

Corporations Law  
Company Limited by Guarantee

CONSTITUTION  
of  
**CHILDREN'S MEDICAL RESEARCH INSTITUTE**

1. **DEFINITIONS AND INTERPRETATION**

1.1 In this Constitution, unless the context otherwise requires:

"Auditors" means the auditors of the Institute appointed from time to time and the term "Auditor" shall have a corresponding meaning.

"Board" means the Board of Directors and governing Council of the Institute.

"Business Day" means any day other than a Saturday, Sunday or public holiday in New South Wales.

"Directors" means the directors for the time being of the Institute.

"Hospital" means the Royal Alexandra Hospital for Children.

"Insolvency" means bankruptcy, winding up, liquidation, dissolution, becoming insolvent under administration (as defined in section 9 of the Law), being placed under administration and the occurrence of anything analogous or having a substantially similar effect to any of those conditions or matters under the law of any applicable jurisdiction and to the procedures, circumstances and events which constitute any of those conditions or matters.

"Institute" means the Children's Medical Research Institute.

"Law" means the Corporations Law.

"Member" means a person, firm, company, body corporate, organisation or association admitted to membership of the Institute in accordance with this Constitution and whose membership has not ceased or lapsed under this Constitution.

"Rules" mean the rules from time to time in force which make up this Constitution.

"Seal" means the common seal of the Institute.

"Secretary" means any person appointed to perform the duties of the Secretary of the Institute and includes an honorary secretary.

"State" means the State of New South Wales.

"University" means the University of Sydney.

1.2 In this Constitution, unless the context otherwise requires:

- (a) expressions referring to writing shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form;
- (b) words importing the singular number also include the plural and vice versa;
- (c) words or expressions contained in this Constitution shall be interpreted in accordance with the provisions of the Law and if those words or expressions are defined in the Law, such definitions shall be used to interpret the words and expressions;
- (d) Division 10 of Part 1.2 of the Law applies in relation to this Constitution as if it were an instrument made under the Law as in force on the date on which this Constitution becomes binding on the Institute; and
- (e) notwithstanding any other provision of this Constitution, a reference to a "representative" or a person "representing" a Member shall be a representative duly appointed by the entity concerned in accordance with the Law or, as long as not inconsistent with the Law, a person duly authorised in writing to act as a representative of the entity concerned.

1.3 The Institute is established for the purposes set out in Rule 2.

1.4 A section or sub-section of the Law (except sub-section 129(1) and sections 135, 140 and 141) whose heading contains the words "replaceable rule" shall not apply to the Institute and is hereby displaced.

## 2. OBJECTS OF INSTITUTE

2.1 The objects for which the Institute is established are:

- (a) to initiate, promote, undertake, develop, conduct and carry out research in the field of paediatrics;
- (b) to conduct research into the causes, prevention, relief or cure of disease or illness in children;
- (c) to bring about the prevention, relief or cure of disease or illness in children;
- (d) to collate and assess results of paediatric research;
- (e) to make available knowledge obtained from research into paediatrics to those concerned in the care of the nation's children and to the medical profession; and
- (f) to take over, hold and manage the funds and other assets and liabilities of the charitable trust known as the "Children's Medical Research Foundation", such funds and other assets and liabilities being currently held by the Hospital as trustee of the said charitable trust, upon and

subject to the trusts on which such funds and other assets and liabilities are presently held by the Hospital and to act as the trustee of the said charitable trust.

Solely for the purpose of carrying out of the aforesaid objects and not otherwise:

- (g) to subscribe to, become a member of and cooperate with or amalgamate with any other association or organisation whether incorporated or not, whose objects are similar to those of the Institute, provided that the Institute shall not subscribe to or support with its funds or amalgamate with any association or organisation which does not prohibit the distribution of its income and property among its members to an extent at least as great as that imposed on the Institute under or by virtue of Rule 16;
- (h) to buy, sell and deal in all kinds of apparatus and all kinds of provisions, liquid and solid, required by the Members or persons frequenting the Institute's premises;
- (i) to purchase, take on lease or in exchange, hire and otherwise acquire any lands, buildings, easements or property real and personal and any rights or privileges which may be requisite for the purposes of, or capable of being conveniently used in connection with, any of the objects of the Institute, provided that in case the Institute shall take or hold any property which may be subject to any trusts the Institute shall only deal with the same in such manner as is allowed by law having regard to such trusts;
- (j) to enter into any arrangements with any Government or authority, supreme, municipal, local or otherwise that may seem conducive to the Institute's objects or any of them and to obtain from any such Government or authority any rights, privileges and concessions which the Institute may think it desirable to obtain and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions;
- (k) to appoint, employ, remove or suspend such employees and other persons as may be necessary or convenient for the purposes of the Institute;
- (l) to establish and support or aid in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees or past employees of the Institute or the dependants or connections of any such persons, and to grant pensions and allowances, and to make payments towards insurance and to subscribe or guarantee money for charitable or benevolent objects, or for any public, general or useful object;
- (m) to construct, improve, maintain, develop, manage, alter or control any houses, buildings, grounds, works or conveniences which may seem calculated directly or indirectly to advance the Institute's interests and to contribute to, subsidise or otherwise assist and take part in the construction, improvement, maintenance, development, management, alteration or control thereof;
- (n) to invest and deal with the moneys of the Institute not immediately required, in any form of investment for the time being authorised by law for the investment of trust moneys and in addition thereto in British

