

# Constitution

Facilities Management Association of Australia Limited  
ACN 003 551 844

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**CONSTITUTION**  
**of**  
**FACILITY MANAGEMENT ASSOCIATION**  
**OF AUSTRALIA LIMITED**  
**ACN 003 551 844**

**A Company Limited by Guarantee**  
**and not having a Share Capital**

**[As amended at a General Meeting on 14 November 2005]**

**PRELIMINARY**

**1. Definitions**

In this Constitution:

"**Act**" means the Corporations Act 2001 (Cth) and any statutory modification or substitution of the Act;

"**Annual General Meeting**" means an annual general meeting of the Company.

"**Attendees**" means those persons referred to in paragraphs (a) and (b) of Clause 61.4;

"**Branch**" means a Branch of the Company established in accordance with this Constitution;

"**Branch Committee**" means the Committee of a Branch constituted under this Constitution to assist the Board in the management and control of the Company in that Branch, comprising no more than 12 members of each Branch. In addition to the 12 members, the Chair/s of any Sub-Branch/s to be a member of the Branch Committee, thereby ensuring communication between the Branch and any Sub-Branch/s;

"**Board**" means the Board of Directors of the Company constituted under this Constitution for the management and control of the Company and which for the purposes of the Act is the governing body of the Company;

"**Branch Annual General Meeting**" means an annual general meeting of General Members within a Branch, which is held within 3 months of the end of the financial reporting period of the Company;

"**Business Day**" means a day except a Saturday, Sunday or public holiday in New South Wales;

"**Chairman**" means the Chairman of the Company;

"**Chief Executive Officer**" means the chief executive officer of the Company;

"**the Company**" means Facility Management Association of Australia Limited ACN 003 551 844;

"**Constitution**" means the constitution of the Company;

"**Director**" means a Director of the Company for the time being;

"**Executive Committee**" means the committee of the Board comprising the Chairman, the Vice-Chairman of the Company and the Finance Director;

**"Finance Director"** means the finance director of the Company;

**"General Meeting"** means a General Meeting of the Members of the Company or of a Branch thereof (as the case may be or the context may require) lawfully convened and held in accordance with this Constitution, and unless expressed to the contrary includes an Annual General Meeting.

**"Honorary Secretary"** means any person appointed by the Board to perform the role of a honorary secretary of the Company.

**"Journal"** means any journal adopted by the Board as the official journal of the Facility Management Association of Australia whether published in printed or electronic form or otherwise.

**"Legal Costs"** of a person means legal costs incurred by that person in defending an action for a Liability of that person;

**"Liability"** of a person means any liability incurred by that person as an officer of the Company or a subsidiary of the Company;

**"Member"** means a person registered as a member in the Register of Members;

**"Membership"** means membership of the Company;

**"Notice"** means a notice given pursuant to, or for the purposes of, this Constitution or the Act;

**"Organisation"** means a company, corporation, incorporated society, club, association or other body whether incorporated in the State or elsewhere and any unincorporated society, club, association or other body which under the law of the place of origin may sue or be sued or hold property in the name of a trustee or the secretary or other officer of the body duly appointed for that purpose;

**"Register of Members"** means the register of members of the Company referred to in Clause 22;

**"Seal"** means the common seal of the Company;

**"Secretary"** means any person appointed to perform the duties of a secretary of the Company;

**"State"** means a state of the Commonwealth of Australia;

**"State Director"** means the immediate past Chairman of a Branch of a particular State or Territory of Australia (unless the Board otherwise determines);

**"Student Member"** means a student registered in the Register of Members as a student member;

**"Sub Branch"** means a Sub-Branch of a Branch of the Company established in accordance with this Constitution;

**"Sub Branch Committee"** means the Committee of a Sub-Branch constituted under this Constitution to assist the Board in the management and control of the Company in that Branch, comprising no more than 12 members of the Sub Branch;

**"Vice-Chairman of the Company"** means the Vice-Chairman of the Board.

## 2. Interpretation

### 2.1 In this Constitution:

- (a) a reference to a meeting of Members includes a meeting of any class of Members;
- (b) a Member is taken to be present at a meeting of Members if the Member is present in person or by proxy, attorney or representative; and
- (c) a reference to a notice or document in writing includes a notice or document given by fax or another form of written communication.

### 2.2 In this Constitution, headings are for convenience only and do not affect interpretation, and unless the context indicates a contrary intention:

- (a) words importing the singular include the plural (and vice versa);
- (b) words indicating a gender include every other gender;
- (c) the word "**person**" includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (d) where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning; and
- (e) the word "**includes**" in any form is not a word of limitation.

### 2.3 Words or expressions contained in this Constitution shall be interpreted in accordance with the *Interpretation of Legislation Act 1984* (Cth) and the Act as in force from time to time.

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

- (a) a reference to an Clause or a schedule is to an Clause or a schedule of this Constitution; and
- (b) a reference to this Constitution is to this Constitution (and where applicable any of its provisions) as modified or repealed from time to time.

### 2.5 Unless the context indicates a contrary intention, in this Constitution, a reference to any statute or to any statutory provision includes any statutory modification or re-enactment of it or any statutory provision substituted for it, and all ordinances, by-laws, regulations, rules and statutory instruments (however described) issued under it.

### 2.6 An expression used in a particular Part or Division of the Act that is given by that Part or Division a special meaning for the purposes of that Part or Division has, in any of these Clauses that deals with a matter dealt with by that Part or Division, unless the contrary intention appears, the same meaning as in that Part or Division.

## 3. Exercise of powers

Where this Constitution confers a power or imposes a duty, then, unless the contrary intention appears, the power may be exercised and the duty must be performed from time to time as the occasion requires.

#### **4. Severing invalid provisions**

If at any time any provision of this Constitution is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that does not affect or impair:

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this Constitution; or
- (b) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Constitution.

#### **5. Nature of the Company**

5.1 The Company is a public company limited by guarantee.

5.2 Each Member undertakes to contribute an amount not exceeding \$100 to the property of the Company if the Company is wound up:

- (a) at a time when that person is a Member; or
  - (b) within one year of the time that person ceased to be a Member,
- for:
- (c) payment of the debts and liabilities of the Company contracted before that person ceased to be a Member;
  - (d) payment of the costs, charges and expenses of winding up the Company; and
  - (e) adjustment of the rights of the contributories among themselves.

#### **6. Objects**

6.1 The objects for which the Company is established are:

- (a) To promote the practice of a distinct philosophy of organisational work place management which recognises the integrative influences of facilities on human behaviour, productivity and organisational goals.
- (b) To promote, support and advance the philosophy and concept of facility management as a recognised management profession.
- (c) To promote a high level of professional practice in facility management and affiliated disciplines and professions through the establishment and maintenance of a code of professional ethics and the encouragement of educational achievement and career advancement.
- (d) To encourage membership in and support for the activities of the Company in all ways including the development of Branches and Memberships nationally and internationally.
- (e) To conduct its affairs in the best interests of the profession of facility management and to encourage and foster among its Members conduct, ethics and standards of practice that will best serve, maintain, further and protect the interests of the profession of facility management.
- (f) To act as a consulting and advisory body amongst its Members and in particular:
  - (i) to recommend standards of practices for persons providing services or operating in the profession of facility management and to maintain the good name of the profession;

- (ii) to inform its Members of existing and proposed regulations affecting the facility management profession;
  - (iii) to encourage a sharing of information between its Members; and
  - (iv) to provide a forum for discussion of issues such as professional development and the advancement, promotion and marketing, and any other matter which has relevance to facility management within a policy established by its Members.
- (g) To act for all purposes as a body representative of persons providing facility planning and management services and in particular to provide a channel for:
- (i) communication and representation and to other bodies and organisations relating to the management and/or development control of the profession;
  - (ii) any necessary public relations efforts in support of the profession of facility planning and management including public information and education;
  - (iii) the dissemination of ideas and commentaries on research studies and projects sponsored, conducted, organised or coordinated by the Company, its Members or other persons; and
  - (iv) the undertaking of training activities of a technical nature for Members.
- (h) To be a public educational institution and forum for research and discussion of all aspects of facility management.
- (i) To support and sponsor educational programs meetings and seminars with a view to informing Members and the public of all aspects of facility management.
- (j) To sponsor, conduct, undertake and co-ordinate research projects and surveys into methods, practices and techniques in facility planning, administration, and management for the benefit of and continued development of the profession of facility management and its Members and to utilise academic and business views to this effect and to liaise with public universities and the research facilities of Members.
- (k) To act as may be thought appropriate in cooperation with other bodies with regard to matters where there is a commonality of interest and in particular to cultivate cooperation, foster understanding and create interest among firms, the public, individuals, other associations and professions as they may affect or have relevance to facility management through conferences, publicity, lectures, seminars, publications and other appropriate means.

