



Australian Business Students' Association

CONSTITUTION OF

AUSTRALIAN BUSINESS STUDENTS' ASSOCIATION LIMITED

Australian Company Number (ACN) [insert ACN]

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A company limited by guarantee

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Preliminary

1. Name of the company

The name of the **company** is

Australian Business Students' Association Limited (the **Company**).

2. Type of company

The **Company** is a not-for-profit public **Company** limited by guarantee which is established to be, and to continue as, a charity.

3. Limited liability of Legal Members

The liability of Legal Members is limited to the amount of the guarantee in clause 4.

4. The guarantee

Each Legal Member must contribute an amount not more than \$10 (the guarantee) to the property of the **company** if the **company** is wound up while the Legal Member is a Legal Member, or within 12 months after they stop being a Legal Member, and this contribution is required to pay for the:

- (a) debts and liabilities of the **company** incurred before the Legal Member stopped being a Legal Member, or
- (b) costs of winding up.

5. Definitions

In this constitution, words and phrases have the meaning set out in clauses 70 and 72.

Charitable purposes and powers

6. Object

The **company's** object is to advance the education of all business students by pursuing the following charitable purpose(s):

- 6.1 Advocate and Advance the interests, welfare and concerns of Australian Business Students;
- 6.2 Facilitate communication and interaction between Australian Business Students through the holding professional and social events;
- 6.3 Foster and promote collaboration between Australian Business student associations and professional organisations; and

6.4 Provide inclusive access to opportunities for Australian business students to enhance their employability, network and professional skills.

7. Powers

Subject to clause 8, the **company** has the following powers, which may only be used to carry out its purpose(s) set out in clause 6:

- (a) the powers of an individual, and
- (b) all the powers of a **company** limited by guarantee under the **Corporations Act**.

8. Not-for-profit

8.1 The **company** must not distribute any income or assets directly or indirectly to its Legal Members or other Legal Members, except as provided in clauses 8.2 and 69.

8.2 Clause 8.1 does not stop the **company** from doing the following things, provided they are done in good faith:

- (a) paying a Legal Member or other Legal Member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the **company**, or
- (b) making payment to a Legal Member or other Legal Member for efforts expended or expenses incurred in carrying out the **company's** charitable purposes.

9. Amending the constitution

9.1 Subject to clause 9.2, the Legal Members may amend this constitution by passing a **special resolution**.

9.2 The Legal Members must not pass a **special resolution** that amends this constitution if passing it causes the **company** to no longer be a charity.

Legal Members

10. Legal Membership and register of Legal Members

10.1 The Legal Members of the **company** are:

- (a) **Initial Legal Members**, and
- (b) any other person that the directors allow to be a Legal Member, in accordance with this constitution.

10.2 The **company** must establish and maintain a register of Legal Members. The register of Legal Members must be kept by the secretary and must contain:

- (a) for each current Legal Member:
 - i. name
 - ii. address
 - iii. any alternative address nominated by the Legal Member for the service of notices, and

- iv. date the Legal Member was entered on to the register.
 - (b) for each person who stopped being a Legal Member in the last 7 years:
 - i. name
 - ii. address
 - iii. any alternative address nominated by the Legal Member for the service of notices, and
 - iv. dates the Legal Membership started and ended.
- 10.3 The **company** must give current Legal Members access to the register of Legal Members.
- 10.4 Information that is accessed from the register of Legal Members must only be used in a manner relevant to the interests or rights of Legal Members.

11. Who can be a Legal Member

- 11.1 An Australian Business/ Commerce Student or Australian Business/ Commerce Student Society who supports the purposes of the **company** is eligible to apply to be a Legal Member of the **company** under clause 12.
- 11.2 Eligibility for or status as a Legal Member of the company is not affected by a person ceasing to be an Australian Business/ Commerce Student
- 11.3 Any person who supports the purposes of the company may be eligible to apply to be a Legal Member of the company under clause 12 on approval by resolution of the directors.
- 11.4 In this clause, 'person' means an individual or incorporated body.

12. How to apply to become a Legal Member

A person (as defined in clause 11.2) may apply to become a Legal Member of the **company** by writing to the secretary stating that they:

- (a) want to become a Legal Member
- (b) support the purposes of the **company**,
- (c) can demonstrate a history or potential of substantive contribution to the company, and
- (d) agree to comply with the **company's** constitution, including paying the guarantee under clause 4 if required.

13. Directors decide whether to approve Legal Membership

- 13.1 The directors must consider an application for Legal Membership within a reasonable time after the secretary or their authorised delegate receives the application.
- 13.2 If the directors approve an application, the secretary or their authorised delegate must as soon as possible:
 - (a) enter the new Legal Member on the register of Legal Members, and
 - (b) write to the applicant to tell them that their application was approved, and the date that their Legal Membership started (see clause 14).

- 13.3 If the directors reject an application, the secretary or their authorised delegate must write to the applicant as soon as possible to tell them that their application has been rejected, but does not have to give reasons.
- 13.4 For the avoidance of doubt, the directors may approve an application even if the application does not state the matters listed in clauses 12(a), 12(b), 12(c) or 12(d). In that case, by applying to be a Legal Member, the applicant agrees to those four matters.

14. When a person becomes a Legal Member

Other than **Initial Legal Members**, an applicant will become a Legal Member when they are entered on the register of Legal Members.