Government Securities, in any government funds or debentures of the Commonwealth of Australia, or of any state of the Commonwealth of Australia, or of New Zealand or in any debentures or debenture stock of any municipal corporation therein, or of any bank or incorporated company carrying on business therein, or by way of deposit in any bank for fixed periods or otherwise, or by way of purchase of or mortgage upon any freehold estate;

- (o) to borrow or raise or secure the payment of money in such manner as the Institute may think fit and to secure the same or the repayment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the Institute in any way and in particular by the issue of debentures, perpetual or otherwise, charged upon all or any of the Institute's property (both present and future) and to purchase, redeem or pay off such securities;
- (p) to make, draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments;
- (q) to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the Institute;
- (r) to take or hold mortgages, liens and charges to secure payment of the purchase price or any unpaid balance of the purchase price, of any part of the Institute's property of whatsoever kind sold by the Institute or any money due to the Institute from purchasers and others;
- (s) to take any gift of property, whether subject to any special trust or not, for any one (1) or more of the objects of the Institute but subject always to the proviso in paragraph (i) of this Rule 2;
- (t) to take such steps by personal or written appeals, public meetings or otherwise as may from time to time be deemed expedient for the purpose of procuring contributions to the funds of the Institute in the shape of donations, annual subscriptions or otherwise;
- (u) to print, broadcast and publish any newspapers, information, periodicals, books or leaflets which the Institute may think desirable for the promotion of its objects;
- (v) in furtherance of the objects of the Institute to amalgamate with any companies, institutions, societies or associations having objects altogether or in part similar to those of the Institute and which are registered or exempted from registration under the Charitable Fundraising Act 1991 as amended or any Act modifying or replacing such Act and which shall prohibit the distribution of its or their income and property among its or their members to an extent at least as great as that imposed upon the Institute under or by virtue of Rule 16 of this Constitution;
- (w) to purchase or otherwise acquire and undertake all or any part of the property, assets, liabilities and engagements of any one (1) or more of the companies, institutions, societies or associations with which the Institute is authorised to amalgamate;

- (x) to transfer all or any part of the property, assets, liabilities and engagements of the Institute to any one (1) or more of the companies, institutions, societies or associations with which the Institute is authorised to amalgamate;
- (y) to hold or arrange competitions and provide or contribute towards the provision of prizes, awards and distinctions in connection therewith, provided that no Member shall receive any prize, award or distinction of monetary value except as a successful competitor at any competition held or promoted by the Institute;
- (z) to apply for purchase or otherwise acquire any patents, patent rights, copyrights, trade marks, formulas, licences, concessions and the like conferring any exclusive or non-exclusive or limited right to use or any secret or other information as to, any invention that seems capable of being used for any of the purposes of the Institute, or the acquisition of which seems calculated directly or indirectly to benefit the Institute, and to use, exercise, develop or grant licences in respect of, or otherwise turn to account, the property, rights, or information so acquired; and
- (aa) to do all such other things as are incidental or conducive to the attainment of the objects and the exercise of the powers of the Institute.

2.2 Without limiting the generality of Rule 2.1, the Institute shall not support with its funds any activity or endeavour to impose on or procure to be observed by its Members or others any regulations or restrictions which, if an object of the Institute, would make it a trade union within the meaning of any statute or regulation of the Commonwealth of Australia or any State or Territory of Australia.

2.3 The powers set forth in section 124(1) of the Law shall not apply to the Institute except insofar as they are included in this Rule 2 or otherwise in this Constitution.

### 3. MEMBERSHIP

3.1 The number of Members will not exceed one hundred (100) but the Board may from time to time decide to increase the number of Members.

