, or be deemed to be held out as a director of the Company and shall not be personally liable as a director of the Company or otherwise.

16.8. Remuneration of Advisory Council Members

The Board may remunerate each Advisory Council Member in accordance with the agreement reached with him or her (including the reimbursement of all agreed expenses).

17. SECRETARY

The Board may appoint one or more Secretaries and may at any time terminate the appointment or appointments. The Board may determine the terms and conditions of appointment of a Secretary, including remuneration. Any one of the Secretaries may carry out any act or deed required by this Constitution, the Corporations Act or by any other statute to be carried out by the Secretary of the Company.

18. INDEMNITY AND INSURANCE

18.1. Indemnity

Subject to and so far as may be permitted under applicable law, the Company may:

- (a) indemnify any officer or employee of the Company or any of its wholly-owned subsidiaries, or its auditor, or an Advisory Council Member against all Liabilities incurred as such an officer, employee, auditor or Advisory Council Member to a person including a Liability incurred as a result of appointment or nomination by the Company or wholly-owned subsidiary as a trustee or as an officer or employee of another corporation;
- (b) make a payment (whether by way of advance, loan or otherwise) in respect of legal costs incurred by an officer or employee or auditor in defending an action for a Liability incurred as such an officer, employee, auditor or Advisory Council Member or in resisting or responding to actions taken by a government agency, a duly constituted Royal Commission or other official inquiry, a liquidator, administrator, trustee in bankruptcy or other authorised official.

In this clause, “Liabilities” means liabilities of any kind (whether actual or contingent and whether fixed or unascertained) and includes costs, damages and expenses, including costs and expenses incurred in connection with any investigation or inquiry by a government agency, a duly constituted Royal Commission or other official inquiry, a liquidator, administrator, trustee in bankruptcy or other authorised official.

18.2. Insurance

The Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a director or secretary of the Company or Advisory Council Member against liability incurred by the person in that capacity, including a liability for legal costs, unless:

- (a) the Company is forbidden by statute to pay or agree to pay the premium; or
- (b) the contract would, if the Company paid the premium, be made void by statute.

18.3. Former officers

The indemnity in favour of officers under clause 18.1 applies in respect of all acts done by a person while an officer of the Company or one of its subsidiaries even though the person is not an officer:

- (a) at the time the claim is made; or
- (b) at the date of adoption of this constitution.

18.4. Deeds

Subject to applicable law, where the Board considers it appropriate to do so, the Company may bind itself in any contract or deed with any officer or employee of the Company or wholly-owned subsidiary or Advisory Council Member to indemnify the officer or employee or Advisory Council Member and to enter into and pay premiums on contracts insuring the officer or employee or Advisory Council Member against liability.

18.5. No limitation on other rights

This clause 18 does not limit any other rights of a person or the powers of the Company to indemnify any person or to do anything else which it may do under applicable law.

19. SEALS AND EXECUTION OF DOCUMENTS

19.1. Custody of Seal

The Board may provide for a common seal of the Company and for its safe custody.

19.2. Execution of documents

19.2.1. The Company may execute a document by affixing the Seal to the document where the fixing of the Seal is witnessed by:

- (a) 2 Directors;
- (b) a Director and the Secretary; or
- (c) a Director and some other person appointed by the Board for the purpose.

19.2.2. The Company may execute a document without the use of a seal if the document is signed by:

- (a) 2 Directors;
- (b) a Director and the Secretary; or
- (c) a Director and some other person appointed by the Board for the purpose.

19.3. Official seals

The Company may have for use in place of the Seal outside the jurisdiction where the Seal is kept one or more official seals, to be used in accordance with procedures approved by the Board.

20. SURPLUS ASSETS ON WINDING UP OR DISSOLUTION

20.1. Company winding up or dissolution

Upon the winding up or dissolution of the Company, any remaining property after satisfaction of all debts and liabilities, will not be paid to or distributed among the Members, but will be given or transferred to some other institution or company determined by the Members at or before the time of winding up or dissolution of the Company and, in default of any determination, by the Supreme Court of New South Wales, Australia which:

- (a) has objectives similar to the objectives of the Company; and
- (b) whose constituent documents prohibit the distribution of its income and property among its Members on terms substantially to the effect of clause 8;

21. ACCOUNTS, AUDIT AND RECORDS

21.1. Accounts

The Board must cause proper accounting and other records to be kept in accordance with the Corporations Act. The Board must distribute copies of every profit and loss account and balance sheet (including every document required by law to be attached thereto) as required by the Corporations Act.

