



AUSTRALIAN STEEL INSTITUTE

**CONSTITUTION OF AUSTRALIAN STEEL INSTITUTE LTD**  
**(ACN 000 973 839)**

**A COMPANY LIMITED BY GUARANTEE**

**THIS IS THE CONSTITUTION OF AUSTRALIAN STEEL INSTITUTE LTD**  
**(AS ADOPTED WITH EFFECT FROM NOVEMBER 2012).**

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# The Company's Purpose

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## 1 What is the purpose of the Company

### 1.1 Purpose

The purpose of the Company is to promote the development of Australian industrial and manufacturing resources in the complete Australian steel value chain.

### 1.2 Pursuit of purpose

In pursuing its purpose (but without limiting its purpose in any way), the Company may do all of the things set out in paragraphs (a) to (e).

- (a) **(Promotion and advocacy)** The Company may promote and advocate:
  - (i) for the profitable growth of the complete Australian steel value chain;
  - (ii) for Australian made steel as the material of choice in construction and other strategic markets;
  - (iii) for the enhanced competitiveness of the Australian steel industry and its members;
  - (iv) for the protection and welfare of the Members as a whole and of the Australian steel industry generally through an independent voice and representation in relation to a range of relevant issues;
  - (v) for matters that assist in achieving a safer, more productive and sustainable Australian steel manufacturing and design industry;
  - (vi) for reasonable and just legislation and regulations so far as they affect Members and the Australian steel industry generally; and
  - (vii) for educational, research and training activities and resources relevant to Members as a whole.
- (b) **(Work with other bodies)** The Company may enter into reciprocal and other working arrangements with any body having objectives not incompatible with those of the Company.
- (c) **(Charities)** The Company may aid and support, whether financially or otherwise, charities and institutions of a public character.
- (d) **(Provide services and products)** Ancillary to, and to the extent not inconsistent with the Company's purpose, the Company may provide to its Members:
  - (i) products, including (without limitation) books for sale, magazines (for example, *steel Australia*), steel construction journals and other collateral used in the promotion of the Company's purpose; and
  - (ii) services, including (without limitation) educational seminars and workshops of a technical and/or business nature, forums, library services, listings in industry directories maintained by the Company (for example, <http://steel.org.au/>), lobbying and advocacy and provision of networking events (for example, the Australian Steel Convention); and
  - (iii) any other products and services as the directors may from time to time determine.
- (e) **(General)** The Company may:
  - (i) do anything else permitted by the law to pursue and implement the Company's purpose; and
  - (ii) do anything incidental to its purpose, or to the pursuit of its purpose.

## Membership of the Company

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### 2 Becoming a Member

#### 2.1 How to become a Member

A person may become a Member if:

- (a) they have agreed to become a Member in a Membership Class (whether alone or jointly with another person or persons); and
- (b) they have satisfied the conditions of Membership in that Membership Class as the directors may from time to time decide.

#### 2.2 When a person becomes a Member

A person becomes a Member once their name is entered in the Register.

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### 3 Classes of Members

#### 3.1 Classes

Subject to clause 3.2, The Company has twelve classes of Members:

- (a) **Manufacturer Members:** for entities engaged in Australia in the manufacturing or finishing of steel products;
- (b) **Service Centre Members:** for entities engaged in the steel service centre industry in the business of warehousing, selling and distributing steel products and that are appointed a distributor of one or more Manufacturer Members;
- (c) **Fabricator Members:** for entities engaged in the fabrication of steel structures, vessels, pipelines or any other form of steel fabrication;
- (d) **Associate Members:** for entities engaged in supplying equipment, consumables and/or services to Manufacturer Members, Service Centre Members or Fabricator Members;
- (e) **Professional Members:** for entities engaged in structural engineering, steel detailing, architecture, quantity surveying and/or project management;
- (f) **Individual Members:** for natural persons with an interest in the use of steel;
- (g) **Academic Members:** for schools of engineering, architecture or building at an Australian university or college furthering the steel industry as part of their curricula;
- (h) **Student Members:** for natural persons enrolled in a course of study associated with steel at a university or college;
- (i) **Sustaining Members:** for entities providing continued substantial financial support to the Company through payment of Membership Fees in a substantial amount as the directors determine for each such entity from time to time;
- (j) **Steel Shed Group Members:** comprising the following sub-classes of Members:
  - (i) **Manufacturer:** for entities engaged in Australia in the manufacturing or finishing of steel sheds;

- (ii) Reseller: for entities that are licensed, appointed or otherwise engaged (including, without limitation, as franchisees) to sell sheds and other like structures on behalf of a Member in the Steel Shed Group Manufacturer sub-class;
  - (iii) Associate: for entities engaged in supplying equipment, consumables and/or services to Members in the Steel Shed Group Manufacturer sub-class; and
  - (iv) Professional: for entities engaged in structural engineering, steel detailing, architecture, quantity surveying and/or project management in relation to steel sheds;
- (k) **Steel Storage Manufacturer Members:** for large, medium and small sized entities engaged in Australia in the manufacturing or finishing of products used for the storage of steel and/or steel products;
- (l) **Steel Stewardship Forum Members:** comprising the following sub-classes of Members:
- (i) Corporate: for entities involved in one or more aspects of the business of steel manufacture, distribution and sale, design, use, collection and recycling of end of use and end of life or waste management of steel components. This Membership sub-class itself comprises three sub-classes, being 'Sponsor', 'Member' and 'Associate'; and
  - (ii) Affiliate: for government instrumentalities, non-government organisations, not-for-profit organisations, company or industry associations engaged or interested in the activities of the Steel Stewardship Forum.

### 3.2 Additional classes

The directors may from time to time establish additional classes or sub-classes of Members and may make such provisions for the grant and conditions of Membership in those additional classes or sub-classes.

### 3.3 Members shall belong to one class

A Member may belong to only one class or sub-class of Members.

### 3.4 Natural person Members must be at least 18 years

A natural person must be at least 18 years of age to be a Member in a relevant Membership Class.

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## 4 Rights and obligations of a Member

### 4.1 Rights of a Member

A Member has the rights set out in paragraphs (a) to (d).

- (a) **(Constitution and other rules)** A Member has the rights given to a Member under this constitution and under any other rules the directors from time to time decide.
- (b) **(Services)** Subject to clause 4.3, a Member has the right to subscribe for and enjoy those Services as the directors from time to time decide.
- (c) **(General meeting)** Subject to clause 4.3, a Member (other than a Student Member) has the right, at a general meeting of the Company:
  - (i) to attend and speak; and
  - (ii) to one vote both on a show of hands and on a poll.
- (d) **(Voting method at general meeting)** A Member entitled to vote at a general meeting of the Company may vote:

- (i) in person or, where the Membership is held by a body corporate, by its Representative;
- (ii) by proxy; or
- (iii) by attorney.

A proxy, attorney or Representative may, but need not, be a Member. A proxy may be an individual or a body corporate.

#### 4.2 Obligations of a Member

A Member has the obligations in paragraphs (a) to (c).

- (a) **(Constitution and other rules)** A Member must comply with this constitution and any other rules the directors from time to time decide.
- (b) **(Pay Application Fee)** A Member must pay the application fee for Membership as the directors from time to time decide.
- (c) **(Pay Membership Fees)** A Member must pay an annual membership fee as the directors decide for the Membership Class of which the Member is a Member. Unless the directors otherwise determine, a Membership Fee must be paid by a Member on or before 1 July in each calendar year or, for a Member who becomes a Member part way through a year, as at the time the Member becomes a Member.

#### 4.3 Suspension of rights

A Member that is more than 30 days in arrears for payment of Membership Fees shall not be entitled to:

- (a) access or enjoy any Services;
- (b) receive notices of meetings of Members, attend, vote or be counted in any quorum at such meetings, vote in any ballot or exercise any other rights of a Member; or
- (c) without limiting the requirement for the Company's written consent under clause 4.4, do any of the things referred to in clause 4.4(a) or (b)

for so long as those Membership Fees remain unpaid.

#### 4.4 Permission required to use the Company name

Before doing either of the following, a Member must have the Company's written consent:

- (a) publishing or exhibiting in any place, any document, notice or sign which, in each case, is either in the nature of advertising or intimates to the public that the person is under the Company's auspices or patronage; or
- (b) making use of the letters "ASI" or the name "Australian Steel Institute" or any combination of letters or names similar to, resembling, or likely to be mistaken for or confused with the name of the Company.