3.2 Such persons as the Board shall admit to membership of the Institute shall be Members.

3.3 The liability of Members is limited. Every Member undertakes to contribute to the property of the Institute, in the event of the Institute being wound up while he or she is a Member (or within one (1) year after he or she ceases to be a Member) and of the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding one hundred dollars (\$100.00).

3.4 Any two (2) Members may seek to have a Member removed by a written submission to the Board. The Board will consider the submission and determine whether to approve the removal of the Member at its absolute discretion. Any removal of a Member cannot take effect unless Rule 3.5 has been complied with.

3.5 The Board must not remove a Member under Rule 3.4 unless:

- (a) at least fourteen (14) days' notice has been given to the Member stating the date, time and place at which the question of removal of that Member is to be considered by the Board; and
- (b) the affected Member is given the opportunity of making submissions to the Board as to why the Member should not be removed from membership.

#### 4. **CESSATION OF MEMBERSHIP**

4.1 A Member may at any time by giving notice in writing to the Secretary resign his or her membership of the Institute but shall continue to be liable for any sum not exceeding one hundred dollars (\$100.00) for which he or she is liable as a Member under Rule 3.3.

4.2 If any Member shall wilfully refuse or neglect to comply with the provisions of this Constitution or shall be guilty of any conduct which, in the opinion of the Board, is unbecoming of a Member or prejudicial to the interests of the Institute, the Board shall have power by resolution to suspend or expel the Member from the Institute, provided that at least one (1) week before the meeting of the Board at which such a resolution is passed, the Member shall have had notice of such meeting and of what is alleged against him or her and of the intended resolution and that he or she shall at such meeting and before the passing of such resolution have had an opportunity of giving orally or in writing any explanation or defence as he or she may think fit.

4.3 A Member shall also cease to be a Member if:

- (a) he or she enters into any form of Insolvency; or
- (b) 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.

4.4 If a Member shall cease to be a Member whether pursuant to the provisions of Rules 4.1, 4.2 or 4.3 of this Constitution or otherwise, the Board shall have the power to fill the vacancy.

#### 5. **GENERAL MEETINGS**

5.1 An annual general meeting of the Institute shall be held in accordance with the provisions of the Law. All meetings of members other than the annual general meeting shall be called general meetings.

5.2 Any member of the Board may whenever he or she thinks fit convene a general meeting, and any such general meetings may be convened on such requisition or in default be convened by such requisitionist as provided by Part 2G.2 of the Law.

5.3 Subject to the provisions of the Law relating to agreement for shorter notice, at least twenty one (21) days' notice (exclusive of the day on which the notice is served or deemed to be served and exclusive of the day for which notice is given) specifying the place, the day and the time of the meeting, in the case of special business the general nature of that business and otherwise complying with section 249L of the Law shall be given to Members and such persons as are entitled to receive such notices from the Institute.

- 5.4 All business shall be special that is transacted at a general meeting and also all that is transacted at any annual general meeting, with the exception of the consideration of the annual financial report, the Board report and the Auditor's report, the election of members of the Board and the appointment and fixing of the remuneration of the Auditor.

## 6. PROCEEDINGS AT GENERAL MEETINGS

- 6.1 No business shall be transacted at any general meeting unless a quorum of Members is present at the time the meeting proceeds to business. Save as herein otherwise provided in this Constitution, six (6) Members present in person shall be a quorum. For the purpose of this Rule, "Member" includes a person attending as a proxy, attorney for or as representing a corporation which is a Member.
- 6.2 If within half an hour from the time appointed for a general meeting a quorum is not present, the meeting, if convened upon the requisition of Members shall be dissolved. In any other case, it shall stand adjourned to the same day in the next week at the same time and place, or to such other day and at such other time or place as the Board may determine. If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the Members present in person or by proxy, attorney or representative (being not less than three (3)) shall be a quorum.
- 6.3 The President shall preside as Chair at every general meeting of the Institute, or if there is no President or if he or she is not present within fifteen (15) minutes after the time appointed for the holding of the meeting or is unwilling to act, the Vice President shall be the Chair or if the Vice-President is not present or is unwilling to act, then the Members present shall elect one (1) of their number to be Chair of the meeting.
- 6.4 The Chair may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business unfinished from the meeting at which the adjournment took place. When a meeting is adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or the business to be transacted at an adjourned meeting.
- 6.5 At any general meeting of Members, a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:
- (a) by the Chair; or
  - (b) by at least three (3) Members present in person or by proxy, attorney or representative.

Unless a poll is so demanded, a declaration by the Chair that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Institute shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution. The demand for a poll may be withdrawn.