21.2. Audit

A registered company auditor of the Company must be appointed. The remuneration of the auditor must be fixed and the auditor's duties regulated in accordance with the Corporations Act.

21.3. Rights of Inspection

Subject to the Corporations Act, the Board may determine whether and to what extent, and at what times and places and under what conditions, the accounting records and other documents of the Company or any of them are open to the inspection of Members (other than Directors) and a Member (other than a Director) does not have the right to inspect any document of the Company except as provided by law or authorised by the Board or the Company in general meeting.

22. INADVERTENT OMISSION

If some formality required by this Constitution is inadvertently omitted or is not carried out the omission does not invalidate any resolution, act, matter or thing which but for the omission would have been valid unless it is proved to the satisfaction of the Board that the omission is contrary to the interests of the Company as a whole, oppressive to, unfairly

prejudicial to, or unfairly discriminatory against, a Member or Members. The decision of the Board is final and binding on all Members.

23. RULES

23.1. Power to formulate rules of the Company

Without limiting the Board's powers under this Constitution, the Board may from time to time pass resolutions to make regulations and rules relating to;

- (a) the qualifications of Members and applicants for membership;
- (b) the procedure and timing of an application for admission;
- (c) procedure for nomination of Directors;
- (d) the delegation by the Board of its powers to committees;
- (e) the powers, role and function of any executive or Directors (including the terms of appointment of any Executive Director);
- (f) any other matter not being inconsistent with this Constitution which relates to the operations or conduct of the Company.

23.2. Inconsistency

In the event of any inconsistency between rules or regulations formulated pursuant to clause 23.1 and the provisions of this Constitution, the latter shall prevail.

24. NOTICES

24.1. Persons authorised to give notices

24.1.1. A notice by either the Company or a Member in connection with this Constitution may be given on behalf of the Company or Member by a solicitor, Director or company secretary of the Company or Member.

24.1.2. The signature of a person on a notice given by the Company may be written, printed or stamped.

24.2. Method of giving notices

In addition to the method for giving notices permitted by statute, a notice by the Company or a Member in connection with this Constitution may be given to the addressee by:

- (a) delivering it to a street address of the addressee; or
- (b) sending it by prepaid ordinary post (airmail if outside Australia) to a street or postal address of the addressee; or
- (c) sending it by facsimile or e-mail to the facsimile number or e-mail address of the addressee.

24.3. Addresses for giving notices to Members

- 24.3.1. The street address or postal address of a Member is the street or postal address of the Member shown in the Register.
- 24.3.2. The facsimile number or e-mail address of a Member is the number which the Member may specify by written notice to the Company as the facsimile number or e-mail address to which notices may be sent to the Member.

24.4. Address for giving notices to the Company

- 24.4.1. The street and postal address of the Company is the Office.
- 24.4.2. The facsimile number or e-mail address of the Company is the number which the Company may specify for the time being by written notice to the Members as the facsimile number or email address to which notices may be sent to the Company.

24.5. Time notice of meeting is given

A notice of meeting given in accordance with this Constitution is to be taken as given, served and received:

- (a) if delivered in writing to the street address of the addressee, at the time of delivery; or
- (b) if it is sent by post to the street or postal address of the addressee, on the business day after posting; or
- (c) if sent by facsimile or email to the facsimile number or email address of the addressee, at the time transmission is completed.

24.6. Time other notices are given

A notice given in accordance with this Constitution is to be taken as given, served and received:

- (a) if delivered in writing to the street address of the addressee, at the time of delivery; or
- (b) if it is sent by post to the street or postal address of the addressee, on the second (fifth if outside Australia) business day after posting; or
- (c) if sent by facsimile or email to the facsimile number or email address of the addressee, at the time transmission is completed.

24.7. Proof of giving notices

The sending of a notice by facsimile or e-mail and the time of completion of transmission may be proved conclusively by production of;

- (a) a transmission report by the facsimile machine from which the notice was transmitted which indicates that a facsimile of the notice was sent in its entirety to the facsimile number of the addressee; or

- (b) a print out of an acknowledgment of receipt of the e-mail.