#### 4.5 Member's contributions if the Company is wound up

A Member undertakes to contribute up to \$20.00 to the property of the Company if the Company is being wound up while they are a Member or at any time before one year after they cease to be a Member. This section excludes those Members that are Students, Academics and Complimentary. Their contribution is to be used:

- (a) to pay the debts and liabilities of the Company contracted before they cease to be a Member;
- (b) to pay the costs, charges and expenses of winding up; and
- (c) to meet any other requirements set out in the Act.

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## **5 Ceasing to be a Member**

### **5.1 Resignation**

At any time, a person may resign as a Member by writing to the Company. The resignation is effective on the later of when the Company receives it and the time set out in the resignation.

### **5.2 Cancellation of Membership by the directors**

The directors may cancel a Membership and remove the Member's name from the Register for that Membership if:

- (a) the Member fails to pay their Membership Fee in respect of a year before 30 September in that year or comply with the rules of their Membership as the directors decide within a time set by the directors;
- (b) the Member is in breach of this constitution or any other rules the directors decide;
- (c) the Member's conduct is, in the opinion of the directors, prejudicial to the interests or reputation of the Company; or
- (d) the directors decide to do so at their discretion.

### **5.3 Company to notify Member and record cancellation**

Promptly after a Membership is cancelled, the Company:

- (a) must notify the relevant Member of the cancellation; and
- (b) must record the cancellation and its date in the Register.

### **5.4 Other reasons for ceasing to be a Member**

- (a) If a Member who is a natural person dies, then their Membership automatically ceases on that date.
- (b) (Bodies Corporate) If a Member is a body corporate, the Membership automatically ceases on the date that:
  - (i) a liquidator is appointed in connection with the Member's winding up;
  - (ii) a court makes an order for the Member's winding up or deregistration; or
  - (iii) the Member is deregistered by ASIC for any other reason.

### **5.5 Consequences of ceasing to be a Member**

- (a) If a person ceases to be a Member, then they continue to be liable for:
  - (i) all Membership Fees and other amounts they owe to the Company which are due and unpaid when they cease to be a Member; and
  - (ii) amounts which they are, or may become, liable to pay the Company under clause 4.5.
- (b) **(No refunds)** If a person ceases to be a Member before the end of a term that they have paid their Membership Fees for, then the Member is not entitled to any refund of those fees.

### **5.6 Membership not transferrable**

A Member's Membership shall not be transferable to any other person.

## Conduct of Members' Meetings and Other Matters

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### 6 General meetings

#### 6.1 Annual General Meetings

- (a) The Company must hold its AGM in accordance with the Act.
- (b) The business of an AGM is:
  - (i) to receive the Company's financial statements, the directors' statement and report, and the auditor's report on the financial statements;
  - (ii) to deal with any matter of which notice of motion has been duly given;
  - (iii) to appoint the auditor (if required); and
  - (iv) to transact any other business which under this constitution or the Act ought to be transacted at an AGM.
- (c) All business transacted at an AGM, and all business transacted at other general meetings, is taken to be special business - unless it is business referred to in clause 6.1(b)(i).
- (d) Special business may be transacted at a general meeting only:
  - (i) if it is stated in the notice convening the meeting; or
  - (ii) if it is permitted or required under the Act.

#### 6.2 Calling general meetings

- (a) The directors, or the Chairperson, may call a general meeting whenever they think fit.
- (b) The directors must call and arrange to hold a general meeting if Members request them to do so in accordance with section 249D of the Act.

#### 6.3 Notice of general meetings

- (a) **(Notice required)** The Company must give a notice of a general meeting in accordance with the Act. In calculating the period of notice, neither of the following days is counted:
  - (i) the day on which the notice is given or taken to be given; or
  - (ii) the day of the meeting.
- (b) **(Content of notice)** A notice of a general meeting must:
  - (i) set out the place, date and time for the meeting – and if the meeting is to be held in two or more places, the technology that is to be used to facilitate this;
  - (ii) state the general nature of the meeting's business;
  - (iii) if a special resolution is to be proposed at the meeting, set out an intention to propose the special resolution and state the resolution;
  - (iv) contain a statement setting out the following information:
    - (A) that a Member who is entitled to attend and cast a vote at the meeting has a right to appoint a proxy; and
    - (B) that the proxy need not be a Member; and

- (v) set out any other matters required by the Act.
- (c) **(Meeting or act not invalid)** Neither a general meeting, nor any act, matter or thing done, or any resolution passed, at a general meeting is invalid if:
  - (i) The Company accidentally omits to give notice of the general meeting or a proxy form to any person; or
  - (ii) any person fails to receive notice of the general meeting or a proxy form.
- (d) **(Attendance waives certain rights)** A person's attendance at a general meeting waives any objection that person may have:
  - (i) to a failure to give notice, or the giving of a defective notice, of the meeting - unless the person at the beginning of the meeting objects to the holding of the meeting; and
  - (ii) to the consideration of a particular matter at the meeting which is not stated in the notice of the meeting - unless the person objects to considering the matter when it is presented.

#### 6.4 Cancellation, postponement and change of venue of general meetings

- (a) **(Who can cancel)** General meetings (including postponed or adjourned general meetings) may be cancelled or postponed (as the law allows) by the persons set out in paragraphs (i) to (v).
  - (i) A general meeting called by the directors, other than a general meeting called under section 249D of the Act, may be cancelled or postponed by the directors as they think fit.
  - (ii) A general meeting called by the Chairperson may be cancelled or postponed by the Chairperson as the Chairperson thinks fit.
  - (iii) A general meeting called by the directors under section 249D of the Act may only be cancelled by the directors if the Company receives either a request to do so, or a consent to it doing so, which has been signed by the number of Members who signed the request to call the meeting which is equal in number to the Minimum Cancellation Number. In this paragraph, "Minimum Cancellation Number" is calculated as follows:
    - (A) the number of Members who signed the request to call the meeting;
    - (B) minus the minimum number of Members entitled to call the general meeting under section 249D of the Act;
    - (C) plus one.
  - (iv) A general meeting called by the Members under section 249E of the Act may only be cancelled or postponed by all of the Members who called the general meeting.
  - (v) A general meeting called by the Members under section 249F of the Act may only be cancelled or postponed by all of the Members who called the general meeting.
- (b) **(Who can change the venue)** The venue for general meetings (including postponed or adjourned general meetings) may be changed (as the law allows) as follows:
  - (i) the venue for any general meeting called by the directors or the Chairperson (including a general meeting called under section 249D of the Act) may be changed by the directors; and
  - (ii) the venue for any general meeting called by the Members under section 249E or 249F of the Act may be changed by all of the Members who called the general meeting.

- (c) **(Who the notice must be given to)** A notice cancelling, postponing or changing the venue for a general meeting must be given to each Member and to every other person entitled to be given notice of that meeting under the Act or this constitution.
- (d) **(Timing of notice)** A notice cancelling, postponing or changing the venue for a general meeting must be given at least 5 clear days before the time at which the general meeting was to be held.
- (e) **(Content of notice)** A notice:
  - (i) cancelling a general meeting must state the reason for the cancellation; and
  - (ii) postponing or changing the venue for a general meeting must state:
    - (A) the reason for the postponement or change of venue; and
    - (B) the date, time and place of the general meeting or the postponed general meeting (as the case may be).
- (f) **(Costs of cancelling, postponing or changing venue)** Unless the directors decide otherwise:
  - (i) the cost of cancelling a general meeting under clause 6.4(a)(iii) must be paid for by the Members who signed the request or consent to cancel that meeting; and
  - (ii) the cost of cancelling, postponing or changing the venue for a general meeting under clause 6.4(a)(iv), 6.4(a)(v) or 6.4(b)(ii) must be paid by the Members who called that meeting.

In any other case, the cost of cancelling, postponing or changing the venue for a general meeting of the Company must be paid for by the Company.

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## 7 Proceedings at general meetings

### 7.1 Admission to general meetings

The Chair of a general meeting may take any action the Chair considers appropriate for the orderly conduct of the meeting. In exercising this power (without in any way limiting any other powers of the Chair), the Chair may expel or refuse admission to a person who:

- (a) behaves or threatens to behave in a dangerous, offensive or disruptive manner; or
- (b) is not:
  - (i) a Member who is entitled to attend the general meeting, or their proxy, attorney or Representative; or
  - (ii) a director, officer or an auditor of the Company.

