

# **Constitution**

## **New South Wales Jewish Board of Deputies Limited**

**ACN 635 942 255**

**A Public Company Limited by Guarantee**

## TABLE OF CONTENTS

<b>Preamble</b>	<b>4</b>
1. Definitions and interpretation	5
2. Object of the Company	8
3. Powers	8
4. Application of income for Object only	8
5. Winding up	9
6. Membership of the Company	10
7. Ceasing to be a Deputy	12
8. Plenums	13
9. Proceedings at Plenums	14
10. Board of Directors	16
11. Remuneration of Directors	19
12. Vacation of office of Director	19
13. Powers and duties of the Board of Directors	19
14. Rules	20
15. Appointment of attorney	20
16. Conflicts of interest	20
17. Proceedings of the Board of Directors	21
18. Chair and deputy chair of the Board of Directors	21
19. Committees	22
20. Circular resolutions of the Directors	23
21. Validity of acts of Directors	23
22. Chief Executive Officer	23
23. Company Secretary	23
24. Dispute resolution	23
25. Execution of documents	24
26. Accounts	24
27. Seals	24
28. Inspection of records	25
29. Service of documents	25

30.	Indemnity and insurance	26
31.	Amendment to Constitution	26
<b>Schedule 1</b>	<b>Honorary Life Deputies</b>	<b>28</b>
<b>Schedule 2</b>	<b>Elected Deputies</b>	<b>29</b>
<b>Schedule 3</b>	<b>Constituent Deputies</b>	<b>31</b>
<b>Schedule 4</b>	<b>Associates</b>	<b>32</b>
<b>Schedule 5</b>	<b>Constituent Organisations</b>	<b>33</b>

## **Preamble**

The Company is established as the peak representative body, the central authority on all lay matters and the official spokes body of the Jewish community of New South Wales to address particular needs arising from the social circumstances of that Jewish community.

## **Social circumstances of the Jewish Community**

The Australian Jewish community has an older age demographic than the general Australian population and the highest proportion of Holocaust survivors and their descendants of any Jewish community in the world outside of Israel. Consequently it has higher than average needs for health care, aged care, trauma care and welfare services and bears much of the costs of these services itself.

The Jewish community also has higher than average needs, and bears a high cost, to maintain its physical security. Whilst there has never been any kind of legally or officially sanctioned discrimination against Australian Jews as Jews, various forms of anti-Jewish prejudice have existed and continue to exist within Australian society. There is evidence that antisemitism in Australia is a persistent and increasingly frequent problem, sometimes involving threats or acts of violence.

The continuing prevalence in Australia of ignorance and prejudice concerning the Jewish people, Jewish history and the Jewish faith, poses difficulties for the Jewish Community. Both the 1983 Human Rights Commission Inquiry into the possible need for amendments to the *Racial Discrimination Act* to cover incitement to racial hatred and racial defamation, and the Commission's 1991 National Inquiry into Racist Violence, contained sections analysing the data then available on the incidence of antisemitism in Australia. These Inquiries, among others, also concluded that there is a causal nexus between racist hate speech and racist violence.

The most serious outbreaks of antisemitic violence occurred in 1982, when bombs detonated in the Hakoah Club and the Israeli Consulate in Sydney and during the 1991 Gulf War, when there were arson attacks against Jewish kindergartens in Sydney and Melbourne and against three synagogues in Sydney. Further spikes in the number and severity of anti-Jewish incidents have occurred since then, often during outbreaks of violence in the Middle East.

Ongoing threats, instability and anxiety are part of the daily experience of Jewish people in New South Wales, especially when going to places they regularly attend. Synagogues, Jewish schools and other communal Jewish buildings continue to require armed guards and other security facilities as a precaution against antisemitic threats of widely varying severity from sources based locally and overseas.

Such an environment impacts adversely on the sense of assurance, safety and security of members of the Jewish community, and hence on their capacity to exercise fully their rights and freedoms as citizens. For those members of the Jewish Community experiencing trauma, additional care is required.

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## 1. Definitions and interpretation

### 1.1 Definitions

In this Constitution unless a contrary intention appears:

**ACNC Act** means the Australian Charities and Not-for-profits Commission Act 2012 (Cth).

**Annual General Meeting** has the same meaning as the term 'AGM' in the Corporations Act.

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

**Associate** means an individual taken to be an associate of the Company under clause 6.7(b).

**Board of Directors** means some or all of the Directors acting as a board.

**Chief Executive Officer** means the chief executive officer of the Company appointed under clause 22, however named.

**Company** means New South Wales Jewish Board of Deputies Limited being an Australian public company limited by guarantee established under the Corporations Act which bears the ACN 635 942 255.

**Company Secretary** means an individual appointed as a secretary of the Company in accordance with clause 23.1 and the Corporations Act, who may also be the Secretary.

**Committee** means a committee constituted under clause 19.1.

**Constituent Deputy** means a person appointed as such under clause 1 of Schedule 3.

**Constituent Organisation** means any body taken to be a constituent organisation under clause 6.7(a).

**Constitution** means this constitution as amended from time to time.

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

**Deputy** means a Constituent Deputy, Elected Deputy and Honorary Life Deputy.

**Digital Publication** means any digital publication circulating within the Jewish Community.

**Director** means an individual holding office as director of the Company (including the Immediate Past President).

**ECAJ** means the Executive Council of Australian Jewry Inc, an association incorporated under the Associations Incorporation Act 1991 (ACT).

**ECAJ Councillor** means a councillor appointed by the Company in accordance with this Constitution and the Rules, as required by the constitution of the ECAJ.

**Elected Deputy** means any person elected as an Elected Deputy under clause 4 of Schedule 2.

**Elected Directors** means the Ordinary Directors and the Office-bearers

**Electoral Committee** means the electoral committee established under a Rule.

**Hard Copy Publication** means at least one hard copy publication (such as a newspaper) circulating widely within the Jewish Community.

**Honorary Life Deputy** means all Honorary Life Members of the Company's predecessor unincorporated association and an individual appointed as such under clause 3 of Schedule 1 and entered on the Register of the Company as an Honorary Life Deputy.

**Immediate Past President** means the immediate past president of the Company from time to time, or of its predecessor unincorporated association.

**Insolvency Event** occurs where:

- (a) an order is made or a resolution is passed by creditors for the winding up, dissolution or external administration of the Constituent Organisation;
- (b) the Constituent Organisation enters into any arrangement, compromise or composition with or assignment for the benefit of its creditors or any class of them; or
- (c) a controller, receiver, receiver and manager, official manager or other external administrator is appointed to the Constituent Organisation.

**Jewish Community** means all Jewish people who ordinarily reside in New South Wales.

**Jewish Youth Organisation** means any Jewish organisation whose headquarters are located in New South Wales, having at least 50% of members under the age of 30, and having at least 75% Jewish members.

**Member** means a Deputy.

**Object** means the object of the Company as set out in clause 2.

**Office-bearer** means a person occupying a position set out in clause 10.2(c).

**Ordinary Directors** means the Directors described in clause 10.2(a)(ii), being all the Elected Directors other than the Office-bearers.

**Past President** means a former President (including, to avoid any doubt, the Immediate Past President) of the Company from time to time, or of its predecessor unincorporated association.

**Plenum** means a meeting of the Deputies and includes an Annual General Meeting.

**President** means a person elected as President of the Company in accordance with clause 10.3.

**Register** means the register of members under the Corporations Act.

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

**Returning Officer** means an individual elected as returning officer of the Company under a Rule.

**Rule** means a Rule made by the Board of Directors in accordance with clause 14.

**Schedule** means a schedule to this Constitution.

**Secretary** means a person elected as Secretary of the Company in accordance with clause 10.3 who may but need not, also be the Company Secretary.

