

**Draft Endorsed by Single Student Body Transition Steering Committee
13 August 2024**

**Constitution of
Swinburne Student Association Limited
ACN ##**

A public company limited by guarantee

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Constitution

Swinburne Student Association Limited

ACN ##number

A company limited by guarantee

Part 1 Definitions and general

1. Definitions

1.1 Definitions in this Constitution

In this Constitution:

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

Act means the *Corporations Act 2001* (Cth) and includes any exemption from or modification to that Act applying to the Company.

AGM means an annual general meeting of the Company.

Alternate Director means a person appointed as an alternate director under clause 8.1.1.

Authority means any:

- (a) government, government department, government agency or government authority;
- (b) governmental, semi-governmental, municipal, judicial, quasi-judicial, administrative or fiscal entity or person carrying out any statutory authority or function; or
- (c) other entity or person (whether autonomous or not) having powers or jurisdiction under any statute, regulation, ordinance, by-law, order or proclamation, or the common law.

Business Day means a day other than a Saturday, Sunday or public holiday in Melbourne, Victoria.

Census Date means the census date published by the University from time to time.

Company means Swinburne Student Association Limited ACN ##insert number.

Director means a person holding a position of a director of the Company and, where appropriate, includes an Alternate Director.

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

Directors' Special Resolution means a resolution of the board:

- (a) passed by a majority of votes of the Directors present and entitled to vote being cast in favour; and

- (b) with the majority including at least 1 University Director and at least 1 Student Director voting in favour.

Vice President means the Vice President of the Swinburne Student Council from time to time.

Eligible Entity means an entity which:

- (a) has purposes similar to the Objects;
- (b) is charitable at Law;
- (c) is prohibited by Law or its governing document from distributing (while operating or on winding up) its income and property to its members, to at least the same extent as this Constitution; and
- (d) (if the Company is endorsed as a deductible gift recipient under the ITAA at the time it transfers assets to that entity) is endorsed as a deductible gift recipient under the ITAA.

Finance, Audit, Risk Management and Remuneration Committee means the committee established and maintained under clause 9.2.1.

Funding Act means the *Higher Education Support Act 2003* (Cth).

Gift Fund has the meaning given in clause 33.1.

Hybrid Meeting means a meeting held at 1 or more physical locations linked with 1 or more technologies, such that participants may participate in the meeting physically or remotely.

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

Law includes:

- (a) any law, statute, regulation, ordinance, by-law, order or proclamation, and the common law; and
- (b) any authorisation, ruling, judgment, order, decree or other requirement of any Authority.

Member means a person admitted to membership of the Company under this Constitution.

Objects means the objects of the Company set out in clause 4.1.

Register means the register of Members of the Company.

Relevant Law means any one or more of the following and their subordinate legislation, where applicable to the Company:

- (a) the Act;
- (b) the ACNC Act;
- (c) the *Charities Act 2013* (Cth);
- (d) the ITAA; and
- (e) any:

See sections
168 and 169.

- (i) class order or regulatory guide issued by the Australian Securities and Investments Commission;
- (ii) public or private ruling issued by the Australian Taxation Office; or
- (iii) Commissioner's interpretation statement issued by the Australian Charities and Not-for-Profits Commission.

Representative means a person appointed under the Act to represent a corporate Member at a meeting of Members.

Secretary means any person appointed by the Directors to perform any duties of a secretary of the Company and, if more than 1 person is appointed, any 1 or more of those persons.

President means the President of the Swinburne Student Council from time to time.

SSA Electorate means Swinburne Students who are at the Census Date immediately before the relevant election:

- (a) enrolled in a Swinburne vocational or higher education course of 6 months or longer in duration;
- (b) predominantly based at a campus of Swinburne in Australia (other than Swinburne Sydney); or
- (c) enrolled through a Swinburne vocational or higher education course of 6 months or longer in duration which is delivered online and resident in Australia.

Student Director means a Director who is a person meeting the requirements of clause 6.2.1(b).

Student Services facilities, services or activities provided for the direct benefit of Swinburne Students such as approved student support, advice and advisory services, orientation activities (coordinated through the University) and facilities, clubs, publications, social, cultural and sporting activities, welfare support, representative committees and ancillary facilities, services, activities and amenities.

Surplus Property means, on a winding up of the Company, all property of the Company remaining after the satisfaction of all of its debts and liabilities, and the costs, charges and expenses of the winding up.

Swinburne means the University.

Swinburne Act means the *Swinburne University of Technology Act 2010* (Vic)

Swinburne Students means students enrolled at the University.

Swinburne Student Council means the part of the Company established under clause 5.

University means Swinburne University of Technology, a body politic and corporate constitute under the Act.

University Director means a Director appointed by the University under clause 6.2.1(a).

Vice-Chancellor means the person performing the role of Vice-Chancellor of the University from time to time (and includes the person performing the role on an acting or interim basis).

Virtual Meeting means a meeting held using 1 or more technologies where all participants participate remotely.

1.2 Expressions defined in the Act

Except where the context otherwise requires, an expression used in this Constitution has the same meaning as in the Act. Where the expression has more than one meaning in the Act and a provision of the Act deals with the same matter as a clause in this Constitution, then that expression where used in the clause in this Constitution has the same meaning as in that provision.

1.3 References to the Act

Unless otherwise indicated, a reference in this Constitution (including in the marginal notes) to a Chapter, Part, Division or section is a reference to a Chapter, Part, Division or section of the Act.

2. Application of the Act and other Relevant Law

2.1 Replaceable rules do not apply

The replaceable rules in the Act do not apply to the Company.

2.2 Inconsistency

Where the Relevant Law:

- 2.2.1 confers a right on a Member or on another person;
- 2.2.2 restricts the exercise of rights or powers; or
- 2.2.3 requires a procedure to be followed before a certain action is taken by the Company, the Directors, the Members or any other person (for example, passing a resolution or exercising a right or power under this Constitution),

then the provisions of this Constitution will be subject to the exercise of that right or the application of that restriction, and all relevant persons must follow any required procedure.

2.3 Meetings and minutes provisions and section 111L of the Act

Despite item 9 (**Meetings of members**) of section 111L of the Act, any reference to the Act in this Constitution is taken to mean the Act as if the mandatory rules for unlisted public companies in Parts 2G.2 and 2G.3 of the Act apply to the Company.

Part 2 Company structure, objects and powers

3. Company limited by guarantee

The Company is limited by guarantee and the liability of Members is limited as provided in this Constitution.

4. Objects and powers

4.1 Objects

The objects of the Company are to advance the education of Swinburne Students by providing amenities, services and facilities for the benefit of Swinburne Students and in particular to:

- 4.1.1 contribute to to a vibrant, supported and cohesive student community, one in which every student feels a part;
- 4.1.2 represent and advocate to protect Swinburne Students in University matters;
- 4.1.3 perform the nominated Student Services of a quality and kind that will enhance Swinburne Students' experience and advance their studies at the University;
- 4.1.4 foster active clubs and societies within Swinburne in support of the object in paragraph 4.1.1 and support and co-ordinate the activities of those clubs and societies;
- 4.1.5 receive funding from the University and utilise, administer and distribute such funding as the Directors consider appropriate in accordance with the requirements of the University and applicable laws;
- 4.1.6 reinvest any net returns generated from the Company's activities, for the benefit of Swinburne Students;
- 4.1.7 provide a recognised means of communication between the elected representatives of the student body of the University and the University;
- 4.1.8 facilitate opportunities for exchange and co-operation among elected Swinburne Student Council office bearers and students elected to University bodies;
- 4.1.9 carry out the objects in a manner that ensures that to the extent consistent with its other obligations, the views of Swinburne Students are considered in the planning, resourcing and evaluation of the functions of the Company in providing amenities, services and facilities for the benefit of Swinburne Students;
- 4.1.10 where amenities, services and facilities are to be provided through funding allocated by the Company to an association of Swinburne Students or other body, to ensure that the funds are allocated and applied to the purposes for which they are made available;

- 4.1.11 perform functions efficiently and effectively;
- 4.1.12 enter into such arrangements with the University or any third parties as the Company considers necessary or desirable to facilitate the attainment of the objects set out in paragraphs 4.1.1 to 4.1.11 inclusive;
- 4.1.13 engage in any other activity or transaction which is incidental or conducive to the attainment of the objects set out in paragraphs 4.1.1 to 4.1.11 inclusive or otherwise considered by the Directors of the Company for the time being to be in the interests of the Company, provided that it is incidental or conducive to the attainment of the objects of the University under the Act.

4.2 Powers

Subject to this Constitution and solely for carrying out the Objects, the Company has the legal capacity and powers of an individual and all the powers of a body corporate under the Act, other than the power to issue shares.