### 7.2 Holding a general meeting at two or more places

- (a) **(Holding meeting at multiple places allowed)** The Company may hold a general meeting at two or more places using any technology which gives the Members as a whole a reasonable opportunity to participate.
- (b) **(Technology requirements)** The technology used to hold a meeting in two or more places must, as a minimum, allow:
  - (i) every Member attending the meeting to hear each person who addresses the meeting;
  - (ii) every person who addresses the meeting to simultaneously address each of the Members attending the meeting; and

- (iii) the Chair to be aware of the proceedings in the other places at which the Chair is not present.
- (c) **(Quorum for meeting held at multiple places)** At a meeting held in two or more places using technology, a quorum is taken to be present if the minimum number of Members required to form a quorum specified in clause 8.3 is present in aggregate in all of the places at which the meeting is held.
- (d) **(Official venue)** A meeting held in two or more places using technology is taken to be held at the place at which the Chair is present.
- (e) **(Handling technical difficulties)** If, either before or during the meeting, any technical difficulty causes one or more of the matters set out in clause 7.2(a) or 7.2(b) to be not satisfied:
  - (i) the Chair may:
    - (A) adjourn the meeting until the difficulty is remedied; or
    - (B) continue to hold the meeting and transact business in the place where the Chair is present (and any other place which is linked under clauses 7.2(a) and 7.2(b)); and
  - (ii) no Member may object to the meeting being adjourned, being held or continuing.

### 7.3 Quorum at general meetings

A quorum must be present when business starts to be transacted at any general meeting. For all general meetings, a quorum is 10 Members who are entitled to vote. They may be present in person or by proxy, attorney or Representative. A person who is attending both as a Member and as a proxy, attorney or Representative for another Member is counted only once for determining whether a quorum is present.

### 7.4 General meeting adjourned if no quorum

- (a) If within 15 minutes after the time appointed for a general meeting to start, a quorum is not present, then the meeting:
  - (i) if called by, or at the request of, Members, is to be dissolved; or
  - (ii) if called in other case, is to stand adjourned:
    - (A) to the same day four weeks later at the same time and place; or
    - (B) to such other day, time and place as the directors may decide.
- (b) If at an adjourned meeting a quorum is not present within 15 minutes after the time appointed for the meeting to start, then the meeting is to be dissolved.

### 7.5 Chair of general meetings

- (a) The Chairperson, or in the Chairperson's absence the Vice-Chairperson, is entitled to preside as Chair at every general meeting.
- (b) The directors present may choose another director as Chair if:
  - (i) there is no Chairperson or Vice-Chairperson;
  - (ii) neither the Chairperson nor the Vice-Chairperson is present within 15 minutes after the time appointed for the meeting to start; or
  - (iii) neither the Chairperson nor the Vice-Chairperson is willing to act as Chair.

- (c) (If directors decline to act Chair) If the directors do not choose a Chair under clause 7.5(b) or if all of the directors present decline to act as Chair, then the Members present in person or by proxy, attorney or Representative must choose a Member present in person to be Chair.

## 7.6 Powers of the Chair

- (a) The Chair has the powers in paragraphs (i) to (vii).
- (i) (**Conduct**) The Chair is responsible for the general conduct of the meeting and for the procedures to be adopted at the meeting.
- (ii) (**Procedure**) The Chair may require the adoption of any procedure which is, in the Chair's opinion, necessary or desirable for:
- (A) proper and orderly debate or discussion - including limiting the time that a person present may speak on a motion or other item of business before the meeting; and
- (B) the proper and orderly casting or recording of votes at the meeting - whether on a show of hands or on a poll.
- (iii) (**Terminate discussion**) The Chair may, subject to the Act, terminate discussion or debate on any matter whenever the Chair considers it necessary or desirable to do so for the proper conduct of the meeting.
- (iv) (**Refuse discussion**) The Chair may refuse to allow debate or discussion on any matter which is not within the business in the notice of meeting or clause 6.1(b).
- (v) (**Refuse amendment**) The Chair may refuse to allow any amendment to be moved to a resolution of which notice has been given under clause 6.3.
- (vi) (**Postpone**) The Chair may, without limiting the rights under clause 6.4, postpone the meeting before it has started (whether or not a quorum is present) if at the time and place appointed for the meeting, the Chair considers that:
- (A) there is not enough room for the number of Members who wish to attend the meeting; or
- (B) a postponement is necessary - in light of the behaviour of the people present, or for any other reason - so that the business of the meeting can be properly carried out.
- (vii) (**Time, place and venue of postponed meeting**) The Chair may decide the time, place and venue of a meeting postponed under clause 7.6(a)(vi).
- (b) Nothing in this clause 7.6 is to be taken to limit the powers that the law confers on the Chair.

## 7.7 Adjournments if quorum present

- (a) At a general meeting at which a quorum of Members is present, the Chair has the power to adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting. The Chair can adjourn each of those things either to a later time at the same meeting or to an adjourned meeting.
- (b) The Members cannot direct the Chair to adjourn any of the things mentioned in clause 7.7(a).
- (c) The Chair is to decide the time, place and venue for an adjourned meeting.
- (d) The only business that may be transacted at any adjourned meeting is the unfinished business of the initial meeting.

## **7.8 Adjournment for one month or more**

If a meeting is adjourned for one month or more, then notice of the adjourned meeting must be given in accordance with clause 6.3. The notice must set out the unfinished business of the initial meeting. It does not need to set out anything else.

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## **8 Decisions of general meetings**

### **8.1 Resolutions to be passed by majority**

- (a) A resolution (unless the law requires it to be passed by a special majority) on a question arising at a general meeting is decided by a majority of votes cast by the Members present in person or by proxy, attorney or Representative, on a show of hands or on a poll, as the case may be.
- (b) For all purposes (other than where a special majority is required) a majority vote is a decision of the Members.

### **8.2 Chair's casting vote**

If there is an equality of votes (whether on a show of hands or on a poll) the Chair is entitled to a casting vote. That casting vote is in addition to any votes the Chair is entitled to as a Member or as the proxy, attorney or Representative of a Member.

### **8.3 Demand for a poll**

- (a) At any general meeting, a resolution put to the vote of the meeting is decided on a show of hands unless a poll is demanded:
  - (i) by the Chair;
  - (ii) by at least five Members entitled to vote on the resolution; or
  - (iii) by Members with at least 5% of the votes that may be cast on the resolution on a poll (the percentage having been calculated as at the midnight before the poll is demanded).
- (b) A poll may be demanded:
  - (i) before a vote is taken;
  - (ii) before the voting results on a show of hands are declared; or
  - (iii) immediately after the voting results on a show of hands are declared.

### **8.4 Chair's declaration of result conclusive**

If the Chair declares the result of a vote on a show of hands on a resolution and an entry to that effect is made in the book containing the minutes of the proceedings of the Company, then that is conclusive evidence of the result - unless a poll is demanded in accordance with clause 8.3 and the demand is not withdrawn. There does not need to be any other proof of the number or proportion of the votes recorded in favour of or against the resolution.

### **8.5 Conduct of poll and other business**

- (a) If a poll is demanded at a general meeting, then the Chair is to decide the manner and the time and place at which it is to be taken.
- (b) The result of the poll is taken to be the resolution of the meeting at which the poll was demanded.
- (c) After a demand for a poll, the meeting can continue to transact any business other than the question on which a poll has been demanded.

**8.6 Withdrawal of demand for a poll**

The demand for a poll may be withdrawn.

**8.7 Validity of votes**

An objection as to the validity of any vote can be made only at the meeting or adjourned meeting or poll at which the vote is tendered. Every vote not disallowed at the meeting or poll is valid. The Chair's decision as to whether a vote is allowed is final and conclusive.

**8.8 Dispute**

The Chair is to decide any dispute as to the validity, admission or rejection of a vote on a show of hands or on a poll. That determination is final and conclusive.

**8.9 Discretion to permit direct voting**

The directors may decide that a Member who is entitled to vote on a resolution at a meeting is entitled to a direct vote in respect of that resolution. A "direct vote" includes a vote delivered to the Company by post, fax or other electronic means approved by the directors. The directors may prescribe rules about direct voting - including specifying the form, method and timing of giving a direct vote for the vote to be valid.