**Special Resolution** takes the meaning given by Section 9 of the Corporations Act.<sup>1</sup>

**Tax Act** means the *Income Tax Assessment Act 1997* (Cth).

**Treasurer** means a person elected as Treasurer of the Company in accordance with clause 10.3.

**Vice President** means an individual elected as Vice President of the Company in accordance with clause 10.3.

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<sup>1</sup> At the time of registration of this Company, section 9 provides that a Special Resolution is a resolution:  
(a) of which notice has been given to the Deputies in accordance with clause 8.4; and  
(b) that has been passed by at least 75% of the votes cast by Deputies entitled to vote on the resolution.

## **1.2 Interpretation**

In this Constitution unless the contrary intention appears:

- (a) words importing any gender include all other genders;
- (b) the singular includes the plural and vice versa;
- (c) a reference to a law includes regulations and instruments made under the law;
- (d) a reference to a clause is a reference to a clause in this Constitution unless otherwise stated;
- (e) a reference to a Rule is a reference to a clause in the Rules unless otherwise stated;
- (f) a reference to a law or a provision of a law includes amendments, re-enactments or replacements of that law or the provision, whether by the State or the Commonwealth of Australia or otherwise;
- (g) a reference to a Plenum or a meeting includes a meeting by technology where all attendees have reasonable opportunity to participate;
- (h) a reference to a person being present in person includes an individual participating in a Plenum or meeting as described in clause 1.2(g);
- (i) a reference to a person includes a natural person, corporation or other body corporate;
- (j) a power, an authority or a discretion reposed in a Director, the Board of Directors, the Company in Plenum or a Deputy may be exercised at any time and from time to time;
- (k) "writing" and "written" includes printing, typing and other modes of reproducing words in a visible form including, without limitation, any representation of words in a physical document or in an electronic communication or form or otherwise; and
- (l) Australian dollars, dollars, A\$ or \$ is a reference to the lawful currency of Australia.

## **1.3 Signing**

Where, by a provision of this Constitution, a document including a notice is required to be signed, that requirement may be satisfied in relation to an electronic communication of the document in any manner permitted by law or by any State or Commonwealth law relating to electronic transmissions, or in any other manner approved by the Board of Directors.

## **1.4 Corporations Act**

In this Constitution unless the contrary intention appears:

- (a) expressions in this Constitution that deal with a matter dealt with by a particular provision of the Corporations Act have the same meaning as they have in the Corporations Act;
- (b) "section" means a section of the Corporations Act; and
- (c) while the Company is a registered charity under the ACNC Act:
  - (i) subject to clause 1.4(c)(ii), the provisions of the Corporations Act in Part 2G.2 and Part 2G.3 (except section 249X and 250D) apply as if section 111L(1) of the Corporations Act was not enacted; and
  - (ii) if one of those provisions includes a reference to ASIC, including a reference to lodge any document with, or seek consent or approval from ASIC, that particular requirement does not apply to the Company.

## **1.5 Headings**

Headings are inserted for convenience and are not to affect the interpretation of this Constitution.

## **1.6 Replaceable rules do not apply**

The provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution and accordingly do not apply to the Company.

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## **2. Object of the Company**

### **2.1 Principal purpose**

In light of the social circumstances of the Jewish Community, the principal purpose of the Company is to be the community service organisation for the wellbeing and benefit of the Jewish Community and other persons or communities similarly affected by such social circumstances including by:

- (a) representing, and facilitating and promoting the human rights and welfare of, the Jewish Community;
- (b) facilitating and promoting understanding, reconciliation, mutual respect, goodwill and tolerance between community, religious and ethnic groups in New South Wales; and
- (c) facilitating the religious, social and cultural life of Jews and protecting its open and safe expression.

### **2.2 Other purposes**

In the attainment of, or as incidental, ancillary or secondary to, the principal purpose set out in clause 2.1, the Company may pursue any of the following purposes:

- (a) assisting Jewish communities in any part of the world which experience persecution or distress;
- (b) intensifying the bonds and strengthening the ties of solidarity of the Jewish Community with other Jewish communities and the State of Israel; and
- (c) doing such other things as determined by the Directors from time to time.

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## **3. Powers**

- (a) The Company has the legal capacity and powers of an individual and also has all the powers of a body corporate under the Corporations Act.
- (b) The rights and privileges of every Member are personal to each such person and are not transferable by a person's own act or by operation of law and terminate on cessation of the person's membership.

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## **4. Application of income for Object only**

### **4.1 Application of income and property**

The income and the property of the Company, however derived:

- (a) must be applied solely towards the promotion of the Object; and
- (b) must not be paid or transferred to the Deputies, in whole or in part, either directly or indirectly by way of dividend, bonus or otherwise.

### **4.2 Payment in good faith**

Clause 4.1 does not prevent payment in good faith to a Deputy, or to a firm of which a Deputy is a partner:

- (a) of reasonable remuneration for services to the Company;



- (b) for goods supplied in the ordinary course of business;
  - (c) of fair and reasonable interest on money borrowed from a Deputy at a rate not exceeding that fixed for the purposes of this clause 4.2(c) by the Company in a Plenum; or
  - (d) of reasonable rent for premises let by a Deputy.
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## **5. Winding up**

### **5.1 Guarantee by Deputies**

- (a) Each Deputy undertakes to contribute to the Company's property if the Company is wound up while they are a Deputy, or within one year after they cease to be a Deputy.
- (b) This contribution is for:
  - (i) payment of the Company's debts and liabilities contracted before they ceased to be a Deputy;
  - (ii) the costs of winding up; and
  - (iii) adjustment of the rights of the contributories among themselves.
- (c) The amount of each Deputy's contribution is not to exceed \$1.

### **5.2 Application of property**

- (a) If any property remains on the winding up or dissolution of the Company and after satisfaction of all its debts and liabilities, then, subject always to clause 5.3, that property:
  - (i) must not be paid to or distributed among the Deputies; and
  - (ii) must be paid to the Jewish Communal Appeal (ABN 29 920 168 287), if that would be in furtherance of the Object; or
  - (iii) if clause 5.2(a)(ii) does not apply, must be given or transferred to one or more funds or institutions:
    - (A) that have charitable purposes similar to, or inclusive of, the Object and that advance the interests of the Jewish Community; and
    - (B) that are not-for-profit entities whose governing documents prohibit the distribution of its income and property among its members (if it has members) to an extent at least as great as imposed on the Company under this Constitution.
- (b) The funds or institutions referred to in clause 5.2(a)(iii) must be determined by the Deputies present and voting at a Plenum at or before the time of dissolution.

### **5.3 Transfer of surplus assets – deductible gift recipients**

- (a) Where the Company has been endorsed as a deductible gift recipient, either under Subdivision 30-BA of the Tax Act as an entity or in relation to a fund or an institution it operates, then where:
  - (i) the Company is wound up;
  - (ii) the fund or institution is wound up; or
  - (iii) the endorsement under Subdivision 30-BA of the Tax Act is revoked; any surplus:
  - (iv) gifts of money or property for the principal purpose of the Company, fund or institution (whichever is relevant);

- (v) contributions described in item 7 or 8 of the table in section 30-15 of the Tax Act in relation to a fundraising event held for that purpose; and
  - (vi) money received by the Company because of such gifts or contributions, remaining after payment of all liabilities must be transferred to one or more funds or institutions that comply with clause 5.2(a) and are deductible gift recipients.
- (b) Where the Company operates more than one fund or institution for which it is a deductible gift recipient and its endorsement under Subdivision 30-BA of the Tax Act is revoked only in relation to one of those funds or institutions, then it may transfer any surplus assets of that fund or institution after payment of all liabilities to any other fund or institution for which it is endorsed as a deductible gift recipient.
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## **6. Membership of the Company**

### **6.1 Number of Deputies**

- (a) The minimum number of Deputies of the Company will be 1.
- (b) The Deputies at the date of registration of the Company and any person admitted to a category of membership in clause 6.2 under Schedules 1 to 3 are the Deputies of the Company, until the end of their term.
- (c) The number of Elected Deputies to be elected is equal to the total number of Constituent Deputies that all Constituent Organisations are entitled to appoint under Schedule 3 on the date that the Secretary calls for nominations for the election of those Elected Deputies.