## **7. Replaceable Rules**

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

## **8. Income and Property of the Company**

8.1 The assets and income of the Company shall be applied solely in furtherance of the objects of the Company as specified in Clause 6 of this Constitution and no portion shall be distributed directly or indirectly to the Members of the Company except as bona fide compensation for services rendered or expenses incurred on behalf of the Company.

8.2 The Company is not prevented from paying in good faith:

- (a) remuneration to any officer or servant of the Company or to any Member or any other person in return for any services actually rendered to the Company;
- (b) for goods supplied in the ordinary and usual way of business;

- (c) interest at a rate not exceeding the rate for the time being fixed for the purpose of this Clause by the Constitution on money borrowed from any Member;
  - (d) reasonable and proper rent for premises demised or let by any Member to the Company.
- 8.3 No member of the Board shall be appointed to any salaried office of the Board or any office of the Company rewarded by fees.
- 8.4 No remuneration or other benefit in money or money's worth or otherwise shall be paid or given by the Company to any member of the Board except repayment of out-of-pocket expenses (see Clause 72.2) and interest at the rate aforesaid on money lent or reasonable and proper rent for premises.

**9. Number of Members**

The number of Members which the Company proposes to be registered is thirty thousand (30,000) but the Board may from time to time resolve to register an increase in the number of Members.

**MEMBERSHIP**

**10. Classes of Membership**

In addition to existing Members, those persons who may hereafter be admitted to membership in accordance with this Constitution shall have their names entered in the Register and be allocated a status and placed on a membership list and shall be Members of the Facility Management Association of Australia until that membership is terminated under the powers contained in this Constitution.

- (1) There will be the following classes of Members:

- (a) General Member
- (b) Supporter Member
- (c) Affiliate Member
- (d) Student Member

or such other class as may be determined from time to time by the Members at a General Meeting. The class to which a Member belongs is herein referred to as his/her status.

- (2) There shall be the following Lists of Members: Active Membership List, Honorary Membership List, Life Membership List, Retired Membership List and such other Lists as the Board shall from time to time determine.

**11. General Member**

- 11.1 Any individual who is:

- (a) over the age of 18 years; and
- (b) demonstrates to the satisfaction of the Board an involvement in facility management through the practice or provision of services in at least one of the following areas:
  - (i) Facility Investment: development of corporate facilities, policies, long range facility planning analysis, facility procurement and disposal, and facility investment planning;
  - (ii) Facility Creation: facility planning and design, facility construction and renovation, co-ordination of facility changes and relocation, and project management;

- (iii) Facility Operations: building operations, maintenance and engineering, coordination of facility changes and relocation, furnishings and equipment inventory management, and tenancy management; or
  - (iv) Facility Administration: co-ordination with organisational resources including business operations, human resources and information technology, financial administration, sales and marketing, and training and risk management;
- (c) provides consultancy services in facility management and demonstrates to the satisfaction of the Board a sound knowledge of the theory of facility management and experience in the field; or
- (d) engages in teaching or advanced research in the area of facility management and who is able to demonstrate this to the satisfaction of the Board,

may be a General Member of the Company.

11.2 A General Member has a right to attend, be heard at and vote at any General Meeting and the right to stand for elected office.

## **12. Supporter Member**

12.1 Any Organisation which:

- (a) has been established or incorporated in Australia, or is recognised as a foreign company in Australia; and
- (b) provides consulting services or products to professional facilities managers or employs professional facility managers,

may be a Supporter Member of the Company.

12.2 Supporter Members will hold Membership by nominating from time to time a person or persons in that corporation to whom membership benefits are to apply. It shall be the responsibility of the Supporter Member to advise the Board from time to time of any change in that nominated person.

12.3 A Supporter Member's nominee or nominees shall have the right to attend, be heard and vote at any General Meeting.

### **13. Affiliate Member**

- 13.1 For admission as an Affiliate member every applicant shall fulfil the following requirements:
- (a) be over the age of 18 years
  - (b) work in the area of facilities management (or a related discipline) for a minimum of 6 months.
  - (c) produce two original testimonials, dated not more than 3 months prior to the date of application, as to his / her character, one of which must be from a member of the Company, unless the Board shall in this case dispense with testimonials.
- may, with the approval of the Board, be an Affiliate Member of the Company.
- 13.2 An Affiliate Member shall have the right to attend, be heard and vote at any General Meeting.

### **14. Student Member**

- 14.1 Any individual who is:
- (a) over the age of 18 years; and
  - (b) an enrolled student of facilities management (or a related discipline) at an institution recognised by the Board,
- may, with the approval of the Board, be a Student Member of the Company.
- 14.2 A Student Member shall have the right to attend, be heard and vote at any General Meeting.

### **15. Member Lists**

- 15.1 Life Member List
- (a) A Member who has rendered such services to FMA Australia or any recognised profession or group which in the opinion of the Board passed by Special Resolution would entitle him/her to the distinction of Life Membership or upon whom the Board desires to confer that distinction because of his/her knowledge and experience in pursuits connected with the profession of facilities management, FMA Australia or any other profession or group recognised by the Board may be elected by the Board as a Life Member. The name of the Member shall thereupon be entered in the Register on the Life Membership List according to his/her status in the Company or such status as the Board may decide.
  - (b) A Life Member shall be entitled to all the privileges of membership without payment of the annual subscription.
  - (c) A Life Member has a right to attend, be heard at and vote at any General Meeting and the right to stand for elected office in accordance with Clause 61."
- 15.2 Honorary Member List
- (a) The Board by Special Resolution may admit any person as an Honorary Member of FMA Australia if that person has served FMA Australia in such a way as to entitle him/her to the distinction or because of his/her knowledge and experience in facility management or a profession or group recognized by the Board. The name of the Member shall thereupon be entered in the Register on the Honorary Membership List according to his/her status in FMA Australia. An Honorary Member shall not be entitled to hold any office or become a member of either the Board or a Branch Committee.
  - (b) The Honorary Membership List shall comprise the names of those persons on whom honorary membership has been conferred by the Company.
  - (c) An Honorary Member has a right to attend and be heard at any General Meeting but shall not have the right to vote or stand for elected office.

15.3 Retired Member List

- (a) A member who has attained the age of 55 years, who is no longer engaged in gainful employment or business other than minor part-time activities, may apply in writing on the prescribed form to have his/her name entered on the Retired Membership List in the Register of Members according to his/her status in the Company.
- (b) An annual subscription shall be payable by members whose names are entered on the Retired Membership List after 1 January 2006.
- (d) A Retired Member has a right to attend, be heard at and vote at any General Meeting and the right to stand for elected office in accordance with Clause 61.”

**16. Evidence of Qualification for Membership**

In respect of any application for Membership or in the event that additional classes of Members are created, the Board may require the application to be accompanied by such proofs, information or evidence as to qualification for the type of Membership, in respect of which the application is made, as the Board reasonably determines.

**17. Application for Membership**

- 17.1 Each application for Membership shall be made in writing in a form approved by the Board and shall be signed by the applicant.
- 17.2 Each applicant for Membership shall sign a written consent to become a Member before being admitted to Membership.
- 17.3 Any Organisation applying for membership as a Supporter Member shall nominate a person or persons to represent that Organisation. The application form of the Organisation shall state the name and address of the person or persons so nominated.
- 17.4 Each person or persons nominated by an Organisation as representative of that Organisation shall sign the application form signifying consent to such nomination.
- 17.5 Subject to any provision in this Constitution to the contrary, each application for Membership shall be accompanied by an application fee and annual subscription, the amounts of which shall be determined by the Board from time to time.

**18. Admission to Membership**

- 18.1 Unless otherwise determined by the Board, as soon as practicable upon the receipt of an application for Membership, the application shall be considered by the Chief Executive Officer who shall admit or reject the application in accordance with any guidelines determined by the Board for this purpose.
- 18.2 In no case shall the Chief Executive Officer or the Board be required to give any reason for the rejection of an applicant as a Member but the Company must give written notice of the rejection to the applicant.
- 18.3 In the event that an applicant is not admitted to Membership, the application fee and the annual subscription shall be refunded to the applicant.
- 18.4 Upon the granting of Membership to an applicant, the Secretary shall give such Member advice of the Member's admission in the form of a receipt for the application fee or in such other form as the Board may from time to time determine.

**19. Change in Qualification**

Each Member shall promptly notify the Secretary in writing of any change in the qualification of such Member to be a Member or in the qualification of a representative of a Supporter Member.

**20. Variation of classes and class rights**

- 20.1 Subject to the Act and the terms of a particular class of Members, the Company may vary or cancel rights of Members of that class by special resolution of the Company and:
- (a) a special resolution passed at a general meeting of that class; or
  - (b) the written consent of Members who are entitled to at least 75% of the votes that may be cast in respect of Members of that class.
- 20.2 The provisions in this Constitution concerning General Meetings (with the necessary changes) apply to a meeting held under Clause 20.1(a).