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**9 Members' Representatives at general meetings**
**9.1 Representative of more than one Member**

If a person present at a general meeting represents (as proxy, attorney or Representative) more than one Member, then:

- (a) on a show of hands:
  - (i) the person is entitled (unless the person is prohibited from voting under clause 9.6(g)) to one vote only regardless of the number of Members the person represents; and
  - (ii) that vote is cast for all the Members the person represents;
- (b) on a poll taken on a resolution, the person is entitled to one vote for each Membership of each Member that the person represents (except where the person is directed to abstain from voting on the resolution); and
- (c) the person must not exercise that vote in a way that would contravene any directions given to the person in any instrument appointing the person as a proxy, attorney or Representative.

**9.2 Votes of Member of unsound mind**

A Member of unsound mind, or whose person or estate is liable to be dealt with in any way under the law relating to mental health, may vote, regardless of anything else in this constitution. They may do so on a show of hands or on a poll by their committee, by any person who properly has the management of the Member's estate or by the Public Trustee. Any such committee, person or trustee may vote by proxy, attorney or Representative.

**9.3 Appointment of Representative or attorney**

- (a) If a Member that is a body corporate provides a certificate evidencing the appointment of its Representative or provides a power of attorney, then the Member must sign the relevant document in accordance with section 127 of the Act, or by its officer or attorney duly authorised in writing.
- (b) Although a Member may appoint more than one Representative, only one of them may exercise that Member's powers at any one time. For the purposes of attending and voting at general meetings, the first Representative to register at the meeting is recognised as the Member's Representative at that meeting.

#### 9.4 Form of proxy

- (a) Subject to clauses 9.4(b) and (c), an instrument appointing a proxy is valid if it is in accordance with the Act or in any form the directors prescribe or approve.
- (b) If sent by post or fax, the instrument appointing a proxy must be signed:
  - (i) by the Member making the appointment or the Member's attorney duly authorised in writing; or
  - (ii) if the Member is a body corporate, then in accordance with section 127 of the Act, or by its officer or attorney duly authorised in writing;
- (c) If sent by electronic transmission, an instrument appointing a proxy is taken to have been signed if it has been authorised or authenticated by the Member making the appointment in the manner the directors approve or as specified in the notice of meeting.

#### 9.5 Lodgement of proxy or attorney documents

- (a) A proxy or attorney may vote at a general meeting or adjourned or postponed meeting (as the case may be) only if the instrument appointing the proxy or attorney, and the original or a certified copy of the power of attorney or other authority (if any) under which the instrument is signed, are received by the Company:
  - (i) at the Office, the fax number at the Office or at such other place, fax number or electronic address specified for that purpose in the notice of meeting; and
  - (ii) at least 48 hours before the scheduled commencement time for the meeting or adjourned or postponed meeting (as the case may be) at which the person named in the instrument proposes to vote. The scheduled commencement time is as specified in the notice of meeting or as declared by the Chair (as the case may be).
- (b) An undated proxy is taken to be dated on the day that it is received by the Company.

#### 9.6 Authority given by appointment

- (a) **(Authority)** Unless the terms of the appointment specify to the contrary, an appointment confers authority on a proxy, attorney or Representative:
  - (i) to agree to a general meeting being convened by shorter notice than is required by the Act or by this constitution;
  - (ii) to speak to any proposed resolution on which the Member may vote; and
  - (iii) to demand or join in demanding a poll on any resolution on which the Member may vote.
- (b) **(Other resolutions)** Unless the terms of the appointment specify to the contrary, even if the instrument of appointment refers to specific resolutions and directs the proxy, attorney or Representative on how to vote on those resolutions, the appointment is taken to confer authority:
  - (i) to 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) to vote on any procedural motion; and
  - (iii) to act generally at the meeting.
- (c) **(Postponed or adjourned meeting)** Unless the terms of the appointment specify to the contrary, if the instrument of appointment refers to a specific meeting to be held at a specified time or venue and the meeting is postponed or adjourned or changed to another venue, then the appointment confers authority to attend and vote:
  - (i) at the postponed or adjourned meeting; or
  - (ii) at the new venue.

- (d) **(Standing proxy)** An appointment of a proxy may be a standing proxy - that is the appointment under the proxy remains valid until it is revoked by the Member that made the appointment.
- (e) **(Appoint Chair)** The instrument appointing a proxy may provide for the Chair to act as proxy in the absence of any other appointment or if the person or persons nominated fail or fails to attend the meeting.
- (f) **(Direct proxy how to vote)** The instrument appointing a proxy may direct the manner in which the proxy is to vote in respect of a particular resolution.
- (g) **(Proxy for more than one person may not vote on a show of hands)** If a proxy is appointed to vote on a particular resolution by more than one Member and the instruments appointing the proxy direct the proxy to vote on the resolution in different ways, then the proxy must not vote on a show of hands taken on the resolution.

### 9.7 Default appointment of Chair as proxy

The Chair is taken to be appointed as the proxy of a Member (regardless of anything to the contrary in the instrument or resolution of appointment) to vote on the Member's behalf and in accordance with the Member's direction on a poll taken on a resolution if:

- (a) the proxy, attorney or Representative appointed by the Member is not the Chair and is directed to abstain from voting on the resolution, or to vote either for or against the resolution;
- (b) at the time of voting on the resolution, the appointment of the proxy, attorney or Representative remains in force; and
- (c) the proxy, attorney or Representative appointed by the Member:
  - (i) does not vote as directed by the instrument or resolution of appointment on the poll on the resolution;
  - (ii) fails to vote on the poll on the resolution when the instrument or resolution of appointment directs that they should vote in a certain way; or
  - (iii) votes on the poll on the resolution when the instrument or resolution of appointment directs that they should abstain from voting.

### 9.8 Validity

- (a) A vote cast in accordance with the terms of an instrument of proxy or power of attorney is valid even if before the vote was cast the Member that made the appointment of the proxy or attorney:
  - (i) died;
  - (ii) became of unsound mind;
  - (iii) revoked the proxy or power;
  - (iv) revoked the authority under which the proxy was appointed by a third party; or
  - (v) ceased to be a Member.
- (b) However, clause 9.8(a) does not apply if written notification of the relevant event is received at the Office before the start or resumption of the meeting at which the instrument is used or the power is exercised. The Chair's decision as to whether a proxy has been revoked is final and conclusive.

**9.9 Attendance by appointor**

A proxy remains in force even if the Member that made the appointment of the proxy attends and takes part in any meeting. However, if the Member votes on any resolution either on a show of hands or on a poll, then the person acting as proxy for the Member has no vote in that capacity on the resolution. The proxy's authority to speak for the Member at the meeting is suspended while the Member is present at the meeting.

**9.10 Proof of identity**

- (a) The Chair may require any person purporting to act as a proxy, attorney or Representative to establish to the Chair's satisfaction that the person:
  - (i) has been validly appointed as a proxy, attorney or Representative; and
  - (ii) is the person named in the relevant instrument of appointment.
- (b) If a person fails to satisfy the Chair under clause 9.10(a), then the Chair may exclude that person from attending or voting (or both) at the meeting.

## Directors and their Powers and Duties

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### 10 Persons who may be directors

#### 10.1 Composition of the Board of Directors

The Board shall consist of:

- (a) **(Sustaining Member Directors)** such number of directors appointed by the Sustaining Members in accordance with clause 10.2, provided that the total number of Sustaining Members Directors must not exceed the total number of Member Elected Directors;
- (b) **(Member Elected Directors)** such number of directors, not being less than eight, as are elected by the Members in accordance with clause 10.3 or, if and to the extent applicable, by the Board in accordance with clause 10.7; and
- (c) **(Board Appointed Directors)** such number of directors, if any, but being not more than the number of Sustaining Member Directors, as may be appointed by the Board in accordance with clause 10.9.