### **6.2 Categories of membership in the Company**

The categories of membership in the Company are:

- (a) Honorary Life Deputies;
- (b) Elected Deputies; and
- (c) Constituent Deputies, together referred to as the Deputies.

### **6.3 Rights of Deputies**

Deputies are entitled to:

- (a) receive notices of Plenums;
- (b) attend and speak at all Plenums;
- (c) vote at a Plenum;
- (d) be counted toward a quorum of Deputies present at a Plenum; and
- (e) receive financial reports and statements of the Company.

### **6.4 Admission as a Deputy**

Subject to clause 6.7, a person may be admitted as a Deputy if the person is eligible and is admitted or appointed as a Deputy under the relevant Schedule 1 to 3.

### **6.5 Registration as Deputy**

If a person is admitted or appointed for membership as a Deputy under this Constitution, as soon as practicable, the Board of Directors must cause the name of the person to be entered in the Register of the Company.

## **6.6 Fees**

- (a) All Elected Deputies and Constituent Deputies must be financial Associates for their entire term as Deputies.
- (b) An Associate ceases to be a financial Associate only when the Associate has not paid the Associate Fee referred to in clause 2(e) of Schedule 4, to the Company within fourteen days of a letter from the Secretary requiring such payment to be made.

## **6.7 Associates and Constituent Organisations**

- (a) The “Constituent Bodies” of the Company’s predecessor unincorporated association on the day immediately prior to the date of registration of the Company and any other organisation the Directors admit as a Constituent Organisation under Schedule 5 are the Constituent Organisations of the Company, until they cease to be a Constituent Organisation under clause 6 of Schedule 5.
- (b) The “individual members” of the Company’s predecessor unincorporated association on the day immediately prior to the date of registration of the Company and any person the Directors admit as an Associate under Schedule 4 are the Associates of the Company, until they cease to be Associates of the Company.
- (c) Associates may be invited to attend and speak at Plenums, but may not vote at Plenums. An invitation to the Plenum may be sent by email to every Associate who has provided an up-to-date email address to the Company and by post to all other Associates who have provided an up-to-date postal address to the Company.
- (d) An Associate may vote to elect Elected Deputies under clause 4 of Schedule 2, but only if the Associate:
  - (i) was a financial Associate at the conclusion of the AGM that immediately preceded the vote for Elected Deputies; and
  - (ii) is a financial Associate when nominations are called for the election of Elected Deputies under the Rules.

## **6.8 Register**

- (a) The Company must establish and maintain a Register. The Register must be kept by the Company Secretary and must contain:
  - (i) for each current Deputy:
    - (A) name;
    - (B) address;
    - (C) any email address nominated by the Deputy;
    - (D) any alternative address nominated by the Deputy for the service of notice; and
    - (E) date the Deputy was entered on to the Register;
  - (ii) for each person who stopped being a Deputy in the last seven years:
    - (A) name;
    - (B) address;
    - (C) any alternative address nominated by the Deputy for the service of notices; and
    - (D) date the membership started and ended.
- (b) The Company must provide access to the Register in accordance with the Corporations Act.

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## **7. Ceasing to be a Deputy**

### **7.1 Cessation of membership**

A Deputy ceases to be a Deputy on:

- (a) death;
- (b) resignation by written notice to the Company having immediate effect or with effect from a specified date occurring not more than seven days after the service of the notice;
- (c) ceasing to be a financial Associate, other than in the case of an Honorary Life Deputy;
- (d) becoming of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law related to mental health;
- (e) becoming bankrupt or insolvent or making an arrangement or composition with creditors of his or her joint or separate estate generally;
- (f) the expiry of their term;
- (g) other than in the case of an Honorary Life Deputy, receipt of notification from the Directors that the Deputy has been absent from three successive Plenums without providing a prior apology to the Secretary;
- (h) in the case of a Constituent Deputy:
  - (i) the Deputy ceases to be a Member of the relevant Constituent Organisation and the Secretary has been notified accordingly;
  - (ii) the relevant Constituent Organisation terminates the Deputy's appointment and the Secretary has been notified accordingly; or
  - (iii) the relevant Constituent Organisation ceases to be a Constituent Organisation;
  - (iv) the passing of a resolution by the Board of Directors or the Plenum under clause 7.2; or otherwise ceasing to meet the eligibility for membership under this Constitution.

### **7.2 Termination of membership**

- (a) Subject to this Constitution, the Board of Directors or the Plenum may at any time suspend or terminate the membership of a Deputy if the Deputy:
  - (i) refuses or neglects to comply with this Constitution or any applicable Rules made under clause 14;
  - (ii) engages in conduct which in the opinion of the Board of Directors is unbecoming of the Deputy or prejudicial to the interests of the Company or the Jewish Community; or
  - (iii) fails to pay any debt due to the Company within a period of three months after the date for payment (such debt excluding a fee referred to in clause 6.6(b)).

For a decision of the Board of Directors or the Plenum under clause 7.2(a) to be effective, the general nature of the allegations made against the Deputy must be notified to the Deputy in writing and the Deputy must be given a reasonable opportunity to respond, including in person at a Plenum.

- (b) If a dispute arises regarding the termination of a Deputy's membership under this clause 7.2, the dispute resolution procedure contained in clause 24 must be followed and, for the purposes of clause 24.1, written notification under Clause 7.2(a) will be the notice of the dispute (as defined in clause 24.1).
- (c) The rights and privileges of a Deputy suspended under clause 7.2(a) are suspended, but those rights and privileges shall revive following the period of suspension.

### **7.3 Limited liability**

The Deputies have no liability as Deputies except as set out in clause 5.1.

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## **8. Plenums**

### **8.1 Determinations by Plenum**

The Plenum:

- (a) determines the Company's formal policies relating to the Jewish Community and relations with the wider community, but does not determine matters relating to the implementation of those formal policies or the administration or finances of the Company (or any affiliates), which are the responsibility of the Board of Directors;
- (b) through the reports of the President and CEO presented to the Plenum, provides general comment and guidance regarding the Company's key activities;
- (c) must consider and vote on any motion validly proposed by the Board of Directors, any Committee or any Deputy;
- (d) determines the creation, disbanding, merger, composition and structure of any Committee, as proposed by the Board of Directors to the Plenum; those Committees being elected and managed under clauses 19.2, 19.3 and 19.4 and the Rules; and
- (e) determines, in accordance with Schedule 5, the admission of any organisation as a Constituent Organisation and its termination and readmission.

### **8.2 Annual General Meetings**

Annual General Meetings of the Company are to be held in accordance with the Corporations Act.

### **8.3 Convening a Plenum**

- (a) The Board of Directors by a majority vote or the President may convene and arrange to hold a Plenum when they think fit and must do so if required to do so under the Corporations Act.
- (b) Subject to the Corporations Act, the Deputies must meet at least eight times in each calendar year, with the first meeting to be held in February, unless extraordinary circumstances warrant otherwise.
- (c) The election for Elected Deputies must be held by the end of June in every second year of the then current Elected Deputies' term (for the purpose of the Rules and clause 4(c) of Schedule 2), unless extraordinary circumstances warrant otherwise.

### **8.4 Notice of a Plenum**

- (a) Notice of a Plenum must be given in accordance with the Corporations Act and served in accordance with clause 29.
- (b) A Deputy is entitled to receive notice of and to attend all Plenums and is entitled to speak and vote at those Plenums.

### **8.5 Calculation of period of notice**

In computing the period of notice under clause 8.4, both the day on which the notice is given or taken to be given and the day of the Plenum convened by it are to be disregarded.

### **8.6 Cancellation or postponement of Plenum**

- (a) Where a Plenum is convened by the Board of Directors, the Board of Directors may by notice, whenever it thinks fit, cancel the Plenum or postpone the holding of the Plenum to a date and time the Board of Directors determines.

- (b) This clause 8.6 does not apply to a Plenum convened in accordance with the Corporations Act by a single Director, by Deputies, by the Board of Directors on the request of Deputies or to a Plenum convened by a Court.