- 6.6 If a poll is duly demanded, it shall be taken in such a manner and either at once or after an interval or adjournment or otherwise as the Chair directs, and the result of the poll shall be the resolution of the meeting at which the poll was demanded but a poll demanded on the election of the Chair or on a question of adjournment shall be taken forthwith.
- 6.7 In the case of an equality of votes whether on a show of hands or on a poll, the Chair at the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a second or casting vote.
- 6.8 A Member may vote in person or by proxy, attorney or representative and on a show of hand every person who is a Member or a representative of a Member shall have one (1) vote and on poll every Member present in person or by proxy, attorney or representative shall have one (1) vote.
- 6.9 The instrument under which a Member appoints a proxy shall be in writing under the hand of the appointer or his or her attorney duly authorised in writing or, if the appointor is a body corporate, either under seal or under the hand of an officer or attorney of the body corporate duly authorised or as a body corporate is otherwise permitted to sign under section 127 of the Law. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll. A Member shall be entitled to instruct his or her proxy in favour of or against any proposed resolutions. Unless otherwise instructed, the proxy may vote as he or she thinks fit.
- 6.10 The instrument appointing a proxy may be in the following form or in a common or usual form, or such other form as is acceptable to the Board:

CHILDREN'S MEDICAL RESEARCH INSTITUTE

I, \_\_\_\_\_ of \_\_\_\_\_ being a member of the Children's Medical Research Institute hereby appoint \_\_\_\_\_ of \_\_\_\_\_ or failing him or her \_\_\_\_\_ of \_\_\_\_\_ as my proxy to vote for me and on my behalf at the general meeting of the Institute to be held on the day of \_\_\_\_\_ 20\_\_\_\_ and at any adjournment thereof.

My proxy is hereby authorised to vote in (Strike out whichever is not desired) favour of/against the following resolutions:

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ .

Note: In the event of the Member desiring to vote for or against any resolution he or she shall instruct his or her proxy accordingly. Unless otherwise instructed, the proxy may vote as he or she thinks fit.

- 6.11 The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the registered office of the Institute, or at such other place as is specified for that purpose in the notice convening the meeting, not less than forty-eight (48) hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote or, in the case of a poll, not less than twenty-four (24) hours before the time appointed for the taking of the poll. In default, the instrument of proxy shall not be treated as valid.



- 6.12 A vote given in accordance with the terms of an instrument of proxy or attorney shall be valid notwithstanding the previous death or unsoundness of mind of the principal or revocation of the instrument or of the authority under which the instrument was executed, if no intimation in writing of such death, unsoundness of mind or revocation as aforesaid has been received by the Institute at the registered office before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.
- 6.13 If all the Members have signed a document containing a statement that they are in favour of a resolution in the terms set out in the document, a resolution in those terms shall be deemed to have been passed at a general meeting held on the day on which the document was signed and at the time at which the document was last signed by a Member or, if the Members signed the document on different days, on the day on which, and at the time at which, the document was last signed by a Member and, where a document is so signed, the document shall be deemed to constitute a minute of that meeting.

For the purposes of this Rule, two (2) or more separate documents containing statements in identical terms, each of which is signed by one (1) or more Members shall together be deemed to constitute one (1) document containing a statement in those terms signed by those Members on the respective days on which they signed the separate documents.

#### **6A. DIRECTOR OF THE INSTITUTE**

- 6A.1 There shall be a Director of the Institute who will be an employee of the Institute and:
- (a) subject to satisfaction of criteria set by the University, who may hold a conjoint appointment at the University; and
  - (b) whose terms and conditions of employment must be approved by resolution of the Board.
- 6A.2 In order to be appointed as the Director of the Institute, a person must have such qualifications as the Board shall determine from time to time.
- 6A.3 The appointment of the Director of the Institute as a director shall automatically terminate if the Director of the Institute ceases to be employed by the Institute for any reason.
- 6A.4 The Board may, on the terms and conditions and with any restrictions as they think fit, confer on the Director of the Institute any of the powers of the Institute exercisable by them. Any powers so conferred may be concurrent with the powers of the Board.
- 6A.5 The Board may at any time withdraw or vary any of the powers conferred on the Director of the Institute.