#### 10.2 Sustaining Member Directors

- (a) Each Sustaining Member shall, in respect of an Appointment Period, be entitled to appoint such number of Sustaining Member Director(s), not being less than one, as the Board determines and notifies the Sustaining Member in writing not less than 20 Business Days prior to the commencement of the Appointment Period.
- (b) Each Sustaining Member shall notify the Company of its nominated Sustaining Member Director(s) in respect of an Appointment Period by giving written notice to the Company not less than 5 Business Days prior to the commencement of the Appointment Period. The Board shall declare that such nominated Sustaining Member Director(s) are appointed as Sustaining Member Director(s) with effect from the commencement of the Appointment Period.
- (c) Subject to clause 10.4, a Sustaining Member may appoint as its Sustaining Member Director any person that is a director, officer, employee or partner of the Sustaining Member or of any of its related bodies corporate.
- (d) Each Sustaining Member may replace their nominated Sustaining Member Director(s) at any time by written notice to the Company. The Board shall declare that such replacement nominated Sustaining Member Director(s) are appointed as the relevant Member's Sustaining Member Director(s) with effect as soon as possible following receipt of such notice under this clause 10.2(d).
- (e) A notice given under clause 10.2(a) or 10.2(d) must be accompanied by the written consent of the nominated person to be a director.

#### 10.3 Member Elected Directors

The election of Member Elected Directors shall take place as follows:

- (a) The Board shall, by no later than 90 days prior to the next AGM, determine the aggregate number of Member Elected Directors for the ensuing Appointment Period;
- (b) The Secretary shall, by no later than 80 days prior to such AGM, call for nominations to fill the relevant positions as Member Elected Directors;
- (c) Any three Members (other than Sustaining Members), one of which must be a Member of at least three years standing, may nominate a person for election as a Member Elected Director by giving written notice to the Secretary to be received by no later than 60 days prior to such AGM. A notice given under this clause 10.3(c) must be accompanied by the written consent of the nominated person to be a director;

- (d) If, at the expiry of the period referred to in clause 10.3(c), the Secretary has received nominations of persons for:
- (i) equal or less than the number of relevant positions, then the Board shall declare that each of those nominated persons is elected a Member Elected Director with effect from the close of such AGM; or
  - (ii) greater than the number of relevant positions, then the persons to be elected as Member Elected Directors shall be determined by ballot which may be conducted either at such AGM (or any adjournment thereof) in accordance with clause 10.3(b) or as a postal ballot in the period prior to such AGM (or any adjournment thereof) in accordance with clause 10.3(c) as the Board determines.
- (e) Where a ballot is held for the purposes of clause 10.3(d)(i):
- (i) each Member entitled to vote shall be provided with a ballot paper at the AGM (or any adjournment thereof) which lists the names of all of the nominees for the relevant position(s) in alphabetical order by their surnames;
  - (ii) each Member may then vote by ticking the box on the ballot paper next to the name(s) of their preferred nominee(s), folding their ballot paper in half and then handing it to the Chair; and
  - (iii) the Secretary, Chair and one other Director shall act as the electoral officers. Each nominee may also appoint a scrutineer. The electoral officers (and scrutineer(s), if any) will count the votes contained in the ballot papers and record the number of votes in favour of each nominee on a separate sheet of paper. A ballot paper which contains votes in favour of more persons than there are available positions will be invalid.
- (f) Where a postal ballot is held for the purposes of clause 10.3(d)(ii):
- (i) ballot papers shall be prepared and dispatched to all Members entitled to vote at least 40 days before the relevant AGM. A ballot envelope, a reply paid envelope and voting instructions shall be included with the ballot papers. The reply paid envelope shall contain sufficient particulars to enable the Secretary to verify the Member casting the vote;
  - (ii) when a reply paid envelope is received from a Member, after the identity of the Member casting the vote has been verified, the Secretary shall remove the ballot envelope containing the ballot paper from the reply paid envelope and place the ballot envelope in a ballot box pending the ballot. To be counted in the ballot, ballot papers must be received by the Secretary no later than 5.00pm 20 days before the relevant AGM;
  - (iii) on a day following the date referred to in sub-paragraph (ii) but prior to the relevant AGM, the Secretary, Chair and one other Director shall act as the electoral officers. Each nominee may also appoint a scrutineer. The ballot envelopes contained in the ballot box shall be opened and the electoral officers (and scrutineer(s), if any) will count the votes contained in the ballot papers and record the number of votes in favour of each nominee on a separate sheet of paper. A ballot paper which contains votes in favour of more persons than there are available positions will be invalid.
- (g) Where a ballot or postal ballot is conducted in accordance with the procedures outlined in paragraph (e) or (f) above (as applicable), the successful nominee(s) shall be the one(s) receiving the highest number of votes in such ballot and the Board shall declare that each of those successful nominees is elected a Member Elected Director with effect from the close of the relevant AGM.

#### **10.4 Eligibility to be a director**

- (a) **(Age)** A director must be a natural person who is at least 18 years of age and holds a Membership (whether alone or together with one or more other persons).

- (b) **(Not eligible)** None of the following persons is eligible to be a director:
- (i) a person who is disqualified or prevented from being a director under the Act or any other law;
  - (ii) a person who is bankrupt, insolvent under administration or makes any composition or arrangement with his or her creditors or any class of them; or
  - (iii) a person who is of unsound mind or a person whose estate is liable to be dealt with in any way under the law relating to mental health.
- (c) **(Consent required)** The election or appointment of a person as a director is not effective until the Company has received from the person a written consent to be a director.

## 10.5 Term of office of directors

A director's term in office lasts for the relevant period set out in paragraph (a), (b), (c) or (d) unless it ends earlier under this constitution or the law.

- (a) A Sustaining Member Director holds office until he or she is removed by their appointing Sustaining Member or their appointing Sustaining Member ceases to be a Sustaining Member.
- (b) A Member Elected Director ceases to hold office upon their retirement as follows:
  - (i) At every AGM, one half of the Member Elected Directors for the time being or, if their number is not a multiple of two, the number nearest one half, shall retire from office.
  - (ii) The Member Elected Directors to retire under clause 10.5(b)(i) shall be those who have been longest in office since their last election, but as between persons who became Member Elected Directors on the same day those to retire (unless they otherwise agree amongst themselves) shall be determined by lot.
- (c) A director appointed to fill a vacancy or casual vacancy under clause 10.6(a) holds office until the AGM next occurring after their appointment.
- (d) An Appointed Director appointed under clause 10.7 holds office until the earlier of the end of the fixed term of their appointment or re-appointment (as the case may be).
- (e) A director ceasing to hold office under clause 10.3(a), (b), (c) or (d) who is eligible to be a director under clause 10.4 is eligible for re-appointment or re-election (as the case may be).

## 10.6 Resignation of directors

A director may resign from office by giving written notice to the Company of their intention to do so. The resignation takes effect immediately - unless it states that it takes effect in the future. If it states that it takes effect in the future, then it takes effect on the first of:

- (a) the date stated in the notice; and
- (b) three months after the notice is given.

## 10.7 Casual vacancy of office of director

The office of a director becomes casually vacant if the director:

- (a) ceases to be eligible as a director under clause 10.4;
- (b) is removed from office under section 203D of the Act;
- (c) without the permission of the other directors, absents himself or herself from the meetings of the directors for a continuous period of 3 months; or
- (d) resigns in accordance with clause 10.4;

and, where the director is Sustaining Member Director, the director has not been replaced by the relevant Sustaining Member under clause 10.2(d).

## 10.8 Vacancies and casual vacancies

- (a) In addition to their rights under clause 10.9, the Directors may at any time appoint any person who is eligible to be a director under clause 10.4 as a director to fill:
  - (i) a vacancy in the circumstance of a shortfall in nominations under clause 10.3(c) of persons for election as Member Elected Directors; or
  - (ii) a casual vacancy.
- (b) The continuing directors may act despite any vacancy in the Board of Directors. However, if the number of directors is less than the quorum required in clause 13.2(a), then the continuing directors may act only for the purpose of filling vacancies to the extent necessary to bring their number up to that number.

## 10.9 Board Appointed Director

- (a) The directors may appoint a person who is eligible to be a director under clause 10.4 as an additional director in accordance with clause 10.9(b). That director is known as a "Board Appointed Director".
- (b) A Board Appointed Director is a person who has specific expert skills or experience (or both skills and experience) which the directors consider desirable.
- (c) A Board Appointed Director is to be appointed as a director for a fixed term of up to 2 years as decided by the directors - unless their appointment ends earlier under this constitution or the law. The directors may re-appoint a Board Appointed Director for a further fixed term or terms of up to 2 years each.
- (d) A Board Appointed Director has the same rights, powers and duties as the other directors - unless otherwise decided by the directors from time to time or otherwise required by the law or this constitution.

## 10.10 Alternate directors

A director may, with the approval of the Board, appoint a person who is a Member or a Representative of a Member as their alternate director to represent him or her during illness or temporary absence from Australia.