5. Swinburne Student Council

- 5.1.1 Subject to this Constitution, the Company must establish and maintain in existence as a part of the Company, the Swinburne Student Council.
- 5.1.2 The Swinburne Student Council is comprised of:
 - (a) the President;
 - (b) the Vice President; and
 - (c) up to 13 other Swinburne Student Council Members,
elected by SSA Electorate.
- 5.1.3 The Directors of the Company must establish a method for election of the President, the Vice President and other Swinburne Student Council Members which meets the requirements of clause 7.1 as though those offices were Student Directors.
- 5.1.4 Until this method is established, the SUT Election Regulations will apply, subject to such modifications determined by the Directors as are necessary in the circumstances.
- 5.1.5 A person who is a Director of the Company (other than the President or Vice President) is not eligible for election to or to hold the office of Swinburne Student Council Member.
- 5.1.6 A person who is an elected student member on the University's Council or the elected student members of University's Academic Senate cannot simultaneously hold office as the President or Vice President.
- 5.1.7 The role of the Swinburne Student Council is to:
 - (a) represent the interests of Swinburne Students and to:
 - (b) promote and support the diversity of interests of Swinburne Students;

- (c) contribute as requested by the Directors from time to time in University forums devoted to student interests; and
- (d) any other roles consistent with the Objects of the Company delegated to the Swinburne Student Council by the Directors from time to time,

and subject to any conditions specified by the Directors from time to time.

Part 3 Directors and Officers

6. Number of Directors, eligibility, appointment and removal

6.1 Number of Directors

6.1.1 Until the Company passes a resolution under clause 6.1.2, the Company must have:

- (a) a minimum of 3 Directors (excluding Alternate Directors); and
- (b) a maximum of 9 Directors (excluding Alternate Directors).

6.1.2 Subject to the Act, the Company may with the prior written consent of the University and by resolution passed at a general meeting:

- (a) increase the minimum number of Directors; or
- (b) increase or decrease the maximum number of Directors,

provided that at least one third of the Directors are University Directors and a majority of Directors are Student Directors.

6.2 Composition of board and Chair

Subject to clause 7.9:

6.2.1 the Directors must include:

- (a) at least one third of the Directors who are appointed by the Vice-Chancellor (**University Directors**); and
- (b) up to 6 Directors who are Swinburne Students including the President and Vice President, for so long as they hold that role and subject to them providing their consent to act as a director of the Company (**Student Directors**);

6.2.2 the Chair of the board will be the Student Director who holds the role of President; and

6.2.3 the Deputy Chair of the board will be the Student Director who holds the role of Vice President.

6.3 Eligibility to be a Director

6.3.1 A person must be a Member to be a Director, or become a Member within one month after their appointment as a Director.

6.3.2 A Person does not need to be a Member to be an Alternate Director.

See Chapter 2D.

See sections 201A to 201U.

See section 201A(2).

See section 201B.

- 6.3.3 A Person must be a member of the SSA Electorate to be a Student Director, the President or Vice President. A person who is a current Swinburne Student Council Member (other than the President or Vice President, for so long as they hold that office) is not eligible to become or remain a Student Director.
- 6.3.4 A person is not eligible to become or remain a Director or Alternate Director if the person:
- (a) is a partner, employer or employee of the Company's auditor;
 - (b) is disqualified from managing a corporation under the Act;
 - (c) was an insolvent under administration in the previous 5 years; or
 - (d) is otherwise not eligible to be a Director under the Relevant Law.

7. Appointment, removal and retirement of Directors

7.1 First Directors

- 7.1.1 Despite any other provision in this Constitution, the first Directors are:
- (a) each person specified in the application to register the Company lodged under s 117 of the Act and who has consented to become a Director; and
 - (b) any other person appointed by resolution of the Members before the Company's first AGM.
- 7.1.2 The term of office of a first Director commences on the date of appointment as a Director and continues until that Director retires under clause 7.2 or vacates the office under clause 7.5.

7.2 Initial Board

- 7.2.1 After the election of the first Swinburne Student Council, the Directors will be the University Directors (who will hold office until they retire, are replaced or disqualified under this Constitution) and:
- (a) the President;
 - (b) the Vice President;
 - (c) the Student Directors,
- who are elected at the election of the first Swinburne Student Council.
- 7.2.2 The initial President and Vice President and the two initial Student Directors with the least votes (or as otherwise determined by agreement between the Student Directors or, if agreement cannot be reached, by the President drawing lots) will serve for a term expiring on the next 31 October in the year after the year of their election.

- 7.2.3 The two initial Student Directors whose terms do not expire under clause 7.2.2 will serve for a term expiring on the 31 October in the year two years after the year of their election.

For example, if the initial election is in 2024, the President, Vice President and two the Student Director's terms will expire on 31 October 2025 and the other two Student Director's terms will expire on 31 October 2026.

7.3 Election of Student Directors

- 7.3.1 The Directors must determine the method of nomination and election of candidates as Student Directors, provided that the method must ensure:
- (a) That each member of the SSA Electorate has a fair and reasonable opportunity to nominate as a candidate, subject to this Constitution;
 - (b) without limitation to clause 6.3.3, a person who is a Swinburne Student Council Member (other than the President and Vice President, for so long as they hold that office) is eligible to stand for election as a Student Director for a term as a Student Director provided that the term does not commence until after the end of their term as a Swinburne Student Council Member; and
 - (c) each candidate has a reasonably fair and equal opportunity to present information to the SSA Electorate in support of their candidacy; and
 - (d) each member of the SSA Electorate has a reasonably fair and equal opportunity to vote for one or more candidates of their choice; and
 - (e) the manner of election is transparent and democratic and may be independently verified; and
 - (f) the election method is completed prior to the General Meeting at which the Student Directors are to be declared elected.
- 7.3.2 If the number of candidates is no more than the number of vacancies, then the chair of the AGM must declare those candidates to be elected as Directors.
- 7.3.3 Subject to the Act, the Company may, by resolution passed in general meeting:
- (a) remove any Director before the end of the Director's term of office; and
 - (b) elect another person to replace the Director. The replacement Director will hold office for the remainder of the outgoing Director's original term of office.
- 7.3.4 Until the method in clause 7.3.1 is established, the SUT Election Regulations will apply, subject to such modifications determined by the Directors as are necessary in the circumstances.

See
section
203D.

7.4 Election of Student Directors

- 7.4.1 Prior to each AGM, the Directors must cause an election for members of the Swinburne Student Council and Student Directors in accordance with the requirements of this Constitution.
- 7.4.2 Each AGM must include the declaration of:
- (a) The President,

- (b) The Vice President,
- (c) Members of the Swinburne Student Council; and
- (d) Student Directors elected in accordance with this Constitution.

7.4.3 Each person declared elected under clause 7.4.2 takes office on the 1 November after the date of the AGM.

See sections 203A to 203F.

7.5 Vacating the office of a Director

The office of a Director immediately becomes vacant if the Director:

See Part 2D.6.

7.5.1 is prohibited from holding office, or ceases to be a Director, under the Relevant Law or an order made under the Relevant Law;

7.5.2 becomes of unsound mind or is liable to be (or is liable to have their estate) dealt with under any Law relating to mental health, or becomes in the opinion of the other Directors incapable of performing a Director's duties;

Replaces section 203A. See sections 203AA and 203AB.

7.5.3 resigns by notice in writing to the Company;

7.5.4 in the case of a Student Director, if the Director ceases to be a Swinburne Student;

7.5.5 in the case of a University Director, if the Vice-Chancellor give the company notice that the Director's nomination by the University has been withdrawn;

7.5.6 is removed by a resolution of the Company in accordance with the Act; or

7.5.7 is not present (personally, or by using technology, or by representation by an Alternate Director) at Directors' meetings for 3 consecutive months without leave of absence from the Directors.

Replaces section 201H.

7.6 Directors' power to appoint replacement Student Directors

If a casual vacancy arises more than 2 months prior to the next Annual General Meeting, the Directors must within 28 days, after consultation with the Swinburne Student Council, appoint an eligible person to be a Student Director to fill a casual vacancy, but only if the total number of Student Directors does not exceed the limit in clause 6.2.1.

7.7 Vice-Chancellor's power to appoint replacement University Directors

7.7.1 The Company Secretary must immediately notify the Vice-Chancellor if a person ceases to be a University Director for any reason.

7.7.2 The Vice-Chancellor may appoint an eligible person to be a University Director to fill a casual vacancy, but only if the total number of University Directors does not exceed the limit in clause 6.2.1.