**21. Change in Nominated Representative**

- 21.1 Each Supporter Member shall promptly notify the Secretary in writing of any change in the person or persons nominated pursuant to Clause 17.3 as the nominated representative of the member.
- 21.2 Each person so nominated by an organisation as its representative shall signify in writing his or her consent to such nomination.

**22. Register of Members**

- 22.1 A Register of Members shall be kept at the registered office of the Company in which shall be entered:
- (a) the names in full and addresses of all Members;
  - (b) in the case of a General Member who became a General Member pursuant to Clause 11.1 and a Student Member, the name and address of their respective employer or educational institution;
  - (c) in the case of a Supporter Member, the full name and address of the nominated representative or representatives;
  - (d) the date of admission to and cessation of Membership;
  - (e) the date of the last payment by each Member of that Member's annual subscription; and
  - (f) such other information as the Board may from time to time require.
- 22.2 Each Member shall notify the Secretary in writing of any change in that Member's address within a period of one (1) month next following such change and all notices given in accordance with Clause 105 to the address last notified shall be considered fully received.

**APPLICATION FEE, ANNUAL SUBSCRIPTIONS AND LEVIES**

**23. Application Fee**

The Application fee payable by each applicant for Membership shall be such sum as the Board may from time to time determine.

**24. Annual Subscription**

- 24.1 The annual subscription payable by a Member shall be the amount which the Board determines.
- 24.2 Deleted.

- 24.3 All annual subscriptions shall become due in advance of the anniversary day which a Member joined the Company in every year and shall be payable within 2 months following the date of the anniversary.
- 24.4 Deleted
- 24.5 The Board may, in its absolute discretion, determine that any annual subscription shall be waived in whole or in part in respect of:
- (a) any specified class of applicants for Membership; or
  - (b) a specified period of time within which an application for Membership may be made by any person.

## **25. Imposition of Levy**

- 25.1 The Company may by ordinary resolution passed at General Meeting impose a levy on all Members or any class of Members.
- 25.2 Notice of intention to impose such a levy and the purpose of such levy shall be given in writing to all Members with the Notice convening the General Meeting.
- 25.3 Any levy imposed on Members or any class of Members by the Board shall be due and payable not less than one (1) month after the date of the Notice referred to in Clause 25.2, unless the General Meeting resolves by ordinary resolution to the contrary.
- 25.4 Any levy imposed upon all Members or any class of Members in accordance with the preceding paragraphs of this Clause 25 shall be imposed upon and borne by each Member equally among them unless the General Meeting resolves by special resolution to the contrary.
- 25.5 The Company may revoke or postpone any levy or extend the time of payment for the levy.
- 25.6 A levy is not invalid if either or both a Member does not receive notice of the levy, or the Company accidentally does not give notice of the levy to a Member.
- 25.7 In the event that any levy is imposed upon Members and becomes due and payable during the twelve (12) months immediately preceding the date upon which any applicant is admitted to Membership, the Board may determine in its absolute discretion whether such levy or any part thereof shall be paid by the applicant upon being admitted to Membership.
- 25.8 The Board shall notify such applicant of any such determination either:
- (a) before the applicant is admitted to Membership; or
  - (b) at the time of giving the notification of admission made in accordance with Clause 18.4.
- 25.9 In the event that the Board notifies the applicant in accordance with Clause 25.8 and the applicant refuses to pay the levy, the applicant shall advise the Board within seven (7) days of receipt of such notification and the application for Membership shall be deemed to have been withdrawn and the application fee and annual subscription shall be refunded to the applicant.

## **26. Arrears in Payment**

If the annual subscription of a Member or a levy payable by a Member remains unpaid for a period of two (2) calendar months after it becomes due then, at the discretion of the Board, the Member may (after a written notice of the default has been sent to the Member by the Secretary or Finance Director pursuant to a resolution of the Board) cease to be entitled to any of the rights or privileges of Membership provided that:

- (a) the Board may reinstate the Member on payment of all arrears if the Board thinks fit to do so; and

- (b) the Board may impose an administration fee upon any defaulting Member to cover costs of recovery of the subscription or levy.

## **CESSATION OF MEMBERSHIP**

### **27. Failure to Pay**

In the event that a Member has not paid all arrears of annual subscriptions or levies in accordance with Clause 26 or, if paid, the Member's rights and privileges are not reinstated, the Member shall remain liable for all the obligations and liabilities of Membership until the expiration of six (6) months following the date of notification in accordance with Clause 26 whereupon the Member will cease to be a Member of the Company and the Member's name shall be removed from the Register of Members.

### **28. Resignation**

28.1 Every Member shall have the right at any time to resign from Membership by giving written notice of resignation to the Secretary.

28.2 The resignation shall be deemed to take effect from the date of receipt of the written notice.

### **29. General, Affiliate and Student Membership**

An individual who is a General Member, Affiliate Member or Student Member shall cease to be a Member:

- (a) on the Member's death or bankruptcy; or
- (b) in accordance with the provisions of Clause 27.

### **30. Life Member**

An individual who is a Life Member shall cease to be a member on their death or bankruptcy.

### **31. Supporter Member**

A Supporter Member shall cease to be a Member if:

- (a) it enters into liquidation, whether compulsory or voluntary (save for the purpose of amalgamation or reconstruction);
- (b) a receiver or receiver and manager is appointed to the Member or the whole or any part of its assets of undertaking; or
- (c) the provisions of Clause 27 apply.

### **32. Change in Qualification**

Deleted.

### **33. Disciplining of Members**

33.1 If any Member:

- (a) wilfully refuses or neglects to comply with the provisions of the Constitution;
- (b) wilfully refuses or neglects to comply with the provisions of any by-laws of the Company or any code of ethics or other code or standards of conduct promulgated or made by the Company in accordance with and pursuant to this Constitution; or

- (c) is guilty of any conduct which in the opinion of the Board is unbecoming of a Member or prejudicial to the interest of the Company or contrary to the objects of the Company;

the Board shall have power by resolution to censure, fine, suspend or expel that Member from the Company and in the case of expulsion, to erase the Member's name from the Register of Members.

- 33.2 In exercising its powers under Clause 33.1 the Board shall not fine a Member an amount exceeding the annual subscription of a General Member.
- 33.3 At least seven (7) days before the meeting of the Board at which a resolution of the nature referred to in Clause 33.1 is passed the Member shall be given notice:
- (a) of such meeting and of what is alleged against that Member; and
- (b) of the intended resolution.

That Member shall at such meeting, and before the passing of such resolution, have an opportunity of giving orally, or in writing, any explanation or defence the Member may think fit provided that any such Member may, by notice in writing lodged with the Secretary at least twenty four (24) hours before the time for holding the meeting at which the resolution is to be considered by the Board, elect to have the question dealt with by the Company in General Meeting.

- 33.4 If such a resolution is passed at a General Meeting by a majority of two-thirds of those present and voting (such vote to be taken by ballot) the Member concerned shall be punished accordingly. In the case of a resolution for the expulsion of the Member, the Member shall be expelled and the Member's name removed from the Register of Members.
- 33.5 In the event that a resolution of the nature referred to in Clause 33.1 is passed by the Board or the Company in General Meeting as the case may be, the Board may notify the Australian Securities and Investments Commission of the passing of such resolution.

#### **34. Liability on Cessation of Membership**

- 34.1 If any Member ceases to be a Member within the provisions of Clauses 27, 28, 29, 30, 31, 32 or 33 the Member shall remain liable to pay to the Company any moneys whatsoever which at the time of the Member ceasing to be a Member is or might become liable and in particular for any sum not exceeding One Hundred Dollars (\$100) for which the Member is liable as a Member of the Company under Clause 5.
- 34.2 The estate of a deceased Member is not released from any liability in respect of that person being a Member.
- 34.3 If any Member ceases to be a Member within the provisions of Clauses 27, 29(b) or 31(c) the Board may reinstate the Member and restore the name of that Member to the Register of Members on payment of all arrears of subscriptions and other moneys that a Member is or may be liable to pay to the Company if the Board thinks fit so to do.
- 34.4 If any Member ceases to be a Member within the provisions of Clause 32 the Board may reinstate the Member and restore the name of that Member to the Register of Members upon and subject to such terms and conditions as it thinks fit.

#### **GENERAL MEETINGS**

##### **35. General Meetings to be Held**

Subject to the Act, all General Meetings shall be held at such time and place as the Board may determine.