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## 11 Remuneration of directors

### 11.1 No remuneration

No director is entitled to any remuneration for his or her services as a director.

### 11.2 Reimbursement of expenses

The directors are entitled to be paid all travelling, accommodation and other expenses properly incurred, or to be incurred, by them in attending and returning from directors' meetings or any Committee of the directors or general meetings of the Company or otherwise in connection with the Company's business.

### 11.3 Payment to former directors on retirement

**(Only in accordance with the Act)** If a director retires from office as a director or as a director of a related body corporate of the Company, then the Company may only give, or permit a related body corporate of the Company to give, the director or any other person a benefit in connection with the director's retirement as permitted by the Act.

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## 12 Powers and duties of directors

### 12.1 Directors' powers

- (a) **(Power vested in directors)** Subject to the Act and this constitution, the management and control of the business and affairs of the Company is vested in the directors. The directors may exercise all the powers of the Company that this constitution or the Act do not require to be exercised by the Company in general meeting. No rule made or resolution passed by a general meeting invalidates any earlier act of the directors which would have been valid if that rule or resolution had not been made or passed.
- (b) Without limiting the generality of clause 12.1(a), the directors may on terms and conditions they think fit exercise all the powers of the Company:
  - (i) to borrow or raise money;
  - (ii) to charge any of the Company's property or assets; or
  - (iii) to issue debentures or give any other security for any debt, contract, guarantee, engagement, obligation or liability of the Company or of any other person.

### 12.2 Committees

- (a) The directors may, by resolution or by power of attorney or writing under the Seal:
  - (i) delegate any of their powers to committees consisting of at least one director and any other persons they think fit; or
  - (ii) establish advisory committees (or other committees not having delegated power) consisting of any person or persons they think fit.
- (b) Without limiting the generality of clause 12.2(a), any Committee referred to in clause 12.2(a)(i) or 12.2(a)(ii) may be formed for the purpose of exercising any powers so delegated or so advising the directors (as the case may be) in relation to the business and affairs of the Company as they relate to the specific interests of any one or more Membership Class or Membership Classes.
- (c) Any Committee so formed or person or persons so appointed must, in the exercise of the powers so delegated, or functions entrusted, comply with any directions, rules or regulations the directors make or impose.
- (d) The meetings and proceedings of any Committee referred to in clause 12.2(a)(i) consisting of two or more persons are governed by the provisions in this constitution for regulating the meetings and proceedings of the directors so far as they are capable of applying - unless the directors decide otherwise.

### 12.3 Delegation of powers

- (a) Without limiting clause 16.2, the directors may, by resolution or by power of attorney or writing under the Seal, delegate any of their powers to the Chief Executive or any employee of the Company or any other person as they think fit.
- (b) Any delegation by the directors of their powers:
  - (i) must specify the powers delegated, any restrictions on, and conditions attaching to, the exercise of those powers and the period during which that delegation is to be in force;
  - (ii) may be either general or limited in any way provided in the terms of the delegation;
  - (iii) need not be to a specified person but may be to any person holding, occupying or performing the duties of a specified office or position; and

- (iv) may include the power to delegate.
- (c) If exercising a power depends on a person's opinion, belief or state of mind, then that power may be exercised by the delegate on the delegate's opinion, belief or state of mind about that matter.
- (d) Any power exercised by a delegate is as effective as if it had been exercised by the directors.

#### **12.4 Inspection of records**

The directors have sole authority to decide whether, the extent to which, and any terms or conditions under which, the records of the Company may be inspected by Members who are not directors or former directors. A Member (who is not a director or former director) has only the right which the law allows to inspect any financial record or book of the Company. Apart from that right, they have no other right to do so - unless authorised by the directors or by the Company in general meeting.

#### **12.5 Discretion of the directors relating to Membership**

- (a) Without limiting the generality of clause 12.112.1(a), without being required to provide reasons the directors may in their discretion:
  - (i) waive any conditions for Membership in any Membership Class;
  - (ii) readmit any person as a Member in any Membership Class;
  - (iii) refuse to admit any person as a Member in any Membership Class; or
  - (iv) approve the transfer of a Member's Membership between Membership Classes.
- (b) Without limiting the generality of clause 12.112.1(a), the directors may also, from time to time:
  - (i) identify different groups or categories of Members by reference to packages of Services they subscribe for. However, doing so does not create different classes of Members;
  - (ii) decide upon any restriction in the number of Members or the number of Members within each Membership Class;
  - (iii) decide upon any restriction in the number of Members who may subscribe for a certain Service or Services;
  - (iv) decide the qualifications for admission as a Member or for admission to a particular Membership Class;
  - (v) decide the fees for any Membership Class or for any group of persons who are Members or who wish to become Members. The directors may also suspend or waive payment of any of these fees in favour of any person (or persons) or group of persons;
  - (vi) decide upon any additional rights and obligations that might be attached to being a Member in each Membership Class;
  - (vii) make rules concerning the issuance and use of Membership Identifications;
  - (viii) make rules concerning the Services that any group of Members may subscribe for;
  - (ix) make rules regarding the recording of a Member's name in the Register under the name of an unincorporated association, or a firm, partnership or business name, including rules concerning who is entitled to exercise the rights of that Membership; and

- (x) make rules concerning the administration of Membership generally, including:
  - (A) the admission, readmission or refusal to admit persons as Members;
  - (B) the lapse or cancellation of Membership;
  - (C) the transfer of Members between Membership Classes;
  - (D) continuity of Membership;
  - (E) refunds of Membership Fees; and
  - (F) provision of Services to Members.
  
- (c) **(Power to limit Services)** The directors may from time to time limit or decide (or both) the number of any Services to which Members, Members in a Membership Class or any group of Members are entitled, or which they are offered. Services beyond the number decided may be made available or refused on such terms as the directors may decide from time to time.
  
- (d) **(Excessive number of Services)** Regardless of anything done by the directors under clause 12.5(c), if a Member has, in the opinion of the directors, during the period of their Membership received an excessive number of Services, then the directors may limit or decide (or both) the number of Services to which that Member is from then entitled or offered. Services beyond the limit or number so decided may be made available on terms as the directors may decide.
  
- (e) **(Non-Member Services)** Services may also be made available to non-Members on such terms as the directors may decide.
  
- (f) Nothing in this clause 12.5 is taken to limit the powers conferred on the directors by this constitution or by law.

## Conduct of Directors' Meetings

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### 13 Proceedings of directors' meetings

#### 13.1 Directors to regulate meetings

The directors may meet and adjourn and otherwise regulate their meetings as they see fit.

#### 13.2 Quorum for a directors' meeting

- (a) For a matter to be considered at a meeting of directors, a quorum of 5 directors (at least one of whom is a Sustaining Member Director) must be present when the matter is dealt with.
- (b) If there are less than 5 directors in office at any time, then the remaining directors may only act to increase the number of directors in accordance with clause 10.8(b) or in an emergency.

#### 13.3 Convening directors' meetings

- (a) **(Chairperson may convene)** The Chairperson may at any time convene a meeting of the directors to be held at the time and place the Chairperson chooses. If a quorum of directors is present, then the meeting is not invalidated simply because the time or place (or both) is not convenient to the remaining directors.
- (b) **(Secretary must convene)** The secretary, at the request of any director, must convene a meeting of the directors to be held at a time and place convenient to the directors.

#### 13.4 Notice of directors' meetings

**(Requirement to give notice)** Notice of every meeting of the directors is to be given by such means as is convenient (including by telephone or other electronic means) to each director who, to the actual knowledge of the secretary, is within Australia. However, notice of a meeting of the directors does not need to be given to any director who is outside Australia or who has been given special leave of absence.

#### 13.5 Directors' meetings by technology

- (a) **(Communication requirements)** A meeting of the directors may consist of a conference between directors some, or all, of whom are in different places provided that each director who participates is able:
  - (i) to hear each of the other participating directors addressing the meeting; and
  - (ii) if he or she wishes to address each of the other participating directors, to do so simultaneously.
- (b) **(Any technology)** A meeting held under clause 13.5(a) may be held face to face, by conference telephone or by any other form of communication (whether or not it exists when this clause 13.5 is adopted) or by a combination of any of these methods.
- (c) **(Quorum)** A quorum is present if the conditions in clauses 13.5(a) and (b) are satisfied for at least the number of directors required to form a quorum. A meeting held in this way is taken to take place at the place from where the person chairing the meeting is located.
- (d) **(Director may request remote attendance)** Before the meeting, any director may give notice to the secretary that he or she wishes to participate in the meeting in any of the ways allowed under this clause 13.5. In that case, the secretary must arrange an appropriate facility at the Company's expense.
- (e) **(Permission required to disconnect)** A director may not leave the conference by disconnecting his or her means of communication - unless he or she has previously obtained the express consent of the person chairing the meeting.