7.8 Too few Directors

If the number of Directors is reduced below the minimum number required to form a quorum under clause 12.4, then the Director or Directors may act only:

7.8.1 to fill vacancies to the extent necessary to bring their number up to that minimum number;

- 7.8.2 to require an election be conducted under clause 7.1; or
- 7.8.3 in an emergency.

7.9 Exceptional power of the University

- 7.9.1 The University has the right if and when it considers that exceptional circumstances affecting the Company exist (such as a significant financial, electoral or governance irregularity), to remove all the Directors by written notice to the Company and to fill the resulting casual vacancies with persons nominated by it for a term continuing until the sooner to occur of:
 - (a) the General Meeting after the University requested the Company to convene fresh elections for Student Directors and those Student Directors have been elected; or
 - (b) the second Annual General Meeting after the date of the University's written notice removing the Directors.
- 7.9.2 To avoid any doubt, the University may nominate a person who was removed as a Director under this clause 7.9 to fill a vacancy caused by the operation of this clause 7.9.
- 7.9.3 If the University has exercised its power under this clause 7.9, in the period from the time of the removal of the Director until the next election of Student Directors, provisions of this constitution relating to Student Directors or University Directors are to be read as applying to any Director.

Replaces
section
201K.
See
section
205B.

8. Alternate Directors

8.1 Appointment of Alternate Directors

- 8.1.1 A University Director may, with the approval of the Vice-Chancellor, appoint any person eligible to be a University Director as their alternate to exercise some or all of that Director's powers (as a University Director), by giving a written notice to the Secretary.
- 8.1.2 A Student Director may, with the approval of a majority of the Directors (including a majority of the University Directors), appoint any person eligible to be a Student Director as their alternate to exercise some or all of that Director's powers (as a Student Director), by giving a written notice to the Secretary.
- 8.1.3 An Alternate Director is an officer of the Company. An Alternate Director, while acting as a Director, is responsible to the Company for their own acts and defaults and is not an agent of the appointor.
- 8.1.4 An Alternate Director does not have an interest in a contract or arrangement or a material personal interest in a matter by reason only of the fact that their appointor has such an interest.

8.2 Removal of Alternate Directors

- 8.2.1 The appointment of an Alternate University Director may be revoked at any time by the Vice-Chancellor, by giving a written notice to the Secretary.
- 8.2.2 The appointment of an Alternate Student Director may be revoked at any time by the appointor or by the other Directors.

- 8.2.3 An Alternate Director's appointment ends automatically when their appointor ceases to be a Director.

8.3 Powers and duties of Alternate Directors

- 8.3.1 An Alternate Director is entitled to receive notices of Directors' meetings. If the appointor is not present at a meeting, the Alternate Director is entitled to attend, be counted in a quorum and vote as a Director in place of the appointor as a University Director or Student Director as the case may be.
- 8.3.2 Clauses in this Constitution which apply to Directors also apply to each Alternate Director, except that an Alternate Director is not entitled to:
- (a) appoint another Alternate Director; or
 - (b) receive from the Company any remuneration, or retirement or other benefit, of a Director, except as provided in clause 11.

See Part 2D.1
(s 179 to
s 198G).

9. Powers and duties of Directors

9.1 General power to manage Company

The business of the Company is managed by or under the direction of the Directors. The Directors may exercise all powers of the Company that this Constitution or the Act does not require to be exercised by the Company in general meeting.

9.2 Specific power – to delegate to committees

- 9.2.1 The Directors by Directors' Special Resolution must establish and maintain a Finance, Audit, Risk Management and Remuneration Committee comprised of at least one University Director and two Student Directors.
- 9.2.2 The Directors may:
- (a) delegate any of their powers (excluding powers which, by Law, must be exercised by the Directors as a board) to a committee or committees, if each committee includes at least 1 Director;
 - (b) authorise the committee to, in turn, delegate any of the powers vested in it; and
 - (c) revoke any delegation of power at any time.
- 9.2.3 Clauses in this Constitution which relate to Directors' meetings and Directors' resolutions apply to the meetings and resolutions of each committee:
- (a) as if all committee members were Directors; and
 - (b) to the extent those clauses apply and are consistent with the Directors' directions (if any).

Replaces
section 198A.

9.3 Specific power – to delegate to management

The Directors may by Directors' Special Resolution provide for the Company's business to be managed and transacted in any place, in any manner and on terms determined by the Directors, including:

- 9.3.1 delegating any of the powers, authorities and discretions exercisable by the Directors under this Constitution; and
- 9.3.2 revoking or varying any delegation made under this clause.

9.4 Specific power – to appoint attorneys or agents

9.4.1 The Directors may:

- (a) by resolution or power of attorney, appoint any person to be the attorney or agent of the Company on terms determined by the Directors, including terms relating to:
 - (i) the purpose and duration of the appointment; and
 - (ii) the powers, authorities and discretions exercisable by that person under the appointment (which must not exceed those exercisable by the Directors under this Constitution);
- (b) authorise the attorney or agent to delegate any of the powers, authorities and discretions vested in the attorney or agent; and
- (c) remove or terminate the appointment of any attorney or agent at any time.

9.4.2 The Directors may make an appointment under clause 9.4.1 in favour of:

- (a) any member of any committee or local board established under this Constitution;
- (b) any company or firm;
- (c) the members, directors, nominees or managers of any company or firm; or
- (d) any fluctuating body of persons whether nominated directly or indirectly by the Directors.

9.4.3 A power of attorney under clause 9.4.1 may contain provisions, as the Directors decide, for the protection and convenience of the attorney, or of persons dealing with the attorney.

Replaces section 198B.

9.5 Specific power – signing of negotiable instruments

The Directors may determine how and by whom negotiable instruments and receipts for money paid to the Company must be signed, drawn, accepted, endorsed or otherwise executed.

See section 285A and Part 2M.2.

9.6 Duty to keep financial records

9.6.1 The Directors must cause the Company to keep written financial records and to prepare financial documents and reports according to the Act.

- 9.6.2 The Directors must cause the financial records and financial documents of the Company to be audited according to the Relevant Law by a registered company auditor approved by the University.

See sections 110, 110A, 251A and 253S.

9.7 Duty to keep minutes

- 9.7.1 The Directors must ensure that minutes are made, kept and signed in compliance with the Act.
- 9.7.2 The Directors must also ensure that the minutes record:
- (a) (for each Directors' meeting and each Directors' committee meeting) the names of all persons present at the meeting; and
 - (b) all disclosures of interests made under the Act.

See section 111L(1), items 5 and 7.

9.8 Duties under Law

The Directors must comply with their duties as directors under Law. If the ACNC Act applies to the Company, then the Directors must comply with the duties described in governance standard 5 (**Duties and responsibilities**) of the regulations made under the ACNC Act.

See governance standard 5 made under the regulations of the ACNC Act, and section 111L of the Corporations Act. If the Company ceases to be a charity, see sections 191 to 196.

10. Directors' interests

10.1 'Company' includes related body corporates in this clause

In this clause 10, a reference to the Company is also a reference to each related body corporate of the Company.

10.2 What a Director may do

Subject to provisions in the Relevant Law on disclosure and voting for matters which involve a Director's material personal interest, a Director may:

- 10.2.1 (**position in Company**) hold any office or place of profit in the Company, except that of auditor;
- 10.2.2 (**position in other entity**) hold any office or place of profit in any other body corporate, trust or entity promoted by the Company, or in which the Company has any interest (for example, as a purchaser, vendor or shareholder);
- 10.2.3 (**contracting with Company**) enter into any contract or arrangement with the Company;
- 10.2.4 (**employee scheme**) take part in any association, institution, fund, trust or scheme for the Company's past or present employees, or for persons dependent or connected to them;
- 10.2.5 (**professional capacity**) act in a professional capacity (or be a member of a firm, or a director or employee of a body corporate, which acts in a professional capacity) for the Company, except as auditor;
- 10.2.6 (**participate in meetings**) take part in, vote on, and be counted in a quorum for any meeting, resolution or decision of the Directors, and may attend any meeting where any matter is being considered by the Directors, even if that Director has an interest in that matter, resolution or decision; and

- 10.2.7 (**voting**) exercise voting rights in respect of securities in the Company, including where the Director may have an interest (for example, a resolution to appoint that Director as an officer, or a resolution on the remuneration of officers).

10.3 Benefit, validity and signing

- 10.3.1 A Director may do anything described in clause 10.2 despite the fiduciary relationship of the Director's office:
- (a) without having to account to the Company for any direct or indirect benefit to the Director; and
 - (b) without affecting the validity of any contract or arrangement.
- 10.3.2 A Director's material personal interest in a matter does not disqualify that Director from signing, or participating in the Company's execution of, a document relating to that matter.

11. Payments to Directors

11.1 Restrictions on payments to Directors

Except as provided in clause 11.2, the Company must not pay fees or other remuneration to a Director.

