



AIDA

Constitution

ABN 84 131 668 936

A company limited by guarantee



Australian Indigenous Doctors' Association

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Preliminary

NOTE: The wording which is in bold print italics at the end of certain paragraphs is explanatory only and does not form part of the Constitution. References to sections relate to relevant provisions of the Corporations Act 2001 (Cth).

1. Definitions

In this Constitution:

"Aboriginal and/or Torres Strait Islander" means a person who:

- (a) is of Aboriginal and/or Torres Strait Islander descent; and
- (b) identifies as an Australian Aboriginal and/or Torres Strait Islander person; and
- (c) is accepted as such by the community in which he or she lives or has lived.

"the Act" means the *Corporations Act 2001 (Cth)* and the other Acts and instruments referred to in that Act and as enacted and amended from time to time.

Application of the Corporations Act 2001 (Cth): In this Constitution unless the contrary intention appears an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Corporations Act 2001 (Cth), the same meaning as in that provision of the Corporations Act 2001 (Cth); and "section" means a section of the Corporations Act 2001 (Cth). This Constitution shall comply with the subscribed matters specified in the relevant sections of the Corporations Act 2001 (Cth) and such matters that may be prescribed.

"attending member" means, in relation to a meeting of members, the member present at the place of the meeting, in person or by proxy, by attorney or, where the member is an organisation or body corporate, by corporate representative.

"AGM" means the Annual General Meeting of the company as required by the *Corporations Act 2001 (Cth)* that must be held at least once in each calendar year and within five (5) months after the end of the company's financial year.

Corporations Act 2001 (Cth) 250N:

(1) A public company must hold an Annual General Meeting (AGM) within eighteen (18) months after its registration.

(2) A public company must hold an AGM at least once in each calendar year and within five (5) months after the end of its financial year.

The company's annual financial report, Directors' report and Auditor's report must be laid before the AGM (see section 317 Consideration of reports at AGM).

The rules in section 249C to 250M apply to an AGM [refers to meetings of members of companies].

"Article" means the numbered section or sub-section of this registered Constitution, to which a reference is being made.

"associate member" means a person who meets the criteria for membership set out in Article 13(c) and who is nominated in accordance with Article 15 and determined by the Board to have met the criteria for membership of that category.

"ASIC" means the Australian Securities and Investment Commission.

"attendee" means a person or persons permitted, at the discretion of the Board, to attend any part of the company's Board meetings but with no status as a Director under the meaning of such in this Constitution or the law, and only in a non-voting capacity. Attendees permitted to attend Board meetings may speak with the consent of the Chairperson on agenda items to provide advice, counsel and information on matters or answer questions as requested by Directors through the presiding Chairperson of the meeting. For the sake of legal clarity, attendees in this capacity, are recognised as having no role or authority in either making, or participating in making decisions that affect the whole, or a substantial part of the business of the company; or are they understood to have the capacity to affect significantly the company's financial standing; or are they understood to be issuing directions, instructions or wishes in accordance which the Directors of the company are accustomed to act; or in any other way be deemed to be a Director of the company under the meaning of such in this Constitution or the law. An attendee in this context includes a person or persons giving advice in the proper performance of functions attaching to their professional capacity or their business relationship with the company.

"attorney" is a person who exercises power under the terms of a power of attorney.

"Board" means the governing body of Directors of the company in office for the time being however described or any number of Directors assembled at a meeting of the Board transacting business in accordance with this Constitution, being not less than a quorum, and as set out in Article 58(i) of this Constitution and who may for the internal purposes of the company be cited (collectively) as the "Directors".

"body corporate" means a separate legal entity constituted as an artificial ('synthetic') person that is authorised to act as, and has the legal capacity and powers of an individual, which preserves its rights in perpetual succession and existence and that has its own rights and assets (i.e. it can acquire debts, enter contracts, can hold property, operate bank accounts, investments, form companies/joint ventures, etc.) and obligations (i.e. must obey the law and is responsible for actions taken in its name, it can have action taken against it, sue and be sued, etc.) and, as such, is separate from the people who make up or have a delegated role or function within the entity.

"business day" means a day except a Saturday, Sunday or public holiday in the state or territory in which the company is taken to be registered for the purposes of the Act.

"Chairperson" means any person who is to preside as Chairperson at each General Meeting and Board meeting of the company pursuant to the authorities, powers and functions described in this Constitution and any policies, protocols, practices or processes determined by the Board from time to time that give effect to the authorities, powers and functions described in this Constitution.

"Chief Executive Officer" of the company means any person so appointed by, and responsible to the Board as the principal corporate executive to act within written Board-delegated authorities for the overall day-to-day operations of the company; and who may for the internal purposes of the company be cited as the "CEO" or any other title the Board may so determine from time to time; or as otherwise expressed pursuant to Article 62.

"committee" means a committee constituted by and accountable to the Board pursuant to Article 55 and are governance advisory bodies for the purpose of assisting and advising the Board in areas fundamental to the company's objects and otherwise providing the Board with recommendations relevant to select *governance* matters of the company and consisting of one or more Directors and/or other persons as the Directors from time to time think fit.

"company" means the *Australian Indigenous Doctors' Association Limited*, being the company constituted by this document and shall be **the company's name** for the purposes of section 148 of the Act.

"Constitution" means this registered Constitution of the company, as amended from time to time pursuant to Article 69, which binds the company and its members to the same extent as if it were a contract between them under which they each agree to observe its provisions.

"corporate representative" means a person authorised, in accordance with the *Corporations Act 2001 (Cth)* (or a corresponding previous law), by a member, which is an organisation or body corporate to act as its representative observer at a meeting of members pursuant to Article 14(e)(i).

"Corporations Act" means the *Corporations Act 2001 (Cth)* and the other Acts and instruments referred to in that Act and as enacted and amended by the Commonwealth of Australia and the States and Territories of Australia from time to time.

"corporations regulations" means the *Corporations Regulations 2001 (Cth)*.

"Director" means an eligible person pursuant to Article 46(e), who is duly appointed or elected to the Board pursuant to Article 47; and who may for the internal purposes of the company be cited (individually) as a "*member of the Board*" or a "*Board member*". For the avoidance of doubt a reference to a Director includes an Office Bearer and the Director (Student), unless otherwise expressly stated.

"Director (Student)" means any person appointed to the office of Director (Student) of the company in accordance with Article 47.

"electronic address" means a multi-part address typed in lower-case without any spaces separating the different parts where the first part (the user name) identifies a unique user. The '@' separates the user name from the host name which uniquely identifies the mail server. The three-letter suffix following a period (dot) identifies the kind of organisation operating the mail server. Addresses outside the US use another (two-letter) suffix that identifies the country where the mail server is located.

"electronic means" means, in relation to the methods of giving or sending certain notices, documents produced, etc., the same as that in the *Corporations Act 2001 (Cth)* section 600G and includes telephone, fax, electronic mail and other forms of electronic transmission or technology consented to by all Directors.

"fee" means a fee or levy referred to in Article 23(a).

"General Meeting" means a meeting of members other than the AGM duly called and held (and any adjourned holding of it) in accordance with this Constitution or as otherwise prescribed by the *Corporations Act 2001 (Cth)* at which all members are entitled to attend and participate in accordance with this Constitution.

"Gift Fund" means the bank account established and maintained in accordance with Article 7.

"Governance Charter" means a Board established document as referenced in Article 53(e) to (g) that contains the company's internal control framework of Board-determined governing policies, that give effect to the powers delegated to the Board pursuant to this Constitution that guide how everyone in the company is expected to act and behave and articulates who is responsible for what, who they are accountable to and the authorities and constraints each person must work within.

"Indigenous medical graduate member" means a member who is an Aboriginal and/or Torres Strait Islander person who meets the criteria for membership set out in Article 13(a) and who is nominated in accordance with Article 15 and determined by the Board to have met the criteria for membership of that category.

"Indigenous medical student member" means a member who is an Aboriginal and/or Torres Strait Islander person who meets the criteria for membership set out in Article 13(b) and who is nominated in accordance with Article 15 and determined by the Board to have met the criteria for membership of that category.

"leave of absence" means long service leave, extended leave, recreation leave, annual leave, sick leave or any other form of leave of absence from service.

“legal costs” of a person means legal costs incurred by that person in defending or resisting any proceedings (whether criminal, civil, administrative or judicial), appearing before or responding to actions taken by any court, tribunal, government authority or agency, other body or commission, a liquidator, an administrator, a trustee in bankruptcy or other authorised official, where that proceeding, appearance or response relates to a liability of that person.

“liability” of a person means any liability (except a liability for legal costs) incurred by that person in or arising out of the discharge of duties as an officer of the company or in or arising out of the conduct of the business of the company, including as result of appointment or nomination by the company or a subsidiary as a trustee or as a Director, officer or employee of another body corporate.

“life member” means a member who is an Indigenous medical graduate member and has served a minimum two (2) years as President or were a founding member of AIDA and is nominated by the Board for consideration for life member status and who meets the criteria for membership set out in Article 13(d) and are determined by the Board to have met the criteria for membership of that category.

“member” means any person who:

- (i) meets the criteria for membership set out in Article 13; and
- (ii) who has applied for membership and been determined by the Board to have met the criteria for membership of that category in accordance with Article 15; and
- (iii) whose name is entered in the register as a member of the company.

“meeting of members” means either a General Meeting or the AGM.

“not-for-profit” means (as defined by the Australian Taxation office) an *“... organisation which is not operating for the profit or gain of its individual members, whether these gains would have been direct or indirect. This applies both while the organisation is operating and when it winds up. Any profit made by the organisation goes back into the operation of the organisation to carry out its purposes and is not distributed to any of its members. The Australian Tax office accepts an organisation as non-profit where its constituent or governing documents prevent it from distributing profits or assets for the benefit of particular people—both while it is operating and when it winds up. These documents should contain acceptable clauses showing the organisation's non-profit character. The organisation's actions must be consistent with this requirement.”*

“notice” means a notice given pursuant to, or for the purposes of, this Constitution or the *Corporations Act 2001 (Cth)*.

“objects” of the company means the objects set out in Article 5 that define the purpose of the company.

"observer status" means the status of an "observing" associate member (or their corporate representative) at a meeting of members, pursuant to Article 14(e)(i), who is permitted to attend any part of the meeting of members but has no status to vote at the meeting or nominate or stand as a Director under the meaning of such in this Constitution. Such associate members (or their corporate representatives) may be permitted to speak with the consent of the Chairperson on agenda items to provide advice, counsel and information on matters or answer questions if so requested but only by permission of and through the presiding Chairperson of the meeting.

"Office Bearers" means Directors who hold a Board appointed or delegated position (with corresponding delegated authority), pursuant to Articles 63 to 66, in addition to their Director roles on the Board. **"Office Bearer"** means one of those persons.

"officer" means

- (a) a Director or Secretary of the company; or
- (b) a person:
 - (i) who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the company; or
 - (ii) who has the capacity to affect significantly the company's financial standing; or
 - (iii) in accordance with whose instructions or wishes the Directors of the company are accustomed to act (excluding advice given by the person in the proper performance of functions attaching to the person's professional capacity or their business relationship with the Directors or the company); or
- (c) a receiver, or receiver and manager, of the property of the company; or
- (d) an administrator of the company; or
- (e) an administrator of a deed of company arrangement executed by the company; or
- (f) a liquidator of the company; or
- (g) a trustee or other person administering a compromise or arrangement made between the company and someone else, as defined in the Dictionary of the Act.

(Note: An officer does not include a patron or holder of another honorary office of the company if the office does not give its incumbent a right to participate in the management of the company's affairs).

"organisation" means a body corporate including without limitation any incorporated entity with the legal capacity and powers of a natural person including any government-owned company, statutory corporation or authority or government-controlled public service recognised [non-corporate] entity (e.g. Agency, Commission, advisory Board or council, etc.) that is legally and financially connected to, or part of a Commonwealth, State or Territory government 'body politic'.

"personal representative" means the legal personal representative, executor or administrator of the estate of a deceased person.

"President" means any person appointed to the office of President in accordance with Article 63 pursuant to the authorities, powers and functions described in this Constitution and any policies, protocols, practices or processes determined by the Board from time to time that give effect to the authorities, powers and functions described in this Constitution.

"poll" is a form of casting votes in writing, which includes votes cast on behalf of absent members who have appointed proxies or attorneys.

"register" means the register of members required to be kept pursuant to the *Corporations Act 2001 (Cth)* section 169 and may contain additional information related to the membership as the Board shall determine from time to time.

Corporations Act 2001 (Cth) section 169:

(1) The register of members must contain the following information about each member:

(a) the member's name and address;

(b) the date on which the entry of the member's name in the register is made.

"registered office" means the primary location and principal place of administration where the company's business is performed and where the company's books and records are kept.

"relevant officer" means a person who is, or has been, a director or an officer of the company.

"resolution" means a resolution where more than fifty per cent (50%) of the total eligible votes cast on the resolution (i.e. those votes cast by persons eligible to vote who are present at the meeting in person or by proxy as the Constitution allows) are in favour of the resolution.

"seal" means the common seal of the company (if applicable) and includes any official seal of the company (noting that the Act allows the company to *"make contracts and execute documents without using a seal"* in which case the company must act in accordance with provisions in section 126 and section 127 of the *Corporations Act 2001 (Cth)*).

"Secretary" means any person appointed in accordance with the Act and pursuant to Article 65 to the statutory office of company Secretary to perform the specific duties set out on the Act and this Constitution of a company Secretary and includes an assistant Secretary or any person appointed to act as the Secretary or assistant Secretary temporarily.

Corporations Act 2001 (Cth) section 204A(2) - A public company must have at least one (1) Secretary.

"special business" means any business that is dealt with at a General Meeting or business dealt with at an Annual General Meeting with the exception of the "ordinary" business pursuant to Article 30(b), and is business that has a specific

purpose and requires a "special resolution" to be put for the business to be dealt with at the meeting.