## **8.7 Notice of cancellation or postponement of a Plenum**

A notice of cancellation, postponement or change of place of a Plenum must:

- (a) state:
  - (i) the reason for cancellation or postponement;
  - (ii) the postponed date and time for the holding of the Plenum;
  - (iii) a place for the holding of the Plenum which may be either the same as or different from the place specified in the notice convening the Plenum; and
  - (iv) if the Plenum is to be held in two or more places, the technology that will be used to facilitate the holding of the Plenum in that manner; and
- (b) be given to:
  - (i) each Deputy individually; and
  - (ii) each other person entitled to be given notice of a Plenum under the Corporations Act.

## **8.8 Number of clear days and business for postponed Plenum**

The number of clear days from the giving of a notice postponing the holding of a Plenum to the date specified in that notice for the holding of the postponed Plenum must not be less than the number of clear days' notice of the Plenum required to be given under clause 8.4.

The only business that may be transacted at a Plenum the holding of which is postponed is the business specified in the original notice convening the Plenum.

## **8.9 Non-receipt of notice**

The non-receipt of notice of a Plenum or the convening, cancellation or postponement of a Plenum by, or the accidental omission to give notice of a Plenum or the convening, cancellation or postponement of a Plenum to, a person entitled to receive notice does not invalidate the proceedings at or any resolution passed at the Plenum or at a postponed Plenum or the convening, cancellation or postponement of a Plenum.

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# **9. Proceedings at Plenums**

## **9.1 Number of a quorum**

- (a) The quorum for a Plenum is thirty Deputies present or such lesser number as permitted in accordance with clause 9.1(b).
- (b) If the number of Deputies present within fifteen minutes of the time at which the Plenum is scheduled to begin is twenty five or more and less than thirty, the President may declare that the number present is the quorum for the purpose of that meeting only.

## **9.2 Requirement for a quorum**

- (a) An item of business may not be transacted at a Plenum unless a quorum is present when the Plenum proceeds to consider it.
- (b) If a quorum is present at the time the first item of business is transacted, it is taken to be present when the Plenum proceeds to consider each subsequent item of business unless the chair of the Plenum (on the chair's own motion or at the request of a Deputy who is present) declares otherwise.

### **9.3 If quorum not present**

If within fifteen minutes after the time appointed for a Plenum a quorum is not present, the Plenum:

- (a) if convened by a Director or at the request of Deputies, is dissolved; and
- (b) in any other case, stands adjourned to the same day in the next week and the same time and place, or to such other day, time and place as the Board of Directors appoint by notice to the Deputies and others entitled to notice of the Plenum.

### **9.4 Adjourned Plenum**

At a Plenum adjourned under clause 9.3(b), thirty Deputies present in person at the Plenum are a quorum. If a quorum is not present within fifteen minutes after the time appointed for the adjourned Plenum, the Plenum is dissolved.

### **9.5 Appointment and powers of chair of Plenum**

If the Deputies have elected a President under clause 10.3, that person is entitled to preside as chair at a Plenum.

### **9.6 Absence of chair at Plenum**

If a Plenum is held and:

- (a) a President has not been elected by the Deputies; or
- (b) the President is not present within fifteen minutes after the time appointed for the holding of the Plenum or is unable or unwilling to act,

then the following persons may preside as chair of the Plenum (in order of precedence):

- (c) a Vice President if a Director has been so elected by the Deputies under clause 10.3; or
- (d) a Deputy elected by the Deputies to preside as chair of the Plenum.

### **9.7 Conduct of Plenums**

Subject to any Standing Orders in effect, the chair of a Plenum:

- (a) has charge of the general conduct of the Plenum and of the procedures to be adopted at the Plenum;
- (b) may require the adoption of any procedure which is, in the chair's opinion, necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the Plenum; and
- (c) may, having regard where necessary to the Corporations Act, terminate discussion or debate on any matter whenever the chair considers it necessary or desirable for the proper conduct of the Plenum.

### **9.8 Adjournment of Plenum**

The chair of a Plenum may at any time during the Plenum adjourn the Plenum or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the Plenum either to a later time at the same Plenum or to an adjourned Plenum at any time and any place, but:

- (a) in exercising the discretion to do so, the chair may, but need not, seek the approval of the Deputies present; and
- (b) only unfinished business is to be transacted at a Plenum resumed after an adjournment.

## **9.9 Notice of adjourned Plenum**

It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned Plenum unless a Plenum is adjourned for one month or more. In that case, notice of the adjourned Plenum must be given as in the case of an original Plenum.

## **9.10 Questions decided by majority**

Subject to the requirements of the Corporations Act, a resolution is taken to be carried if a simple majority of the votes cast on the resolution are in favour of it.

## **9.11 Equality of votes – casting vote for chair**

If there is an equality of votes, either on a show of hands or on a poll, then the chair of the Plenum is entitled to a casting vote in addition to any vote to which the chair is entitled as a Deputy.

## **9.12 Voting on show of hands**

- (a) At any Plenum a resolution put to the vote of the Plenum must be decided on a show of hands unless a poll is properly demanded and the demand is not withdrawn.
- (b) A declaration by the chair that a resolution has been carried or carried unanimously, or by a particular majority, or lost, is conclusive evidence of the fact.
- (c) Neither the chair nor the minutes need state and it is not necessary to prove the number or proportion of the votes recorded in favour of or against the resolution.

## **9.13 Poll**

If a poll is demanded or required:

- (a) it must be taken in the manner and at the date and time directed by the chair and the result of the poll is the resolution of the Plenum at which the poll was demanded;
- (b) on the election of a chair or on a question of adjournment, it must be taken immediately;
- (c) the demand may be withdrawn; and
- (d) the demand does not prevent the continuance of the Plenum for the transaction of any business other than the question on which the poll has been demanded.

## **9.14 Votes of Deputies**

Subject to this Constitution, each Deputy present at the Plenum has one vote.

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# **10. Board of Directors**

## **10.1 Number of Directors**

The number of Directors must be such number between five and sixteen as the Plenum determines. In the absence of any such determination, the number of Directors will be sixteen.

## **10.2 Composition of the Board of Directors**

- (a) The Board of Directors is to consist of:
  - (i) the Office-bearers;
  - (ii) no more than five Ordinary Directors;

provided however that at least one of the Elected Directors must be thirty years of age or younger as at the close of nominations; and



- (iii) the chairs of any Committees from time to time who consent in writing to act as Directors, each of whom is to be elected at the Annual General Meeting under clause 10.3
- (b) The Honorary Life Deputies, the ECAJ Councillors and one senior employee of the ECAJ who has been nominated for that purpose by the president of the ECAJ, if they are not otherwise Members of the Board of Directors, are invited to attend and speak, but not vote, at meetings of the Board of Directors, and have the right to receive notice of, and board papers for, those meetings at the same time they are given to the Directors.
- (c) The Office-bearers are as follows:
  - (i) the President;
  - (ii) two Vice Presidents;
  - (iii) the Immediate Past President;
  - (iv) the Secretary; and
  - (v) the Treasurer.
- (d) If the chair of any Committee does not wish to become a Director, that person may still attend meetings of the Board of Directors and speak, but cannot vote.
- (e) Whilst the Company is a Constituent of the ECAJ and entitled under the ECAJ's constitution to appoint ten ECAJ Councillors, the President must be one such ECAJ Councillor and the Plenum must elect the other nine ECAJ Councillors in accordance with the Rules.

### **10.3 Elections at Annual General Meetings**

At each Annual General Meeting there will be an election of duly nominated and eligible persons to each position of the Office bearers, the Ordinary Directors, the Chair of each Committee and the members of each Committee.

### **10.4 Qualification of Directors**

- (a) To be eligible for the office of Director a person must:
  - (i) if an Office-bearer, reside within eighty kilometres of the Registered Office; and
  - (ii) consent in writing to act as a Director.
- (b) To be eligible for the office of an Elected Director or a Chair of a Committee:
  - (i) an Elected Deputy must:
    - (A) have been a Deputy for a minimum period of eleven months, or periods totalling eleven months, within the previous thirty six months, up to the date of the relevant call for nominations;
    - (B) be a financial Associate and a Deputy at the date when nominations are called under the Rules.
  - (ii) a Constituent Deputy must be a financial Associate and a Deputy, as at the date of his or her nomination.
- (c) If an Elected Director is not re-elected as a Deputy during their term of office in a biennial Deputies' election, then that Elected Director's term of office as a Director continues until the next election of Elected Directors at the next Annual General Meeting.