11.2 Payments to Directors

The Company may pay to a Director:

- 11.2.1 a reasonable honorarium to Student Directors determined by the Finance, Audit, Risk Management and Remuneration Committee in accordance with and approved by the University's Student Services and Amenities Fee allocation process;
- 11.2.2 reasonable expenses (including travelling and accommodation) incurred in carrying out duties as a Directors;
- 11.2.3 reasonable remuneration for any service rendered to the Company by the Director in a professional or technical capacity where the amount payable is approved by the Directors and is on reasonable commercial terms; and
- 11.2.4 reasonable remuneration for goods supplied by the Director to the Company in the ordinary course of business.

Replaces section 202A.

12. Directors' decisions and meetings

12.1 Directors' written resolutions without meetings

- 12.1.1 The Directors may pass a resolution without holding a Directors' meeting if all the Directors entitled to vote on the resolution (excluding a Director on leave of absence approved by the other Directors, or a Director who is uncontactable by the other Directors despite reasonable efforts for at least 48 hours after the resolution is circulated) sign a document setting out the resolution and containing a statement that they are in favour of that resolution.
- 12.1.2 In relation to the document referred to in clause 12.1.1:

See Part 2G.1.

See sections 110, 110A, 251A and 253S. Replaces s 248A.

- (a) it may be in electronic form and may be electronically signed;
- (b) separate copies of it may be used for signing by Directors if the wording of the resolution and statement is identical in each copy; and
- (c) the resolution is passed when the last Director signs it.

12.2 Directors' meetings – calling and holding meetings

12.2.1 The Directors may hold, adjourn and regulate their meetings as they think fit. Without limitation, a Directors' meeting may be held at 1 or more physical locations or as a Virtual Meeting or as a Hybrid Meeting.

Replaces section 248C.

12.2.2 Any 3 Directors or the chair with the consent of 1 University Director may call a Directors' meeting by giving at least 48 hours' notice to the other Directors (unless the Directors unanimously agree on a shorter notice period).

12.2.3 A Director may waive notice of a Directors' meeting by notifying the Company. If a person attends a meeting of Directors, that person waives any objection that person may have to a failure to give notice of the meeting. A waiver under this clause 12.2.3 binds:

- (a) any Alternate Director appointed by that person; or
- (b) if the person is an Alternate Director, the Director who appointed that person as Alternate Director and any other Alternate Director appointed by that Director.

12.2.4 A Secretary must call a Directors' meeting at the request in writing made by at least 2 Student Directors and 1 University Director.

12.2.5 Anything done and any resolution passed at a Directors' meeting are not invalidated by:

- (a) an accidental failure to send a notice of that meeting to any Director; or
- (b) any Director's failure to receive that notice.

12.3 Directors' meetings as Virtual Meetings or Hybrid Meetings

See section 248D.

12.3.1 This clause 12.3 applies if a Directors' meeting is held as a Virtual Meeting or a Hybrid Meeting.

12.3.2 All persons attending the meeting remotely are taken for all purposes to be present in person at the meeting while so attending.

12.3.3 Unless the Act provides otherwise, the meeting is taken to be held at the place decided by the chair of the meeting, if at least 1 Director was at that place for the duration of the meeting. The time for the meeting is taken to be the time at the place for the meeting.

12.3.4 If technical difficulties arise before or during the meeting such that a Director cannot participate in the meeting, then the chair may, unless the Act otherwise requires:

- (a) adjourn the meeting either for a reasonable period to fix the technology, or to another time and place that the chair decides; or

- (b) allow the meeting to continue (with the same technology or with different technology selected by the chair), if a quorum of Directors remains able to participate in the meeting. For clarity, any resolution passed at the continued meeting is valid.

Replaces section 248F.

12.4 Directors' meetings – quorum

- 12.4.1 Unless the Directors determine otherwise, the quorum for a Directors' meeting is at least 4 Student Directors and 2 University Directors, and the quorum must be present throughout the meeting.
- 12.4.2 If a quorum cannot be established to deal with a particular matter at a Directors' meeting, 1 or more of the Directors may call a general meeting of Members to deal with that matter.

Replaces section 248E.

12.5 Directors' meetings – chair

- 12.5.1 The President is the chair of Directors' meetings.
- 12.5.2 The Vice President is the deputy chair to act as chair in the chair's absence.
- 12.5.3 The Directors must elect a Director present to chair a Directors' meeting or part of it, if:
 - (a) the Chair or Deputy Chair is not present at the meeting within 10 minutes after the scheduled meeting time; or
 - (b) the Chair or Deputy Chair is not available or declines to act.

Replaces section 248G.

12.6 Directors' meetings – decisions

- 12.6.1 Questions arising at a Directors' meeting must be decided by a resolution:
 - (a) passed by a majority of votes of the Directors present and entitled to vote being cast in favour; and
 - (b) for a Directors' Special Resolution with the majority including at least 1 University Director and at least 1 Student Director voting in favour.
- 12.6.2 Subject to the Act, each Director has 1 vote.
- 12.6.3 In the case of an equality of votes, the chair does not have a second or casting vote, and the proposed resolution is taken to have been lost.
- 12.6.4 An Alternate Director has 1 vote for each Director for whom that Alternate Director is an alternate. If an Alternate Director is also a Director in their own right, then they have 1 vote as an Alternate Director and 1 vote as a Director.

13. Secretary

13.1 Appointment of Secretary

- 13.1.1 The Directors may appoint 1 or more people as Secretary on terms determined by the Directors.
- 13.1.2 The Directors may, subject to the terms of the Secretary's employment contract (if they are an employee of the Company), suspend, remove or dismiss the Secretary.

See Parts 2D.4 and 2D.5.
Replaces section 204F.

13.2 Powers and duties of Secretary

- 13.2.1 The Secretary is entitled to attend all Directors' meetings and meetings of Members.
- 13.2.2 In addition to the powers, discretions and duties conferred on a company secretary by a Relevant Law, the Directors may give the Secretary any powers, discretions and duties as they may determine, and may revoke or vary those powers, discretions and duties.
- 13.2.3 The Directors may authorise the Secretary to delegate any of the powers, discretions and duties vested in the Secretary which are not required by a Relevant Law to be exercised or performed by a secretary personally.

14. Chief Executive Officer

14.1 Appointment of Chief Executive Officer

- 14.1.1 The Directors may by Directors' Special Resolution appoint 1 or more people as Chief Executive Officer on terms determined by the Directors on the recommendation of the Finance, Audit, Risk Management and Remuneration Committee.
- 14.1.2 The Directors may by Directors' Special Resolution and subject to the terms of the Chief Executive Officer's employment contract, suspend, remove or dismiss the Chief Executive Officer.

14.2 Powers and duties of Chief Executive Officer

- 14.2.1 The Chief Executive Officer is responsible for the day-to-day operations of the Company and accountable to the Directors.
- 14.2.2 The Chief Executive Officer is entitled to attend all Directors' meetings and meetings of Members, however the Directors may request the Chief Executive Officer to leave any part of a meeting.
- 14.2.3 The Directors may by Directors' Special Resolution delegate to the Chief Executive Officer any powers, discretions and duties as they may determine, and may revoke or vary those powers, discretions and duties.
- 14.2.4 The Directors may require the Chief Executive Officer to provide reports and other information on a regular or ad-hoc basis.
- 14.2.5 The Directors may authorise the Secretary to delegate any of the powers, discretions and duties vested in the Chief Executive Officer, either generally or subject to conditions applicable to particular powers, discretions or duties.

15. Indemnity and insurance

15.1 Definitions in this clause

In this clause 15:

Liability means a liability of any kind (whether actual or contingent and whether fixed or unascertained) and includes costs, damages and expenses, including costs and expenses incurred in connection with any investigation or inquiry by an Authority or a liquidator.

Officer has the meaning given in section 9 of the Act.

15.2 Indemnity

15.2.1 Subject to and so far as permitted by the Act and other applicable Laws:

- (a) the Company must, to the extent the person is not otherwise indemnified, indemnify every Officer of the Company against a Liability incurred as such an Officer to a person (other than the Company or a related body corporate), unless the Liability arises out of conduct involving a lack of good faith;
- (b) subject to clause 15.2.2, the Company must make a payment (whether by way of advance, loan or otherwise) for legal costs incurred by an Officer of the Company in defending an action for a Liability incurred as such an Officer; and
- (c) the Company may indemnify any other employee of the Company at the Directors' discretion.

15.2.2 An Officer must repay to the Company the amount provided by the Company under clause 15.2.1(b) if:

- (a) judgment is not given in favour of the Officer; or
- (b) the indemnification is not permitted by the Act or any other applicable Law.