"special resolution" means a resolution passed at a meeting where seventy-five per cent (75%) of the total eligible votes cast on the resolution (i.e. those votes cast by persons eligible to vote who are present at the meeting in person or by proxy as the Constitution allows) are in favour of the resolution, and if the context suggests, of which notice has been given in accordance with sections 249H and 249L of the *Corporations Act 2001 (Cth)*, as amended or varied from time to time. *Special resolutions are needed for important matters such as resolutions by members to wind up the company or change its name or provisions of its constitution. Unless at least ninety-five per cent (95%) of the members agree, the notice for a meeting to pass a special resolution must be given at least twenty-one (21) days before the meeting and the resolution itself must be passed by at least seventy-five per cent (75%) of the members who vote at that meeting. More details of the contents of a relevant notice and the amount of timing will be found in sections 249H and 249L.*

"Vice-President" means any person appointed to the office of Vice-President in accordance with Article 64 pursuant to the authorities, powers and functions described in this Constitution and any policies, protocols, practices or processes determined by the Board from time to time that give effect to the authorities, powers and functions described in this Constitution.

2. Interpretation

Headings are for convenience only and do not affect interpretation.

Unless the context indicates a contrary intention, in this Constitution:

- (a) (singular includes plural) a word importing the singular includes the plural (and vice versa);
- (b) (gender) a word indicating a gender includes every other gender;
- (c) (corresponding meaning) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (d) (meaning not limited) a reference to the words "include", "including", "for example" or "such as", when introducing an example, does not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (e) (writing) "in writing" and "written" includes printing, typing and other modes of reproducing words in a visible form including, without limitation, any representation of words in a physical document or in an electronic communication or form or otherwise;

- (f) (signed) where, by a provision of this Constitution, a document including a notice is required to be signed, that requirement may be satisfied or authenticated by any other manner permitted by the *Corporations Act 2001 (Cth)* or any other law and in relation to an electronic communication of the document in any manner permitted by law or by any State or Commonwealth law relating to electronic transmissions or in any other manner approved by the Directors;
- (g) (currency) a reference to “\$” or “dollars” is a reference to Australian currency;
- (h) (amendments and statutes) all references to statutory provisions includes its delegated legislation and are construed as references to any statutory modification, consolidation, amendment, replacement or re-enactment for the time being in force;
- (i) (person) words importing person includes a reference to a natural person (an individual) and also includes partnerships, associations, corporations, companies unincorporated and incorporated whether by Act of Parliament or otherwise;
- (j) (function) a reference to a function includes a reference to a power, authority or duty;
- (k) (exercise of a function) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty;
- (l) (regulations) a reference to a law includes regulations and instruments made under the law;
- (m) (from time to time) a power, an authority or a discretion reposed in a Director, the Directors, the company in general meeting or a member of the company may be exercised at any time and from time to time;
- (n) (inadvertent omissions and interpretation of the Constitution) if some formality required by this Constitution is inadvertently omitted or is not carried out the omission does not invalidate anything, including any resolution, which but for the omission would have been valid unless it is proved to the satisfaction of the Board that the omission has directly and unfairly prejudiced any member financially. The Directors shall, consistent with and in pursuance of this Constitution, have authority to interpret the meaning of this Constitution and any matter relating to the company on which this Constitution is silent. The decision of the Board is final and binding on all members; and
- (o) (sending) references to the sending of a document includes the sending of that document via electronic means, including, but not limited to, electronic mail.

3. Application of Corporations Act

- (a) Unless the context indicates a contrary intention and except for the definitions and interpretations in the preceding clause, in this Constitution:
 - (i) a reference to the Corporations Act is to the *Corporations Act 2001 (Cth)* in force in relation to the company after taking into account any waiver, modification or exemption which is in force either generally or in relation to the company; and
 - (ii) a word, expression or phrase given a meaning in the *Corporations Act 2001 (Cth)* has the same meaning in this Constitution where it relates to the same matters as the matters for which it is defined in the *Corporations Act 2001 (Cth)*, unless that word or phrase is otherwise defined in this Constitution.
This means the words used in this Constitution shall, unless the contrary intention appears, have the same meaning as they have in the Law.
- (b) The replaceable rules now and hereafter contained in the *Corporations Act 2001 (Cth)* do not apply to the *Australian Indigenous Doctors' Association Limited* unless repeated in this Constitution or specifically made applicable to the *Australian Indigenous Doctors' Association Limited* by a provision of this Constitution. Any reference to a replaceable rule means that the paragraph is based upon, but may not be identical to, a provision of the *Corporations Act 2001 (Cth)* which provides guidance but which is not compulsory, noting that the operation of each of the sub-sections of the *Corporations Act 2001 (Cth)*, which are defined as replaceable rules are displaced by this Constitution and do not apply to the company.

4. Enforcement

- (a) Each member submits to the non-exclusive jurisdiction of the courts of New South Wales, the Federal Court of Australia and the courts competent to determine appeals from those courts with respect to any proceedings that may be brought at any time relating to this Constitution.
- (b) If at any time any provision of this Constitution is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, then that does not affect or impair:
 - (i) the legality, validity or enforceability in that jurisdiction of any other provision of this Constitution; or
 - (ii) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Constitution.

Objects and powers

5. Objects and powers of the company

- (a) The **objects** of the company are to:
- (i) strive for equitable health and life outcomes for Aboriginal and Torres Strait Islander people;
 - (ii) advance the health and wellbeing of Aboriginal and Torres Strait Islander people and communities;
 - (iii) facilitate the achievement of parity of Aboriginal and Torres Strait Islander health professionals across the health sector;
 - (iv) be recognised by Indigenous and non-Indigenous people, organisations and systems as a leader in health and wellbeing;
 - (v) lead in achieving the goal of an Australian health system that is culturally safe, of high quality, reflective of need and respects and integrates Aboriginal and Torres Strait Islander cultural values; and
 - (vi) implement specific projects and initiatives that:
 - (A) promote the health and wellbeing of Aboriginal and Torres Strait Islander people and communities;
 - (B) promote collegiate support and improved outcomes for Aboriginal and Torres Strait Islander medical graduates and students; and
 - (C) increase Aboriginal and Torres Strait Islander participation at all levels in health.
- (b) The **objects** of the company are also, being a non-profit organisation, which will raise money through public donations, Commonwealth, State and Territory government assistance and through other sources, to:
- (i) support the development of a high quality Aboriginal and Torres Strait Islander health workforce including increasing the number of Aboriginal and Torres Strait Islander people in health and medical professions;
 - (ii) undertake projects that enhance the delivery of culturally safe health and medical services to Aboriginal and Torres Strait Islander peoples and communities;

- (iii) undertake projects to improve the evidence base, and promote the application of best practice for improving Aboriginal and Torres Strait Islander people's health; and
- (iv) promote effective pathways into health and medicine, including the strengthening of education and training outcomes for Aboriginal and Torres Strait Islander people,

but at all times to recognise that the company may be constrained to pursue only some of those objects to the exclusion of others from time to time or pursue some objects with differing priorities.

- (c) The **powers** of the company are:

In addition to the **powers** conferred on the company by the Act, Regulations or this Constitution, and consistent with the assigned authorities in Article 53, the company has all such powers as are necessary or convenient to carry out its objects including but not limited to the following powers:

- (i) **Employ, appoint and/or engage** and at its discretion **remove, dismiss or suspend** any employees, officers, staff, agents, contractors, and tradespersons or professional **persons**;
- (ii) Determine **wages, salaries and gratuities** of officers, employees and other appointed contractors, agents, service providers where appropriate;
- (iii) Establish and support, or aid in the establishment and support, of services, institutions, funds, trusts, schemes and conveniences calculated to benefit employees or past employees of the company and their dependants, and the granting of pensions, allowances or other **benefits to employees or past employees of the company** and their dependants, and the making of payments towards insurance or superannuation in relation to any of those purposes;
- (iv) Print and publish by any technological means newsletters, periodicals, books, leaflets or other **documents**;
- (v) Receive or make **gifts, grants, devises, bequests, subscriptions or donations** from or to any person, fund, authority, organisation or institution and accept any gift whether subject to special trust or not and to act as trustee of money or other property vested in the company on trust;
- (vi) Take any measures from time to time as the company may deem expedient or appropriate for the purpose of facilitating **the raising of revenue and the procuring of contributions to the funds of the company**,

whether through charity fundraising or other events or by way of donations, subscriptions, grants or otherwise;

- (vii) Draw, make, accept, endorse, discount and issue cheques, draft bills of exchange, promissory notes and other **negotiable instruments**;
- (viii) Borrow or raise **money** and other funds in such manner and on such terms as the company may think fit;
- (ix) Secure the repayment of money raised or borrowed or the payment of a **debt or liability of the company** by giving mortgages, charges or securities upon or over all or any of the real or personal property of the company;
- (x) **Invest** in authorised trustee investments of any monies of the company not immediately required for any of its objects or purposes in any manner in which trustees are authorised by law to administer money held on trust;
- (xi) Enter into **contracts**;
- (xii) Establish and support or aid in the establishment or support of, any **other service** formed for any of the objects, consistent with any of the aforesaid objects of the company;
- (xiii) Establish, maintain and manage any **building or works** and arrange for the construction maintenance and alteration of buildings or works and expend money and do any other thing necessary, convenient or advisable in relation to any building or works to achieve the objects of the company;
- (xiv) Purchase, take on lease or in exchange and the hiring or otherwise acquiring of any **real or personal property** that may be deemed necessary or convenient to achieve the objects of the company;
- (xv) Buy, sell and supply of and deal in, **goods or services** of any kind to achieve the objects of the company;
- (xvi) **Do any other lawful act** as may be necessary, incidental or conducive to the achievement of the aforesaid objects of the company **including to co-operate** with any person or organisation on matters relating to the objects of the company;
- (xvii) Form a solely owned **incorporated entity** or participate in the formation of an incorporated entity with any other persons or bodies whose objects are similar to those of the company;
- (xviii) Subscribe to, become a member of, form or participate in the formation of, or enter into a **partnership or joint venture** with, or co-operate with, or

amalgamate with, any other persons or bodies whose objects are similar to those of the company;

In relation to (xvii) and (xviii), *provided* that the company shall not subscribe to, or participate, or support with its funds, or amalgamate with, any corporate entity which allows the distribution of its income and property among its individual members as provided for this company in Article 6 of this Constitution;

- (xix) undertake **exhibitions, seminars, conferences and any other similar promotional, consultative or educative forums** in Australia and overseas deemed necessary or convenient to achieve the objects of the company;
- (xx) prepare and make **submissions, applications, tenders or other propositions** to State and Federal governmental departments and agencies deemed necessary or convenient to achieve the objects of the company.

Income and property

6. Application of income and property

- (a) Subject to Articles 6(b) and 6(c), the company must apply the profits (if any) or other income and property of the company solely towards the promotion of the objects of the company set out in Article 5 and no portion of it may be paid or transferred, directly or indirectly, to any member whether by way of dividend, bonus or otherwise.
- (b) Nothing in Article 6(a) prevents the company making any payment to any member in good faith of:
 - (i) reasonable and proper remuneration for **any services actually rendered or goods supplied** to the company in the ordinary and usual course of business of the company;
 - (ii) the payment or reimbursement of **out-of-pocket expenses** incurred on behalf of the company where the amount payable does not exceed an amount previously approved by the Board;
 - (iii) reasonable and proper **rent or fees** for premises leased or licensed by any member to the company;
 - (iv) money to any member, being a person engaged in any business or trade profession, for all usual **professional or other charges** for work done by that person or that person's firm or employer, where the provision of the service has the prior approval of the Board and the amount payable is approved by

the Board and is not more than an amount which commercially would be reasonable payment for the service;

- (v) **interest** at a rate not exceeding a rate approved by the Board on money borrowed by the company from the member.
- (c) The company must not pay fees to or on behalf of Directors except that the company may make payments to a director in good faith for:
 - (i) the payment or reimbursement of **out-of-pocket expenses** reasonably incurred by a director in the performance of any duty as a director of the company where that payment or reimbursement has been approved by the Board;
 - (ii) the payment of a reasonable and proper amount in compensation for **services actually rendered** by a director in travelling to or attending Board meetings and other events for or on behalf of the company, where the payment has been approved by the Board;
 - (iii) the payment of a reasonable and proper amount in **remuneration** for attending upon the functions and duties of a Director or Office Bearer on reasonable commercial terms commensurate with similar not for profit organisations and which remuneration has been approved by the Board and does not exceed the total amount approved by the members in General Meeting as the remuneration payable to all Directors and Office Bearers for undertaking such functions and duties;
 - (iv) money to any director, being a person engaged in any business or trade profession, for all usual **professional or other charges** for work done by that person or that person's firm or employer, where the provision of the service has the prior approval of the Board and the amount payable is approved by the Board and is not more than an amount which commercially would be reasonable payment for the service;
 - (v) any **salary or wage** due to the Secretary as an employee of the company where the terms of employment have been approved by the Board;
 - (vi) an **insurance premium** in respect of a contract insuring a director or officer for a liability incurred as an officer of the company where the Board has approved the payment of the premium; or
 - (vii) any payment in relation to **indemnity or insurance** under Article 68(a), 68(c) or 68(d) or a payment under any agreement or deed referred to in Article 68(e).
- (d) Nothing in Article 6(a) prevents the company making any payment in good faith of an amount under Article 79.

Gift and other funds

7. Establishment of a Gift Fund

- (a) The company shall establish and maintain a Gift Fund:
 - (i) to which gifts of money or property for the objects of the company are to be made;
 - (ii) to which any money received by the company because of such gifts is to be credited; and
 - (iii) that does not receive any other money or property.
- (b) For the purpose of establishing the Gift Fund, the company must establish a separate bank account in the name of the Gift Fund.
- (c) The name of the Gift Fund is the *Australian Indigenous Doctors' Association Gift Fund*.