- (f) **(Presence assumed)** 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 any other means of communication - unless the director has previously obtained the express consent of the person chairing the meeting to leave the conference.
- (g) **(No limit on other rules)** This clause 13.5 does not limit the discretion of the directors to regulate their meetings under clause 13.1.

### 13.6 Chair of directors' meeting

The Chairperson - or, in the Chairperson's absence the Vice-Chairperson - is entitled to take the chair at each meeting of the directors. However, the directors present may choose another director to chair the meeting if:

- (a) neither the Chairperson nor the Vice-Chairperson is present within 15 minutes after the time appointed for the start of the meeting; or
- (b) neither of them is willing to chair the meeting.

### 13.7 Decisions of directors

Questions arising at any meeting of the directors are decided by a majority of the votes cast at the meeting. Each director has one vote. In case of an equality of votes, the person chairing the meeting has a second and casting vote.

### 13.8 Acts not invalid

Anything done at any directors' meeting or a Committee meeting, or by anyone acting as a director, is as valid as if every director or Committee member had been duly appointed or had duly continued in office and was qualified or eligible to be a director or Committee member and was entitled to vote even if it is discovered afterwards that:

- (a) there was some defect in anyone of their appointment, election or continuance in office; or
- (b) anyone of them was disqualified or not entitled to vote.

### 13.9 Written resolutions of directors

- (a) A resolution or declaration in writing is as valid and effectual as if it had been passed at a meeting duly called and held if:
  - (i) all directors entitled to receive notice of a directors' meeting, receive notice of the resolution; and
  - (ii) it is signed by a majority of the directors for the time being in Australia who are entitled to vote (being at least a quorum).
  - (iii) Any resolution or declaration under clause 13.9(a) may consist of several documents in the same form each signed by one or more directors. If the documents are signed on different days, then the resolution is taken to be passed at the time and on the day that the last director required to form a majority signs the document - unless the document, by its terms, is said to take effect from an earlier time or date (or both).
- (b) A fax transmission, computer transmission or similar electronic means of communication addressed to, or received by, the Company and purporting to be signed by, or addressed from, a director is taken to be signed by that director.

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**14 Personal interests of directors****14.1 Director's duty to notify**

- (a) A director who has a material personal interest in a matter relating to the affairs of the Company must give the other directors notice of the interest as the Act requires.
- (b) A contravention of clause 14.1(a) by a director does not affect the validity of any act, transaction, agreement, instrument, resolution or other thing.

**14.2 Restriction on voting**

- (a) A director who has, directly or indirectly, a material personal interest in any matter that is being considered at a directors' meeting must not (except as allowed under clause 14.2(b) or otherwise by the law):
  - (i) be present while the matter is being considered at the meeting;
  - (ii) be counted in the quorum for the purposes of considering the matter; or
  - (iii) vote on the matter.
- (b) However, clause 14.2(a) does not apply in the situations allowed under section 195(2) of the Act which, as at the Adoption Date, means that clause 14.2(a) does not apply if directors who do not have a material personal interest in the matter have passed a resolution that:
  - (i) identifies the director, the nature and extent of the director's interest in the matter and its relation to the affairs of the Company; and
  - (ii) states that those directors are satisfied that the interest should not disqualify the director from voting, being present or being counted in the quorum.

If section 195(2) of the Act is modified, replaced or substituted, then this clause 14.2(b) is read as amended so that it is consistent with the modified, replaced or substituted section.

- (c) A contravention of clause 14.2(a) by a director does not affect the validity of any resolution.

## Office Bearers, CEO and Secretary

### 15 Chairperson and Vice-Chairperson

#### 15.1 Office bearers

- (a) There are to be two office bearers, a Chairperson and a Vice-Chairperson, each elected by the directors at a meeting of the directors.
- (b) An office bearer must be a director.

#### 15.2 Term of office

A director who holds the office of Chairperson or Vice-Chairperson holds that office until the first to occur of:

- (a) the expiry of a period of two years after that director's election to that office;
- (b) the directors resolve to remove that director from that office;
- (c) that director retires from that office; or
- (d) that director ceases to be a director.

#### 15.3 Delegation by directors

The directors may, in accordance with clause 12.3, delegate to the Chairperson and Vice-Chairperson any of their powers as they think fit.

### 16 Chief Executive

#### 16.1 Appointment by directors

- (a) The directors must appoint a person (other than a director) to be Chief Executive of the Company.
- (b) The directors may (subject to clause 16.2 and the provisions of any contract between the person and the Company):
  - (i) define the Chief Executive's powers, fix their remuneration and duties and from time to time vary any of the powers conferred on that person; or
  - (ii) revoke that person's appointment as Chief Executive and appoint another person to that position.

#### 16.2 Delegation by directors to Chief Executive

The directors may delegate to the Chief Executive the power (subject to such reservations on the power as are decided by the directors) to conduct the day-to-day management and control of the business and affairs of the Company. The delegation may include the power and responsibility to:

- (a) develop business plans, budgets, strategies, policies, processes and codes of conduct for consideration by the directors and to implement them to the extent approved by the directors;
- (b) manage the financial and other reporting mechanisms of the Company;
- (c) approve and incur expenditure subject to specified expenditure limits; and
- (d) sub-delegate his or her powers and responsibilities to employees or internal management committees of the Company.

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**17 Secretary****17.1 Appointment by directors**

The directors must appoint one or more secretaries under the Act. A secretary holds office on the terms and conditions as decided by the directors. The directors may remove any secretary in their absolute discretion.

**17.2 Consent**

Before a person is appointed as a secretary of the Company, the Company must have received their written consent to act.

**17.3 Removal**

Without limiting clause 17.1, a person ceases to be a secretary of the Company if the person becomes disqualified from managing corporations under Part 2D.6 of the Act (unless ASIC or the court allows such person to manage the Company).

## Officer's Indemnity

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### **18 Indemnity**

#### **18.1 Persons to whom clause 18.2 applies**

- (a) Clause 18.2 applies:
  - (i) to each person who is or has been a director or secretary of the Company; and
  - (ii) to any other officers, employees, former officers or former employees of the Company or of its related bodies corporate as the directors in each case determine.
- (b) Each person referred to in clause 18.1(a) is referred to as an "Indemnified Officer" for the purpose of the rest of clause 18.

#### **18.2 Indemnity**

The Company must indemnify each Indemnified Officer on a full indemnity basis and to the full extent permitted by law against all losses, liabilities, costs, charges and expenses that the Indemnified Officer incurs as an officer of the Company or of a related body corporate of the Company.

#### **18.3 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 losses, liabilities, costs, charges and expenses that the Indemnified Officer incurs as an officer of the Company or of a related body corporate of the Company.

#### **18.4 Deed**

The Company may enter into a deed with any Indemnified Officer or a deed poll to give effect to the rights conferred by clause 18.2 on terms the directors think fit (as long as they are consistent with clause 18).

## General Provisions

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### 19 Application of income and property of company

- (a) The income and property of the Company shall be applied solely in furtherance of its purpose as set out in clause 1 and no part of the income or property of the Company may be distributed, paid or transferred directly or indirectly to or amongst the Members except in accordance with clause 19(b).
- (b) Clause 19(a) does not prevent the Company from making a payment in good faith to any person who is a Member if the payment is:
  - (i) remuneration for their services as a director, other officer or servant of the Company or for any services provided to the Company;
  - (ii) for goods supplied to the Company in the ordinary course of business;
  - (iii) for reasonable rent for premises let to the Company in the ordinary course of business;
  - (iv) for expenses incurred on behalf of the Company; or
  - (v) permitted under clause 18.2 or under a deed entered into under clause 18.4.

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### 20 Seal and executing documents

- (a) The Company may have a Seal. The Seal must not be affixed to any instrument except in accordance with section 127 of the Act.
- (b) Clause 20(a) does not limit the ways in which the Company may execute a document.