15.3 Insurance

Subject to the Act and any other applicable Law, the Company may enter into, and pay premiums on, a contract of insurance in respect of any person.

15.4 Former Officers

The indemnity under clause 15.2 is a continuing indemnity. It applies in respect of all acts done by a person while an Officer of the Company even if the person is not an Officer at the time the claim is made.

15.5 Company's agreement with Officers

The Company may enter into an agreement with an Officer or former Officer relating to the matters covered by this clause 15, on terms that the Directors think fit.

See sections 199A to 199C and section 212.

Part 4 Member matters

16. Member liability and guarantee**16.1 Limited liability**

The liability of each Member is limited to the amount specified in clause 16.2.

16.2 Member contribution

16.2.1 Each Member undertakes to contribute a maximum of \$10.00 to the Company if it is wound up:

- (a) while the Member is a Member; or
- (b) within 1 year after that Member ceases to be a Member,

16.2.2 That contribution is for:

- (a) the debts and liabilities of the Company contracted while that Member was a Member; and
 - (b) the costs, charges and expenses of winding up.
-

17. Membership**17.1 Register**

17.1.1 The Company must establish and maintain a Register.

17.1.2 Any dispute relating to the Register must be referred to the Directors, whose decision is final and binding on all Members.

17.2 Who are Members

The Members are:

17.2.1 the University; and

17.2.2 each person specified in the application to register the Company lodged under s 117 of the Act and who has consented to be a Member and a Director, for so long as they are a Director of the Company; and

17.2.3 each person who is a Director of the Company, for so long as they are a Director of the Company.

17.3 Not transferable

Membership is not transferable.

18. Disciplinary action.

18.1 Grounds for taking disciplinary action

18.1.1 The Directors may, by a resolution, expel a Member (other than the University), temporarily suspend membership rights, or take other disciplinary action (excluding imposition of fines) against a Member who has been the subject of disciplinary action by the University or who the Directors otherwise consider on reasonable grounds not to be a suitable person for membership of the Company.

18.2 Notices to Member

18.2.1 At least 15 Business Days before the Directors hold a meeting to consider a resolution under clause 18.1, the Directors must give the Member a written notice which states:

- (a) the grounds for considering taking disciplinary action against the Member;
- (b) the proposed resolution; and
- (c) that the Member may, before the meeting, give the Directors a written statement regarding the grounds to be considered at the meeting.

18.2.2 Promptly after the Directors pass a resolution under clause 18.1, the Secretary must give the relevant Member a notice of the resolution.

18.3 Resolution taking effect

If the Directors pass a resolution under clause 18.1, any suspension or cessation of the relevant Member's membership will take effect at the end of the meeting at which the resolution was passed.

18.4 No liability

The Company has no liability to a Member arising from the Member being expelled from the Company or being subject to other disciplinary action under a resolution under clause 18.1.

19. Cessation of membership

19.1 Grounds for cessation

A Member ceases to be a Member if the Member:

- 19.1.1 gives the Company a written resignation;
- 19.1.2 ceases to be eligible to be a Member because they are no longer a Director;
- 19.1.3 is expelled under clause 18 (**Disciplinary action**);
- 19.1.4 (if an individual) dies or becomes mentally incapacitated or bankrupt;
- 19.1.5 (if a corporate entity) becomes insolvent, becomes subject to the appointment of a liquidator, is wound up, dissolved or deregistered, or otherwise ceases to exist; or
- 19.1.6 becomes, as determined by the Directors in their absolute discretion, an untraceable Member because the Member has ceased to be located at, attend or

otherwise communicate with their address as shown in the Register. An untraceable Member ceases to be a Member on the date of the Directors' determination.

19.2 Removal from Register

19.2.1 If a Member ceases to be a Member, the Secretary must remove the Member's name from the Register.

19.2.2 On the removal of a Member's name from the Register:

- (a) the Member will forfeit all rights and privileges attaching to membership and all rights which the Member may have against the Company arising from the membership; and
- (b) the Company will have no liability to that Member arising from the cessation of membership or the Member's name being removed from the Register.

19.3 Surviving liability

Any Member who ceases to be a Member remains liable:

19.3.1 for any money owing to the Company; and

19.3.2 if the Company is wound up within 1 year after the date of cessation of membership – for the Member's contribution under clause 16.2.

20. Member's power of attorney

20.1 Member acting through an attorney

20.1.1 Clause 20.1.2 applies if a Member executes or proposes to execute any document, or does or proposes to do anything, by an attorney, where that document or act is relevant to the Company or to the membership.

20.1.2 The Company may require that Member to:

- (a) give the Company a certified copy of the power of attorney; and
- (b) provide satisfactory evidence that the power of attorney is effective and continues to be in force.

20.2 Continuing power of attorney

Any power of attorney granted by a Member will, as between the Company and that Member, continue in force and may be acted on unless the Company receives express written notice of its revocation or of the death of the Member who granted it.

20.3 Attorney as representative at general meeting

If a Member wishes to be represented by an attorney at a general meeting or an adjourned meeting, then the Member must comply with clause 30.3 of this Constitution.

See Part
2G.2.

Part 5 General meetings

Replaces
section
249C.
See
sections
249D,
249E and
249F.

21. Who may call a general meeting

21.1 Calling AGMs

The Directors must call an AGM as required by the Act, to be held at a time and place or places determined by the Directors.

21.2 Calling general meetings

21.2.1 A meeting of Members may only be called by the Directors.

21.2.2 The Directors must call a meeting of Members if required to do so by the Act.

21.2.3 Members may request or call and arrange to hold a general meeting according to the Act.

22. Notices relating to general meetings

22.1 Entitlement to receive notice

Notice of each general meeting must be given to each Member, each Director (and each Alternate Director when acting as a Director) and the Company's auditor (if any).

22.2 Period of notice

At least 21 days' notice must be given of a general meeting. Shorter notice may be given where permitted by the Act.

See
section
249H.

22.3 Contents of notice

A notice of general meeting:

22.3.1 must contain all information required by the Act; and

22.3.2 may specify a place for the Company to receive, or electronic means by which a Member may give the Company, a proxy appointment or a proxy appointment authority.

See
sections
249L,
250B(3),
249O and
249P.

22.4 Notice to postpone, change venue, or cancel meeting

22.4.1 Subject to section 249D(5) of the Act, the Directors may:

(a) postpone a general meeting to a date and time determined by the Directors;

(b) change the place (whether physical, virtual or both), or change or remove the technology to be used, for a general meeting; or

- (c) cancel a general meeting (other than a meeting requested or called by Members under clause 21.2.3).

22.4.2 Before the date of the relevant meeting, the Directors must give notice of any action they take under clause 22.4.1 to all persons entitled to receive notices of a general meeting.

See
section
1322(3).

22.5 Defective notice or failure to receive

22.5.1 Anything done and any resolution passed at a general meeting are not invalidated by:

- (a) an accidental failure to give a notice of a general meeting, a notice of postponement, change of venue or cancellation, or a proxy form, to a person entitled to receive it; or
- (b) that person's failure to receive that notice or form.

22.5.2 By attending a general meeting, a person waives all objections that person may have to:

- (a) any failure to be given a notice, or the giving of a defective notice, of that meeting unless, at the beginning of the meeting, the person objects to the holding of that meeting; and
- (b) consideration of any matter at that meeting which was not included as an item of business in the notice of meeting, unless that person objects to considering that matter when it is presented.

23. Reference to 'Member' in this Part

Unless the contrary intention appears, a reference to a **Member** in Part 5 of this Constitution means that Member present in person or by proxy, attorney or Representative.

Replaces
section
249T.

24. Quorum at general meeting

24.1 Requirement for quorum

24.1.1 No business may be transacted at a general meeting unless a quorum of Members is present at the commencement of business. This requirement does not apply to the election of a chair or the adjournment of the meeting.

24.1.2 A quorum of Members is a representative of the University and one other Member entitled to vote on a resolution at the Meeting. .

24.1.3 If a quorum is present at the beginning of a meeting, then it is taken to be present throughout the meeting unless the chair of the meeting declares otherwise (at the chair's own motion or at the request of a Member present at the meeting).

24.1.4 In determining whether a quorum is present:

- (a) if a Member has appointed more than 1 proxy or attorney – only 1 of the proxies or attorneys is counted;

See section 249RA.

- (b) if a person is attending the meeting both as a Member and as a proxy, attorney or Representative – that person is counted only once; and
- (c) if the meeting is held as a Virtual Meeting or a Hybrid Meeting, then all persons attending the meeting remotely are taken for all purposes to be present in person at the meeting while so attending.