8. Money and property credited to Gift Fund

- (a) For the avoidance of doubt, money or property received by the company in respect of:
 - (i) sponsorships, raffles, charity auctions, dinners and commercial activities; or
 - (ii) membership fees and levies,must not be made or credited to the Gift Fund.
- (b) If money or property is incorrectly made or credited to the Gift Fund, the money or property must be removed from the Gift Fund as soon as practicable.

9. Use and records of gifts made to Gift Fund

- (a) The company must use the following only in the furtherance of the company's objects:
 - (i) gifts made to the Gift Fund; and
 - (ii) any money received because of such gifts. This includes the proceeds of sale of gifted property and investment returns (including interest and rents) from gifted money and property.

- (b) Details of the Gift Fund (including all uses referred to in Article 9(a)) must be properly recorded in records maintained by the company.
- (c) Gifts of property to the Gift Fund must be specifically identified as gifts to the Gift Fund.
- (d) The company may use the Gift Fund to pay for reasonable costs and expenses expressly relating to the administration of the Gift Fund.
- (e) The company must issue a receipt to the donor of gifts to the Gift Fund. A receipt must state:
 - (i) the name of the Gift Fund;
 - (ii) the ABN of the company; and
 - (iii) the fact that the receipt is for a gift.

10. Winding up of Gift Fund

- (a) At the earlier of either:
 - (i) the winding up of the Gift Fund; or
 - (ii) the revocation of the company's endorsement as a Deductible Gift Recipient,

any surplus assets of the Gift Fund remaining after payment of liabilities attributable to it shall be transferred to a fund, authority or institution whose objects are similar to those in Article 5 and to which income tax deductible gifts can be made.
- (b) If the company is wound up, Article 79 will apply.

11. Establishment of a Public Fund

The company will establish and maintain a separate fund ("**Public Fund**") for any money or other property of the company that is not eligible for inclusion in the Gift Fund. The company shall apply the whole of the income of the Public Fund in accordance with Articles 5 and 6.

Liability of members

12. Extent of liability

Each member undertakes to contribute an amount not exceeding **\$25.00** to the property of the company if the company is wound up at a time when that person is a member, or within one year of the time that person ceased to be a member, for:

- (a) payment of the company's debts and liabilities contracted before that person ceased to be a member;
- (b) payment of the costs, charges and expenses of winding up the company; and
- (c) adjustment of the rights of the contributories among themselves.

Limited liability limits the personal liability of MEMBERS of the entity to the amount of their guarantee to cover unpaid debts of the corporate entity should it wind up.

Corporations Act 2001 (Cth) section 9 Definition: "A limited liability company is formed on the principle of having the liability of its members limited to the respective amounts that the members undertake to contribute to the property of the company if it is wound up."

Membership

13. Membership categories and qualifications

(a) Indigenous medical graduate members (Individuals)

- (i) A person is eligible to apply for membership as an Indigenous medical graduate member of the company if they:
 - (A) are an Aboriginal and/or Torres Strait Islander person;
 - (B) have graduated with a recognised degree in medicine;
 - (C) are accepted by the Board as having a commitment to the aims, objectives and values of the company; and
 - (D) are nominated by an Indigenous medical graduate member or Indigenous medical student member.
- (ii) A person becomes an Indigenous medical graduate member upon approval of that person's application by the Board in accordance with Article 15.

(b) Indigenous medical student members (individuals)

- (i) A person is eligible to apply for membership as an Indigenous medical student member of the company if they are:

- (A) an Aboriginal and/or Torres Strait Islander person;
 - (B) enrolled in a recognised degree in medicine;
 - (C) accepted by the Board as having a commitment to the aims, objectives and values of the company; and
 - (D) nominated by an Indigenous medical graduate member or Indigenous medical student member.
- (ii) A person becomes an Indigenous medical student member upon approval by the Board in accordance with Article 15.
- (c) **Associate members (individuals and organisations)**

Individual associate members

- (i) An individual is eligible to apply for membership as an associate member of the company if the individual:
 - (A) is accepted by the Board as having a commitment to the aims, objectives and values of the company; or
 - (B) is nominated by an Indigenous medical graduate member or Indigenous medical student member.
- (ii) An individual becomes an associate member upon approval by the Board in accordance with Article 15.

Organisational associate members

- (iii) An organisation or body corporate is eligible to apply for membership as an associate member of the company if the organisation or body corporate:
 - (A) is an organisation or a body corporate (and not being a natural person);
 - (B) is accepted by the Board as having a commitment to the aims, objectives and values of the company; or
 - (C) is nominated by an Indigenous medical graduate member or Indigenous medical student member.
- (iv) An organisation or a body corporate becomes an associate member upon approval by the Board in accordance with Article 15.

(d) **Life members (individuals)**

- (i) An individual is eligible for membership as a life member of the company if the individual:
 - (A) is an Indigenous medical graduate member; and
 - (B) has served a minimum of two (2) years as President or were a founding member of AIDA; and
 - (C) is nominated by the Board for consideration for life member status.
- (ii) An individual becomes a life member upon the Board, at its absolute discretion, passing a resolution admitting the individual as a life member. Subject to Article 13(d)(iii), life membership does not extinguish the individual's Indigenous medical graduate member status as long as they fulfil and maintain all the Constitutional qualifications and obligations pertaining to Indigenous medical graduate membership (except that they shall not be subject to any fees or other payments pursuant to Articles 23 to 27), and in which case they are entitled to all the rights of an Indigenous medical graduate member pursuant to Articles 14(a), (b) and (c).
- (iii) An individual granted life membership holds that status even after they cease to be an Indigenous medical graduate member (except if they cease pursuant to Articles 20 and 21) and are then subject to the obligations and rights pursuant to Article 14(f).
- (iv) Life membership is an honorary recognition that the member has, in serving at least one full term as President, significantly assisted and/or contributed to the aims, objectives and values of the company.

14. Membership rights

In addition to those rights and powers that are permitted by this Constitution to benefit or otherwise be performed by members of the company:

- (a) **All members** may attend any meeting of members and exercise any rights pertaining to their particular category at those meetings pursuant to this Article 14 or elsewhere described in this Constitution.
- (b) **All members** are entitled to discounted benefits for nominated AIDA product and service offerings as may be determined from time to time by the Board.
- (c) **Indigenous medical graduate members**, subject to this Constitution:
 - (i) have full voting rights as members of the company, except for the right to vote for the Director (Student);

- (ii) have speaking rights at a meeting of members; and
 - (iii) may stand for election as a director of the company, but not as the Director (Student).
- (d) **Indigenous medical student members**, subject to this Constitution:
 - (i) have full voting rights as members of the company (including the right to vote for the Director (Student));
 - (ii) have speaking rights at a meeting of members; and
 - (iii) may stand for election as a director of the company, but only as the Director (Student).
- (e) **Associate members**, subject to this Constitution:
 - (i) have observer status at a meeting of members;
 - (ii) have no voting rights at a meeting of members or speaking rights (other than when permitted to speak with the consent of the Chairperson on agenda items to provide advice, counsel and information on matters or answer questions if so requested but only by permission of and through the presiding Chairperson of the meeting); and
 - (iii) may not stand for election as a director.
- (f) **Life members**, subject to this Constitution:
 - (i) hold life membership status until they cease to be a member pursuant to Articles 19, 20 or 21;
 - (ii) shall not be subject to any fees or other payments pursuant to Articles 23 to 27;
 - (iii) have the same rights as an Indigenous medical graduate member pursuant to Articles 14(a), (b) and (c).
- (g) Subject to the *Corporations Act 2001 (Cth)* and the rights of a particular category of members pursuant to Article 14(c), (d) and (e) (as applicable), **the company may vary or cancel rights of members** in that class:
 - (i) by a special resolution passed at a meeting of the members included in that class; or

- (ii) with the written consent of members who are entitled to at least seventy-five per cent (75%) of the votes that may be cast by members included in that class.

15. Application and acceptance of members

- (a) An application from a person, organisation or body corporate for any category of membership of the company (or from a member of one category wishing to transfer to another category of membership of the company) must:
 - (i) be in a form determined by the Board from time to time ("**membership Application Form**") and be accompanied by:
 - (A) the relevant fee (if any and where applicable);
 - (B) the postal address and electronic mail address of the applicant;
 - (C) the signature (or where applicable, the seal) of the applicant, or such other form of authentication (electronic or otherwise) approved by the Board from time to time; and
 - (D) any other details of the Indigenous medical graduate member or Indigenous medical student member who has agreed to support the application as determined by the Board from time to time; and
 - (ii) be lodged with the Secretary at the company's principal place of business.
- (b) The Secretary must refer any membership Application Form to the next scheduled meeting of the Board.
- (c) The Board shall, after considering the application, and applying the criteria for eligibility as set out for the relevant category of member in Article 13, determine in its absolute discretion whether an applicant may become a member. The Board is not required to give any reason for the rejection of any application to become a member.
- (d) If an application as a member is accepted by the Board, the company must give written notice of the acceptance to the applicant and enter the applicant's name in the Register.
- (e) If an application as a member is rejected by the Board, the company must give written notice of the rejection to the applicant and refund in full any fee paid by the applicant.
- (f) Failure by the company to comply with any notice requirement in this Article does not invalidate the decision by the Board regarding an application.

16. Register of members

- (a) The Secretary must establish and maintain a register of the members of the company which accurately reflects who is a member.
- (b) The register must contain the following information about each member:
 - (i) the member's name and postal and electronic mail address;
 - (ii) the category of membership; and
 - (iii) the date on which the member's name in the register was entered in the register; and
 - (iv) any additional information related to the membership as the Board shall determine from time to time.
- (c) Where an organisation or body corporate is a member, an officer of the organisation or body corporate shall be registered as the member. The register must contain:
 - (i) the organisation's name and postal and electronic mail address; and
 - (ii) the name and address of the officer of the organisation;
 - (iii) the date on which the member's name in the register was entered in the register; and
 - (iv) any additional information related to the membership as the Board shall determine from time to time.
- (d) The register must be kept at the company's principal place of business.
- (e) The Secretary must ensure that only those particulars required by the *Corporations Act 2001 (Cth)* relating to a member are:
 - (i) available for inspection in accordance with the Act; and
 - (ii) given only to a person with the right to have such information in accordance with the Act.
- (f) A member shall within a reasonable time, by notice in writing lodged with the Secretary, inform the company of any change in the member's name or address. The company may require reasonable verification of the change.
- (g) The company must ensure that it has at least one (1) member at all times.

17. No transfers

The rights of being a member are not transferable whether by operation of law or otherwise. All rights and privileges of membership of the company cease on termination of membership.

Cessation of membership

18. Expiry of membership

- (a) Each membership will, subject to earlier termination in accordance with this Constitution, expire on 31 December each year (or on 31 December every second year if the member has agreed to a two (2) year membership period) if that member has not effected renewal of their membership in accordance with this Article 18 before that date (or by any extension of that date resolved by the Board).
- (b) On or before 1 November each year (or before 1 November every second year if the member has agreed to a two (2) year membership period) the company must send to each member a notice of renewal in a form prescribed by the Board ("**Membership Renewal Form**") setting out:
 - (i) the prescribed fee for the following year (or two (2) years) as determined in accordance with Article 23; and
 - (ii) the method of renewal.
- (c) membership is renewed by a member:
 - (i) complying with the method of renewal set out on the Membership Renewal Form; and
 - (ii) providing the fee prescribed by the Membership Renewal Form in cleared funds in accordance with the method of payment and by the date set out on the Membership Renewal Form.
- (d) A person ceases:
 - (i) to enjoy any of **the rights or privileges of membership** if that person has not effected renewal of their membership in accordance with this Article 18 before 31 December of each year (or before 31 December every second year if the member has agreed to a two year membership period) (or by any extension of that date resolved by the Board);
 - (ii) to **be a member of the company** if that person has not effected renewal of their membership within six calendar months following the membership

renewal deadline of 31 December of each year (or 31 December every second year if the member has agreed to a two year membership period).

19. Resignation of a member

- (a) A member may at any time resign as a member of the company by giving the company notice in writing. Unless the notice provides otherwise, a resignation by a member takes effect immediately on the giving of that notice to the company.
- (b) If a member resigns, the company must remove the member's name from the register.

20. Expulsion of a member

- (a) Subject to Article 20(b), if:
 - (i) a member is in breach of, or has refused or wilfully neglected to comply with, a provision of this Constitution or a provision of any governing policies, guidelines, procedures, protocols, practices or processes prescribed by the Board from time to time; or
 - (ii) any act or omission of a member is, in the opinion of the Board, unbecoming of a member, prejudicial to the interests or reputation of the company or is not consistent with the aims, objectives and values of the company; or
 - (iii) a member is, or any step is taken for that member to become, bankrupt, an insolvent under administration or an externally administered body corporate; or
 - (iv) the succession by another body corporate or entity to the assets and liabilities of the member occurs such that they **no longer satisfy any criteria for admission to membership** of the company, which may be established from time to time;

the company may expel the member by a resolution of the Board and remove the member's name from the register. The term of the expulsion, before the person is eligible to re-apply for membership, shall be determined by the Board and stated in the resolution of expulsion.

- (b) The company must not expel a member under Article 20(a) unless:
 - (i) at least five (5) business days' notice has been given to the member stating the date, time and place at which the question of expulsion of that member is to be considered by the Board, and the nature of alleged event(s) giving rise to the expulsion; and

- (ii) the affected member is given the opportunity of explaining to the Board, orally – in person or by representation, or in writing, why the member should not be expelled.

21. Other cessation events

If a member:

- (a) being a natural person, dies or becomes bankrupt, becomes of unsound mind or becomes a person whose property is liable to be dealt with under a law about mental health; or
- (b) being an organisation or body corporate, becomes insolvent, has a receiver, receiver and manager, administrator or liquidator appointed, or is wound up (except for the purposes of reconstruction or amalgamation to a successor organisation with substantially the same objectives and purposes as the original organisation) or is otherwise deregistered under the laws of the jurisdiction in which it is incorporated; or
- (c) ceases to satisfy any criteria for admission to membership of the company, which may be established from time to time;

the member ceases to be a member of the company and the company must remove the member's name from the register.