#### **7. THE BOARD (INCLUDING OFFICE-BEARERS)**

- 7.1 (a) The governing body of the Institute shall be a Board consisting of:
- (i) The Director of the Institute, who shall be an ex officio member of the Board;

- (ii) four (4) persons elected to the Board in the manner and for the term described in this Constitution (hereinafter referred to as "the elected members"), provided that the elected members in office at the date of adoption of this Constitution are Mr Christopher Cullen, Mr John Dunlop, Mrs Patti Payne and Mr Robert Walker;
  - (iii) such other persons not exceeding six (6) in number appointed by the foregoing Board members, provided that the appointed members in office at the date of adoption of this Constitution are Mr John Bevins, Mrs Vicki Miller, Mr Rod Atfield and Ms Elizabeth Hallett.
- (b) The aforementioned Board may, in its absolute discretion, appoint up to two (2) persons to the Board in addition to those appointed pursuant to Rule 7.1(a)(iii).

7.1A This Rule 7.1A explains the composition and expertise of the Board. The Board will comprise not less than five (5) and not more than thirteen (13) members. The Board must collectively possess the expertise necessary to achieve the objects of the Institute as expressed in Rule 2.1 and collectively possess an appropriate balance of expertise, such as:

- (a) experience in research at a university, hospital or recognised research institute;
- (b) clinical qualifications and clinical experience in paediatrics or experience in paediatric research;
- (c) expertise in administration, management, finance or law; and
- (d) expertise in marketing and fundraising, particularly in the not-for-profit sector.

7.2 Every person appointed to the Board as aforesaid (hereinafter referred to as "the appointed members") shall be appointed by notice in writing duly signed by the relevant appointor or appointors and lodged with the Secretary of the Institute. The appointed members shall, subject to the provisions of this Constitution, hold office for the period for which he or she shall be appointed by his or her appointor or appointors but such period shall not in any case exceed three (3) years and he or she shall be eligible for re-appointment at the expiration of such period.

7.3 The elected members shall hold office until the third annual general meeting after the annual general meeting at which the member was elected as a member of the Board when the member shall retire but shall be eligible for re-election.

7.4 The election of the elected members shall take place in the following manner:

- (a) any two (2) Members shall be at liberty to nominate any other Member to serve as an elected member of the Board;
- (b) the nomination, which shall be in writing and signed by the candidate and his or her proposer and seconder shall be lodged with the Secretary at least twenty-one (21) days before the annual general meeting at which the election is to take place;

- (c) a list of the candidates names in alphabetical order with the proposers and seconders names shall be posted in a conspicuous place in the registered office of the Institute for at least seven (7) days immediately preceding the annual general meeting;
  - (d) balloting lists shall be prepared (if necessary) containing the names of the candidates only in alphabetical order, and each Member present at the annual general meeting shall be entitled to vote for any number of such candidates not exceeding the number of vacancies; and
  - (e) in the case there shall not be sufficient number of candidates nominated, the Board may fill the remaining vacancy or vacancies.
- 7.5 The Members may by ordinary resolution of which at least twenty-one (21) days' notice has been given remove any of the elected members before the expiration of his or her period of office and may by an ordinary resolution appoint another person in his or her stead. The persons so appointed shall hold office only until the expiration of the term of the elected member removed pursuant to this Rule. This Rule is subject to the provisions of the Law as to removal of Board members.
- 7.6 There shall be a President, Vice-President and Honorary Treasurer of the Institute. They shall be elected by the Board and shall hold office for a period of one (1) year and shall be eligible for re-election. Any person holding any of such offices who shall cease to be a member of the Board shall automatically vacate such office.
- 7.7 Any vacancy amongst the appointed members shall be filled by the appointor or appointors who appointed the member so ceasing to be a member of the Board. An appointor or appointors may remove any member appointed by it or them by the giving of one (1) month's notice in writing to the appointee.
- 7.8 Any vacancy amongst the elected members may be filled by any Member elected by the Board who shall hold office until the expiration of the term of the member thereby replaced.
- 7.9 The office of a member of the Board shall become vacant if the member:
- (a) enters into any form of Insolvency;
  - (b) becomes prohibited from being a director of a company by reason of the Law or any order made under the Law;
  - (c) 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;
  - (d) resigns his or her office by notice in writing to the Institute;
  - (e) commence to hold any office of profit under the Institute;
  - (f) for more than six (6) months is absent without leave of the Board from meetings of the Board held during that period;
  - (g) is, subject to Rule 9.13, directly or indirectly interested in any contract or proposed contract with the Institute provided always that nothing in this sub-Rule shall affect the operation of Rule 16; or
  - (h) in the case of the elected members, ceases to be a Member of the Institute.