24.2 What happens if quorum not present

24.2.1 If a quorum is not present within 30 minutes after the time appointed for a general meeting, then:

- (a) that meeting is automatically dissolved if it was requested or called by Members; and
- (b) (in any other case) that meeting is adjourned:
 - (i) to the same time and place (whether physical, virtual or both) 7 days later; or
 - (ii) to another day, time and place (whether physical, virtual or both) determined by the Directors and notified to all persons entitled to receive notices of a general meeting. If the adjourned meeting will be held as a Virtual Meeting or Hybrid Meeting, that notification must include sufficient information on how to participate in that meeting remotely.

24.2.2 At an adjourned general meeting, those Members present at that meeting are a quorum. This clause 24.2.2 overrides clause 24.1.2

Replaces section 249U.

25. Chair of general meeting

25.1 Who chairs a general meeting

25.1.1 Subject to clause 25.1.2, the chair of Directors' meetings (or deputy chair, in the chair's absence) will be the chair of each general meeting.

25.1.2 The chair of a general meeting will be the person elected by a majority of the Directors present at that meeting if:

- (a) there is no chair and deputy chair of Directors' meetings; or
- (b) both the chair and deputy chair of Directors' meetings are:
 - (i) not present within 15 minutes after the time appointed for holding the general meeting; or
 - (ii) unwilling to chair the general meeting.

25.1.3 If no chair is elected under clause 25.1.2, then the chair of the general meeting will be, in order of precedence:

- (a) a Director present at that meeting, as elected by a majority of the Directors present;
- (b) the only Director present; or

- (c) (if no Director is present or is willing to take the chair) a Member present at that meeting, as elected by a majority of the Members present.

25.2 Acting Chair for part of general meeting

- 25.2.1 For the purpose of considering any specific business during a general meeting or for a discrete part of a general meeting, the chair may nominate another person present at that meeting to be the acting chair of that meeting (**Acting Chair**), with all of the chair's powers (except the power to adjourn that meeting).
- 25.2.2 The Acting Chair must be:
 - (a) a Director present at the meeting; or
 - (b) (if no person described in clause 25.2.2(a) is present and willing to act) a Member.
- 25.2.3 If a document appoints the chair of a general meeting as proxy for a part of the proceedings for which an Acting Chair is nominated, then the document is taken to be in favour of the Acting Chair for that part of the proceedings.

25.3 Chair's conduct of general meetings

- 25.3.1 The chair of a general meeting (including any Acting Chair or other person acting with the authority of the chair) may do the following:
 - (a) (**general conduct and procedures**) determine the general conduct of the meeting and the procedures to adopt at the meeting, including the procedure to elect Directors;
 - (b) (**disputes on procedure**) determine any disputes about questions of procedure at that meeting;
 - (c) (**security arrangements**) require any person wishing to attend the meeting to comply with security arrangements that the chair considers appropriate;
 - (d) (**orderly conduct**) do anything the chair considers appropriate for the orderly conduct of the meeting;
 - (e) (**procedures for debates and votes**) adopt any procedure which is necessary or desirable, in the chair's opinion, for:
 - (i) proper and orderly debate or discussion; or
 - (ii) the proper and orderly casting or recording of votes at the meeting;
 - (f) (**terminate debate**) (having regard to the Act) terminate discussion or debate on any matter if the chair considers it necessary or desirable for the proper conduct of the meeting;
 - (g) (**disputes as to votes**) determine, in good faith, any dispute about the admission or rejection of any vote;
 - (h) (**disallow amendment or new business**) (subject to the Act) disallow:
 - (i) any amendment to be moved to a resolution set out in the notice of meeting; or

See sections 250S and 250T on members' rights to ask certain questions.

(ii) any business to be transacted at the meeting unless the general nature of the business is stated in the notice of meeting; and

(i) **(withdraw resolution)** withdraw from consideration by the meeting any resolution proposed in the notice of meeting (other than a resolution proposed by the Members or required by Law).

25.3.2 Any decision made under clause 25.3.1 is final.

See section 249W(1).

25.4 Adjourning a general meeting

25.4.1 The chair of a general meeting at which a quorum is present may adjourn that meeting to any time and place, at the chair's discretion. Only the chair may demand a poll on any resolution concerning the adjournment.

Replaces section 249W(2).

25.4.2 Only unfinished business of the initial general meeting may be transacted at an adjourned general meeting.

Replaces section 249M.

25.4.3 If a general meeting is adjourned for 30 days or more, then notice of the adjourned meeting must be given to Members as if it were an original general meeting.

26. Venues and technology

See sections 249R and 249S.

26.1 How general meetings may be held

26.1.1 A general meeting may be held at 1 or more physical locations, as a Virtual Meeting or as a Hybrid Meeting.

26.1.2 The Directors may determine the technology or technologies to use for conducting a general meeting as a Virtual Meeting or a Hybrid Meeting, as long as any technology used complies with any requirements of the Act.

See section 249RA.

26.2 Place and time

A general meeting is taken to be held at the place and at the time determined under the Act and otherwise by the chair.

26.3 Virtual or Hybrid Meetings – voting, tabling documents and technical difficulties

26.3.1 This clause 26.3 applies if a general meeting is held as a Virtual Meeting or a Hybrid Meeting.

26.3.2 The meeting must be conducted in compliance with any policies and procedures that the Directors set for general meetings held as a Virtual Meeting or a Hybrid Meeting. Without limitation, those policies and procedures may relate to:

(a) verifying the identity of the Member or of the Member's proxy, attorney or Representative;

(b) the security of the technology used; or

(c) the use of technology to pass resolutions at a general meeting.

26.3.3 A vote taken at the meeting must be taken on a poll, and not on a show of hands.

26.3.4 A document which is required or permitted to be tabled at the meeting is taken to be tabled at the meeting if it is:

- (a) given before the meeting to the persons entitled to attend the meeting (whether physically or remotely); or
- (b) made accessible during the meeting to the persons attending the meeting (whether physically or remotely).

26.3.5 If technical difficulties arise before or during the meeting such that a person entitled to participate cannot participate in the meeting, then the chair may, unless the Act otherwise requires:

- (a) adjourn the meeting either for a reasonable period to fix the technology, or to another time and place that the chair decides; or
- (b) allow the meeting to continue (with the same technology or with different technology selected by the chair), if a quorum of Members remains able to participate in the meeting. For clarity, any resolution passed at the continued meeting is valid.

27. Others entitled to attend general meeting

27.1 Auditors and general meetings

An auditor of the Company (if any) is entitled to attend any general meeting.

27.2 Directors and general meetings

A Director (including an Alternate Director when acting as a Director) is entitled to attend and speak at all general meetings.

27.3 Invited persons

A person is entitled to attend a general meeting if requested by the Directors or the chair, and may speak at the meeting if the chair requests, whether that person is a Member or not.

27.4 Objection to attendance

27.4.1 An objection to the right of a person to attend a general meeting or adjourned general meeting may only be raised before or at that meeting.

27.4.2 An objection must be referred to the chair of that meeting, whose decision is final.

28. Decisions at general meetings

28.1 Voting rights at meetings of Members

28.1.1 A Member (whether present at the meeting in person or by proxy, attorney or Representative) has 1 vote on a show of hands or on a poll.

28.1.2 Subject to section 250BB, a Member who is present and entitled to vote and is also a proxy, attorney or Representative of another Member has 1 vote on a show of hands.

See
section
249V.

Replaces
sections
250E
and
250J.

28.2 Proportion required for resolution to be carried

Subject to requirements under the Act relating to special resolutions, a resolution at a general meeting is carried if a majority of the votes cast on the resolution are in favour of it.

28.3 Casting vote

If there is an equal number of votes (on a show of hands or on a poll) for and against a proposed resolution at a general meeting, then:

28.3.1 the chair of the meeting will not have a casting vote (in addition to the chair's vote as a Member, proxy, attorney or Representative); and

28.3.2 the proposed resolution is taken to have been lost.

28.4 Decision not invalidated

A decision of a general meeting may not be invalidated on the ground that a person voting at the meeting was not entitled to do so.

28.5 Voting by a show of hands

28.5.1 A resolution put to the vote of a general meeting is decided on a show of hands, unless a poll is required or demanded under clause 25.4.1 (**Adjourning a general meeting**), 26.3 (**Virtual or Hybrid Meetings – quorum, voting, tabling documents and technical difficulties**) or 28.6 (**Voting by taking a poll**).

28.5.2 Unless a poll is required or demanded as described above, the chair's declaration that a resolution on a show of hands has been carried, or carried by a specified majority, or lost, together with an entry to that effect in the minutes of the meeting, are conclusive evidence of the result. Neither the chair nor the minutes need to state the number or proportion of votes recorded in favour or against.