- (d) In the event that it is required under a law, regulation or guideline applicable to the Company<sup>2</sup>, the Company must ensure that a majority of the Directors are persons who have the requisite level or degree of responsibility to the general public.
- (e) The eligibility requirements referred to in clause 10.4(b) shall apply with all necessary changes being made, to all elections conducted after January 2022, for ECAJ Councillors under the relevant Rules.

## **10.5 Deleted**

## **10.6 Terms and retirement of Elected Directors**

- (a) Subject to clause 10.7 and 10.8(b), Elected Directors are elected from the date of their election as an Elected Director until the conclusion of the next Annual General Meeting.
- (b) At each Annual General Meeting, all Elected Directors must retire from office but subject to clause 10.7 are eligible for reappointment. A retiring Elected Director holds office until the conclusion of the meeting at which that Director retires.
- (c) The Plenum may by ordinary resolution increase or decrease the period of time for which an Elected Director holds office under clause 10.6(a).
- (d) The Plenum may in accordance with the Corporations Act by ordinary resolution remove any Director before the expiration of that Director's period of office, and may by an ordinary resolution appoint another person in the place of that Director.

## **10.7 Reappointment of Directors**

- (a) Subject to clauses 10.7(b), 10.7(c) and 10.7(d), from the date of registration of the Company, Elected Directors are entitled to seek re-election as Directors on up to eleven occasions provided that an Elected Director's period of continuous service as an Elected Director does not exceed a period of twelve years.
- (b) From the date of registration of the Company, notwithstanding the service limits in clause 10.7(a), a person elected as President is entitled to seek re-election as President provided that the President's period of continuous service as President does not exceed a period of 4 years.
- (c) The service limits in clause 10.7(a) do not apply if the limits are exceeded by a retiring President becoming an Immediate Past President, and accordingly remaining as a Director for the period that person is Immediate Past President.
- (d) If more than a third of the Directors must retire in any year due to the operation of clause 10.7(a), the Board of Directors may by ordinary resolution resolve to extend the service limits which apply to one or more Directors (for a period not exceeding one year). In considering this matter, Directors may have regard to:
  - (i) periods of service of the Directors as "members of the Executive" of the Company's predecessor unincorporated association; and
  - (ii) maintaining continuity of Board of Directors membership for the benefit of the Company.
- (e) Notwithstanding sub-clauses (a) and (b) above, in circumstances considered to be extraordinary by the Directors in their absolute discretion, the Directors may by ordinary resolution resolve to extend the service limit to allow a President or a Past President to seek re-election as President for a period not exceeding two consecutive one-year terms.

## **10.8 Casual vacancy**

- (a) Subject to 10.8(b), the Deputies may at any time appoint any eligible person to be a Director to fill a casual vacancy or as an addition to the existing Directors, provided the total number of Directors does not exceed the maximum number in clause 10.1;

- (b) Where the casual vacancy arises after the first half of the Director's term, the Directors may fill the casual vacancy provided the total number of Directors does not exceed the maximum number in clause 10.1.
- (c) A Director appointed under clause 10.8(a) or (b) holds office until the conclusion of the next Annual General Meeting of the Company but is eligible for re-election at that meeting.
- (d) The provisions of this clause will apply, with the necessary changes being made, to any casual vacancy in the office of an ECAJ Councillor.

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## **11. Remuneration of Directors**

The Directors must not be paid any remuneration for their services as Directors.

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## **12. Vacation of office of Director**

In addition to the circumstances in which the office of a Director becomes vacant under the Corporations Act, the office of a Director becomes vacant if the Director:

- (a) ceases to be eligible under clause 10.4;
- (b) resigns from the office by notice in writing to the Company;
- (c) is not present at three successive meetings of the Board of Directors without leave of absence from the Board of Directors;
- (d) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (e) becomes insolvent or bankrupt, compounds with their creditors, or assigns their estate for the benefit of their creditors;
- (f) becomes prohibited, disqualified or removed from being a Director by reason of any order of any court of competent jurisdiction or regulator; or
- (g) dies.

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## **13. Powers and duties of the Board of Directors**

### **13.1 The Board of Directors to manage the company**

The Board of Directors is to manage the business of the Company and may exercise all the powers of the Company that are not, by the Corporations Act or by this Constitution, required to be exercised by the Plenum.

### **13.2 Specific powers of the Board of Directors**

Without limiting the generality of clause 13.1, and subject to any trusts relating to the assets of the Company, the Board of Directors may exercise all the powers of the Company to:

- (a) borrow or raise money;
- (b) charge any property or business of the Company; and
- (c) give any security for a debt, liability or obligation of the Company or of any other person,

and must disclose the exercise of that power as soon as is practicable at a subsequent Plenum.

### **13.3 Compliance with duties under the Law**

Each Director must comply with the duties described in governance standard 5 as set out in the regulations made under the ACNC Act and such other duties as apply to them from time to time.

### **13.4 Delegation**

- (a) The Board of Directors may resolve to delegate any of its powers to:
  - (i) a Committee in accordance with clause 19, or an ad hoc working party;
  - (ii) a Director;
  - (iii) an employee of the Company; or
  - (iv) any other person.
- (b) The power may be delegated for such time as determined by the Board of Directors and the Board of Directors may at any time revoke or vary the delegation.
- (c) The delegate must exercise the powers delegated in accordance with any directions of the Board of Directors, and the exercise of the power by the delegate is as effective as if the Board of Directors had exercised it.
- (d) The Board of Directors may continue to exercise any power it has delegated.

### **13.5 Quorum**

A quorum for a meeting of the Board of Directors is four Elected Directors and a quorum must be present at all times during the meeting.

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## **14. Rules**

Subject to this Constitution and the Corporations Act, the Board of Directors may from time to time by resolution make and rescind or alter Rules which are binding on Deputies and Associates for the management and conduct of the business of the Plenum and for the conduct of elections and voting.

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## **15. Appointment of attorney**

- (a) The Board of Directors may, by power of attorney, appoint any person to be the attorney of the Company for the purposes and with the powers, authorities and discretions held by the Board of Directors for the period and subject to the conditions that the Board of Directors thinks fit.
- (b) A power of attorney granted under clause 15(a) may contain any provisions for the protection and convenience of the attorney and persons dealing with the attorney that the Board of Directors thinks fit and may also authorise the attorney to delegate (including by way of appointment of a substitute attorney) all or any of the powers, authorities and discretions of the attorney.

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## **16. Conflicts of interest**

### **16.1 Disclosure of conflict of interest**

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

- (a) to the Board of Directors; or
- (b) if all of the Directors have the same conflict of interest, to the Deputies at the next Plenum, or at an earlier time if reasonable to do so.

## **16.2 Disclosure recorded in minutes**

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

## **16.3 Material personal interest**

Each Director who has a material personal interest in a matter that is being considered at a meeting of the Board of Directors (or that is proposed in a circular resolution) must not, except as provided under clause 16.4:

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

## **16.4 Present and voting**

A Director with a material personal interest in a matter may still be present and vote if:

- (a) their interest arises because they are a Deputy of the Company and the other Deputies have the same interest;
- (b) their interest relates to an insurance contract that insures, or would insure, the Director against liabilities that the Director incurs as a Director of the Company (see clause 30.2);
- (c) their interest relates to a payment by the Company under clause 30.1, or any contract relating to an indemnity that is allowed under the Corporations Act;
- (d) ASIC makes an order allowing the Director to vote on the matter; or
- (e) the Directors who do not have a material personal interest in the matter pass a resolution that:
  - (i) identifies the Director, the nature and extent of the Director's interest in the matter and how it related to the affairs of the Company; and
  - (ii) states that those Directors are satisfied that the interest should not stop the Director from voting or being present.