22. Effect of cessation

- (a) The termination of a membership for any reason does not in any way prejudice, lessen or otherwise affect the **liabilities and obligations** of a member (whether they arise under this Constitution or otherwise) existing at the date of termination or which arise or crystallises after that date out of, or by reason of, facts or circumstances occurring or in existence at or before that date.
- (b) Without limiting the previous clause, termination of membership does not relieve a member from:
 - (i) any obligation to pay any **fees** payable (pursuant to Articles 23 to 27) on or before the date of termination and does not entitle the member to any refund of any such fees in part or in whole; and a member:
 - (A) remains liable to pay, and must immediately pay, to the company all amounts that at the date of cessation were payable by the person to the company as a member; and
 - (B) must pay to the company interest at the rate the Board resolves on those amounts from the date of cessation until and including the date of payment of those amounts; nor

- (ii) any obligation to pay the **member's guarantee** amount specified in Article 12 if the company is wound up at a time within one (1) year of cessation of the member's membership.

The company may, by resolution of the Board, waive any or all of its rights under this Article 22(a) and 22 (b)(i).

Fees and other payments

23. Setting of fees

- (a) The company may, by resolution of the Board, require the payment of fees or levies by members in the amount, on any terms and at any times as the Board resolves, including payment by instalments.
- (b) The company may, when admitting members, make fees payable for one or more category of members for different amounts and at different times as the Board resolves.
- (c) The company may, by resolution of the Board, revoke or postpone a fee or extend the time for payment of a fee, at any time prior to the date payment of that fee is due.

24. Notice of fees

- (a) The company must give notice of fees to the members who are required to pay the fees at least ten (10) business days before the due date for payment. The notice must specify the time(s), place and manner of payment and any other information as the Board resolves.
- (b) The non-receipt of a notice of a fee by, or the accidental omission to give notice of a fee to, any member does not invalidate the fee.

25. Payment of fees

- (a) Each member must pay to the company the amount of each fee payable by the member at the time, at the place and in the manner specified in the notice of the fee.
- (b) In a proceeding to recover a fee or an amount payable, due to the failure to pay or the late payment of that fee, proof that:
 - (i) the name of the person is entered in the register as a member;
 - (ii) the person is in the category of members liable to pay the fee;

(iii) there is a record in the company's minute books of a resolution of the Board determining the fee, or a clause in the terms of membership of a category of members requiring the payment of the fee, pursuant to Article 23; and

(iv) notice of the fee was given or taken to be given to the person in accordance with this Constitution;

is conclusive evidence of the obligation of that person to pay the fee.

26. Interest payable

(a) If an amount payable to the company as a fee is not paid before or on the time for payment, the person who owes the amount must pay to the company:

(i) interest on the unpaid part of the amount, from the date payment is due to the date of payment, at the rate the Board resolves; and

(ii) all costs and expenses the company incurs due to the failure to pay or the late payment of that fee.

(b) Interest under Article 26(a) accrues daily and may be capitalised at any interval that the Board resolves.

(c) The company may, by resolution of the Board, waive payment of some or all of the interest, costs or expenses payable under Article 26(a).

27. Company payments

(a) A member, or the personal representative of a deceased member, must pay to the company on written demand an amount equal to all payments the company makes to a government or taxation authority in respect of the member or the death of the member, where the company is either:

(i) obliged by law to make the relevant payment; or

(ii) advised by a lawyer qualified to practice in the jurisdiction of the relevant government or taxation authority that the company is obliged by law to make the relevant payment.

(b) The company is not obliged to notify a member in advance of its intention to make a payment under Article 27(a).

(c) An amount payable by a member to the company under Article 27(a) is treated under this Constitution as if it is a fee properly made by the Board of which notice has been given on the date on which the written demand is given by the company to the member or the personal representative of a deceased member.

- (d) Nothing in this Article affects any right or remedy, which any law confers on the company.

Proceedings of meetings of members

28. Calling meetings of members

- (a) The company may by resolution of the Board call a meeting of members to be held at the time and place (including two (2) or more locations using technology which gives attending members as a whole a reasonable opportunity to participate) and in the manner the Board resolves.
- (b) No member may call or arrange to hold a meeting of members except where permitted by the Corporations Act.
Corporations Act 2001 (Cth) sections 249D to 249F and 249H to 249M have details of how members can call a general meeting of the company.
- (c) The company must hold an AGM at least once in each calendar year and within five (5) months after the end of its financial year.

29. Notice of Meetings of members

- (a) Where the company has called a meeting of members, at least twenty-one (21) days notice of the meeting must be given to members and Directors in accordance with section 249J of the *Corporations Act 2001 (Cth)*, unless seventy-five per cent (75%) of members agree to a shorter period and any **proxy form** for the meeting may be given in the form and in the manner in which the Board resolves, subject to any requirements in the *Corporations Act 2001 (Cth)*.
Corporations Act 2001 (Cth) section 249H of the Corporations Act provides details of the amount of notice to be given at meetings. This period of time may vary depending upon the nature of any proposed resolutions.
- (b) Subject to the *Corporations Act 2001 (Cth)*, anything done (including the passing of a resolution) at a meeting of members is not invalid because either or both a person does not receive notice of the meeting or a proxy form, or the company accidentally does not give notice of the meeting or a proxy form to a person.
- (c) The company must give its Auditor:
 - (i) notice of meeting of members in the same way that a member is entitled to receive notice under Article 29(a); and
 - (ii) any other communication relating to the meeting of members that a member is entitled to receive.
- (d) 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 (2) or more places, the technology that will be used to facilitate this);
- (ii) state the general nature of the meeting's business;
- (iii) if a resolution is to be proposed at the meeting, set out an intention to do so either as a resolution or a special resolution and state that resolution;
- (iv) in the case of an election of Directors, state the names of the candidates for election (and may include any "qualification resume" received from the candidate pursuant to Article 47(c)(i), unless otherwise distributed as determined by the Board from time to time); and
- (v) contain a statement setting out the following information:
 - (A) that a member who is entitled to attend and vote at a meeting of members has the right to appoint a proxy;
 - (B) that the proxy must be a natural person; and
 - (C) any **proxy form** for the meeting may be given in the form pursuant to Article 41(c) and subject to the requirements in the *Corporations Act 2001 (Cth)*.

30. Business of meetings of members

- (a) All business will be **special business** that is transacted at either a **General Meeting** not being an Annual General Meeting, or an Annual General Meeting with the exception of the business pursuant to Article 30(b), and shall include:
 - (i) items of business submitted by the Board;
 - (ii) items of business submitted by members (as classified pursuant to Articles 13(a) and 13(b)) with at least five percent (5%) of the votes that may be cast on the resolution or at least ten (10) members (classified pursuant to Articles 13(a) and 13(b)) who are entitled to vote at a general meeting. The notice of the item of business submitted by members, pursuant to this Article 30(a)(ii), must:
 - (A) be in writing;
 - (B) set out the wording of the proposed resolution; and
 - (C) be signed by the members proposing to move the resolution.

Separate copies of a document setting out the notice may be used for signing by members if the wording of the notice is identical in each copy.
(i) & (ii) above comply with Corporations Act 2001 (Cth) section 249N.

- (b) In addition to Article 30(a), the business that may be transacted at an Annual General Meeting pursuant to the *Corporations Act 2001 (Cth)* section 250R is:
 - (i) the confirmation of the minutes of the preceding Annual General Meeting;
 - (ii) the consideration of the annual:
 - (A) financial report;
 - (B) Directors' report; and
 - (C) Auditor's report;
 - (iii) the election of Directors (including the Director (Student)); and
 - (iv) if required at that particular AGM by the Corporations Act, the appointment of Auditors and the fixing of their remuneration.
Corporations Act 2001 (Cth) sections 327B, 327C, 327D, 328A and 328B deal with appointment, consent and nomination of Auditors.
- (c) Except with the approval of the Board, with the permission of the Chairperson of the meeting or under the *Corporations Act 2001 (Cth)*, no person may move at any meeting of members:
 - (i) any resolution except in the form set out in the notice of meeting given under Article 30(a)(ii); or
 - (ii) any amendment of any resolution, or of a document that relates to any resolution. Any objection raised under this Article 30(c)(ii) in relation to the question of the validity of the amendment of the resolution must be decided by the Chairperson of the General Meeting whose decision, made in good faith, is final and conclusive.
- (d) Pursuant to Article 30(b)(ii)(A), the chair of an AGM shall allow a reasonable opportunity for the members as a whole at the meeting to ask the Directors or their delegated officer or their representative questions relevant to the content of the financial report.
- (e) Pursuant to Article 30(b)(ii)(B), the chair of an AGM shall allow a reasonable opportunity for the members as a whole at the meeting to ask the Directors questions about or make comments on the management of the company.
Corporations Act 2001 (Cth) section 250S(1)

- (e) Pursuant to Article 30(b)(ii)(C), if the company's Auditor or their representative is at the meeting, the chair of an AGM shall allow a reasonable opportunity for the members as a whole at the meeting to ask the Auditor or the Auditor's representative questions relevant to the content of the Auditor's report.

Corporations Act 2001 (Cth) section 250T (1)(a)

31. Quorum of meetings of members

- (a) No business may be transacted at a meeting of members except, subject to Article 32, the election of the Chairperson of the meeting unless a quorum for a meeting of members is present at the time when the meeting commences.
- (b) A quorum for a meeting of members is **twenty (20)** attending members who are entitled to vote on a resolution at that meeting. Each attending member who is entitled to vote on a resolution at that meeting may only be counted once towards a quorum. If a member has appointed more than one (1) proxy or attorney, only one (1) of them may be counted towards a quorum.
- (c) If a quorum is not present within thirty (30) minutes after the time appointed for the commencement of a meeting of members, the meeting is dissolved unless the Chairperson of the meeting or the Board adjourn the meeting to a date, time and place determined by that Chairperson or the Board.
- (d) If a quorum is not present within thirty (30) minutes after the time appointed for the commencement of an adjourned meeting of members, fifteen (15) attending members constitute a quorum, or where fifteen (15) attending members are not present, the meeting is dissolved.

32. Chairperson of meetings of members

- (a) Subject to Articles 32(b) and 32(c), the President must chair each meeting of members or in the President's absence, the Vice-President may preside as Chairperson at every General Meeting.
- (b) If at a meeting of members:
 - (i) there is no President or Vice-President; or
 - (ii) the President or Vice-President is not present within fifteen (15) minutes after the time appointed for the commencement of a meeting of members or is not willing to chair all or part of the meeting,

the Directors present may (by majority vote) elect one (1) of their number or, in the absence of all the Directors or if none of the Directors present is willing to act, the attending members may elect one (1) of their number, to chair that meeting.

- (c) A Chairperson of a meeting of members may, for any item of business at that meeting or for any part of that meeting, vacate the chair in favour of another person nominated by him or her.

33. Conduct of meetings of members

- (a) Subject to the *Corporations Act 2001 (Cth)*, the Chairperson of a meeting of members is responsible for the general conduct of that meeting and for ensuring adherence to any agreed standing order procedures (where determined pursuant to Article 53(e)) at that meeting.
- (b) The Chairperson of a meeting of members may:
 - (i) make **procedural rulings**, in the absence of such pursuant to Article 33(a), without putting the question (or any question) to the vote, if that action is **required to ensure the orderly conduct of the meeting**;
 - (ii) determine the **procedures to be adopted for proper and orderly discussion or debate at the meeting**, in the absence of such pursuant to Article 33(a);
 - (iii) determine, in the absence of such pursuant to Article 37(b), **the rules and procedures in relation to a poll** to be adopted for the casting of, the circumstances in which such a vote will be valid and the recording of votes at the meeting.
- (c) The Chairperson of a meeting of members may:
 - (i) at their discretion and with their permission, **permit interested persons (other than members) to attend meeting of members** of the company but who, subject to Article 34(d), have no right to speak at or otherwise participate in the meeting and must follow any directions of the Chairperson;
 - (ii) where they deem necessary to maintain a safe, respectful and professional environment, **refuse to admit a person, or require them to leave and not return to a General Meeting** if the person:
 - (A) refuses to permit examination of any article in the person's possession;
or
 - (B) is in possession of any electronic or recording device, placard or banner, or other similar sign or article; or
 - (C) acts or behaves in a manner unbecoming of appropriate decorum;which the Chairperson considers to be dangerous, offensive or liable to cause disruption.

- (d) The Chairperson of a meeting of members may determine any dispute concerning the admission, validity or rejection of a vote at the meeting.
- (e) The Chairperson of a meeting of members may at any time, subject to the *Corporations Act 2001 (Cth)*, terminate discussion or debate on any matter being considered at the meeting and require that matter be put to a vote.
- (f) The Chairperson of a meeting of members may refuse to allow debate or discussion on any matter that is not business referred to in the notice of that meeting or that is not business of the meeting permitted under the *Corporations Act 2001 (Cth)* without being referred to in the notice of meeting.
- (g) If the Chairperson of a meeting of members considers that there are too many persons present at the meeting to fit into the venue where the meeting is to be held, the Chairperson may nominate a separate meeting place using any technology that gives attending members as a whole a reasonable opportunity to participate.
- (h) The Chairperson of a meeting of members may delegate any power conferred by this Article 33 to any person.
- (i) Nothing contained in this Article 33 limits the powers conferred by law on the Chairperson of a meeting of members.