## **8. POWERS AND DUTIES OF THE BOARD**

- 8.1 The business of the Institute shall be managed by the Board who may pay all expenses incurred in promoting and registering the Institute and may exercise all such powers of the Institute as are not, by the Law or by this Constitution, required to be exercised by the Institute in general meeting, subject nevertheless to this Constitution, to the provisions of the Law and to such regulations being not inconsistent with the aforesaid Rules or provisions as may be prescribed by the Institute in general meeting. Notwithstanding the foregoing, any rule, regulation or by-law of the Institute made by the Board may be disallowed by the Institute in general meeting and no resolution or regulation made by the Institute in general meeting shall invalidate any prior act of the Board which would have been valid if that resolution or regulation had not been passed or made.
- 8.2 The Board may exercise all the powers of the Institute to borrow money and to mortgage or charge its property or any part thereof and to issue debentures and other securities whether outright or as security for any debt, liability or obligation of the Institute.
- 8.3 The Board may exercise all the powers of the Institute to invest and deal with the money of the Institute not immediately required.
- 8.4 For the purposes of Rule 16 of the Constitution, the rate of interest payable in respect of money lent by Members to the Institute shall not exceed the lowest rate paid for the time being by banks in the State of New South Wales in respect of term deposits applicable at the time of the loan.
- 8.5 All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for money paid to the Institute shall be signed, drawn, accepted, endorsed or otherwise executed as the case may be by any two (2) members of the Board or, in the case of emergency, by such other officer or employee of the Institute as the Board shall previously authorise in writing provided that any such action by any officer or employee shall be reported to the next meeting of the Board thereafter. All monies received by the Institute shall be deposited intact at the earliest possible date to the credit of the Institute's bank account. Receipts for money received shall also be issued promptly.
- 8.6 The Board shall cause minutes to be made:
- (a) of all appointments of officers and servants;
  - (b) of the names of the members of the Board present at all meetings of the Institute and of the Board; and
  - (c) of all proceedings at all meetings of the Institute and of the Board.
- Such minutes shall be signed by the Chair at the meeting at which the proceedings were held or in accordance with the Law.
- 8.7 The Board shall ensure that a mechanism is established that will properly and effectively deal with complaints by members of the public and grievances from any employees of the Institute.
- 8.8 The Board shall ensure that a mechanism is established for resolving internal disputes between any Members. This may include:

- (a) the appointment of an independent person to arbitrate or mediate in the dispute;
- (b) a process to bring the parties in dispute together to resolve the dispute at an early stage;
- (c) a process to ensure that all parties receive a full and fair opportunity of presenting their case; and
- (d) where the dispute cannot be resolved internally by arbitration or mediation, to refer the matter to a Community Justice Centre which functions as "a centre for dispute settlement".

## 9. PROCEEDINGS OF THE BOARD

- 9.1 The Board may meet together for the despatch of business, adjourn, and otherwise regulate its meetings as it thinks fit. A member of the Board may at any time and the Secretary shall on the requisition of a member of the Board summon a meeting of the Board.
- 9.2 Three (3) or more members of the Board (or members of a committee of the Board) shall be deemed to hold and to be present at a meeting of the Board or committee of the Board when, with the express intention of holding a meeting, they communicate through a telephone, video, telecommunication or other conference facility of any kind in circumstances where each of them can simultaneously hear what is said by, and can speak to, the other or others of them.
- 9.3 Subject to this Constitution, questions arising at any meeting of the Board shall be decided by a majority of votes and a determination by a majority of the members of the Board shall for all purposes be deemed a determination of the Board. In any case of an equality of votes, the Chair of the meeting shall have a second or casting vote.
- 9.4 The quorum necessary for the transaction of the business of the Board shall be three (3) members of the Board.
- 9.5 The continuing members of the Board may act notwithstanding any vacancy in the Board but if and so long as their number is reduced below the number fixed by or pursuant to this Constitution as the necessary quorum of the Board, the continuing member or members may act for the purpose of increasing the number of members of the Board to that number or of summoning a general meeting of the Institute but for no other purpose.
- 9.6 The President shall preside as Chair at every meeting of the Board, or if there is no President or if at any meeting he or she is not present within ten (10) minutes after the time appointed for holding the meeting, the Vice-President shall be Chair or if the Vice-President is not present at the meeting then the members of the Board may choose one (1) of their number to be Chair of the meeting.
- 9.7 The Board may delegate any of its powers and/or functions (not being duties imposed on the Board as the directors of the Institute by the Law or the general law) to one (1) or more sub-committees consisting of such persons as the Board thinks fit. Any sub-committee so formed shall conform to any regulation that may be imposed by the Board and subject thereto shall have powers to co-opt any other persons and all members of such sub-committee shall have one (1) vote.