### **36. Annual General Meeting**

- 36.1 A General Meeting, to be called the "Branch Annual General Meeting", shall be held, in addition to any other meetings held by the Branch, not later than the thirtieth day of September in every year at such time and at such place as the Branch Committee shall from time to time decide unless the Board permits the General Meeting to be held in such later month as the Board shall from time to time decide. The business of a Branch Annual General Meeting shall be to receive and consider the report of the Branch Committee for the preceding year, to announce the results of the election of Members to the Branch Committee and to consider any other business relating to the activities of the Branch which may be raised at the Meeting.
- 36.2 The Company shall, in addition to any other meetings held by it, hold a General Meeting, to be called "Annual General Meeting". The meeting shall be held subsequent to the holding of the last of the Branch Annual General Meetings but not later than the thirtieth day of November in any year, at the time and place in a State or Territory which the Board shall from time to time decide.
- 36.3 An Annual General Meeting shall be held in accordance with the provisions of the Act.
- 36.4 A Member wishing to bring before an Annual General Meeting any motion or business not being the ordinary annual business of the Company shall give notice thereof in writing to the Board in accordance with the Act. No motion or business (other than business brought forward by the Board) shall come before the meeting unless notice thereof has been given in accordance with this Clause.

### **37. Notice of General Meeting**

- 37.1 Subject to the provisions of the Act relating to special resolutions, the Secretary shall give all Members at least twenty-one (21) days' notice (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which the notice is given) of:
- (a) the date, hour and place of any General Meeting; and
  - (b) of any business deemed by this Constitution to be special business,
- by written notice forwarded to their current address in the Register of Members.
- 37.2 If the General Meeting is to be held in 2 or more places, those places should be stated in addition to the technology that will be used to facilitate this.
- 37.3 A copy of such notice shall be forwarded to each person who is a nominated representative of a Supporter Member.
- 37.4 With the notice of an Annual General Meeting there shall be forwarded a copy of the financial statements to be presented to the Annual General Meeting.
- 37.5 Subject to the Act, anything done (including the passing of a resolution) at a General Meeting is not invalid because either or both a person does not receive notice of the meeting or the Company accidentally does not give notice of the meeting to a person.
- 37.6 Notice of meetings of the Company or of a Branch shall be deemed to be sufficiently given if notice thereof is published in the Journal.

### **38. Convening on Short Notice**

- 38.1 A General Meeting of the Company shall, notwithstanding that it is convened by notice shorter than is required by the Act or this Constitution, be deemed to be duly convened if the shorter notice is agreed:
- (a) in the case of a General Meeting convened as an Annual General Meeting by all the Members entitled to vote at the meeting; or
  - (b) in the case of any other General Meeting, by a majority in number of the Members having the right to attend and vote at the meeting who are together entitled to not less than ninety- five per cent (95%) of the total voting rights of all the Members having the right to vote at the meeting.

38.2 Clause 38.1 does not apply in respect of a General Meeting where a resolution will be moved to:

- (a) remove a Director or appoint a Director in place of the Director removed; or
- (b) remove an auditor

**39. Convening on Requisition**

39.1 In addition to General Meetings convened pursuant to Members' rights under the Act, General Meetings shall be convened by the authority of the Chairman of the Board or in pursuance of a requisition to the Secretary signed by not less than five per cent (5%) of the Members who are entitled to vote at General Meetings of the Company requisitioning that a General Meeting be convened and setting out the business of such meeting.

39.2 In the case of such a requisition, the date, hour and place of such General Meeting shall be determined by the Board, but shall be no later than twenty-eight (28) days after such requisition is delivered to the Chairman and there shall be no objection to such business being dealt with as special business at an Annual General Meeting of the Company.

**PROCEEDINGS AT GENERAL MEETINGS**

**40. Business at General Meeting**

All business shall be special business that is transacted at a General Meeting.

**41. Business at Annual General Meeting**

41.1 The business of an Annual General Meeting may include any of the following:

- (a) to adopt and confirm the minutes of the previous Annual General Meeting;
- (b) to receive the Chairman's report to Members;
- (c) to advise Members of the results of the postal ballot held to elect the Board;
- (d) to receive and consider the financial statements, directors' report and auditor's report for the Company;
- (e) to elect an auditor or auditors and to approve the remuneration of such auditor or auditors; and
- (f) to deal with any other business, which shall be deemed to be special business.

41.2 The business contained in Clause 41.1(a) to (e) will be considered ordinary business.

**42. Right to attend meetings**

42.1 Each Member and any auditor of the Company is entitled to attend any General Meeting.

42.2 Subject to this Constitution, each Director is entitled to attend and speak at all General Meetings.

**43. Meeting at more than one place**

43.1 A General Meeting may be held in 2 or more places linked together by any technology that:

- (a) gives the Members as a whole in those places a reasonable opportunity to participate in proceedings;
- (b) enables the Chairman to be aware of proceedings in each place; and
- (c) enables the Members in each place to vote on a show of hands and on a poll.

- 43.2 If a General Meeting is held in 2 or more places under Clause 43.1:
- (a) a Member present at one of the places is taken to be present at the meeting; and
  - (b) the Chairman of that meeting may determine at which place the meeting is taken to have been held.

**44. Meaning of "Member"**

For the purpose of ascertaining any quorum of Members, and the persons entitled to vote, at a General Meeting "Member" means any General, Supporter, Affiliate or Student members.

**45. Quorum**

45.1 No business shall be transacted at any General Meeting unless a quorum of Members is present at the time when the meeting proceeds to business.

45.2 Five (5) of the Members entitled to vote at a General Meeting who are present in person, by attorney, representative or proxy shall be a quorum.

**46. Absence of Quorum**

If a quorum is not present within half an hour from the time appointed for the meeting:

- (a) the meeting, if convened upon the requisitioning of General Members, shall be dissolved; or
- (b) in any other case:
  - (i) the meeting shall stand adjourned to such day and such time and place as the Board may determine or if no determination is made by the Board, to the same day in the next week at the same time and place; and
  - (ii) if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting:
    - A. Members present (being not less than three (3)) shall be a quorum; or
    - B. where a quorum is not present, the meeting shall be dissolved.

**47. Chairman**

47.1 The Chairman of the Company if present shall preside at every General Meeting of the Company. If there is no Chairman, or if the Chairman is not present within fifteen (15) minutes after the time appointed for the holding of the meeting, or is unwilling to act, then:

- (a) the Vice-Chairman of the Company shall preside; or
- (b) if the Vice-Chairman is not present or is unwilling to act, then the Members present shall elect one of their number to be Chairman of the General Meeting.

**48. General conduct of meetings**

48.1 Subject to the Act, the Chairman of a General Meeting is responsible for the general conduct of that meeting and for the procedures to be adopted at that meeting.

48.2 The Chairman of a General Meeting may delegate any power conferred by this Clause to any person.

48.3 The powers conferred on the Chairman of a General Meeting under this Clause 48 do not limit the powers conferred by law.

## **49. Adjournment**

- 49.1 Subject to the Act, the Chairman 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 left unfinished at the meeting from which the adjournment took place.
- 49.2 Subject to the Act and this Clause 49, the Board may at any time postpone or cancel a General Meeting by giving notice not less than five (5) Business Days before the time at which the meeting was to be held to each person who is, at the date of the notice:
- (a) a Member entitled to attend and vote at the General Meeting;
  - (b) a Director; or
  - (c) auditor of the Company.
- 49.3 A General Meeting called under Clause 39 must not be cancelled by the Board without the consent of the Members who requested the meeting.

## **50. Notice of Adjournment**

- 50.1 When a meeting is adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of the original meeting.
- 50.2 Except as stated above, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

## **51. Voting**

- 51.1 At any General Meeting 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 Chairman of the meeting; or
  - (b) by at least three (3) Members entitled to vote who are present in person, by attorney, representative or by proxy.
- 51.2 Unless a poll is so demanded, a declaration by the Chairman that a resolution has on a show of hands been 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 Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour or against the resolution.
- 51.3 The demand for a poll may be withdrawn.
- 51.4 If a poll is duly demanded it shall be taken in such manner and subject to Clause 51.5 either at once or after an interval or adjournment or otherwise as the Chairman directs. The result of the poll shall be the resolution of the meeting at which the poll was demanded.
- 51.5 A poll demanded on the election of a Chairman, or on a question of adjournment, shall be taken immediately.
- 51.6 A demand for a poll on a resolution of a General Meeting does not prevent the continuance of that meeting or that meeting dealing with any other business.

## **52. Equality of Votes**

In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting at which the show of hands takes place or at which the poll is demanded in addition to his or her deliberative vote (if any) shall be entitled to a second or casting vote.

**53. Number of Votes**

A person entitled to vote at a General Meeting on a show of hands shall have one (1) vote and on a poll such person shall have one (1) vote.

**54. Voting by Representative**

54.1 A person entitled to vote who:

- (a) is of unsound mind; or
- (b) whose person or estate is liable to be dealt with in any way under the law relating to mental health,

may vote, whether on a show of hands or on a poll, by their committee or trustee or by such other person as properly has the management of their estate.

**55. Limitation on Voting**

No Member shall be entitled to vote at any General Meeting if the annual subscription of that Member shall be more than one (1) month in arrears at the date of the meeting.