28.6 Voting by taking a poll

28.6.1 (**Type of resolution**) A poll may be demanded on any resolution.

28.6.2 (**Who can demand**) A poll at a general meeting may be demanded by:

- (a) Members in accordance with the Act and not otherwise; or
- (b) the chair.

28.6.3 (**Withdrawing demand**) The demand for a poll may be withdrawn at any time before the poll commences.

28.6.4 (**When to take poll**) It is not necessary to give notice of any poll. A poll will be taken at the time and in the manner that the chair directs.

28.6.5 (**Result of poll**) The result of the poll taken on a resolution at a general meeting will determine whether that resolution is carried or lost. That result may be announced in a manner and at the time (whether during that meeting or afterwards) that the chair considers appropriate.

28.6.6 (**Meeting may continue**) After a poll has been demanded at a general meeting, that meeting may continue for the transaction of business other than the question on which the poll was demanded.

See sections 250K and 250L. Replaces section 250M.

See
section
249Y.

28.7 Proxies and attorneys

- 28.7.1 A proxy or attorney at a meeting must not vote on a Member's behalf if that Member is also at the meeting.
- 28.7.2 If a Member appoints more than 1 proxy or attorney to vote at the same meeting, and more than 1 proxy or attorney attends the meeting, then none of them may vote on that Member's behalf.

28.8 Direct votes

- 28.8.1 Despite anything to the contrary in this Constitution, the Directors may decide that, at any meeting of Members, a Member who is entitled to attend and vote on a resolution at that meeting is entitled to a direct vote on that resolution.
- 28.8.2 A direct vote includes a vote delivered to the Company by post or electronic or other means approved by the Directors.
- 28.8.3 The Directors may prescribe rules for direct voting, including the form, method and timing of giving a direct vote for the vote to be valid.
- 28.8.4 Subject to any rules prescribed by the Directors, if the Company receives a Member's valid direct vote on a resolution before the time of the relevant meeting, the Company may regard it as effective, and may disregard any vote on that resolution cast by that Member's proxy, attorney or Representative at the meeting.

29. Representation at general meetings

29.1 Voting in person or otherwise

Subject to this Constitution, each Member entitled to vote at a general meeting may vote:

- 29.1.1 in person;
- 29.1.2 where a Member is a body corporate, by its Representative;
- 29.1.3 by proxy; or
- 29.1.4 by attorney.

29.2 Membership not required

A proxy, an attorney or a Representative need not be a Member.

29.3 Evidence of appointment

- 29.3.1 Subject to clause 29.3.3, the chair may require a person acting as a proxy, attorney or Representative at a general meeting to prove to the chair's satisfaction that the person was duly appointed to act. If that person fails to do so, then the chair may:
- (a) exclude that person from attending or voting at that meeting; or
 - (b) permit that person to exercise the powers of a proxy, attorney or Representative, and the chair may require that person to provide evidence of the appointment within the time set by the chair.
- 29.3.2 The chair may delegate the powers under clause 29.3.1 to any person.

29.3.3 The following is evidence of a Member's appointment of a Representative, unless the contrary is proven:

- (a) the original or a certified copy of the document appointing the Representative; or
- (b) a certificate of the Member evidencing the appointment of the Representative.

See section 250D.

30. Proxies or attorneys of Members

30.1 Terms of appointment of proxy or attorney

30.1.1 A proxy or attorney may be appointed for all or any number of general meetings or for a particular purpose.

30.1.2 If a proxy or attorney is appointed for a general meeting which is adjourned or postponed, the appointment is valid at the resumption of that meeting.

30.1.3 Subject to this Constitution and any contrary provision in the appointment, the appointment of a proxy or attorney is taken to confer authority to vote on:

- (a) any amendment moved to a proposed resolution, and any motion not to put a proposed resolution to the meeting, or any similar motion;
- (b) any procedural motion, including a motion to elect the chair, to vacate the chair, or to adjourn the general meeting; and
- (c) any motion before the general meeting, even if the motion is not referred to in the document of appointment.

30.1.4 For clarity, clause 30.1.3 applies even if the appointment specifies the way the proxy or attorney must vote on a particular resolution.

30.2 Proxy appointment

See section 250A.

30.2.1 The Company may make a proxy appointment form available to Members in a form approved by the Directors or by the chair.

30.2.2 A proxy appointment is valid if it:

- (a) is signed by the Member making the appointment; and
- (b) contains the information required by s 250A(1) of the Act.

30.2.3 A proxy appointment received at an electronic address specified in the notice of general meeting for receiving proxy appointments or otherwise received by the Company in accordance with the Act is taken to be signed by the Member under clause 30.2.2(a), if it is authenticated in accordance with the Act.

See regulation 2G.2.01 of the Corporations Regulations.

30.3 Lodging an appointment of proxy or attorney

See section 250B.

30.3.1 For a proxy or attorney to vote at a general meeting or the resumption of an adjourned general meeting, the Company must receive the following at least

48 hours before that meeting or resumed meeting (unless the relevant notice of meeting permits a shorter period):

- (a) the original document appointing the proxy, or the proxy appointment made using technology (if any) specified in the notice of meeting, or the original or a certified copy of the document appointing the attorney; and
- (b) (if the document appointing the proxy or attorney is executed under a power of attorney or other authority) the original or a certified copy of that power of attorney or other authority.

30.3.2 The Company is taken to have received an item described in clause 30.3.1 when it is received in accordance with the Act.

Replaces section 250C(2).

30.4 Validity of vote in certain circumstances

Unless the Company has received written notice of the matter before the start or resumption of the meeting at which a person votes as a proxy, attorney or Representative, a vote cast by that person is valid even if, before the person votes:

30.4.1 the Member revokes the appointment or authority of the proxy, attorney or Representative; or

30.4.2 the Member revokes the authority under which the proxy, attorney or Representative was appointed by a third party.

See section 250BC.

30.5 Blank proxy or chair acting as proxy

If a Member submits a proxy appointment to the Company but does not name any appointee, then the chair may:

30.5.1 act as the Member's proxy; or

30.5.2 complete the proxy appointment by inserting the name or names of 1 or more Directors or the Secretary.

31. Circulating resolutions of Members

31.1 Circulating resolution

31.1.1 If the Company has more than one Member, the Company may pass a resolution (excluding a resolution described in clause 31.2) without holding a general meeting if all the Members entitled to vote on the resolution sign a document:

- (a) setting out the resolution; and
- (b) containing a statement that they are in favour of that resolution.

31.1.2 Separate copies of a document may be used for signing by Members if the wording of the resolution and the statement is identical in each copy.

31.1.3 The resolution is passed when the last person signs.

31.2 Where circulating resolution not valid

A circulating resolution under clause 31.1 must not be used to pass:

If the Company has only 1 member, then see section 249B.

For recording of resolutions and electronic signatures/documents, see sections 110, 110A, 251A and 253S.

31.2.1 a resolution to remove an auditor, appoint a Director or remove a Director;

31.2.2 a special resolution; or

31.2.3 a resolution which, under the Act or this Constitution, must be passed at a general meeting.

31.3 Satisfies meeting requirement

The passing of a resolution under clause 31.1 satisfies any requirement in the Act or this Constitution that the resolution be passed at a general meeting.

31.4 Notice to auditor

The Directors must notify the auditor (if any) as soon as possible that a circulating resolution has been or will be put to Members, and must set out the wording of the resolution in that notice.

See
Parts
2F.3 and
9.3.
Replaces
section
247D.

Part 6 Distribution restrictions, Gift Fund and deductible gift recipient

32. Application of income and property

32.1 Promotion of Objects

The Company must apply all of its income and property to further the Objects.

32.2 Restriction on distributions

The Company must not pay or transfer directly or indirectly any of its income or property to its Members by way of dividend, bonus or otherwise.

32.3 Payments in good faith

Clause 32.2 does not prevent any payment in good faith to a Member if the payment is for one of the following:

- 32.3.1 goods or services supplied to the Company in the ordinary course of business;
- 32.3.2 interest on money borrowed by the Company or rent for premises let to the Company, where:
 - (a) the interest or rent has the prior consent of the Board; and
 - (b) the amount payable does not exceed what would be payable on reasonable commercial terms.

33. Gift Fund and deductible gift recipient endorsement

33.1 Use of Gift Fund

33.1.1 If the Company is endorsed as a deductible gift recipient under Subdivision 30BA of the ITAA, then it must maintain a fund called the 'Gift Fund' and use it only to further the Objects.

33.1.2 All of the following must be credited to the Gift Fund:

- (a) all gifts of money or property received by the Company;
- (b) all contributions made in relation to any fund-raising event held for the Objects (where 'contributions' and 'fund-raising event' have the meaning given in Division 30 of the ITAA); and
- (c) all money received by the Company because of the gifts and contributions described in the above paragraphs.