- 9.8 The Board may appoint one (1) or more advisory committees consisting of such persons as the Board thinks fit. Such advisory committees shall act in an advisory capacity only. They shall conform to any regulations that may be imposed by the Board and subject thereto shall have power to co-opt any person or persons and all such members of such advisory committees shall have one (1) vote.
- 9.9 A sub-committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present and in the case of an equality of votes the Chair shall have a second or casting vote.
- 9.10 All acts done by any meeting of the Board or of a sub-committee or by any person acting as members of the Board shall notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such member of the Board or person acting as aforesaid or that the members of the Board or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a member of the Board.
- 9.11 A resolution in writing signed by all members of the Board in Australia for the time being entitled to receive notice of a meeting of the Board shall be as valid and effectual as if it has been passed at a meeting of the Board duly convened and held. Any such resolution may consist of several documents in like form each signed by one (1) or more members of the Board.
- 9.12 The Secretary shall in accordance with the Law be appointed by the Board for such term upon such conditions as it thinks fit and any Secretary so appointed may be removed by it. Nothing herein shall prevent the Board from appointing a Member as Honorary Secretary and any Member so appointed shall forthwith become an office-bearer of the Institute and if not already a member of the Board, ex-officio a member of the Board.
- 9.13 No members of the Board shall be disqualified from their office for contracting with or holding any other office in the Institute nor shall any such contract or any contract entered into by or on behalf of the Institute in which any member of the Board shall be in any way interested be avoided nor shall any member of the Board so contracting or being so interested be liable to account to the Institute for any profit realised by any such contract by reason only of such member of the Board holding that office or of the fiduciary relationship thereby established, provided that the nature of the interest must be disclosed by the member at the meeting of the Board at which the contract is determined on if the interest then exists and has not been disclosed in accordance with the Law or in any other case at the first meeting of the Board after the acquisition of his or her interest. A member of the Board (or their alternate) may not vote in respect of any contract or arrangement in which they are interested and may not be counted for the purpose of any resolution regarding the same in the quorum present at the meeting and may not participate in the execution of any instrument by or on behalf of the Institute and whether through signing or sealing the same or otherwise.

## 10. SEAL

The Board shall provide for the safe custody of the Seal which shall only be used by the authority of the Board or of a sub-committee of members of the Board authorised by the Board in that behalf and every instrument to which the Seal is affixed shall be signed by a member of the Board and shall be countersigned by the

Secretary or by a second member of the Board or by some other person appointed by the Board for the purpose.

## 11. ACCOUNTS

- 11.1 The Board shall cause proper accounting and other records to be kept and shall within the deadlines set out in section 315 of the Law report to Members for a financial year in accordance with section 314 of the Law, provided that the Board shall cause to be made out and laid before each annual general meeting the annual financial report made up to the date required by Law together with the Board report and Auditor's report.
- 11.2 The Board shall from time to time determine at what times and places and under what conditions or regulations the accounting and other records of the Institute shall be open to inspection of the Members.
- 11.3 True account shall be kept of the sums of money received and expended by the Institute and the matter in respect of which such receipt and expenditure takes place, and of the property, credits and liabilities of the Institute and, subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed in accordance with Rule 11.2 of the Constitution for the time being in force, shall be open to the inspection of the Members.

## 12. AUDIT

A properly qualified Auditor or Auditors shall be appointed and his or her or their duties regulated in accordance with the Law.

## 13. NOTICE

- 13.1 Every Member shall from time to time notify in writing to the registered office of the Institute an address to be registered as his or her address for service of all notices and the place so from time to time registered shall for the purposes of the Law and the Rules be deemed his or her address for the service of such notices. Notices may be served by the Institute upon any Member either personally or by sending them through the post in a prepaid letter addressed to such Member at his or her registered address so notified by him or her pursuant to the requirements of this Rule or by leaving them for him or her at such address. A Member may also nominate a fax number or electronic address as his or her address.
- 13.2 As regards any Member who has provided no such address as required by Rule 13.1, the registered office of the Institute shall be deemed his or her address for the service of such notices.
- 13.3 As regards Members who have no such registered address, a notice posted up in the registered office of the Institute shall be deemed to be well served on them at the expiration of twenty-four (24) hours after it is so posted up.
- 13.4 Any notice sent by post shall be deemed to have been served on the day following that on which the envelope or wrapper containing the same is posted and in proving such service it shall be sufficient to prove that the envelope or wrapper containing the notice was properly addressed and posted and a certificate in writing signed by an employee of the Institute that the envelope or wrapper containing the notice was so addressed and posted shall be conclusive evidence thereof. A notice sent by fax

or other electronic means shall be deemed to be given on the business day after it is sent.