24.8. Persons entitled to notice of meeting

Notice of every general meeting must be given by a method authorised by this Constitution to every Member and every other person to whom notice is required to be given by the Corporations Act. No other person is entitled to receive notices of general meetings.

25. INTERPRETATION

25.1. References to law and the Constitution

A reference to:

- (a) any legislation includes any regulation or instrument made under it and where amended, re-enacted or replaced means that amended, re-enacted or replacement legislation; or
- (b) this Constitution means this Constitution as amended from time to time.

25.2. Presumptions of interpretation

25.2.1. Unless the context otherwise requires a word which denotes:

- (a) the singular denotes the plural and vice versa;
- (b) any gender denotes the other genders; and
- (c) a person denotes an individual and a body corporate.

25.2.2. Where a word or phrase is given a defined meaning any other part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.

25.3. Replaceable rules

Each of the provisions of the Corporations Act which would but for this clause apply to the Company as a replaceable rule within the meaning of the Corporations Act are displaced and do not apply to the Company.

25.4. Exercise of powers

Except as specifically contemplated to the contrary in this Constitution, the Company may, in any manner permitted by the Corporations Act:

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

which under the Corporations Act a company limited by guarantee may exercise, take or engage in if authorised by its Constitution.

25.5. Headings and table of contents

Headings and any table of contents must be ignored in the interpretation of this Constitution.

25.6. References to and calculations of time

25.6.1. Unless the context otherwise requires a reference to a time of day means that time of day in the State or Territory in Australia in which the Office is situated.

25.6.2. For the purposes of determining the length of a period (but not its commencement) a reference to:

- (a) a day means a period of time commencing at midnight and ending 24 hours later; and
- (b) a month means a calendar month which is a period commencing at the beginning of a day of one of the 12 months of the year and ending immediately before the beginning of the corresponding day of the next month or, if there is no such corresponding day, ending at the expiration of that next month.

25.6.3. Where a period of time is specified and is to be calculated before or after a given day, act or event it must be calculated without counting that day or the day of that act or event.

25.6.4. A provision of this Constitution (except that specifying the time for deposit of proxies with the Company) which has the effect of requiring anything to be done on or by a date which is not a business day must be interpreted as if it required it to be done on or by the next business day.

25.7. Business day

A reference to a business day means a day which banks are open for general banking business in the State or Territory in Australia in which the Office is situated.

26. PUBLIC FUND

26.1. Public Fund of the Institute

26.1.1. The Institute shall maintain a public fund to solicit and receive gifts towards the carrying out of the objectives of the Institute.

26.1.2. The general public will be invited to make gifts to the Institute for the purpose of carrying out the objectives of the Institute.

26.1.3. The Institute must establish an appropriate banking account to hold all gifts received by the Institute. This account must contain only money or property which is a gift to the Institute or which is received because of such gifts including, without limitation, interest received on any monies in the account.

26.1.4. Any receipt given by the Institute for a gift must be issued in the name of the Institute.

26.2. Public Fund Management Committee

- 26.2.1. The Board shall establish a Public Fund Management Committee to administer the public fund of the Institute.
- 26.2.2. The Public Fund Management Committee must comprise at least three members, a majority of whom have a degree of responsibility to the general community by reason of their occupation or standing in the community.
- 26.2.3. The members of the Public Fund Management Committee will be appointed by the Board upon terms determined by the Board.
- 26.2.4. A person shall cease to be a member of the Public Fund Management Committee upon the expiration of any period of his appointment under 26.2.3 or earlier by notice in writing from the Board to the member notifying him or her that from a nominated date his or her membership of the Public Fund Management Committee shall lapse. The Board is not required to give to the Public Fund Management Committee member reasons for the decision.

26.3. Not for Profit

- 26.3.1. The assets and income of the public fund shall be applied solely in furtherance of the Institute's objectives as set out in clause 3 and no portion shall be distributed directly or indirectly to any member of the Public Fund Management Committee or of the Board or any Member except as bona fide compensation for services rendered or expenses incurred by or on behalf of the Institute.
- 26.3.2. In the event of the public fund being wound up, any surplus assets remaining after the payment of the Institute's liabilities shall be transferred to another organisation or fund with similar purposes to which income tax deductible gifts can be made.

26.4. Australian Taxation Office to be Notified of Changes to this Constitution

- 26.4.1. The Board must notify the Australian Taxation Office of any alteration made to the Constitution of the Institute.