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## **17. Proceedings of the Board of Directors**

### **17.1 Meetings of the Board of Directors**

- (a) The Board of Directors may meet together for conducting business, adjourn and otherwise regulate its meetings as it thinks fit.
- (b) The Secretary must on the written request of two Office-bearers or four Directors or, in an emergency, two Directors, convene a meeting of the Board of Directors.

### **17.2 Questions decided by majority**

A question arising at a meeting of the Board of Directors is to be decided by a majority of votes of the Directors present and entitled to vote, and that decision is for all purposes a decision of the Board of Directors.

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## **18. Chair and deputy chair of the Board of Directors**

### **18.1 President to be chair**

The President is to preside as chair of meetings of the Board of Directors.

### **18.2 Absence of President as chair at Board of Directors meeting**

- (a) If a Board of Directors meeting is held and:

- (i) a President has not been elected under clause 10.3; or
- (ii) the President is not present within ten minutes after the time appointed for the holding of the meeting or is unable or unwilling to act;

then the Board must elect one of the Vice Presidents to be a chair of the meeting.

- (b) If both Vice Presidents are not present, the Directors present must elect one of their number to be a chair of the meeting.

### **18.3 Casting vote for chair at meetings of the Board of Directors**

In the event of an equality of votes cast for and against a resolution, the chair of the Board of Directors meeting has a second or casting vote.

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## **19. Committees**

### **19.1 Delegation to Committees**

- (a) The Board of Directors may delegate any of its powers, to a Committee as established by the Plenum or to ad hoc working parties.
- (b) The Board of Directors may call for nominees to Committees in accordance with the Rules and clause 8.1(d).
- (c) A Committee or working party to which any powers have been delegated under clause 19.1(a) must exercise those powers in accordance with any directions of the Board of Directors. A power so exercised is taken to have been exercised by the Board of Directors.

### **19.2 Meetings of Committees**

A Committee may meet and adjourn as it thinks proper.

### **19.3 Chair of a Committee**

- (a) The Deputies must elect the members and chairs of each Committee of the Company at the Annual General Meeting each year in accordance with the Rules.
- (b) Subject to 19.3(c), the Deputies may at any time appoint any Deputy to be a Chair of a Committee, to fill a casual vacancy, Where the casual vacancy arises after the first half of the term of the chair of the Committee the Directors may appoint any Deputy to fill that casual vacancy.
- (c) If a meeting of a Committee is held and:
  - (i) a chair has not been elected; or
  - (ii) the chair is not present within ten minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

then the Committee members involved may elect one of their number to be chair of the meeting.

### **19.4 Determination of questions**

- (a) Questions arising at a meeting of a Committee are to be determined by a majority of votes of the members present and voting.
- (b) In the event of an equality of votes, the chair of the meeting has a casting vote.

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## **20. Circular resolutions of the Directors**

- (a) The Board of Directors may pass a resolution without a Board of Directors meeting being held if all of the Directors entitled to vote on the resolution have voted and at least two thirds of those Directors sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- (c) The resolution is passed when at least two thirds of the Directors have signed.

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## **21. Validity of acts of Directors**

All acts done at a meeting of the Board of Directors, or by a person acting as a Director, are taken as valid as if the relevant person had been duly appointed or had duly continued in office and was qualified and entitled to vote, even if it is afterwards discovered that:

- (a) there was a defect in the appointment or continuance in office of a person as a Director or of the person so acting; or
- (b) a person acting as a Director was disqualified or was not entitled to vote.

**21A** The continuing Directors may act notwithstanding any vacancy in the Board of Directors, but if and so long as their number is reduced below the minimum number required by the Corporations Act or below the necessary quorum of the Board of Directors, the continuing Directors may act for the purpose of increasing the number of Directors to that number or of convening a Plenum, but for no other purpose.

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## **22. Chief Executive Officer**

The Board of Directors may appoint a Chief Executive Officer (on the terms and conditions determined by the Board of Directors) who will have the day to day responsibility for the operation of the Company.

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## **23. Company Secretary**

### **23.1 Appointment of Company Secretary**

There must be at least one Company Secretary who is to be appointed by the Board of Directors. The Directors may appoint the Secretary as Company Secretary.

### **23.2 Suspension and removal of Company Secretary**

The Board of Directors may suspend or remove a Company Secretary from that office.

### **23.3 Powers, duties and authorities of Company Secretary**

A Company Secretary holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, as determined by the Board of Directors. The exercise of those powers and authorities and the performance of those duties by a Company Secretary are subject at all times to the control of the Board of Directors.

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## **24. Dispute resolution**

### **24.1 Handling a dispute**

Where there is a dispute, grievance or other disagreement between a Deputy and the Company, whether arising out of the application of the provisions of this Constitution or the Rules or otherwise (**Dispute**), then either party must, prior to the commencement of any proceedings in a Court or Tribunal or before any authority or board, notify the other in writing of the nature of the Dispute, and the following must occur:

- (a) the Deputy and the Company must in the period of fourteen days from the service of the notice of the Dispute (**Initial Period**) use their best endeavours to resolve the Dispute;
- (b) if the Company and the Deputy are unable to resolve the Dispute within the Initial Period, then the Dispute must be referred for mediation to a mediator agreed by the Deputy and the Company;
- (c) if the disputants are unable to agree on a mediator within seven days of the expiration of the Initial Period, the Deputy or the Company may request the chair of Resolution Institute<sup>3</sup> to nominate a mediator to whom the Dispute will be referred;
- (d) the costs of the mediation must be shared equally between the Deputy and the Company; and
- (e) if:
  - (i) the party receiving the notice of the Dispute fails to attend the mediation required by clause 24.1(b);
  - (ii) the mediation has not occurred within six weeks of the date of the notice of the Dispute; or
  - (iii) the mediation fails to resolve the Dispute,then the party serving the notice of Dispute will be entitled to commence any proceedings in a Court or Tribunal or before any authority or board in respect of the Dispute.

## **24.2 Urgent interlocutory relief**

The procedure in clause 24.1 will not apply in respect of proceedings for urgent or interlocutory relief.

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## **25. Execution of documents**

Documents executed for and on behalf of the Company must be executed by:

- (a) 2 Directors;
- (b) a Director and the Company Secretary; or
- (c) such other persons as the Board of Directors by resolution appoints from time to time.

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## **26. Accounts**

- (a) The Board of Directors must cause proper financial records to be kept and, if required by a law, regulation or guideline applicable to the Company or otherwise considered by the Board of Directors to be appropriate, cause the accounts of the Company to be audited or reviewed accordingly.
- (b) The Board of Directors must distribute to the Deputies copies of the annual financial reports of the Company accompanied by a copy of the report of the auditor or reviewer (as required) and report of the Board of Directors in accordance with the requirements of a relevant law, regulation or guideline.

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## **27. Seals**

### **27.1 Safe custody of common seals**

The Board of Directors must provide for the safe custody of any seal of the Company.

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<sup>3</sup> Resolution Institute is a not-for-profit organisation facilitating dispute resolution – further information can be found at [www.resolution.institute](http://www.resolution.institute).



## **27.2 Use of common seal**

If the Company has a common seal or duplicate common seal:

- (a) it may be used only by the authority of the Board of Directors, or of a committee authorised by the Board of Directors to authorise its use; and
- (b) every document to which it is affixed must be signed by a Director and be countersigned by another Director, a Company Secretary or another person appointed by the Board of Directors to countersign that document or a class of documents in which that document is included.

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## **28. Inspection of records**

### **28.1 Inspection by Deputies**

Subject to the Corporations Act, the Board of Directors may determine whether and to what extent, and at what times and places and under what conditions, the accounting records and other documents of the Company or any of them will be open to inspection by the Deputies (other than Directors).

### **28.2 Right of a Deputy to inspect**

A Deputy (other than a Director) does not have the right to inspect any document of the Company except as provided by law or authorised by the Board of Directors or by the Plenum.