34. Attendance at a meeting of members

- (a) A member may, subject to this Constitution and any rights and restrictions of a category of members set out in Article 14, attend and vote:
 - (i) in person;
 - (ii) by proxy; or
 - (iii) by attorney.
- (b) The Chairperson of a meeting of members may require a person acting as a proxy or attorney at that meeting to establish to the Chairperson's satisfaction that the person is the person duly appointed to act. If the person fails to satisfy this requirement, the Chairperson may exclude the person from attending or voting at the meeting.
- (c) A Director, pursuant to Article 29(a), is entitled to receive notice of and to attend all meetings of members and all meetings of a category of members and is entitled to speak at those meetings.
- (d) A person, whether a member or not, requested by the Board to attend a meeting of members or a meeting of a category of members is entitled to attend

that meeting and, at the request of the Chairperson of the meeting, is entitled to speak at that meeting pursuant to Article 33(c)(i).

- (e) The **company's Auditor** is entitled to attend any meeting of members and, at the request or permission of the Chairperson of the meeting, is entitled to speak at that meeting.

35. Authority of attending members

- (a) Unless otherwise provided in the document or resolution appointing a person as proxy, attorney or corporate representative of a member, the person has the same rights to act generally in relation to the members rights at a meeting of members to which the appointment relates, as the appointing member would have had if that member was present at the meeting.
- (b) Unless otherwise provided in the document or resolution appointing a person as proxy or attorney of a member, the appointment is taken to confer authority to:
 - (i) vote on any amendment moved to a proposed resolution and on any motion that a proposed resolution not be put or any similar motion; and
 - (ii) vote on any procedural motion, including any motion to elect the Chairperson of the meeting of members to which the appointment relates, to vacate the chair or to adjourn the meeting,

even though the appointment may refer to specific resolutions and may direct the proxy or attorney how to vote on particular resolutions.

- (c) Unless otherwise provided in the document or resolution appointing a person as proxy, attorney or corporate representative of a member, the appointment is taken to confer the same rights to act generally in relation to the members rights at a meeting of members which is rescheduled, postponed or adjourned to another time or changed to another place, even though the appointment may refer to a specific meeting to be held at a specified time or place.

36. Multiple appointments of proxy, attorney or corporate representative

- (a) If more than one proxy, attorney or corporate representative appointed by a member is present at a meeting of members and the company has not received notice of any revocation of any of the appointments:
 - (i) a proxy, attorney or corporate representative appointed to act at that particular meeting may act to the exclusion of a proxy, attorney or corporate representative appointed under a standing appointment; and
 - (ii) subject to Article 36(a)(i), a proxy, attorney or corporate representative appointed under the most recent appointment may act to the exclusion of a proxy, attorney or corporate representative appointed earlier in time.

- (b) An appointment of a proxy, attorney or corporate representative of a member is revoked (or, in the case of a standing appointment, suspended for that particular meeting of members) if the company receives a further appointment of a proxy, attorney or corporate representative from that member, which would result in there being more than one proxy, attorney or corporate representative of that member entitled to act at the meeting. The appointment of proxy, attorney or corporate representative made first in time is the first to be treated as revoked or suspended by this Article 36.
- (c) The appointment of a proxy for a member is not revoked by an attorney for that member attending and taking part in a meeting of members to which the appointment relates, but if that attorney votes on a resolution at that meeting, the proxy is not entitled to vote, and must not vote, as the member's proxy on that resolution.

37. Voting at a meeting of members

- (a) A resolution put to the vote at a meeting of members must be decided on a show of hands, unless a poll is demanded in accordance with Article 40 and that demand is not withdrawn.
- (b) The Board may determine, pursuant to Article 53(e), the rules and procedures to be adopted in relation to a poll for:
 - (i) the manner in which a vote may be cast;
 - (ii) the circumstances in which such a vote will be valid; and
 - (iii) the recording of votes at the meeting.

Where a notice of meeting specifies a poll, a vote cast by a member is taken to have been cast by that person at the meeting if the rules and procedures in relation to a poll (whether set out in the notice of meeting or otherwise determined by the Board or the Chairperson) are complied with.

- (c) Subject to this Constitution and any rights or restrictions of a category of members, on a show of hands at a meeting of members, each attending member having the right to vote on the resolution has **one (1) vote**, provided that where a person is entitled to vote in more than one (1) capacity, that person is entitled only to one (1) vote.
- (d) Subject to this Constitution and any rights or restrictions of a category of members, on a poll at a meeting of members, each attending member having the right to vote on the resolution has **one (1) vote** for each member that the attending member represents.

- (e) Subject to this Constitution and any rights or restrictions of a category of members, where the Board has determined other means (including electronic) permitted by law for the casting and recording of votes by members on any resolution to be put forward at a meeting of members, each member having a right to vote on the resolution has **one (1) vote**.
- (f) An objection to a right to vote at a meeting of members or to a determination to allow or disregard a vote at the meeting may only be made at that meeting (or any resumed meeting if that meeting is adjourned). Any objection under this Article 37 must be decided by the Chairperson of the meeting of members, whose decision, made in good faith, is final and conclusive.
- (g) Except where a resolution at a meeting of members requires a special majority, pursuant to the law, the resolution is passed if more votes are cast by members entitled to vote in favour on the resolution than against it.
- (h) In the case of an equality of votes on a resolution at a meeting of members, the Chairperson of that meeting **does not** have a casting vote on that resolution and the resolution is decided in the negative.
- (i) Unless a poll is demanded and the demand is not withdrawn, a determination by the Chairperson of a meeting of members following a vote on a show of hands that a resolution has been passed or not passed is conclusive, and an entry to that effect in the book containing the minutes of the proceedings of the company signed by the Chairperson will be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour or against the resolution.

38. Voting by proxy or attorney

- (a) The validity of any resolution passed at a meeting of members is not affected by the failure of any proxy or attorney to vote in accordance with directions (if any) of the appointing member.
- (b) If a proxy of a member purports to vote in a way or circumstances that contravene the *Corporations Act 2001 (Cth)*, on a show of hands the vote of that proxy is invalid and the company must not count it. If a poll is demanded, votes which the *Corporations Act 2001 (Cth)* require a proxy of a member to cast in a given way must be treated as cast in that way.
- (c) Subject to this Constitution and the *Corporations Act 2001 (Cth)*, a vote cast at a meeting of members by a person appointed by a member as a proxy or attorney is valid, despite the revocation of the appointment (or the authority under which

the appointment was executed), if no notice in writing of that matter has been received by the company at least forty-eight (48) hours before the commencement of that meeting.

39. Restrictions on voting rights

- (a) The authority of a proxy or attorney for a member to speak or vote at a meeting of members to which the authority relates is suspended while the member is present in person at that meeting.
- (b) An attending member is not entitled to vote on any resolution on which any fee or other amount due and payable to the company in respect of that member's membership of the company has not been paid.
- (c) An attending member is not entitled to vote on a resolution at a meeting of members where that vote is prohibited by the *Corporations Act 2001 (Cth)* or an order of a court of competent jurisdiction.
- (d) The company must disregard any vote on a resolution at a meeting of members purported to be cast by an attending member where that person is not entitled to vote on that resolution. A failure by the company to disregard a vote on a resolution as required by this Article 39 does not invalidate that resolution or any act, matter or thing done at the meeting, unless that failure occurred by wilful default of the company or of the Chairperson of that meeting.

40. Polls

- (a) A poll on a resolution at a meeting of members may be demanded by at least 5 members entitled to vote only in accordance with the Corporations Act, or by the Chairperson of that meeting.
Corporations Act 2001 (Cth) section 250L - When a poll is effectively demanded.
- (b) No poll may be demanded at a meeting of members on the election of a Chairperson of that meeting, or (unless the Chairperson of the meeting otherwise determines) the adjournment of that meeting.
- (c) A demand for a poll may be withdrawn.
- (d) A poll demanded on a resolution at a meeting of members for the adjournment of that meeting must be taken immediately. A poll demanded on any other resolution at a meeting of members must be taken in the manner and at the time and place the Chairperson of the meeting directs.
- (e) The result of a poll demanded on a resolution of a meeting of members is a resolution of that meeting.

- (f) A demand for a poll on a resolution of a meeting of members does not prevent the continuance of that meeting nor does it prevent that meeting dealing with any other business.

41. Proxies

Corporations Act 2001 (Cth) sections 249X through to 250D deals with Proxies.

- (a) A member who is entitled to attend and vote at a meeting of members may appoint **another member** entitled to attend and vote at that meeting of members, as proxy to attend and vote for the member in accordance with the Corporations Act but not otherwise. In respect of any one meeting of members, a person may not be appointed as proxy for more than two members other than the Chairperson who may be appointed as proxy for any number of members.
Corporations Act 2001 (Cth) section 249X deals with who can appoint a proxy.

- (b) If the name of the proxy in a form of appointment of proxy is not filled in, the proxy of that member is:
 - (i) the person specified by the company in the form of appointment of proxy in the case the member does not choose; or
 - (ii) if no person is so specified, the Chairperson of that meeting.

- (c) A proxy appointed in accordance with the Corporations Act to attend and vote may only exercise the rights of the member on the basis and subject to the restrictions provided in the Corporations Act and this Constitution.
- (d) A form of appointment of proxy is valid if it is in writing, and in accordance with the Corporations Act or in any other form (including electronic) which the Board may determine or accept.

Corporations Act 2001 (Cth) section 250RA deals with proxy forms:

An appointment of a proxy is valid if it is signed ...by the member of the company making the appointment and contains the following information:

- (a) the member's name and address;*
- (b) the company's name;*
- (c) the proxy's name or the name of the office held by the proxy; and*
- (d) the meetings at which the appointment may be used.*

42. Receipt of appointments of proxy, attorney or corporate representative

- (a) An appointment of proxy, attorney or corporate representative for a meeting of members is effective only if the company receives the appointment (and any authority under which the appointment was signed or a certified copy of the authority) not less than forty-eight (48) hours before the time appointed for the meeting to commence or (in the case of an adjourned meeting) resume.
Corporations Act 2001 (Cth) section 250B states proxies are to be deposited more than forty-eight (48) hours before a meeting but may reduce the period.

- (b) Where a notice of meeting specifies an electronic address or other electronic means by which a member may give the company a proxy, attorney or corporate representative appointment (and any authority under which the appointment is signed), a proxy, attorney or corporate representative given at that electronic address or by that other electronic means is taken to have been given by the member and received by the company if the requirements set out in the notice of meeting are complied with.

43. Adjournments of a meeting of members

- (a) The Chairperson of a meeting of members may at any time during the meeting adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered at the meeting or any discussion or debate, either to a later time at the same meeting or to an adjourned meeting to be held at the time and place determined by the Chairperson.
- (b) If the Chairperson of a meeting of members exercises the right to adjourn that meeting under Article 43(a), the Chairperson may (but is not obliged to) obtain the approval to the adjournment by those attending members entitled to vote.
- (c) No person other than the Chairperson of a meeting of members may adjourn that meeting.
- (d) The company may give notice of a meeting of members resumed from an adjourned meeting as the Board resolves. Failure to give notice of an adjournment of a meeting of members or the failure to receive any notice of the meeting does not invalidate the adjournment or anything done (including the passing of a resolution) at a resumed meeting.
- (e) Only business left unfinished is to be transacted at a meeting of members resumed after an adjournment.

44. Cancellations and postponements of a meeting of members

- (a) Subject to the *Corporations Act 2001 (Cth)*, the company may by resolution of the Board cancel or postpone a meeting of members or change the place for the meeting, prior to the date on which the meeting is to be held.
- (b) Article 44(a) does not apply to a meeting called in accordance with the Corporations Act by members or by the Board on the request of members, unless those members consent to the cancellation or postponement.
Corporations Act 2001 (Cth) sections 249D to 249F and 249H to 249M have details of how members can call a general meeting of the company.
- (c) The company may give notice of a cancellation or postponement or change of place of a meeting of members as the Board resolves. Failure to give notice of a

cancellation, postponement or change of place of a meeting of members, or the failure to receive any notice of the meeting does not invalidate the cancellation, postponement or change of place of a meeting or anything done (including the passing of a resolution) at a postponed meeting or the meeting at the new place.

- (d) The only business that may be transacted at a meeting of members – the holding of which is postponed – is the business specified in the original notice calling the meeting.

45. Resolutions determined without a meeting of members

- (a) Any written resolution of members entitled to vote determined without a General Meeting having been held (whether contained in one document or in several copies), and signed (including by electronic signature) by each member entitled to vote, is as valid and effectual as a resolution duly passed at a General Meeting of the company unless the *Corporations Act 2001 (Cth)* requires a resolution to be passed at a General Meeting.
- (b) Any such written resolution under Article 45(a) may consist of:
 - (i) several copies of a document each signed by one or more member entitled to vote and takes effect on the date and at the time whence the last member necessary for the resolution to be passed, signs a copy of the resolution; or
 - (ii) a record of several electronic messages each indicating the identity of the sender, the text of the resolution and the sender's agreement or disagreement to the resolution, as the case may be, and such a resolution takes effect on the date and at the time whence the message of the last member necessary for the resolution to be passed, is received.