**56. Objection to Voting**

56.1 An objection may be raised to the qualification of a voter only at the meeting or adjourned meeting at which the vote objected to is given or tendered.

56.2 Any such objection shall be referred to the Chairman of the meeting, whose decision is final.

56.3 A vote not disallowed pursuant to such an objection is valid for all purposes.

**57. Voting by Proxy**

57.1 A Member who is entitled to attend and cast a vote at a General Meeting, may vote on a show of hands and on a poll:

- (a) in person or, if the Member is a body corporate, by its representative appointed in accordance with the Act;
- (b) by not more than one proxy; or
- (c) by not more than one attorney.

57.2 A proxy, attorney or representative of a Member need not be a Member.

57.3 A Member who is entitled to attend and cast a vote at a General Meeting, may appoint a proxy, attorney or representative for:

- (a) all or any number of meetings of Members; or
- (b) a particular meeting of Members.

57.4 An instrument appointing a proxy shall be in writing under the hand of the appointer or of their attorney duly authorised in writing.

57.5 An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy is not entitled to vote on the resolution except as specified in the instrument.

57.6 An instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

57.7 An instrument appointing a proxy shall be in the following form or in a form that is as similar to the following form as the circumstances allow:

**FACILITY MANAGEMENT ASSOCIATION OF AUSTRALIA LIMITED  
ACN 003 551 844**

I, \_\_\_\_\_(insert name of Member)

of \_\_\_\_\_(insert address of Member)

being a General / Supporter / Affiliate / Student Member (delete non-applicable member categories)

HEREBY APPOINT (insert name of proxy)

of (insert address of proxy)

as my proxy to vote for me on my behalf at the Annual General/General Meeting of the Company to be held on the

\_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ and at any adjournment of that meeting.

This form is to be used \*in favour of/\*against the following resolution(s).

Signed this \_\_\_\_\_day of \_\_\_\_\_

\* Strike out whichever is not desired.

57.8 Subject to the Act and Clause 58, the decision of the Chairman of a General Meeting as to the validity of an instrument appointing a proxy, attorney or representative is final and conclusive.

**58. Validity of Proxy**

An instrument appointing a proxy shall not be treated as valid unless the instrument, and the power of attorney or other authority (if any) under which the instrument is signed or a notarially certified copy of that power or authority, has been lodged with the Company, by depositing it at the registered office of the Company, by successfully transmitting it by facsimile to the registered office the Company, or at such other place within Australia, as is specified for that purpose in the notice convening the meeting at least thirty-six (36) hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote.

**59. Revocation of Proxy or Power**

59.1 A vote given in accordance with the terms of an instrument of proxy or of a power of attorney is valid notwithstanding:

- (a) the previous death or unsoundness of mind of the principal;
- (b) the revocation of the instrument (or of the authority under which the instrument was executed); or
- (c) of the power in respect of which the instrument or power is given,

if no intimation in writing of the death, unsoundness of mind or revocation has been received by the Company at the registered office before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

## **THE BOARD (INCLUDING OFFICE BEARERS)**

### **60. Office Bearers**

The office bearers of the Company shall consist of a Chairman, Vice-Chairman and Finance Director. The holders of such offices in the Company shall constitute the Executive Committee.

### **61. Constitution of Board and Election and appointment of the Executive Committee**

61.1 The Board, in addressing appropriate succession planning, will use the best endeavours to ensure that no more than a maximum of three Directors rotate off the Board in any one year, one of which may be the Immediate Past Chairman when his/her term is completed.

61.2 Subject to Clause 64, and until such time as it is determined otherwise by a special resolution of the Company at a General Meeting, the Board shall consist of a total Board membership of up to eight (8) made up as follows:

- (a) four (4) persons elected in accordance with Clauses 65, 66 and 67
- (b) a maximum of three (3) other persons appointed by the Board, two of whom are to be General Members
- (c) the immediate past Chairman of the Company, who shall hold such position for such period as the person who is elected as Chairman in his or her place (or any replacement in the event of a casual vacancy) remains Chairman.

61.3 In relation to the appointment of Board members as per Clause 61.2(b), the Board must ensure that where there will be a vacancy on the Board at the Annual General Meeting, a potential candidate for appointment as a Director is identified prior to the Annual General Meeting. Where, at the time of the Annual General Meeting, a potential candidate has still not been identified, the Board must ensure that within twenty (20) Business Days following the Annual General Meeting, a Director has been appointed to the Board.

61.4 In addition, to the persons referred to in Clause 61.2, the Chief Executive Officer, if any, appointed under Clause 98, will be invited by the Board to attend all Board meetings and will have the right to speak at Board meetings and receive notices of, and papers relating to, Board meetings but will not have any right to vote.

61.5 In the final year of the Chairman's term, no less than six months prior to the Annual General Meeting, the Directors, at a meeting of the Board, will elect (in accordance with Clause 61.6 to 61.12 inclusive) from the members of the Board, the Chairman Elect, who will take over the office of Chairman at the next Annual General Meeting. Once elected by the Board, the Chairman Elect will become a member of the Executive Committee.

61.6 At a meeting held following the Annual General Meeting, which will be chaired by the Chairman, the Board will elect (in accordance with Clause 61.6 to 61.12 inclusive) from the members of the Board, any vacant office of Vice-Chairman and Finance Director. The Chairman, Vice-Chairman and Finance Director are hereinafter referred to as an Executive Committee and once elected by the Board, in accordance with Clause 61.5, the Chairman Elect will become a member of the Executive Committee.

61.7 In the event that only one (1) person is nominated for election to any position of the Executive Committee, that person shall be declared elected by the Chairman of the meeting.

61.8 In the event that more than one nomination is received in respect of any one position on the Executive Committee, there shall be a ballot held in accordance with Clauses 61.9 to 61.12 inclusive.

61.9 In the event that any ballot is required, balloting lists shall be prepared containing the names of the candidates in alphabetical order and all Board members shall be eligible to vote.

- 61.10 Each person entitled to vote shall cast a number of votes not exceeding the number of vacant positions, but no person voting may cast more than one (1) vote in favour of any candidate.
- 61.11 The candidates receiving the greatest number of votes cast in their favour will be deemed to be elected or re-elected to the respective office on the Executive Committee.
- 61.12 In the case of an equality of votes, the Chairman of the meeting, in addition to his or her deliberative vote (if any), shall be entitled to a second or casting vote provided however that if the Chairman:
- (a) does not exercise such second or casting vote; or
  - (b) is one of the persons in respect of whom there is an equality of votes;
- then a further ballot shall be held in respect of those persons for which there is an equality of votes.

**62. Increase or Decrease in Number of Board Members**

Subject to the Act and to the Constitution, the Company may from time to time, by special resolution passed at a General Meeting, increase or reduce the number of office bearers and other elected members of the Board.

**ELECTION AND APPOINTMENT OF THE BOARD**

**63. Election at Annual General Meeting**

At each Annual General Meeting the members of the Board due to retire shall be replaced with members of the Board elected or appointed in accordance with this Constitution.

**64. Tenure**

The elected and appointed members of the Board shall hold office until the second Annual General Meeting following the date of their election or appointment to the Board, when they shall retire but each shall be eligible for re-election or re-appointment as a member of the Board.

**65. Nomination for Election**

65.1 Any General Member (excluding a Member who has not paid all arrears of annual subscriptions or levies in accordance with Clause 26) shall be eligible for election or re- election, appointment or re-appointment as a member of the Board referred to in Clause 61.2(a).

65.2 Each candidate standing for election as a member of the Board referred to in Clause 61.2(a), shall be proposed by a General Member and shall be seconded by either a General or Supporter Member. Both proposer and seconder must have paid all arrears of annual subscriptions or levies in accordance with Clause 26 of the Company at the time of nomination.

65.3 Any General or Supporter Member (excluding a Member who has not paid all arrears of annual subscriptions or levies in accordance with Clause 26) shall be eligible for election or re- election as a member of the Branch Committee to which that member is attached.

65.4 Each candidate standing for election as a member of the Branch Committee shall be proposed and seconded by a Member of the Branch to which the nominee is attached. Both the proposer and seconder must have paid all arrears of annual subscriptions or levies in accordance with Clause 26 of the Company at the time of nomination.

**66. Nomination Procedure**

66.1 Any nomination for election or re-election as a member of the Board shall be in writing and shall be signed by the candidate and by the proposer and the seconder.

- 66.2 The nomination for election to the Board must be received by the Secretary not later than 5:00 p.m. on the date being thirty (30) days before the date of the Annual General Meeting (at which members of the Board are due to retire) as the case may be, at which the candidate seeks election or re-election.
- 66.3 A list of the candidates' names in respect of the election of the Board in alphabetical order, with the proposers and seconders' names, shall be posted in a conspicuous place in the registered office of the Company for at least twenty-one (21) days immediately preceding the Annual General Meeting at which members of the Board are due to retire.