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## **29. Service of documents**

### **29.1 Document includes notice**

In this clause 29, a reference to a document includes a notice.

### **29.2 Methods of service to Deputies**

- (a) The Company may give a document to a Deputy:
  - (i) personally;
  - (ii) by sending it by post to the address for the Deputy in the Register of the Company or an alternative address nominated by the Deputy; or
  - (iii) by sending it to an electronic address nominated by the Deputy.
- (b) A document sent by post:
  - (i) if sent to an address in Australia, may be sent by ordinary post and is taken to have been received 2 business days after the date of its posting; and
  - (ii) if sent to an address outside Australia, must be sent by airmail and is taken to have been received on the 7th business day after the date of its posting.
- (c) If a document is sent by electronic transmission, delivery of the document is taken:
  - (i) to be effected by properly addressing and transmitting the electronic transmission; and
  - (ii) to have been delivered on the day following its transmission.

### **29.3 Sending documents to Associates and Constituent Organisations**

A document may be sent to Associates and Constituent Organisations in the same manner as documents are served on Deputies under clause 29.2 .

## 29.4 Evidence of service

A certificate in writing signed by a Director or the Company Secretary stating that a document was sent to a Deputy by post or electronic transmission on a particular date is prima facie evidence that the document was so sent on that date.

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## 30. Indemnity and insurance

### 30.1 Indemnity

- (a) The Company must indemnify any current or former Director, Company Secretary or executive officer of the Company, or of a wholly owned subsidiary of the Company, out of the property of the Company against:
  - (i) every liability incurred by the person in that capacity; and
  - (ii) all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity,except to the extent that:
  - (iii) the Company is forbidden by law (including the Corporations Act) to indemnify the person against the liability or legal costs;
  - (iv) an indemnity by the Company of the person against the liability or legal costs would, if given, be made void by any law; or
  - (v) the person is entitled to be, and is actually, indemnified by another person (including an insurer under any insurance policy).
- (b) The indemnity is a continuing obligation and is enforceable by a person even though they are no longer a Director, Company Secretary or executive officer of the Company, or of a wholly owned subsidiary.

### 30.2 Insurance

The Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a Director or Company Secretary or executive officer of the Company or of a wholly owned subsidiary of the Company against liability arising out of conduct by the person in that capacity (**Relevant Conduct**), including a liability for legal costs, unless:

- (a) the Company is forbidden by law to pay or agree to pay the premium in respect of the Relevant Conduct (whether or not the law applies in the particular case); or
- (b) the contract would, if the Company paid the premium, be made void by any law (including the Corporations Act).

### 30.3 Contract

The Company may enter into an agreement with a person referred to in clauses 30.1

and 30.2 with respect to the matters covered by these clauses. An agreement entered into under this clause 30 may include provisions relating to rights of access to the books of the Company conferred by the Corporations Act or otherwise by law.

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## 31. Amendment to Constitution

- (a) Subject to clause 31(c), this Constitution may only be amended by Special Resolution of the Deputies.
- (b) While the Company is a registered charity under the ACNC Act, the Deputies must not pass a Special Resolution that amends this Constitution if passing it causes the Company to no longer be a charity.

- (c) Any modification of this Constitution takes effect on the date the Special Resolution is passed or any later date specified, or provided for, in the resolution.

## **Schedule 1 - Honorary Life Deputies**

### **1. Admission as Honorary Life Deputy**

A person may be admitted as an Honorary Life Deputy if the person is eligible under clause 2 of this Schedule and is approved as an Honorary Life Deputy under clause 3 of this Schedule.

### **2. Membership criteria**

To be eligible as an Honorary Life Deputy, a person must:

- (a) have been a Director for a minimum of 5 years;
- (b) not otherwise be disqualified from serving as a Director under any relevant law;
- (c) be a Jewish permanent resident of New South Wales;
- (d) agree in writing to be bound by this Constitution; and
- (e) consent in writing to become an Honorary Life Deputy.

### **3. Membership process**

A person may be elected as an Honorary Life Deputy if:

- (a) the Board of Directors votes unanimously to recommend to the Plenum that the person be appointed an Honorary Life Deputy; and
- (b) the Deputies, by Special Resolution, vote in favour of a motion to appoint the person as an Honorary Life Deputy.

### **4. Rights and entitlements of Honorary Life Deputies**

In addition to the rights of Deputies under clause 6.3, an Honorary Life Deputy:

- (a) has the right to receive notice of and board papers for, and to attend and speak at a Board of Directors meeting but not to vote; and
- (b) is not required to be a financial Associate under clause 6.6.

## **Schedule 2 – Elected Deputies**

### **1. Admission as an Elected Deputy**

A person may be admitted as an Elected Deputy if the person is eligible under clause 2 of this Schedule and they are elected as an Elected Deputy under clause 4 of this Schedule.

### **2. Criteria**

- (a) Subject to clause 2(b) of this Schedule, any person who is a financial Associate when nominations are called for under the Rules and was a financial Associate at the conclusion of the immediately preceding AGM, may be nominated and elected as an Elected Deputy.
- (b) Any Elected Deputy who has been expelled or suspended under clause 7.2 is ineligible for nomination as an Elected Deputy for the following two year term.

### **3. Term**

- (a) Subject to clause 7.1 of this Constitution and clause 3 of this Schedule, the term of Elected Deputies is two years, beginning on 1 July in the year in which they are elected and finishing on 30 June, two years later.
- (b) If any Associate becomes an Elected Deputy by filling a casual vacancy during the currency of a two year term, that Elected Deputy's term ends at the end of that two year term.
- (c) On the adoption of this Constitution, the term of the Elected Deputies then holding office is automatically extended until the 30 June occurring after the date on which their term would otherwise have ended.

### **4. Election of Elected Deputies**

- (a) If, at the time prescribed under the Rules for the closing of nominations, the number of nominees for Elected Deputies is equal to or less than the number of positions vacant, the Returning Officer must declare those nominees duly elected.
- (b) The Associates may fill a vacated office of an Elected Deputy by election in accordance with this clause.
- (c) If the number of nominations for Elected Deputies exceeds the number of positions vacant, the Company must hold an election either by postal or electronic ballot in accordance with the Rules, as approved by the Board of Directors.
- (d) The Secretary must place on any digital platform operated by the Company and in any Hard Copy Publication a prominent notice:
  - (i) stating that the confidential ballot is to be held;
  - (ii) advising that financial Associates may vote and inviting the Associates to vote;
  - (iii) advising how the confidential ballot is to be held and the closing time and date for voting; and
  - (iv) containing any other information recommended by the Electoral Committee.
- (e) If no Hard Copy Publication exists then the Secretary must place the notice on any Digital Publication.

### **5. Filling of vacancies**

- (a) Subject to clause 5(c) of this Schedule, if:
  - (i) an Elected Deputy dies or ceases to hold office for any other reason; or
  - (ii) due to the admission of a new Constituent Organisation a vacancy exists in the number of Elected Deputies specified in clause 6.1(c),

the Secretary or the Returning Officer must offer that vacancy to the nominee who in the last election held under clause 4 of this Schedule received the next highest number of votes. If that nominee has become ineligible or does not wish to hold office then the Secretary or the Returning Officer must offer the vacancy to the person who received the next highest number of votes, and so on, until all nominees have been given the opportunity to fill the vacancy.

- (b) If the Secretary or the Returning Officer is unable to fill the vacancy under clause 5(a) of this Schedule it remains vacant until the next election of Elected Deputies.
- (c) The Board of Directors may resolve not to fill any vacancy due to the imminence of a call for nominations for election under the Rules.

## **6. Attendance at Plenums**

- (a) Elected Deputies are expected to attend the majority of the Plenums and the AGM each year. If an Elected Deputy is absent from a Plenum more than 3 times in a year, the Elected Deputy must notify the Secretary of the reason, such as travel.
- (b) The Secretary must make the attendance record of Deputies available to Associates prior to the election for Elected Deputies and to Deputies prior to the election for Directors and Committees in accordance with the Rules.