Directors

46. General

- (a) Subject to Article 46(b) and 46(e)(v), only Indigenous medical graduate members who have been a member pursuant to Article 13(a) and 13(b) for at least eighteen (18) consecutive months prior to their nomination as a Director, may be appointed directors.
- (b) Only an Indigenous medical student member may be appointed to the position of Director (Student).
- (c) The Directors of the company are those persons appointed or elected as Directors in accordance with Article 47, noting that:

- (i) persons elected as Directors are elected in their own individual right and are not elected as representatives of any individual member or select group of members and need to be cognisant of the fact that they must be careful not to advocate for an individual member or select group of members' point of view to the detriment or neglect of the interests of the company as a whole, nor do they owe any specific duties to, or should they act on behalf of (or in accordance with the directions or instructions of) an individual member or select group of members;
 - (ii) persons elected as Directors must form their own independent opinion and judgement on matters before the Board and act in the best interests of and for the benefit of, and owe their duty to, the company as a whole and not act in the interests of other bodies or persons and not allow personal interests, or the interests of any associated persons or groups, to conflict with the interests of the company.
- (d) **The number of Directors** will be not be less than seven (7) and not more than ten (10).
- (e) The company intends that the Board, to the extent possible, includes Directors that have:
- (i) a wide geographical coverage of Australia and a balance of diverse demographic characteristics, skills, views and life experience; and
 - (ii) a mix of skills and attributes, as prescribed by the Board from time to time pursuant to Article 53(e), that are commensurate with those expected of a person to adequately govern an entity of similar size and complexity and to fulfil the duties pursuant to Article 46(g);

and, subject to the application of Article 58(i)(iii), specifically includes:

- (iii) up to **eight (8) Indigenous medical graduate members** resident to Australia (including the Torres Strait Islands); and
- (iv) **one (1) Director (Student)**;

and may include:

- (v) **one (1) person**, who may or may not be a member, with an appropriate mix of skills and attributes pursuant to Article 46(e)(ii), who may be **appointed** by, and at the discretion of the Board;
- (vi) a Director so appointed pursuant to Article 46(e)(v), **holds office** until the conclusion of the AGM next following their appointment, at which time they must retire but are eligible to be reappointed by the Board;

- (vii) a Director so appointed pursuant to Article 46(e)(v), may **cease** to be Director:
 - (A) pursuant to Article 50;
 - (B) if they retire at the end of their term pursuant to Article 46(e)(vi) and should not be re-appointed by the Board; or
 - (C) if they are removed at any time by special resolution of the Directors should they deem the person is either in serious breach of, or has refused or wilfully neglected to comply with, a provision of this Constitution or a provision of any governing policy, guideline, procedure, protocol, practice or process prescribed by the Board from time to time; or, if in the opinion of the Board, they have acted by deed or omission in a manner prejudicial to the interests or reputation of the company or which is not consistent with the aims, objectives and values of the company.
- (f) In relation to their **duties**, Directors shall and are required to:
 - (i) use reasonable care, diligence and skill in the exercise of their powers;
 - (ii) act in good faith in the best interest of the company and for a proper purpose;
 - (iii) not improperly use their position to gain advantage for himself or herself or someone else or cause detriment to the company;
 - (iv) not improperly use information [obtained as a Director] to gain advantage for themselves or someone else or cause detriment to the company;
 - (v) give other Directors notice of a material personal interest in a matter that relates to the affairs of the company pursuant to Article 51;
 - (vi) monitor and understand the financial position to ensure the maintenance of proper financial records and statutory financial reporting and that the company does not trade while insolvent,

and are to comply with any additional duties set out in the *Corporations Act 2001 (Cth)*, this Constitution and the general law.
Corporations Act 2001 (Cth) section 179 to 197.

47. Appointment and procedure of election of Directors

- (a) A person becomes a **Director** (other than the Director appointed pursuant to Article 46(e)(v)), where a Director retires pursuant to Article 49(a) or otherwise ceases to be a Director pursuant to Article 50; or **the Director (Student)**, where

the Director (Student), retires pursuant to Article 49(b) or otherwise ceases to be the Director (Student) pursuant to Article 50; when:

- (i) the Board pursuant to Article 48(a) appoints a Director, or pursuant to Article 48(b) a Director (Student) to fill a **casual vacancy**; or
- (ii) **the company fills the vacancy**:
 - (A) pursuant to Article 30(b)(iii), **by election of Directors** at an Annual General Meeting of members and **by election of a Director (Student)** at an Annual General Meeting of members; or
 - (B) pursuant to Article 58(i)(iv)(B), **by election of Directors** at a meeting of members.
- (iii) no person, other than a Director retiring under Article 49 or a person nominated by the Board, is eligible to be elected as a Director or appointed as the Director (Student) at any meeting of members pursuant to Article 47(a)(ii) unless a **nomination** signed by two members, accompanied by the consent of the nominee to act, is given to the company at least seven (7) days before a notice of a meeting of members is sent to members (or such other time as is allowed for by the Board), in which case:
 - (A) the nomination may be accompanied by a written statement (referred to as a “**qualification resume**”) containing not more than three hundred (300) words, signed by the nominee setting out the relevant skills and attributes, as prescribed by the Board from time to time pursuant to Article 53(e) which, in the opinion of the nominee, constitutes his or her qualifications for the position of Director of the company; and
 - (B) except where no person wishing to be the Director (Student) meets the criteria, **the company must only elect a person as Director (Student) if that person has acted as a University Representative for at least one (1) year**. For the purposes of this Article 47(a)(iii)(B), a “University Representative” is a person elected or agreed to by the Indigenous medical student members from a particular University.
- (b) If the number of nominations received for Director or Director (Student):
 - (i) is *equal* to the vacancies to be filled, the persons nominated shall be deemed to be elected;
 - (ii) *exceeds* the number of vacancies to be filled, a ballot shall be held. Any tie shall be decided by lot;
 - (iii) is *less* than the number of vacancies to be filled, the Board may fill the remaining vacancy or vacancies in accordance with Article 48(a).

- (c) If a ballot is required for the election of a Director or Director (Student):
 - (i) balloting lists must be prepared listing the names of the candidates in the order drawn by lot;
 - (ii) each member entitled to vote may cast the number of votes equal to the number of vacancies, provided that no person so voting may cast more than one (1) vote in favour of each candidate;
 - (iii) the candidates receiving the greatest number of votes in their favour must be declared by the Chairperson of the meeting to be elected as Directors;
 - (iv) other than for the above processes pursuant to this Article 47(c)(i) to (iii), all or any other processes required for the efficient and fair holding of ballots for the election of Directors shall be conducted at meetings of members in such manner as the Board may direct.

48. Board appointment of a Director to fill a casual vacancy

- (a) Where a Director (or the Director (Student)) retires or otherwise ceases to be a Director prior to the time at which that person would have been required to retire under Article 49, or a vacancy is not filled pursuant to Article 47(b)(iii), the Board may appoint a person to fill the casual vacancy, provided that the person appointed to fill the vacancy meets the eligibility requirements that apply under this Constitution pursuant to Article 46(e)(i) to (iv) in relation to the company's appointment of a person to that position.
- (b) Where the vacancy filled by the Board under Article 48(a) is that of the Director (Student), the person appointed to fill the position will become the relevant Director (Student).
- (c) A person appointed by the Board to fill a vacancy under Article 48(a) holds office until the conclusion of the AGM next following their appointment, and is eligible for election at that AGM.

49. Tenure of Directors

- (a) Subject to Article 49(b), and subject to Article 48, a Director (other than the Director appointed pursuant to Article 46(e)(v)) must retire from office at the second AGM following that Director's last election or appointment.
- (b) The Director (Student) must retire from office at each AGM.
- (c) A Director who retires under Article 49(a) or Article 49(b) holds office as Director until the end of the meeting at which the Director retires, and is eligible for re-election.

- (d) Subject to the requirements of the *Corporations Act 2001 (Cth)*, the Board may, on application of a Director, grant that **Director leave of absence** from the Board, for a period determined by the Board, but not beyond their designated tenure pursuant to Articles 49(a) or 49(b). As Director leave of absence is not a formal casual vacancy, the Director cannot be replaced during the term of the leave of absence subject to Article 58(i)(iii).

50. Termination of office

A person ceases to be a Director (and if the Director (Student), also ceases to occupy that position) if the person:

- (a) fails to attend three consecutive Board meetings without the consent of the Board granted in accordance with Article 49(d);
- (b) is the Director (Student) and ceases to occupy that position;
- (c) resigns by notice in writing to the company;
- (d) retires under Article 49 or ceases to hold office under Article 48(c), and is not re-elected or appointed;
- (e) is removed from office under the *Corporations Act 2001 (Cth)*;
- (f) is an employee (whether full-time or part-time) of or holds employment in the company or of any related body corporate of the company (noting that acting as a volunteer worker, or working, assisting or acting in a voluntary capacity or position within the company, does not disqualify a person from being a Director of the company);
- (g) becomes a bankrupt or an insolvent under administration;
- (h) becomes of unsound mind or becomes a person whose property is liable to be dealt with under a law about mental health;
- (i) is not permitted to be a Director, or to manage a corporation, pursuant to the *Corporations Act 2001 (Cth)*; or
- (j) is removed from office by resolution of the members entitled to vote at a meeting of members.

51. Interests of Directors

- (a) A Director is not disqualified by reason only of being a Director (or the fiduciary obligations arising from that office) from:

- (i) holding an office or place of profit or employment in any other company, body corporate, trust or entity promoted by the company or in which it has an interest;
 - (ii) being a member, creditor or otherwise be interested in anybody corporate (including the company), partnership or entity, except Auditor of the company;
 - (iii) entering into any agreement or arrangement with the company; or
 - (iv) acting in a professional capacity (or being a member of a firm which acts in a professional capacity) for the company, except as Auditor of the company.
- (b) Each Director must comply with the *Corporations Act 2001 (Cth)* in relation to the disclosure of the Director's interests.
- Directors and officers must:***
- ***"give the other Directors notice of the interest " (Corporations Act 2001 (Cth) section 191(1)); and***
 - ***"give details of the nature and extent of the interest; and the relation of the interest to the affairs of the entity; and be given at a Directors' meeting as soon as practicable after the Director becomes aware of his or her interest in the matter. The details must be recorded in the minutes of the meeting."***
(Corporations Act 2001(Cth) section 191(3))
- (c) A Director who has a material personal interest in a matter that is being considered at a Board meeting must not be present while the matter is being considered at the meeting, nor vote on the matter, except where permitted by the Corporations Act.
- "The Director may be present and vote if Directors who do not have a material personal interest in the matter have passed a resolution that: (a) 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 (b) states that those Directors are satisfied that the interest should not disqualify the Director from voting or being present" (Corporations Act 2001 (Cth) section 195(2))***
- (d) If a Director has an interest in a matter, then subject to Article 51(c), Article 51(e) and this Constitution:
- (i) that Director may be counted in a quorum at the Board meeting that considers matters that relate to the interest provided that Director is entitled to vote on at least one (1) of the resolutions to be proposed at that Board meeting;
 - (ii) that Director may participate in and vote on matters that relate to the interest;
 - (iii) the company may proceed with any transaction that relates to the interest and the Director may participate in the execution of any relevant document by or on behalf of the company;
 - (iv) the Director may retain the benefits under any transaction that relates to the interest even though the Director has the interest; and

- (v) the company cannot avoid any transaction that relates to the interest merely because of the existence of the interest.
- (e) If an interest of a Director is required to be disclosed under Article 51(b), Article 51(d)(iv) applies only if the interest is disclosed before the transaction is entered into.

Board

52. Composition and role of Board

- (a) The Board will comprise of the Directors of the company appointed in accordance with Article 47 and, if so appointed, a Director pursuant to Article 46(e)(v).
- (b) Without limiting the general powers of the Board pursuant to Article 53, the broad **role, functions and activities of the Board** include but are not limited to:
 - (i) formulating the company's strategic direction;
 - (ii) determining the company's governance policies (pursuant to Article 53(e));
 - (iii) appointing and working with and through the CEO (pursuant to Article 62);
 - (iv) monitoring and supervising the company's CEO, organisational and financial performance and risk management processes;
 - (vi) providing accountability to the members;in pursuit of the furtherance of the objects of the company.

Powers of the Board

53. General powers of the Board

- (a) **The Board is responsible for the management of the affairs of, and the pursuit of the furtherance of the objects of, the company**, and may exercise, to the exclusion of the company in General Meeting, all powers of the company, which are not, by the *Corporations Act 2001 (Cth)* or this Constitution, required to be exercised by the company in General Meeting provided that no resolution of the company in General Meeting shall invalidate any prior act of the Board.
- (b) Subject to the *Corporations Act 2001 (Cth)* and this Constitution, **the Board has power to perform all such acts and do all such things as they appear to the**

Board to be necessary or desirable for the proper management of the affairs of the company including those powers pursuant to Article 5(c).

- (c) A power of the Board can only be exercised by a resolution passed at a meeting of the Board in accordance with Article 58, a resolution passed by signing a document in accordance with Article 57, or in accordance with a delegation of the power under Article 55 or 56. A reference in this Constitution to the company exercising a power by a resolution of the Board includes an exercise of that power in accordance with a delegation of the power under Article 55 or 56.
- (d) Except in the case of a specific delegation of authority pursuant to Article 55, the Board shall approve any and all **public statements** made on behalf of the company by any member, duly appointed Director, Office Bearer, officer, employee, delegated person, persons, or committee and/or agent of the company, prior to that person making such statement.
- (e) Pursuant to Article 53(b), the Board shall have the power to establish **governing policies** relating to the internal control, administration and management of the company that give effect to the Constitution, the achievement of the objects of the company and to regulate the business of the company. The Board may at any time rescind, modify, change or vary any of the governing policies and make others to replace them in accordance with the changing needs and requirements of the company. Such governance policies will be those deemed necessary or expedient or convenient for the proper conduct, control and governance of the company. The governing policies must not be contrary to this Constitution or the *Corporations Act 2001 (Cth)*.
- (f) The Board shall set out its governing policies in the company's **Governance Charter**.

The charter may also specify requirements for reporting to Commonwealth agencies in relation to any funds raised and held on a specific Gift Fund established and maintained by the company, and reporting of distributions made from that Gift Fund so as to maintain any endorsement of the company as an income tax exempt charity or public benevolent institution and any endorsement of the company as a deductible gift recipient under Commonwealth income tax legislation.

- (g) The members, Directors, Office Bearers, officers, employees, contractors and agents of the company shall be bound by and must comply with any governing policies in force from time to time.
- (h) The Board shall have authority to interpret the meaning of the Articles in this Constitution and any other matter relating to the company on which this Constitution is silent, subject to any amendment of the Constitution made pursuant to Article 69.