33.1.3 The Gift Fund must not receive any money or property other than those described in clause 33.1.2.

33.2 Cessation of Gift Fund or revocation of endorsement

If the Gift Fund is wound up or the Company's deductible gift recipient endorsement under the ITAA is revoked (whether or not the Company will be wound up), then the Company must transfer any surplus assets of the Gift Fund to one or more Eligible Entities, as determined by the Directors.

33.3 Other provisions in the ITAA

If, at any time, the ITAA requires other provisions to maintain the Company's status as a company where gifts made to it can be deducted under the ITAA, then those provisions are taken to form part of this Constitution.

34. Distribution of property on winding up**34.1 Distribution of Surplus Property**

If the Company is wound up, all Surplus Property must be given or transferred to one or more Eligible Entities, as determined:

34.1.1 by a special resolution of the Members at or before the time of winding up of the Company; or

34.1.2 if no special resolution is passed, by a judge of the Supreme Court or another court of competent jurisdiction.

34.2 No distribution to Members

Surplus Property must not be paid to or distributed to a Member or a former Member, unless it is an Eligible Entity.

35. Amendments to this Constitution

Subject to any provision in any Relevant Law to the contrary, the Company may vary, amend or repeal this Constitution by passing a resolution that is voted in favour by a special majority of Members that are Student Directors and by the University member.

36. Inspection of books**36.1 University's inspection of books**

The University may from time to time upon reasonable notice to the Company inspect any of the books and records of the Company and require the Company's officers and staff to provide information requested by the University. The University may exercise this right by appointing one or more officers or contractors of the University to inspect any of the books and records of the Company and request and receive information, provided that person or persons is obliged to maintain the confidentiality of the Company's information to the same extent as the University.

36.2 Members' inspection of books

A Member who is not a Director does not have the right to inspect the books of the Company, except as:

- 36.2.1 provided for by Law or this Constitution;
- 36.2.2 authorised by the Directors under clause 36.3; or
- 36.2.3 authorised by the Company in general meeting.

36.3 Directors' resolution to allow inspection

Subject to requirements under the Act but without limitation to clause 36.1:

- 36.3.1 the Directors may determine whether and to what extent, at what times and places, and under what conditions, the books of the Company will be available for inspection by a Member who is not a Director; and
- 36.3.2 in the case of Directors' minutes and resolutions, the Directors at their discretion may refuse to provide all or some of them for inspection, or may provide a redacted version.

37. Execution and common seal

37.1 Execution

The Company may execute a document (including a deed):

- 37.1.1 in any manner permitted by the Act; or
- 37.1.2 by any person or persons authorised by a Directors' resolution signing the document electronically in electronic form, by hand in physical form or by any other method.

37.2 Use of common seal

- 37.2.1 The Directors may decide whether or not the Company has a common seal.
- 37.2.2 Without limiting clause 37.1, if the Company has a common seal, the Company may execute a document (including a deed) by fixing the common seal to it:
 - (a) in any manner permitted by the Act; or
 - (b) with any person or persons authorised by a Directors' resolution witnessing the fixing of the common seal physically or remotely, and signing the document (or a counterpart which is not sealed) electronically in electronic form, by hand in physical form, or by any other method.
- 37.2.3 The Directors may decide any other procedures they consider appropriate for the use of the common seal.

37.3 No limit on execution methods

This clause 37 does not limit the ways in which the Company can execute a document (including a deed) under the Act.

38. Notices

38.1 Giving of notices and other documents

Any notice or other document required or permitted to be given under Law or this Constitution:

- 38.1.1 must be given in writing; and
- 38.1.2 may be given using any method (including by using technology) which complies with the Law and which also complies with:
 - (a) clause 30 (**Proxies or attorneys of Members**) (if applicable) or the rest of this clause 38; or
 - (b) any policies and procedures relating to the giving and receiving of notices and other documents as determined by the Directors at any time.

See sections 110C, 110D, 110E, 110F, 110J, 110K and 249J(3). Replaces section 249J(4). Overrides section 105A.

38.2 Method and time of delivery by the Company

The Company may give a notice or other document to any person who is entitled to it under this Constitution by using any method specified below or permitted by Law. The notice or other document is taken to be delivered at the time specified in the adjacent column below.

Clause	How the Company may give the notice or other document to the person	When the notice or other document is taken to be delivered to the person
38.2.1	(personal service) By serving it on the person.	Upon delivery.
38.2.2	(courier) By sending it by courier to the person's address in the Register or an alternative address nominated by the person.	Upon delivery.
38.2.3	(post) By sending it by prepaid post (or prepaid airmail post for an address not in Australia) to the person's address in the Register or an alternative address nominated by the person.	If posted to an Australian address using: (a) express post, 2 Business Days after posting; or (b) any other prepaid post, 6 Business Days after posting. If posted to an address not in Australia, 10 Business Days after posting.
38.2.4	(electronic communication) By sending it by any electronic means to the person's electronic address nominated for this purpose.	At the time the notice or other document left the sender's electronic system.
38.2.5	(electronic access) By using any method described in the above clauses to give the person sufficient information to allow the person to access the notice or other document electronically.	At the time specified in whichever of the above clauses applies to the method used.

See section 249J(1).
 section 249J(1).

38.3 Uncontactable Members

- 38.3.1 If a Member does not have an address recorded in the Register and has no nominated alternative address, or if the Company reasonably believes that a Member is not known at the address recorded in the Register or the nominated alternative address, then a notice or other document:
- (a) is taken to be given to the Member if it is exhibited in the Company's registered office for 24 hours (even if it is not addressed to that Member); and
 - (b) is taken to be served at the start of the 24 hours mentioned above.
- 38.3.2 The above clause ceases to apply if the Member gives the Company notice of a new address.

38.4 Signature on Company's notice

Subject to the Act, the signature on a notice or other document given by the Company may be written, printed or affixed by mechanical, electronic or other means.

38.5 Evidence of delivery

A written certificate signed by a Director, Secretary or other officer of the Company, or by any person that the Company engages to maintain the Register, that a notice or other document was given according to clause 38.2 is conclusive evidence of that fact.

38.6 Notice period for meeting

When calculating a notice period relating to a meeting (for example, under clause 22.2), disregard both:

38.6.1 the day the notice is taken to be given; and

38.6.2 the day of the relevant meeting.

39. Interpretation

39.1 Words and headings

In this Constitution, unless expressed to the contrary:

39.1.1 words denoting the singular include the plural and vice versa;

39.1.2 the word 'includes' in any form is not a word of limitation;

39.1.3 where a word or phrase is defined, another part of speech or grammatical form of that word or phrase has a corresponding meaning; and

39.1.4 headings, sub-headings and marginal notes are for reference only and do not affect the interpretation of this Constitution.

39.2 Specific references

In this Constitution, unless expressed to the contrary, a reference to:

39.2.1 any legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced and includes any subordinate legislation issued under it;

39.2.2 any document (such as a deed, agreement or other document) is to that document (or, if required by the context, to a part of it) as amended, novated, substituted or supplemented at any time;

39.2.3 writing includes writing in digital form;

39.2.4 'this Constitution' is to this Constitution as amended at any time;

39.2.5 'A\$', '\$', 'AUD' or 'dollars' is a reference to Australian dollars;

39.2.6 a clause, schedule or attachment is a reference to a clause, schedule or attachment in or to this Constitution;

- 39.2.7 a person includes a firm, partnership, joint venture, association, corporation or other body corporate;
- 39.2.8 a person includes the legal personal representatives, successors and permitted assigns of that person, and in the case of a trustee, includes any substituted or additional trustee;
- 39.2.9 any body (**Original Body**) which no longer exists or has been reconstituted, renamed, replaced or whose powers or functions have been removed or transferred to another body or agency, is a reference to the body which most closely serves the purposes or objects of the Original Body; and
- 39.2.10 a Member 'signing' a document or any communication to the Company, means that the Member may sign:
- (a) electronically or by any method permitted by Law; or
 - (b) in any manner approved by the Directors.

40. General

40.1 Submission to jurisdiction

Each Member submits to the non-exclusive jurisdiction of the courts of Victoria.

40.2 Severability

40.2.1 Any provision of this Constitution that is held to be illegal, invalid, void, voidable or unenforceable must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable.

40.2.2 If it is not possible to read down a provision as required by this clause, part or all of the clause of this Constitution that is unlawful or unenforceable will be severed from this Constitution and the remaining provisions continue in force.

40.3 Business Day

If a payment or other act is required by this Constitution to be made or done on a day which is not a Business Day, the payment or act must be made or done on the next following Business Day.