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### 21 Winding up

- (a) If, on the winding up or dissolution of the Company and after satisfaction of all its debts and liabilities, there is any property remaining, then that property must be given or transferred to some other organisation or organisations selected by the Members before or at the time of dissolution, which has a purpose or purposes that the Members consider similar to the purpose of the Company and which is not carried on for the profit or gain of its individual members. That property must not be paid to or distributed among the Members.
- (b) If the Members have not selected an organisation before or when the Company is dissolved, then the organisation or organisations are to be selected by the Chief Judge in Equity of the Supreme Court of New South Wales (or another Judge of that Court as may have jurisdiction in the matter).
- (c) If it is not possible to give effect to the arrangement in clause 21(a) or (b), then the property of the Company is to be given or transferred to one or more charitable organisations which are not carried on for the profit or gain of their individual members.

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### 22 Notices

- (a) **(How notice is given)** Unless this constitution, the Act or any other legislation provides otherwise, the Company may give a document to any person:
  - (i) by delivering it to the person personally;
  - (ii) by despatching it by post, contractor, agent or any other means:

- (A) to the address of the place of residence or business of the person last known to the person serving the document; or
  - (B) if the recipient is a Member to their address in the Register and the document, by such despatch, is regarded as left at that address;
  - (iii) by sending it by fax or other electronic means (including providing a URL link to any document or attachment) to a fax number or electronic address nominated by the intended recipient for that purpose;
  - (iv) by publication in a newspaper circulating generally in each State and Territory in which the Members at the relevant time are (based on their addresses as registered in the Register) located; or
  - (v) by publication in or accompanying the magazine issued from time to time by the Company, if delivered or despatched in the manner referred to in clause 22(a)(i), (ii) or (iii).
- (b) **(When received)** A document served under this clause 22 is treated as having been duly served, irrespective of whether it is actually received:
- (i) if the document is delivered personally or left at the person's address when delivered;
  - (ii) if the document is sent by post - 24 hours after the notice is posted, provided that it is properly addressed and for this purpose, a document is properly addressed to a Member if it is addressed to the Member's address in the Register;
  - (iii) if the document is sent by fax or electronic means - on the day it is sent, provided that it is properly addressed and for this purpose, a document will be considered properly addressed to a Member if it is sent to the fax number or electronic address nominated by the Member for that purpose; and
  - (iv) if published in a newspaper - the day the newspaper is first published.
- (c) **(Day of service counted)** Subject to the Act and unless this constitution states otherwise, if a specified number of days' notice, or notice extending over any period, is required to be given, then the day of service is counted as one of those days, or in that period.

## **23 General**

### **23.1 Replaceable rules do not apply**

The replaceable rules do not apply to the Company.

### **23.2 Liability limited by guarantee**

The liability of the Members is limited by guarantee.

### **23.3 Governing law and jurisdiction**

- (a) This constitution is governed by the laws of New South Wales.
- (b) Each Member submits to the non-exclusive jurisdiction of the courts in New South Wales.

### **23.4 Severance**

- (a) Any clause of, or the application of any clause of, this constitution which is prohibited in any place is, in that place, ineffective to the extent of that prohibition.
- (b) Any clause of, or the application of any clause of, this constitution which is void, illegal or unenforceable in any place does not affect the validity, legality or enforceability of that clause in any other place or of the remaining clauses in that or any other place.

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## **24 Transition from Previous Constitution**

### **24.1 Previous Constitution**

- (a) This constitution supersedes the Previous Constitution.
- (b) Everything done under any previous constitution of the Company continues to have the same operation and effect after the Adoption Date as if properly done under this constitution.

### **24.2 Continuation of status and effect**

- (a) Every director and secretary in office immediately before the Adoption Date is taken to have been elected or appointed and continues in office under this constitution.
- (b) The Chief Executive in office immediately before the Adoption Date is taken to have been appointed and continues in office under this constitution.
- (c) Any director in office as Chairperson or Vice-Chairperson immediately before the Adoption Date is taken to have been elected and continues in that office under this constitution.
- (d) Any person who holds a Membership immediately before the Adoption Date is taken under this constitution to be a Member who holds a Membership. Regardless of clause 3.2, any person who is taken to be a Member under this clause 24.2(d) is entitled to the voting rights of Members as set out in this constitution even if they are under the age of 18 years.
- (e) Unless a contrary intention appears in this constitution, all persons, things, agreements and circumstances appointed, approved or created by or under the Previous Constitution continue to have the same status, operation and effect after the Adoption Date.

## Definitions and Interpretation

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### 25 Definitions

In this constitution, unless the subject or context indicates a contrary intention, the following words and expressions have the following meanings:

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

**Adoption Date** means [ ] 2012.

**AGM** means annual general meeting of the Company.

**Board** means the board of directors of the Company.

**Board Appointed Director** has the meaning given to that term in clause 10.1(c).

**Appointment Period** means the period commencing immediately following the close of an AGM and ending at the next AGM.

**ASIC** means the Australian Securities and Investments Commission.

**Chair** means the person who acts as chairperson at a general meeting.

**Chief Executive** means the person the directors appoint under this constitution whether with that title or otherwise.

**Committee** means a committee formed under clause 12.2(a)

**Member** means a person who holds a Membership and whose name is for the time being entered in the Register.

**Member Elected Director** has the meaning given to that term in clause 10.1(b).

**Membership** means the membership interest a person holds in the Company.

**Membership Class** means a class or sub-class of Membership as set out in clause 3.1 or established pursuant to clause 3.2.

**Membership Fee** means a fee payable by a Member as determined by the directors in accordance with clause 4.2(c).

**Membership Identification** means evidence (whether documentary, electronic, by way of a device or otherwise, as the directors may determine from time to time) that the Company issues in respect of a person's Membership.

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

**Chairperson** means the director elected to act in that capacity in accordance with clause 15.

**Previous Constitution** means the constitution of the Company in force immediately before the Adoption Date.

**Register** means the register of Members kept by the Company in accordance with the Act.

**Representative**, in relation to a body corporate, means a representative of the body corporate appointed under section 250D of the Act or a corresponding previous law.

**Seal** means any common seal, duplicate seal or certificate seal of the Company.

**Services** means services offered by the Company to Members and non-Members if the directors so determine (whether on an exclusive or non-exclusive basis), including:

- (a) access to technical services;
- (b) access to and participation in functions and events;
- (c) discounts on book and/or software purchases;
- (d) listings in the Company's journal; and
- (e) such other services to be offered by the Company as the Board may from time to time determine.

**Sustaining Member Director** has the meaning given to that term in clause 10.1(a).

**URL** means Uniform Resource Locator, the address that specifies the location of a file on the internet.

**Vice-Chairperson** means the director elected to act in that capacity in accordance with clause 15.

## 26 Expressions used in the Act

An expression or term used in this constitution, unless the contrary intention appears, has the same meaning as that expression or term has in a Part, Chapter or Division of the Act dealing with the same matter if that expression or term has been given a special meaning for the purposes of the Part, Chapter or Division in question.

## 27 Interpretation

- (a) In this constitution, unless the context indicates a contrary intention:
  - (i) words importing persons include companies, corporations, any association, body or entity whether incorporated or not and vice versa;
  - (ii) words denoting any gender include all genders;
  - (iii) words importing the singular include the plural and vice versa;
  - (iv) "includes" means includes without limitation;
  - (v) the words "writing" and "written" include printing, lithography, photography, typewriting and any other mode of representing or reproducing words in a visible form;
  - (vi) all monetary amounts are in Australian currency;
  - (vii) references to any legislation or to any section or provision of any legislation include any statutory modification, replacement or re-enactment of it or any statutory provision substituted for it, any ordinances, by-laws, regulations and other statutory instruments issued under it and any determination, exemption or modification made pursuant to it;
  - (viii) a reference to this constitution includes any amendment or variation of it, and includes any annexures or schedules to it;
  - (ix) a reference to time refers to time in the city of Sydney in New South Wales;
  - (x) the word "month" means calendar month and the word "year" means 12 calendar months;

- (xi) a reference to writing includes any communication sent by post, fax transmission or electronic means. A signature to a written notice need not be handwritten;
  - (xii) if any word or phrase is defined, any other part of speech or other grammatical form of that word or phrase has a cognate meaning; and
  - (xiii) a reference to the Company is to Australian Steel Institute Ltd (ACN 000 973 839).
- (b) The headings used in this constitution do not form part of or affect the construction or interpretation of this constitution.