54. Execution of documents

- (a) If the company has a common seal, the company may execute a document if that seal is fixed to the document and the fixing of that seal is witnessed by either of:

- (i) two (2) Directors; or
- (ii) one (1) Director and the Secretary; or
- (iii) two (2) persons as the Board may appoint for that purpose,

and that witnessing is sufficient for all purposes that were affixed by those signatures by authority of the Board.

- (b) The company may execute a document without a common seal provided the dealing or deed is signed and attested by the signatures either of:

- (i) two (2) Directors; or
- (ii) one (1) Director and the Secretary; or
- (iii) two (2) persons as the Board may appoint for that purpose;

and that attestation is sufficient for all purposes that were affixed by those signatures by authority of the Board.

This provision is in accordance with provisions of the Corporations Act 2001 (Cth) section 123(1): A company may have a common seal. If a company does have a common seal, the company must set out on it the company's name; and the company's ACN. Note 1: A company may ...execute documents without using a seal (see sections 126 and 127).

- (c) The Board may determine the manner in which, and the persons by whom, cheques, promissory notes, bankers' drafts, bills of exchange and other negotiable or transferable instruments in the name of, or on behalf of the company, and receipts for money paid to the company, must be signed, drawn, accepted, endorsed or otherwise executed.

55. Delegation authority of the Board

- (a) The Board may delegate any of its powers to:

- (i) a committee of the Board;
- (ii) a Director (including an Office Bearer and Director (Student));
- (iii) an employee of the company; or
- (iv) any other person.

- (b) A delegation of those powers may be made for any period and on any terms (including the power to further delegate) as the Board resolves. The Board may revoke or vary any power so delegated.
Directors have the right and entitlement to delegate any of their powers to a committee, a Director, a company employee, any other person (Corporations Act 2001(Cth) section 198D) [remembering however that] ...a Director is responsible for the exercise of the power by the delegate as if the power had been exercised by the Directors themselves (Corporations Act 2001 (Cth) section 190(1)).
- (c) The Board may, subject to this Constitution, determine, or vary any determination of, the powers, functions, and responsibilities of the committee or delegate.
- (d) A committee or delegate must exercise the powers delegated in accordance with any directions of the Board.
- (e) Subject to the terms of appointment or reference of a committee, Article 58 applies with the necessary changes to meetings of a committee of the Board.

56. Attorney or agent

- (a) The Board may appoint any person to be attorney or agent of the company for any purpose, for any period and on any terms (including as to remuneration) as the Board resolves. Subject to the terms of appointment of an attorney or agent of the company, the Board may revoke or vary that appointment at any time, with or without cause.
- (b) The Board may delegate any of their powers (including the power to delegate) to an attorney or agent. The Board may revoke or vary any power delegated to an attorney or agent.

Proceedings of Directors

57. Written resolutions of Directors

- (a) **The Board may pass a resolution without a Board meeting** being held if notice in writing of the resolution is given to all Directors and a majority of the Directors entitled to vote on the resolution (not being less than the number required for a quorum at a meeting of Directors) sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) A resolution under Article 57(a) may consist of several documents in the same form each signed by one or more Directors and is effective when signed by the last of the Directors constituting the majority. A document produced by electronic means under the name of a Director with the Director's authority is taken to be a document signed by the Director for the purposes of Article 57(a) and is taken to be signed when received by the company in legible form.

58. Board meetings

- (a) **The Board may meet, adjourn and otherwise regulate their meetings as it thinks fit**, on dates and at a location determined by the Board.
- (b) **The President or any three Directors may call a Board meeting** at any time. On request of the President or any three Directors, the Secretary must call a meeting of the Directors.
- (c) **Notice of a Board meeting** must be given to each Director (except a Director on leave of absence approved by the Board) and the Chief Executive Officer. Notice of a Board meeting may be given in person or by post or by electronic means.
- (d) A Director may waive notice of a Board meeting by giving notice to that effect to the company in person or by post or by electronic means.
- (e) A Director who attends a Board meeting waives any objection that person may have to a failure to give notice of the meeting.
- (f) Anything done (including the passing of a resolution) at a Board meeting is not invalid because either or both a person does not receive notice of the meeting or the company accidentally does not give notice of the meeting to a person.
- (g) For the purposes of the *Corporations Act 2001 (Cth)*, each Director, by consenting to be a Director, or by reason of the adoption of this Constitution, consents to the **use of technology**, which permits each Director to communicate with every other participating Director or any combination of technologies for the holding of a Board meeting:

NB: A Director may withdraw the consent given under this Article in accordance with the *Corporations Act 2001 (Cth)*.

- (h) If a Board meeting is held in two (2) or more places linked together by any technology:
 - (i) a Director present at one (1) of the places is taken to be present at the meeting unless and until the Director states to the Chairperson of the meeting that the Director is discontinuing her or his participation in the meeting; and
 - (ii) the Chairperson of that meeting may determine at which of those places the meeting will be taken to have been held.
- (i) A **quorum** for a Board meeting is **five (5) Directors** entitled to vote on a resolution that may be proposed at that meeting or such greater number as may be fixed by the Board from time to time. A quorum for a Board meeting must be

present at all times during the meeting. Each individual present may only be counted once towards a quorum. Furthermore:

- (i) no formal business shall be transacted or resolutions passed by the Board unless a quorum is present and if within half an hour of the time appointed for the meeting a quorum is not present the meeting stands adjourned to the same place and at the same hour of the same day in the following week;
- (ii) if at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting shall be dissolved;
- (iii) the attending Directors may act notwithstanding any vacancy in the Board (as long as there is a valid quorum pursuant to Article 58(i)); but
- (iv) if the number of Directors falls below the number required to form a quorum required by this Constitution, the remaining Directors may act only to:
 - (A) appoint suitable and eligible members of the company to fill casual vacancies pursuant to Article 48; or
 - (B) call a meeting of members pursuant to Article 28(a) for the purpose of the election of additional Directors (including if required, the Director (Student)) pursuant to Article 46(e)(i) to (iv).
- (j) The Chief Executive Officer:
 - (i) shall, unless otherwise excused or directed by the Board, attend all Board meetings; and
 - (ii) does not have any right to vote at Board meetings.
- (k) The Secretary (or their delegate):
 - (i) shall, unless otherwise excused or directed by the Board, attend all Board meetings to fulfil their delegated governance administrative functions pursuant to Article 65.
- (l) Anything done (including the passing of a resolution) at a Board meeting is not invalid because of non-attendance by the Chief Executive Officer or Secretary.
- (m) Except for the provisions of Articles 58 (j) and (k), the Board shall ordinarily hold all Board meetings as *in camera* sessions, but may invite, at their own discretion, any person or persons as attendees to any part of the Board meeting who may be invited to make representations or, by permission of the Chairperson, speak (either in person or via telecommunication means if thought most practical and

appropriate) on agenda items to provide reports, advice, counsel and information or answer questions on matters as requested by Board members.

59. Chairperson of the Board

- (a) Subject to Article 59(b) the President will be the Chairperson of the Board and shall chair each Board meeting.
- (b) If at a Board meeting:
 - (i) there is no President; or
 - (ii) the President is not present within fifteen (15) minutes after the time appointed for the holding of a Board meeting or is not willing to chair all or part of that meeting;

the Vice-President shall chair the Board meeting, unless:

- (iii) there is no Vice-President; or
- (iv) the Vice-President is not present at a Board meeting or is not willing to chair all or part of that meeting;

In which case the Directors present shall elect one (1) of their number to chair that meeting or part of the meeting.

- (c) A person does not cease to be a Chairperson of the Board if that person retires as a Director at a meeting of members and is re-elected as a Director at that meeting (or any adjournment of that meeting).

60. Board resolutions

- (a) A resolution of the Board is passed if more votes are cast by Directors entitled to vote in favour of the resolution than against it.
- (b) Subject to Article 51 and this Article 60, each Director present in person has **one (1) vote** on a matter arising at a Board meeting.
- (c) Subject to the *Corporations Act 2001 (Cth)*, in case of an equality of votes on a resolution at a Board meeting, the Chairperson of that meeting has a casting vote on that resolution in addition to any vote the Chairperson has in his or her capacity as a director in respect of that resolution, provided that the Chairperson is entitled to vote on the resolution.

61. Valid proceedings

- (a) An act at any Board meeting or a committee of the Board or an act of any person acting as a Director is not invalidated by:
 - (i) a defect in the appointment or continuance in office of a person as a Director, a member of the committee or of the person so acting; or
 - (ii) a person so appointing being disqualified or not being entitled to vote,if that circumstance was not known by the Board, committee or person (as the case may be) when the act was done.

Chief Executive Officer

62. Chief Executive Officer (CEO)

- (a) The CEO is appointed by the Board on terms and conditions (including as to remuneration) as determined by the Board, and may be removed by the Board (subject to any contract of employment between the company and the CEO).
- (b) The CEO's functions are, subject to any additional or variant directions or further determination of the powers and responsibilities of the CEO by the Board, to:
 - (i) advise the Board in relation to the affairs and operations of the company;
 - (ii) ensure that advice and information is available to the Board to enable informed decisions to be made;
 - (iii) cause decisions of the Board to be implemented;
 - (iv) manage the day-to-day operations of the company;
 - (v) be responsible for the employment, management, supervision, direction and dismissal of other employees of the company;
 - (vi) speak on behalf of the company if the Chairperson or the Board agrees;
 - (vii) ensure that records and documents of the company are properly prepared and kept for the purposes of the *Corporations Act 2001 (Cth)*, the Constitution and any other written law; and
 - (viii) perform any other function or exercise any other power specified or delegated by the Board.

- (c) The CEO may (subject to any other direction of the Board) delegate to an employee of the company a function or power delegated to the CEO under Article 62(b)(viii), but that power or function may not be further delegated.

Office Bearers

63. President

- (a) Except where no person wishing to be President meets the criteria, **the President must be a Director who has served at least two (2) consecutive years on the Board** of AIDA at any time since its inception as a corporate entity.
- (b) **The company in General Meeting may appoint a President** but only if there is a vacancy in the office of President that arises because the President retires at an AGM under Article 49. In which case, the company shall at that AGM appoint an eligible person, pursuant to Article 63(a), to fill the vacancy, who will then become the President.
- (c) The President, once appointed at the Annual General Meeting, shall **hold office for two (2) years** until the conclusion of the second AGM following their appointment, at which time they shall retire pursuant to Article 49(a), but are eligible for re-election as President pursuant to Article 63(b); excepting where a President retires or ceases to be a Director pursuant to Article 50 during their term of office; in which case the Vice-President shall fill the **casual vacancy of the office of President** till the conclusion of the next Annual General Meeting, when they must retire but are eligible for re-election as President.
- (d) A person who is elected President is for the purposes of this Constitution first and foremost a Director who has the same tenure as any other Director pursuant to Article 49. The person elected President, in addition to their Director role, has all the corresponding **authorities** assigned in this Constitution and those further delegated by the Board pursuant to Articles 53(e) and 63(e), (f) and (g).
- (e) The Board may, subject to this Constitution, determine, or vary any determination of, the powers, functions, responsibilities, and subject to Article 6, the remuneration of the President.
- (f) The Board may delegate any of its powers to the President for any period and on any terms (including the power to further delegate) as the Board resolves. The Board may revoke or vary any power delegated to the President.
- (g) The President must exercise the powers delegated to him or her in accordance with any directions of the Board.

64. Vice-President

- (a) Except where no person wishing to be Vice-President meets the criteria, **the Vice-President must be a Director who has served at least two (2) consecutive years on the Board** of AIDA at any time since its inception as a corporate entity.
- (b) **The company in General Meeting may appoint a Vice-President** but only if there is a vacancy in the office of Vice-President that arises because the Vice-President retires at an AGM under Article 49. In which case, the company must at that AGM appoint an eligible person, pursuant to Article 64(a), to fill the vacancy, who will then become the Vice-President.
- (c) The Vice-President, once appointed at the Annual General Meeting, shall **hold office for two (2) years** until the conclusion of the second AGM following their appointment, at which time they shall retire pursuant to Article 49(a), but are eligible for re-election as Vice-President pursuant to Article 63(b); excepting where a Vice-President has vacated their office to fill the casual position created by a mid-term vacancy of the President, or retires or ceases to be a Director pursuant to Article 50 during their term of office, in which case, the Board shall elect one of the Directors from among their number to fill the **casual vacancy of the office of Vice-President** till the conclusion of the next Annual General Meeting, when they must retire but are eligible for re-election as Vice-President.
- (d) A person who is elected Vice-President is for the purposes of this Constitution first and foremost a Director who has the same tenure as any other Director pursuant to Article 49. The person elected Vice-President, in addition to their Director role, has all the corresponding **authorities** delegated in this Constitution and those further delegated by the Board pursuant to Articles 53(e) and 64(e), (f) and (g).
- (e) The Board may, subject to this Constitution, determine, or vary any determination of, the powers, functions, responsibilities, and subject to Article 6, the remuneration, of the Vice-President.
- (f) The Board may delegate any of its powers to the Vice-President for any period and on any terms (including the power to further delegate) as the Board resolves. The Board may revoke or vary any power delegated to the Vice-President.
- (g) The Vice-President must exercise the powers delegated to him or her in accordance with any directions of the Board.

Secretary

65. Secretary

- (a) The Board shall appoint a company Secretary who may be either a Director, an employee, a member or any other eligible person.
- (b) The company Secretary shall hold office for any period and on such terms and conditions (including as to remuneration) as the Board determines and who may vary or revoke any determination of, the powers, functions, responsibilities of the Secretary.
- (c) Subject to any agreement between the company and the Secretary, the Board may vary or terminate the appointment of a Secretary at any time, with or without cause.
- (d) The person appointed Secretary has all the corresponding authorities delegated in this Constitution and those further delegated by the Board pursuant to Articles 53(e) and 65(b).
- (e) The Board may, by resolution, delegate some or all of the above duties to another person, pursuant to Article 55, not acting formally as the Secretary of the company. The Secretary may also delegate some or all of the above duties to another person from time to time.