13.5 Notice of every annual general meeting or general meeting shall be given in any manner hereinbefore authorised to:

- (a) every Member; and
- (b) the Auditor or Auditors for the time being of the Company.

No other person shall be entitled to receive notices of annual general meetings or general meetings.

13.6 The accidental omission to give any notice of a meeting to any Member or any other person entitled to receive notice of a meeting pursuant to this Constitution and the non-receipt by any Member or such other person of any notice shall not invalidate the proceedings at any meeting.

#### 14. **WINDING UP**

If upon the winding up or dissolution of the Institute there remains after satisfaction of all its debts and liabilities any property of the Institute whatsoever, the same shall not be paid to or distributed among the Members but shall be given or transferred to some other institution or institutions having objects similar to the objects of the Institute and whose constitution shall prohibit the distribution of its or their income and property among its or their members to an extent at least as great as is imposed upon the Institute under or by virtue of Rule 16 of this Constitution and which is or are duly registered as a charity or charities under the provisions of the Charitable Fundraising Act 1991 as amended or any Act modifying or replacing such Act, and which is or are approved as a fund, authority or institution under section 78 of the Income Tax Assessment Act 1936 as amended or any Act modifying or replacing such Act, such institution or institutions to be determined by the Members at or before the time of dissolution and in default thereof, by application to the Supreme Court of New South Wales for determination.

#### 15. **INDEMNITY**

15.1 To the extent permitted by law:

- (a) every person who is or has been an Officer of the Institute or of a subsidiary of the Institute will be indemnified out of the property of the Institute against any liability for costs and expenses incurred by that person in defending any Proceedings in which judgment is given in that person's favour, or in which the person is acquitted, or in connection with an application in relation to any Proceedings in which the Court grants relief to the person under the Law; and
- (b) every person who is or has been an Officer of the Institute or of a subsidiary of the Institute will be indemnified out of the property of the Institute against any liability to another person (other than the Institute or a related body corporate of the Institute) where the liability is incurred by the Officer in his or her capacity as an Officer of the Institute or a subsidiary of the Institute provided that this indemnity shall not apply where the liability arises out of conduct involving a lack of good faith.



15.2 To the extent permitted by law, the Institute may pay, or agree to pay, a premium in respect of a contract insuring a person who is or has been an Officer of the Institute or of a subsidiary of the Institute against a liability:

- (a) incurred by the person in his or her capacity as an Officer of the Institute or a subsidiary of the Institute provided that the liability does not arise out of conduct involving a wilful breach of duty in relation to the Institute or a subsidiary of the Institute or a contravention of section 182 or section 183 of the Law; or
- (b) for the legal costs and expenses incurred by that person in defending Proceedings, whatever their outcome.

15.3 In Rules 15.1 and 15.2:

- (a) the term "Proceedings" means any proceedings, whether civil or criminal, being proceedings in which it is alleged that the person has done or omitted to do some act, matter or thing in his or her capacity as an Officer of the Institute or of a subsidiary of the Institute (including proceedings alleging that he or she was guilty of negligence, default, breach of trust or breach of duty in relation to the Institute or a subsidiary of the Institute); and
- (b) the term "Officer" has the meaning given to that term in the Law and includes every member of the Board.

## 16. INCOME AND PROPERTY OF INSTITUTE

The income and property of the Institute whatsoever derived, shall be applied solely towards the promotion of the objects of the Institute as set forth in Rule 2 of this Constitution and no portion thereof shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise to Members, provided that:

- (a) in relation to employees and Members not being members of the Board, nothing herein contained shall prevent the payment in good faith of remuneration in the form of money or otherwise to such employees or members in return for any services actually rendered to the Institute in a professional or technical capacity or for goods supplied in the ordinary and usual way of business nor prevent the payment of interest at a rate not exceeding the rate for the time being fixed by this Constitution on money borrowed from any such employees or Member or reasonable and proper rent for premises demised or let by any such employee or Member;
- (b) in relation to members of the Board, nothing herein contained shall prevent payment being made to a member of the Board:
  - (i) for the payment of out-of-pocket expenses incurred in carrying out the duties of a member of the Board where payments do not exceed an amount previously approved by the Board;
  - (ii) for any service rendered to the Institute in a professional or technical capacity where the provision of that service has the prior approval of the Board and the amount payable is approved by a resolution of the Board and is on reasonable commercial terms; or

- (iii) as an employee of the Institute where the terms of employment have been approved by a resolution of the Board; and
- (c) in this Rule, "payment" includes the provision of any form of consideration.