**67. Conduct of Elections**

- 67.1 In the event that not more than the number of persons required by Clause 61.2(a) are nominated for election to the Board, those persons shall be declared by the Chairman of the Annual General Meeting to be duly elected.
- 67.2 In the event that more than the number of persons required by Clause 61.2(a) are nominated for election to the Board, there shall be a postal ballot held for such election of members. Unless the Board otherwise determines, the postal ballot shall be a secret postal ballot.
- 67.3 In the event that a postal ballot is required, ballot papers (in a form approved by the Board) shall be prepared containing the names of the candidates in alphabetical order and be accompanied by an explanation of each candidates relevant qualifications and experience. The Secretary must cause, at least fourteen (14) days prior to the date fixed for holding the Annual General Meeting (at which members of the Board are due to retire), such ballot papers to be sent to each Member entitled to vote. For the purposes of the above elections, all current General Members shall be eligible to vote in such election.
- 67.4 Ballot papers sent to Members in accordance with Clause 67.3 for the election of members of the Board must require that the completed ballot papers be returned to the Secretary within seven (7) days prior to the date fixed for the holding of the Annual General Meeting.
- 67.5 The candidates receiving the greatest number of votes cast in their favour will be deemed to be elected or re-elected as the case may be.
- 67.6 The results of the election of members of the Board, whether pursuant to Clauses 67.1 or 67.2, shall be announced by the Secretary at the Annual General Meeting.
- 67.7 In the case of an equality of votes, the Chairman of the Meeting in addition to his or her deliberative vote (if any) shall be entitled to a second or casting vote provided however that if the Chairman:
- (a) does not exercise such second or casting vote; or
  - (b) is one of the persons in respect of whom there is an equality of votes;
- then a further ballot shall be held at the Annual General Meeting among those General Members present.
- 67.8 In the event that at the conclusion of the elections any elected position on the Board remains vacant:
- (a) nominations of persons eligible to hold office may be received from the floor to fill such vacancy provided that no person shall be appointed to fill such vacancy unless he or she is present at the meeting and consents to such nomination; and
  - (b) should there be more nominations received than positions remaining vacant, a further election or elections shall be held in accordance with the foregoing provisions.

**68. Tenure of Attendees**

68.1 The Attendee who is invited by the Board to attend all Board meetings referred to in Clause **Error! Reference source not found.** shall hold such position for such period as the person who is appointed as Chief Executive Officer.

**69. Casual Vacancy**

69.1 The Board shall have power at any time, and from time to time, to appoint any person entitled to hold elected or appointed office to the Board either to fill a casual vacancy or as an addition to the existing office bearers or other members of the Board.

69.2 The total number of office bearers or other members of the Board shall not at any time exceed the number fixed in accordance with these Clauses.

69.3 Any office bearer or other member of the Board so appointed shall hold office only until the Annual General Meeting at which the respective elected and appointed members of the Board must retire.

69.4 A person appointed pursuant to Clause **Error! Reference source not found.** is not considered to be the appointment of a casual vacancy.

**70. Removal of Board Member**

The Company may by ordinary resolution, remove any member of the Board before the expiration of their period of office, and may by an ordinary resolution appoint another person in their place and the person so appointed shall hold office only until the Annual General Meeting at which the elected and appointed members of the Board must retire.

**71. Vacation of Office**

71.1 The office of a member of the Board shall become vacant if the member:

- (a) ceases to be a member of the Board by virtue of the Act;
- (b) becomes bankrupt or makes any arrangement or composition with their creditors generally;
- (c) becomes prohibited from being a director of the Company by reason of any order made under the Act;
- (d) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (e) resigns their office by notice in writing to the Company;
- (f) is absent from three (3) consecutive Board meetings, without the prior leave of the Board, or, where no such leave is granted, the Board is not satisfied that such absence was justified in all the circumstances;
- (g) holds any office of profit under the Company; or
- (h) is removed from office in accordance with Clause 70.

**72. Remuneration**

72.1 No member of the Board shall receive any remuneration for their services in their capacity as a member of the Board.

72.2 The Company may pay all reasonable travelling, accommodation and other expenses that a Director or Attendee properly incurs:

- (a) in attending meetings of the Board (a) or any meetings of committees of Directors;

- (b) in attending any meetings of Members; and
- (c) in connection with the business of the Company.

### **73. Interest in Contracts**

73.1 If a Director discloses their interest in accordance with the Act:

- (a) the Director may contract or make an arrangement with the Company, or a related body corporate of the Company or a body corporate in which the Company is interested, in any matter in any capacity;
- (b) the Director may sign on behalf of the Company, or witness the affixing of the Seal of the Company to, any document in respect of the contract or arrangement;
- (c) the Director may retain the benefits under the contract or arrangement; and
- (d) the Company cannot avoid the contract or arrangement merely because of the existence of the Director's interest.

## **POWERS AND DUTIES OF THE BOARD (AND EXECUTIVE COMMITTEE)**

### **74. General Powers**

74.1 The Company may exercise, in any manner permitted by the Act, any power which a public company limited by guarantee may exercise under the Act including the ability to establish or aid in the establishment of, and support, a charity or foundation.

74.2 The Board may exercise all the powers of the Company except any powers that the Act, or this Constitution, requires the Company to exercise in a General Meeting.

### **75. Limitation on Power to Borrow and to Expend**

75.1 The Board may exercise all the powers of the Company 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 Company provided however that any limits on the power of borrowing imposed by the Company in General Meeting are observed, and until such limitation is varied by the Company the power to borrow shall be limited to the sum of One Hundred Thousand dollars (\$100,000) in aggregate at any time.

75.2 The Board may exercise all the powers of the Company to incur liabilities whether actual or contingent and to incur capital expenditure provided however that any limits on the power to incur such liabilities or to incur capital expenditure imposed by the Company in General Meeting are observed and until such limitations are waived the power to incur such liabilities or incur such capital expenditure shall be limited to the sum of One Hundred Thousand Dollars (\$100,000) in aggregate at any time.

### **76. Delegation of Powers**

76.1 Subject to the provisions of the Act and this Constitution, including Clause 76.6, the Board may delegate all or any of its duties and powers to the Executive Committee or any sub-committee.

76.2 The Board may revoke or vary any power delegated under Clause 76.1.

76.3 A committee or delegate must exercise the powers delegated in accordance with any directions of the Board.

76.4 The exercise of a delegated power by the committee or delegate is as effective as if the Board exercised the power.

76.5 Clause 80 applies with the necessary changes to meetings of a committee of the Board.

76.6 With respect to each of the powers to borrow, incur liabilities or incur capital expenditure contained in Clause 75 the maximum aggregate sum that may be so borrowed or incurred from time to time by the Executive Committee shall be limited in each case to the sum of Twenty Thousand Dollars (\$20,000) until such limitation is waived by the Board.

**77. Specified Interest Rate**

The rate of interest payable in respect of money lent by Members to the Company shall not exceed the rate per annum equivalent to the ninety (90) day Bank Bill Rate as quoted at or about 10 a.m. on the day of borrowing by Westpac Banking Corporation plus two per cent (2%) per annum or such higher or lower rate as may be determined from time to time by an ordinary resolution of the Company in General Meeting.

**78. Negotiable Instruments**

All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Company shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any two (2) Members of the Executive Committee or in such other manner as the Board from time to time determines.

**79. Minutes**

79.1 The Board shall cause minutes to be made of:

- (a) all appointments of officers and servants;
- (b) names of members of the Board present at all meetings of the Company and of the Board;
- (c) any delegation of all or any of the Board's duties and powers in accordance with Clause 76.1; and
- (d) all proceedings at all meetings of the Company and of the Board.

79.2 Such minutes shall be signed by the Chairman of the meeting at which the proceedings were held or by the Chairman of the next succeeding meeting.

**PROCEEDINGS OF THE BOARD (AND EXECUTIVE COMMITTEE)**

**80. Meetings of Board**

80.1 The Board may meet together for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit.

80.2 A meeting of the Board may be held using any technology consented to by a majority of the Board.

80.3 The consent of a Director under Clause 80.2 may be for all Board meetings or for any number of Board meetings and may only be withdrawn by that Director within a reasonable period before a Board meeting.

80.4 If a Board meeting is held in 2 or more places linked together by any technology a Director present at one of those places is taken to be present at the meeting unless and until the Director states to the Chairman of the meeting that the Director is discontinuing their participation in the meeting.

80.5 The Chairman of that meeting may determine at which place the meeting will be taken to have been held.

80.6 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.

## **81. How to call meetings of Board**

81.1 Notice of a meeting of the Board must be given to each Director.

81.2 A notice of meeting of the Board must:

- (a) set out the place, date and time for the meeting (and, if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this); and
- (b) state the general nature of the business of the meeting.