Corporations Act 2001 (Cth) - Part 1.5

Section 1.5.5 - 5.4 Company Secretaries:

- ***A public company must have a company Secretary.***
- ***The Directors appoint the company Secretary.***
- ***A company Secretary must be at least eighteen (18) years old and ordinarily reside in Australia.***
- ***A company Secretary must consent in writing to holding the position of company Secretary.***
- ***The company must keep the consent and must notify ASIC of the appointment.***
- ***The same person may be both a Director of a company and the company Secretary.***
- ***Generally, a company Secretary may resign by giving written notice of the resignation to the company.***
A company Secretary who resigns may notify ASIC of the resignation. If the company Secretary does not do so, the company must notify ASIC of the company Secretary's resignation.
- ***The company Secretary is an officer of the company and, in that capacity, may be subject to the requirements imposed by the Corporations Act on company officers.***
- ***The company Secretary has specific responsibilities under the Corporations Act, including responsibility for ensuring that the company:***
 - ***notifies ASIC about changes to the identities, names and addresses of the company's Directors and company Secretaries; and***
 - ***notifies ASIC about changes to the register of members; and***
 - ***responds, if necessary, to an extract of particulars that it receives and that it responds to any return of particulars that it receives.***

Indemnity and insurance

66. Indemnity and insurance

- (a) To the extent permitted by law, the company may indemnify each relevant officer against a liability of that person incurred by that person in or arising out of the discharge of duties as an officer of the company or in or arising out of the conduct of the business of the company and the legal costs of that person.

Corporations Act 2001 (Cth) section 199A

- (1) *A company...must not exempt a person...from a liability to the company incurred as an officer...of the company.*

...indemnity for liability (other than for legal costs) [is] not allowed [in the following circumstances]...

- (2) *A company must not indemnify a person...against any of the following liabilities incurred as an officer...of the company:*

- (a) *a liability owed to the company;*
- (b) *a liability for a pecuniary penalty order under section 1317G or a compensation order under section 961M, 1317H, 1317HA or 1317HB;*
- (c) *a liability that is owed to someone other than the company...and did not arise out of conduct in good faith.*

- (b) Where an indemnity is provided by the company under Article 66(a), that indemnity:

- (i) is enforceable without the relevant officer having first to incur any expense or make any payment;

- (ii) is a continuing obligation and is enforceable by the relevant officer even though the relevant officer may have ceased to be an officer of the company; and

- (iii) applies to liabilities and legal costs incurred both before and after this Article 66 became effective.

- (c) To the extent permitted by law, the company may make a payment (whether by way of advance, loan or otherwise) to a relevant officer in respect of legal costs of that person.

Corporations Act 2001 (Cth) section 199A

...indemnity for legal costs [is] not allowed [in the following circumstances]...

- (3) *A company...must not indemnify a person...against legal costs incurred in defending an action for a liability incurred as an officer of the company if the costs are incurred:*

- (a) *in defending or resisting proceedings in which the person is found to have a liability for which they could not be indemnified under subsection (2); or*
- (b) *in defending or resisting criminal proceedings in which the person is found guilty; or*
- (c) *in defending or resisting proceedings brought by ASIC or a liquidator for a court order if the grounds for making the order are found by the court to have been established; or*
- (d) *in connection with proceedings for relief to the person under the Corporations Act 2001 (Cth) in which the court denies the relief (except costs incurred in responding to actions taken by ASIC or a liquidator as part of an investigation before commencing proceedings for the court order). This does include proceedings by ASIC for an order under section 206C, 206D, 206E or 206EAA (disqualification), section 232 (oppression), section 961M, 1317E, 1317G, 1317H, 1317HA or 1317HB (civil penalties) or section 1324 (injunction).*

The company may be able to give the person a loan or advance in respect of the legal costs (see section 212)

(d) To the extent permitted by law, the company may:

- (i) enter into, or agree to enter into; or
- (ii) pay, or agree to pay, a premium for,

a contract insuring a relevant officer against a liability of that person and the legal costs of that person. Any such premium in relation to an officer is in addition to, and not regarded as part of, any remuneration approved by members under this Constitution.

Corporations Act 2001 (Cth) section 199B

(1) A company...must not pay, or agree to pay, a premium for a contract insuring a person who is or has been an officer of the company against a liability (other than one for legal costs) arising out of:

- (a) conduct involving a wilful breach of duty in relation to the company; or*
- (b) a contravention of section 182 (misuse of position) section 183 (misuse of information).*

(e) To the extent permitted by law, the company may enter into an agreement or deed with a relevant officer or a person who is, or has been, an officer of the company or a subsidiary of the company, under which the company must do all or any of the following:

- (i) keep books of the company and allow either or both that person and that person's advisers' access to those books on the terms agreed;
- (ii) indemnify that person against any liability and legal costs of that person;
- (iii) make a payment (whether by way of advance, loan or otherwise) to that person in respect of legal costs of that person; and
- (iv) keep that person insured in respect of any act or omission by that person while a relevant officer or an officer of the company or a subsidiary of the company, on the terms agreed (including as to payment of all or part of the premium for the contract of insurance).

Amendment of Constitution

67. Alteration or amendment of Constitution

- (a) This Constitution, including the statement of objects in Article 5, may be altered, rescinded and/or added to only by a Special Resolution passed by the company in General Meeting. The change must be consistent with the Act and the rest of the Constitution.
- (b) No alteration which may affect the tax exempt status of the income of the company shall be made to or in the Constitution unless not less than twenty-eight (28) days prior written notice specifying the alterations proposed to be made shall have been given to the Commissioner of Taxation.
This is to ensure that income of the company which attracts a tax concession is used for the purpose for which the company was granted tax-exempt status.
- (c) The company must apply for registration of the changes within fourteen (14) days of the Special Resolution pursuant to section 136(5) of the *Corporations Act 2001 (Cth)*.
Corporations Act 2001 (Cth) section 136(5): A public company must lodge with ASIC a copy of a special resolution adopting, modifying or repealing its Constitution within fourteen (14) days after it is passed. The company must also lodge with ASIC within that period if the company modifies its Constitution, a copy of that modification.

Dispute and grievance resolution

68. Dispute and grievance resolution procedure and appeal

- (a) If any member has **a grievance with, or disputes, any decision made by the company which directly affects that member**, the member may write to the Secretary of the company setting out the details of the decision made and the basis of the grievance of the member. The Secretary shall, within fourteen (14) working days, acknowledge the member's communication and set out the reasons for the decision. If the member is dissatisfied with that explanation, the member may request that the Board (through a committee or delegate), mediate the grievance or dispute (via telecommunication means if thought most practical and appropriate), within a period of not more than two (2) calendar months.
- (b) The member, if dissatisfied with the outcome of any such mediation, may at any time withdraw from the process and request the Board to meet with the member at such place as the Board may agree to (including via telecommunication means if thought most practical and appropriate), to endeavour to resolve the matter. Subject to the inherent jurisdiction of the judicial system, the decision of the Board shall be final and binding.

Member communication with the Board

69. Member communication with the Board

- (a) A member may generally input suggestions and counsel on any matter **in relation to the direction, control and management of the affairs of the company** to the Board that the member sees fit to raise.
- (b) The member shall adhere to the following procedure for raising a matter with the Board:
 - (i) The comment, suggestion or counsel must be clearly stated in writing, addressed to the Secretary, signed by the member.
 - (ii) The Secretary shall ensure provision on the agenda of the next Board meeting for the correspondence relating to the matter to be considered by the Board at that Board meeting.
 - (iii) The Secretary, shall inform the member in writing of the outcome of the Board's consideration of the matter within seven (7) days of the meeting at which the matter was discussed.
 - (iv) Following receipt of notification of the outcome of any Board deliberation of the matter the member may, if they so choose, pursue the matter further by making a request, in writing, to be invited to attend (either in person at their own expense or via telecommunication means if thought most practical and appropriate) and address the Board as an **attendee** at the next Board meeting, notwithstanding that the Board can accept or reject the request for invitation for the member to address the Board at their absolute discretion pursuant to Article 58(m).
 - (v) Within fourteen (14) days of receipt of such a request pursuant to Article 69(b)(iv) the Secretary will notify the member of the outcome of the request, and if accepted, shall notify the member of the date and time that the member may attend the next Board meeting to discuss the matter and be dealt with pursuant to Article 58(m). The date of the meeting must be no more than sixty (60) days from the date of receipt of the request.

Notices

70. Notice to members

- (a) The company may give notice to a member by any of the following means at the Board's discretion:

- (i) delivering it to that member or person;
 - (ii) leaving it at, or sending it by post to, the address of the member in the register or the alternative address (if any) nominated by that member or person for that purpose;
 - (iii) sending it to the fax number or electronic address (if any) nominated by that member or person for that purpose;
 - (iv) if permitted by the *Corporations Act 2001 (Cth)*, notifying that member of the notice's availability by an electronic means nominated by the member for that purpose; or
 - (v) any other means permitted by the *Corporations Act 2001 (Cth)*.
- (b) Where a member does not have an address in the register or where the Board believes that a member is not at the address in the register, the company may give notice to that member by exhibiting the notice at the registered office of the company for a period of forty-eight (48) hours, unless and until the member gives the company written notice of an address for the giving of notices.
- (c) The company must send all documents to a member whose address for notices is not within Australia by air-mail, air courier or electronic means.
- (d) Any notice required or allowed to be given by the company to one (1) or more members by advertisement is, unless otherwise stipulated, sufficiently advertised if advertised once in a daily newspaper circulating in the states and territories of Australia.

71. Notice to Directors

The company may give notice to a Director by:

- (a) delivering it to that person;
- (b) sending it by post to the usual residential address of that person or the alternative address (if any) nominated by that person for that purpose;
- (c) sending it to the fax number or electronic address (if any) nominated by that person for that purpose; or
- (d) any other means agreed between the company and that person.

72. Notice to the company

A person may give notice to the company by:

- (a) leaving it at, or by sending by post to, the registered office of the company;
- (b) leaving it at, or by sending it by post to, a place nominated by the company for that purpose;
- (c) sending it to the fax number at the registered office of the company nominated by the company for that purpose;
- (d) sending it to the electronic address (if any) nominated by the company for that purpose; or
- (e) any other means permitted by the *Corporations Act 2001 (Cth)*.

73. Time of service

- (a) A notice sent by post or air-mail is taken to be given on the day after the date it is posted.
- (b) A notice sent by fax or other electronic transmission is taken to be given when the transmission is sent provided that, in the case of notice to the company or a Director, the sender meets any action required by the recipient to verify the receipt of the document by the recipient.
- (c) A notice given in accordance with Article 70(a)(iv) is taken to be given on the day after the date on which the member is notified that the notice is available.
- (d) A notice given in accordance with Article 70(b) is taken to be given at the commencement of the forty-eight (48) hour period referred to in that Article.
- (e) A certificate by a Director or Secretary to the effect that a notice by the company has been given in accordance with this Constitution is conclusive evidence of that fact.

74. Notice requirements

The Board may specify, generally or in a particular case, requirements in relation to notices given by any electronic means, including requirements as to:

- (a) the classes of, and circumstances in which, notices may be sent;
- (b) verification (whether by encryption code or otherwise); and
- (c) the circumstances in which, and the time when, the notice is taken to be given.

Accounts

75. Financial and accounting records and inspection of records

- (a) The Board shall cause proper and accurate written financial and accounting records to be kept:
 - (i) of all money received and spent by the company and the matter in respect of which such receipt and expenditure takes place, and of the assets and liabilities of the company and of all relevant activities involving the company;
 - (ii) in such a manner as will enable true and fair financial statements to be prepared and audited;
 - (iii) for at least seven (7) years after the transactions covered by the records are completed.
Corporations Act 2001 (Cth) section 286.
- (b) Each **Director** of the company has the **right of access** to the financial records of the company at all times;
Corporations Act 2001 (Cth) section 290.
- (c) Each Director of the company may inspect the books of the company (other than its financial records) at all reasonable times for the purposes of a legal proceeding in accordance with section 198F of the *Corporations Act 2001 (Cth)*.
Corporations Act 2001 (Cth) section 198F.
- (d) The Directors of the company by resolution passed at a General Meeting may authorise a member to inspect the books of the company in accordance with section 247D of the *Corporations Act 2001 (Cth)*.
Corporations Act 2001 (Cth) section 247D.

Minutes

76. Minutes

- (a) The Directors shall, in accordance with the *Corporations Act 2001 (Cth)*, cause minutes to be kept and entered up of:
 - (i) the names of the Directors present at each meeting of the Directors and of any Committee; and
 - (ii) all resolutions and proceedings of meetings of members and of meetings of Directors and of Committees.

- (b) The minutes are to be signed by the Chairperson of the meeting at which the proceedings were held or by the Chairperson of the next succeeding meeting.

Winding up

77. Winding Up

On a winding up of the company, any surplus assets of the company remaining after the payment of its debts and liabilities must not be paid to or distributed among the members, but must be given or transferred:

- (a) to one or more bodies corporate, associations or institutions selected by the members by resolution at or before the dissolution of the company:

- (i) having object similar to the objects of the company; and
 - (ii) whose constitution prohibits the distribution of its or their income or property to no lesser extent than that imposed on the company under Article 6; and

- (iii) to which income tax deductible gifts can be made; or

if there are no bodies corporate, associations or institutions which meet the requirements of this Article 77(a)(i) to (iii),

- (iv) to one or more bodies corporate, associations or institutions selected by the members by resolution at or before dissolution of the company, the objects of which are the promotion of charity and to which gifts allowable deductions under the *Income Tax Assessment Act 1997 (Cth)*; or

if the members do not make a selection pursuant to Article 77(a) for any reason:

- (v) to one or more body corporate, association or institution meeting the requirements of either Article 77(a) or 77(b) selected by the Board, subject to Board obtaining court approval under the *Corporations Act 2001 (Cth)* to exercise this power.