## **7. Access to Personal Information**

Each Elected Deputy must provide the following contact details to be included on a password protected database to be made available to all Deputies:

- (a) full name;
- (b) email address; and
- (c) any other contact details which a Deputy agrees to provide (in their discretion), for example, an additional email address, landline or mobile number and best days and times to be contacted.

## **Schedule 3 - Constituent Deputies**

### **1. Appointment of Constituent Deputies**

Each Constituent Organisation:

- (a) may appoint the following number of people as Constituent Deputies from time to time, who are entitled to attend and vote at the Plenum and otherwise act as its representative to the Company:
  - (i) if the Constituent Organisation has 500 or less financial members – 1 Constituent Deputy; or
  - (ii) if the Constituent Organisation has more than 500 financial members – 2 Constituent Deputies; and
- (b) must give the Secretary written notice, signed by its president or secretary, of the appointment or removal of its Constituent Deputy and any alternate, within two weeks of their appointment.
- (c) The appointment of a Constituent Deputy is only valid if it is accompanied by a signed consent by the appointee to be a Deputy and to be bound by the Constitution of the Company and to his or her name and email address being included on the password protected database which will be available to all other Deputies.

### **2. Fees**

A Constituent Deputy must be a financial Associate and their fees may be paid by the Constituent Organisation that the Constituent Deputy represents.

### **3. Dispute regarding representation by Constituent Organisations**

If any dispute arises regarding the right of any person to represent a Constituent Organisation as a Constituent Deputy, the dispute resolution procedure contained in clause 24 must be followed.

### **4. Filling of vacancies**

If a Constituent Deputy dies or ceases to hold office for any other reason, the Constituent Organisation must give notice under clause 1(b) of this Schedule of any replacement Constituent Deputy.

### **5. Attendance at Plenums**

- (a) Constituent Deputies are expected to attend the majority of the Plenums and the AGM each year. If a Deputy is absent from a Plenum more than three times in a year, the Deputy must notify the Secretary of the reason, such as travel.
- (b) The Secretary must make the attendance record of Deputies available to Associates prior to the election for Elected Deputies and to Deputies prior to the election for Directors and Committees in accordance with the Rules.

### **6. Access to Personal Information**

Each Constituent Deputy must provide the following contact details to be included on a password protected database. to be made available to all Deputies:

- (a) full name;
- (b) email address;
- (c) the Constituent Organisation that the Constituent Deputy represents; and
- (d) any other contact details which a Deputy agrees to provide (in their discretion), for example, an additional email address, landline or mobile number and best days and times to be contacted.

## **Schedule 4 – Associates**

### **1. Admission as an Associate**

The Board of Directors may admit any person as an Associate if the person is eligible under clause 2 of this Schedule and complies with the provisions set out in this Schedule.

### **2. Admission criteria**

To be eligible to be an Associate, a person must:

- (a) be an individual that is at least 18 years old;
- (b) be a Jewish permanent resident of New South Wales;
- (c) consent in writing to become an Associate;
- (d) agree in writing to be bound by this Constitution; and
- (e) pay the Associate fee as determined by the Board of Directors from time to time.

### **3. Admission process**

- (a) The application for admission as an Associate must be:
  - (i) in writing, signed by the applicant;
  - (ii) in such form and manner as the Board of Directors may from time to time prescribe; and
  - (iii) accompanied by the admission fee, if any, determined by the Board of Directors.
- (b) Each application for admission must be considered by the Board of Directors within a reasonable time after the application is made.
- (c) When an applicant has been accepted or rejected for admission the Company Secretary must notify the applicant of the decision of the Board of Directors within a reasonable period.



## **Schedule 5 – Constituent Organisations**

### **1. Admission as a Constituent Organisation**

The Board of Directors may recommend to the Plenum that any organisation be admitted as a Constituent Organisation if the organisation, including a Jewish Youth Organisation, is eligible under clause 2 of this Schedule and complies with the provisions set out in this Schedule.

### **2. Admission criteria**

To be eligible to be a Constituent Organisation, an organisation must:

- (a) be a Jewish organisation having its head office in New South Wales;
- (b) be an organisation with a written constitution which complies with any applicable law;
- (c) have objects and activities that serve the best interests of the Jewish Community;
- (d) if it is not a Jewish Youth Organisation, have at least 50 Jewish members who are residents of New South Wales and aged 18 or older, each of whom has been a member of that organisation for at least 6 months before the date of its application;
- (e) consent in writing to become a Constituent Organisation;
- (f) agree in writing to be bound by this Constitution; and
- (g) pay any Constituent Organisation admission fee as determined by the Board of Directors from time to time.

### **3. Admission process**

- (a) The application for admission as a Constituent Organisation must be:
  - (i) in writing, signed by the President or Secretary of the applicant;
  - (ii) in such form and manner as the Board of Directors may from time to time prescribe, including different requirements for Jewish Youth Organisations, provided those terms are not more stringent than those applying to other Constituent Organisations; and
  - (iii) accompanied by the Constituent Organisation admission fee, if any, determined by the Board of Directors.
- (b) Each application for admission must be considered by the Board of Directors within a reasonable time after the application is made.
- (c) When an applicant has been accepted or rejected for membership the ~~Company~~ Secretary must notify the applicant of the decision of the Board of Directors within a reasonable period.

### **4. Admission of Constituent Organisations**

- (a) An applicant organisation is admitted as a Constituent Organisation if:
  - (i) the Board of Directors recommends to the Deputies that the applicant be admitted as a Constituent Organisation;
  - (ii) the Secretary has certified that the applicant complies with the requirements contained in clauses 2 and 3 of this Schedule; and
  - (iii) at least two thirds of the Deputies (in attendance at the Plenum considering the application), vote in favour of admitting the applicant as a Constituent Organisation.

- (b) One speaker may address the relevant Plenum on behalf of the applicant organisation and the speaker must answer any questions put by any Deputy before the matter is voted on.
- (c) An organisation may reapply for admission no earlier than one year after its application has been rejected.

## **5. Admission of Jewish Youth Organisations**

A Jewish Youth Organisation may, if it complies with clauses 2 and 3 of this Schedule, be admitted as a Constituent Organisation on any terms determined by the Deputies, as long as those terms are not more stringent than those applying to other Constituent Organisations.

## **6. Term of Constituent Organisations**

A Constituent Organisation remains as such until:

- (a) it ceases to exist;
- (b) it resigns;
- (c) its membership is terminated under clause 8(a) of this Schedule; or
- (d) it becomes subject to an Insolvency Event.

## **7. Fees**

- (a) Subject to clause 7(b) of this Schedule, each Constituent Organisation must pay its applicable annual fee to the Company by 31 January each year.
- (b) An organisation admitted as a Constituent Organisation after 1 January in any year is only required to pay a pro rata fee for that calendar year, equivalent to the number of months it was a Constituent Organisation.
- (c) If requested by any Constituent Organisation or applicant, the Board of Directors may for good cause postpone or waive the payment of all or part of the fee payable by that Constituent Organisation in that financial year.
- (d) The Deputies may vary the annual fee payable by Constituent Organisations, as recommended by the Board of Directors. Fees may vary in accordance with the number of members of Constituent Organisations.
- (e) A Constituent Deputy must be a financial Associate whose fees may be paid by the relevant Constituent Organisation.

## **8. Arrears**

- (a) If any Constituent Organisation is in arrears for more than twelve months in payment of the whole or any portion of its annual fee, the Deputies may terminate its membership as a Constituent Organisation.
- (b) The Deputies may readmit the Constituent Organisation after payment of all arrears and its annual fee for the then current period if the Constituent Organisation complies with this Constitution in all other respects.

## **9. Record of members of Constituent Organisations**

To the extent permitted by law, each Constituent Organisation must lodge at the Registered Office when applying for admission, every two years thereafter, and when otherwise requested, an updated list of the names of the applicant's financial members and their addresses and any other contact details, which indicates:

- (a) which members are aged eighteen or older;
- (b) which members are Jewish residents of New South Wales; and

- (c) which members have been members for at least six consecutive months before the date of the application.