81.3 The Company must give not less than **72** hours notice of a meeting of Directors, unless all Directors agree otherwise.

81.4 A Director may waive notice of a meeting of Directors by notice in writing to the Company to that effect.

## **82. Meetings of Executive Committee**

82.1 The Executive Committee may meet together for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit.

82.2 A member of the Executive Committee may at any time, and the Secretary shall on the requisition of a member of the Executive Committee, summon a meeting of the Executive Committee.

82.3 No notice of a meeting of the Executive Committee need be given to any non-Executive Committee member or third party, other than to the Chief Executive Officer who will be invited to attend all meetings of the Executive Committee. The Chief Executive Officer will have a right to speak at Executive Committee meetings and receive notices of, and papers relating to, Executive Committee meetings but, given he or she is not a member of the Executive Committee, will not have any right to vote.

## **83. Voting**

83.1 Subject to this Constitution, questions arising at any meeting of the Board or the Executive Committee shall be decided by a majority of votes.

83.2 A determination by a majority of the members of the Board or the Executive Committee, as the case may be, shall for all purposes be deemed a determination of the Board or the Executive Committee.

83.3 Subject to the Corporations Act, each Director has one vote on a matter arising at a meeting of the Board.

## **84. Equality of Votes**

In case of an equality of votes, the Chairman of the meeting of the Board in addition to their deliberative vote shall have a casting vote.

## **85. Quorum of Board Meetings**

85.1 The quorum necessary for the transaction of the business of the Board shall be three (3) provided that at least one (1) person constituting the quorum shall be a member of the Executive Committee.

85.2 A quorum for a Board Meeting must be present at all times during the meeting.

85.3 If there are not enough persons to form a quorum for a Board Meeting, one or more of the Directors (including those who have an interest in a matter being considered at that meeting) may call a General Meeting of the Company and the General Meeting may pass a resolution to deal with the matter.

**86. Quorum of Executive Committee Meetings**

The quorum necessary for the transaction of the business of the Executive Committee shall be two (2) as may be determined by the Board from time to time.

**87. Capacity to Act notwithstanding Vacancy**

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 Company but for no other purpose.

**88. Chairman**

The Chairman of the Company shall preside at every meeting of the Board and of the Executive Committee or if there is no Chairman or if at any meeting the Chairman is not present within ten (10) minutes after the time appointed for holding the meeting, the Vice-Chairman shall be the Chairman or if the Vice-Chairman is not present at the meeting then the members may choose one of their number to be the Chairman of the meeting.

**89. Appointment of Sub-Committees**

The Board may appoint from among the Members or from the nominated representatives of Supporter Members, sub-committees for any purpose whatever which from time to time it may think desirable and to delegate to any such sub-committee such powers as it may think fit not being duties imposed on the Board as the Directors of the Company by the Act.

**90. Membership and Powers of Sub-Committees**

90.1 Each sub-committee appointed in accordance with Clause 89 shall have at least one (1) member of the Board as a member of that sub-committee unless otherwise determined by the Board.

90.2 The Chairman shall be an ex-Officio member of all sub-committees.

90.3 Any sub-committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the Board.

**91. Disciplinary Sub-Committee**

In the event that pursuant to the provision of Clause 89 the Board appoints a disciplinary sub-committee, the members of such sub-committee shall be made up of past-Chairs and past Directors of the Company's Board of Directors.

**92. Co-option of Advisers**

The Board and any sub-committee may co-opt as advisers non-Members and nominated representatives of Supporter Members, but such advisers shall have no vote.

**93. Chairman of Sub-Committee**

The Chair of a sub-committee of the Board is appointed by the Board. In the absence of a Chair being appointed by the Board or if at any meeting the Chairman is not present within ten (10) minutes after the time appointed for holding their meeting, the Chairman of the Board, if present, shall be Chairman and if not present, the members present may choose one of their number to be Chairman of the meeting.

**94. Meetings of Sub-Committees**

94.1 A sub-committee may meet and adjourn as it thinks proper.

- 94.2 Questions arising at any meeting shall be determined by a majority of votes of the members of the sub-committee entitled to vote at the meetings of the sub-committee who are present.
- 94.3 In the case of equality of votes, the Chairman in addition to his or her deliberative vote shall have a casting vote.
- 94.4 Unless otherwise specified in the minute of the Board members appointing the sub-committee, the quorum of all sub-committees shall consist of a majority of the members of such sub-committee.

**95. Rights of Members to Attend**

Unless the Board determines otherwise, any Member of the Company, or any nominated representative or representatives of a Supporter Member, may attend any meeting of the Board or any sub-committee and may, with the leave of the Chairman, be heard at that meeting but may not vote unless otherwise provided in this Constitution.

**96. Validity of Acts**

All acts done by any meeting of the Board or a sub-committee or by any person acting as a member 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.

**97. Written Resolutions**

97.1 If all the members of the Board have signed a document containing a statement that they are in favour of a resolution of the Board in terms set out in the document, a resolution in those terms shall be deemed to have been passed.

97.2 For the purposes of Clause 97.1, two (2) or more separate documents containing statements in identical terms each of which is signed by one or more members of the Board shall together be deemed to constitute one document containing a statement in those terms signed by those members on the respective days on which they signed the separate documents.

97.3 The resolution is deemed to have been passed at a meeting of the Board on the day and at the time on which the document was last signed by a member of the Board.

97.4 A Director may signify assent to a document under this Clause 97 by signing the document or by notifying the Company of the assent of the Director:

(a) in a manner permitted by Clause 108; or

(b) by any technology including telephone.

97.5 Where a Director signifies assent to a document under Clause 97.4 other than by signing the document, the Director must by way of conformation sign the document before or at the next meeting of the Board attended by that Director.

97.6 The resolution the subject of a document under this Clause 97 is not invalid if a Director does not comply with Clause 97.5.

97.7 A reference in Clause 97.1 to all the members of the Board does not include a reference to a member who at a meeting of the Board would not be entitled to vote on the resolution or who at the time when the document was both first and last signed by a member was not present in Australia.

## **CHIEF EXECUTIVE OFFICER**

### **98. Appointment of Chief Executive Officer**

- 98.1 The Board may appoint any person as a Chief Executive Officer for such period and on such terms as it thinks fit and, subject to the terms of any agreement entered into in a particular case, may revoke such appointment at any time.
- 98.2 If the person appointed as a Chief Executive Officer is not an elected member of the Board, that person is invited:
- (a) by the Board to attend all Board meetings in accordance with Clause 61.4 and shall cease to have the right to attend Board meetings if he or she ceases, for any cause, to be the Chief Executive Officer; and
  - (b) by the Executive Committee to attend all meetings of the Executive Committee in accordance with Clause 82.3 and shall cease to have the right to attend Executive Committee meetings if he or she ceases, for any cause to be the Chief Executive Officer.
- 98.3 The Board may, upon such terms and conditions as it thinks fit, confer upon a Chief Executive Officer any of the powers exercisable by the Executive Committee and any such powers so conferred:
- (a) may be concurrent with or be to the exclusion of the power of the Executive Committee; and
  - (b) may be withdrawn or varied at any time by the Board.
- 98.4 Without derogating from the provisions of Clause 98.3, a Chief Executive Officer shall, subject to the Act, this Constitution and any policy determination by the Board or his or her term of appointment, have the power to conduct and manage all of the day-to-day activities of the Company including the engagement or termination of engagement of staff.
- 98.5 A Chief Executive Officer shall report to the Executive Committee on his or her management of the activities of the Company and to the Board as and when required.
- 98.6 A Chief Executive Officer shall, subject to the terms of any agreement entered into in a particular case, receive such remuneration by way of salary but not by way of commission or participation in profits as the Board may determine.

## **BRANCHES**

### **99. Establishment of Branch Committees**

- 99.1 The Board may by ordinary resolution approve the establishment of a Branch of the Company.
- 99.2 Each Branch will appoint a Branch Committee which will be nominated and elected by the Members of that Branch at the Branch Annual General Meeting.
- 99.3 The Branch Committee, will elect a Chairman, vice-Chairman and finance from the elected members, who will perform those functions as determined by the Branch Committee. All Members elected onto the Branch Committee will serve for a period of two (2) years.
- 99.4 The Chairman elected pursuant to Clause 99.3 must be a General Member.
- 99.5 Any Branch established in accordance with Clause 99.1 shall bear such name, have such members, operate and conduct its activities for such purpose and in such manner, adopt such rules and regulations and otherwise have such powers and responsibilities as are determined from time to time by the Board.

- 99.6 Any Branch established by the Board shall affiliate with the Company in such manner as the Board determines.
- 99.7 A Branch Committee shall, without prejudice to any rights conferred on it by this Constitution but subject always to the control of the Board, have the following powers, duties and discretions on behalf of the Facility Management Association of Australia within the limits of its own Branch:
- (a) It may take cognisance of anything affecting FMA Australia or the professional conduct of Members and shall forthwith make a report thereof to the Board.
  - (b) It shall undertake the responsibilities outlined in the Branch Charter, which has been approved by the Board
  - (c) It shall furnish each year to the Board a report of the activities of its Branch during the previous year and such other information as the Board may require
  - (d) It may from time to time establish a Sub-Branch or Group of its Branch at any place in the State or Territory or place in which such Branch is established, provided that any such Sub-Branch or Group is governed by rules approved by the Board. It may at any time discontinue any such Sub-Branch provided that any Sub-Branch or Group which was initially established by the Board may only be discontinued by a Branch Committee with Board approval.

## **SECRETARY AND HONORARY SECRETARY**

### **100. Appointment of Secretary**

- 100.1 The Secretary shall, in accordance with the Act, be appointed by the Board for such term, upon such conditions as it thinks fit, and any Secretary so appointed may, subject to any agreement between the Company and the Secretary, be removed by it and the Board may vary the term and conditions of the appointment of the Secretary, at any time.
- 100.2 In the absence of any person being appointed to perform the duties of Secretary, the Chief Executive Officer will be appointed as, and will perform the role of, Secretary.
- 100.3 The Secretary will undertake those duties delegated to him or her by the Board, the Chairman and the Chief Executive Officer.
- 100.4 The Board may also appoint an Honorary Secretary for such term and upon such conditions as agreed between the Honorary Secretary and the Board. The role of the Honorary Secretary will be limited to those matters determined by the Board from time to time and agreed by the Honorary Secretary.

## **SEAL**

### **101. Custody and Use of Seal**

- 101.1 The Board shall provide for the safe custody of the Seal.
- 101.2 The Seal 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.
- 101.3 Subject to Clause 78, every instrument to which the Seal is affixed shall be signed by a member of the Executive Committee 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.

## **ACCOUNTS**

### **102. Maintenance and Distribution of Accounts**

- 102.1 The Board shall cause proper accounting and other records to be kept and shall distribute copies of the financial statements (including every document required by law to be attached) accompanied by a copy of the auditor's report as required by the Act.
- 102.2 The Board shall cause to be made out and laid before each Annual General Meeting the financial statements made up to a date not more than five (5) months before the date of the meeting.

## **INSPECTION**

### **103. Availability of Records for Inspection**

- 103.1 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 Company shall be open to the inspection of Members.
- 103.2 For so long as the Company has under its care, custody and control any property which is subject to a trust, the Board shall reasonably make available to the trustee of such property (or any registered company auditor appointed by the trustee for inspection) all the accounting records of the Company which are relevant to that property.

## **AUDIT**

### **104. Appointment and Duties of Auditors**

- 104.1 Subject to the Act and Clause 104.2, an auditor or auditors shall be appointed and their duties regulated in accordance with the Act.
- 104.2 No person shall be appointed an auditor if the person is a Member of the Company or is a partner, employer or employee of a Member of the Company or of the nominated representative of a Supporter Member.

## **NOTICES**

### **105. Giving of Notices**

- 105.1 The Company may give Notice to a Member:
- (a) in person;
  - (b) by sending it by post to the address of the Member in the Register of Members or the alternative address (if any) nominated by that Member; or
  - (c) by sending it to the fax number or electronic address (if any) nominated by that Member.
- 105.2 If the address of a Member in the Register of Members is not within Australia, the Company must send all documents to that Member by air-mail, air courier or by fax.
- 105.3 Subject to the Act, a Notice to a Member is sufficient, even if:
- (a) an event described in Clauses 27 to 33 occurs in respect of that Member; or
  - (b) that Member is an externally administered body corporate,
- and regardless of whether or not the Company has notice of that event.

105.4 Any Notice required or allowed to be given by the Company to one or more Members by advertisement is, unless otherwise stipulated, sufficiently advertised if advertised once in a daily newspaper circulating in the states and territories of Australia.

**106. Recipients of Notices**

106.1 Notice of every General Meeting shall be given in any manner authorised in this Constitution to:

- (a) every Member except those Members who (having no registered address within Australia) have not supplied to the Company an address within Australia for the giving of notices to them;
- (b) every person nominated as the representative of a Supporter Member;
- (c) every member of the Board, whether elected or appointed;
- (d) Attendees; and
- (e) the auditor or auditors for the time being of the Company.

106.2 No other person shall be entitled to receive notices of General Meetings.

**107. Notice to Directors**

107.1 The Company may give Notice to a Director:

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

**108. Notice to the Company**

108.1 A person may give Notice to the Company:

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

**109. Time of Service**

109.1 A notice sent by post to an address within Australia is taken to be given:

- (a) in the case of a notice of meeting, one Business Day after it is posted; or
- (b) in any other case, at the time at which the notice would be delivered in the ordinary course of post.

109.2 A notice sent by post or air-mail to an address outside Australia is taken to be given:

- (a) in the case of a notice of meeting, one Business Day after it is posted; or
  - (b) in any other case, at the time at which the notice would be delivered in the ordinary course of post.
- 109.3 A notice sent by air courier to a place outside Australia is taken to be given one Business Day after delivery to the air courier.
- 109.4 A notice sent by fax is taken to be given on the Business Day that it is sent, provided that the sender's transmission report shows that the whole notice was sent to the correct fax number.
- 109.5 The giving of a notice by post, air-mail or air courier is sufficiently proved by evidence that the notice:
- (a) was addressed to the correct address of the recipient; and
  - (b) was placed in the post or delivered to the air courier.
- 109.6 A certificate by a Director or Secretary of a matter referred to in Clause 109.5 is sufficient evidence of the matter, unless it is proved to the contrary.

## **110. Signatures**

The Directors may decide, generally or in a particular case, that a notice given by the Company be signed by mechanical or other means.

## **WINDING UP**

### **111. Effect of Winding-Up**

- 111.1 Each Member of the Company undertakes to contribute to the property of the Company in the event of its being wound up:
- (a) while he or she is a Member; or
  - (b) within one (1) year after he or she ceases to be a Member
- for:
- (c) payment of the debts and liabilities of the Company contracted whilst he or she was a Member; and
  - (d) the costs, charges and expenses of winding up for an adjustment of the rights of contributories among themselves.
- 111.2 The amount required under this Clause 111 shall not exceed One Hundred Dollars (\$100).

### **112. Surplus Property upon Winding-Up**

- 112.1 On winding up of the Company, the Members must determine one or more companies, associations or institutions, whose constituent documents satisfy the requirements set out below, to whom the liquidator must give or transfer any surplus on winding up. The constituent documents must:
- (a) require it to pursue only objects similar to those of the Company and to apply its income in promoting those objects;
  - (b) prohibit it from making distributions to its members to at least the same extent as in Clause 8; and
  - (c) prohibit it from paying fees to its directors and require its directors to approve all other payments the company makes to its directors.

## INDEMNITY AND INSURANCE

### 113. Availability and Limits of Indemnity

113.1 To the extent permitted by law, the Company will indemnify each Director, Secretary and Officer against:

- (a) a Liability of that person; and
- (b) Legal Costs of that person.

113.2 To the extent permitted by law, the Company will make a payment (whether by way of advance, loan or otherwise) to a Director, Secretary or Officer in respect of Legal Costs of that person on such reasonable terms as the Company determines.

113.3 To the extent permitted by law, the Company will pay, or agree to pay, a premium for a contract insuring a Director, Secretary or Officer against:

- (a) a Liability of that person; and
- (b) Legal Costs of that person,

to the extent that such a contract is available in the market on terms (including the amount of the premium) which the Company reasonably considers are financially prudent.

113.4 To the extent permitted by law, the Company will enter into an agreement or deed with:

- (a) a Director or Secretary; or
- (b) a person who is, or has been an Officer of the Company or a subsidiary of the Company,

under which the Company must do all or any of the following:

- (c) keep books of the Company and allow either or both that person and that person's advisers access to those books on the terms agreed;
- (d) indemnify that person against any Liability of that person;
- (e) make a payment (whether by way of advance, loan or otherwise) to that person in respect of Legal Costs of that person; and
- (f) keep that person insured in respect of any act or omission by that person while a Director or Secretary or an Officer of the Company or a subsidiary of the Company, on the terms agreed (including as to payment of all or part of the premium for the contract of insurance).

113.5 For the purposes of this Clause 113, "Officer" shall mean a person:

- (a) who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the Company;
- (b) who has the capacity to affect significantly the Company's financial standing;
- (c) in accordance with those instructions or wishes the Directors of the Company are accustomed to act (excluding advice given by the person in proper performance of functions attaching to the person's professional capacity or their business relationship with the Directors or the Company);
- (d) who is the immediate past Chairman of the Company; or
- (e) who is an Honorary Secretary