15. When a person stops being a Legal Member

A person immediately stops being a Legal Member if they:

- (a) die
- (b) are wound up or otherwise dissolved or deregistered (for an incorporated Legal Member)
- (c) resign, by writing to the secretary or their authorised delegate;
- (d) are expelled under clause 17;
- (e) have not responded within three months to a written request from the secretary that they confirm in writing that they want to remain a Legal Member;
- (f) are removed by resolution of the directors;
- (g) are under a Legal Member's Agreement and that agreement is terminated.

Dispute resolution and disciplinary procedures

16. Dispute resolution

- 16.1 The dispute resolution procedure in this clause applies to disputes (disagreements) under this constitution between a Legal Member or director and:
- (a) one or more Legal Members
 - (b) one or more directors, or
 - (c) one or more of its Legal Member organisations
 - (d) the **company**.
- 16.2 A Legal Member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 17 until the disciplinary procedure is completed.
- 16.3 Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.
- 16.4 If those involved in the dispute do not resolve it under clause 16.3, they must within 10 days:

- (a) tell the Executive Committee about the dispute in writing, or if between Legal Members of the Executive Committee, tell the directors;
 - (b) agree or request that mediation be entered into, and
 - (c) attempt in good faith to settle the dispute by mediation.
- 16.5 Upon being informed of a dispute, the Executive Committee or directors must refer the matter to the Discipline and Grievance Committee.
- 16.6 At first instance the Discipline and Grievance Committee will mediate the dispute.
- 16.7 A Legal Member of the Discipline and Grievance Committee must remove themselves from a mediation if they:
- (a) have a personal interest in the dispute, and
 - (b) are biased towards or against anyone involved in the dispute.
- 16.8 When conducting the mediation, the Discipline and Grievance Committee must:
- (a) allow those involved a reasonable chance to be heard
 - (b) allow those involved a reasonable chance to review any written statements
 - (c) ensure that those involved are given natural justice, and
 - (d) not make a decision on the dispute.

17. Disciplining Legal Members

- 17.1 In accordance with this clause, the Discipline and Grievance Committee or directors may resolve to warn, suspend or expel a Legal Member from the **company** if the Discipline and Grievance Committee or directors consider that:
- (a) the Legal Member has breached this constitution, or
 - (b) the Legal Member's behaviour is causing, has caused, or is likely to cause harm to the **company**.
- 17.2 At least 14 days before the Discipline and Grievance Committee or directors' meeting at which a resolution under clause 17.1 will be considered, the secretary or their delegate must notify the Legal Member in writing:
- (a) that the Discipline and Grievance Committee or directors are considering a resolution to warn, suspend or expel the Legal Member
 - (b) that this resolution will be considered at a Discipline and Grievance Committee or directors' meeting and the date of that meeting
 - (c) what the Legal Member is said to have done or not done
 - (d) the nature of the resolution that has been proposed, and
 - (e) that the Legal Member may provide an explanation to the Discipline and Grievance Committee or directors, and details of how to do so.
- 17.3 Before the Discipline and Grievance Committee or directors pass any resolution under clause 17.1, the Legal Member must be given a chance to explain or defend themselves by:
- (a) sending the Discipline and Grievance Committee or directors a written explanation before that directors' meeting, and/or
 - (b) speaking at the meeting.

- 17.4 After considering any explanation under clause 17.3, the Discipline and Grievance Committee or directors may, at their sole discretion:
- (a) take no further action
 - (b) warn the Legal Member
 - (c) suspend the Legal Member's rights as a Legal Member for a period of no more than 12 months
 - (d) expel the Legal Member
 - (e) refer the decision to an unbiased, independent person on conditions that the directors consider appropriate (however, the person can only make a decision that the Discipline and Grievance Committee or directors could have made under this clause)
 - (f) require the matter to be determined at a **general meeting**,
 - (g) impose whatever conditions deemed proper on the Legal Membership of the Legal Member.
- 17.5 The Discipline and Grievance Committee or directors cannot fine a Legal Member.
- 17.6 The secretary or their delegate must give written notice to the Legal Member of the decision under clause 17.4 as soon as possible.
- 17.7 Disciplinary procedures must be completed as soon as reasonably practical.
- 17.8 There will be no liability for any loss or injury suffered by the Legal Member as a result of any decision under this clause.

General meetings of Legal Members

18. General meetings called by directors

- 18.1 The directors may call a **general meeting**.
- 18.2 If Legal Members with at least 5% of the votes that may be cast at a **general meeting** make a written request to the **company** for a **general meeting** to be held, the directors must:
- (a) within 21 days of the Legal Members' request, give all Legal Members notice of a **general meeting**, and
 - (b) hold the **general meeting** within 2 months of the Legal Members' request.
- 18.3 The percentage of votes that Legal Members have (in clause 18.2) is to be worked out as at midnight before the Legal Members request the meeting.
- 18.4 The Legal Members who make the request for a **general meeting** must:
- (a) state in the request any resolution to be proposed at the meeting
 - (b) sign the request, and
 - (c) give the request to the **company**.

18.5 Separate copies of a document setting out the request may be signed by Legal Members if the wording of the request is the same in each copy.

19. General meetings called by Legal Members

19.1 If the directors do not call the meeting within 21 days of being requested under clause 18.2, 50% or more of the Legal Members who made the request may call and arrange to hold a **general meeting**.

19.2 To call and hold a meeting under clause 19.1 the Legal Members must:

- (a) as far as possible, follow the procedures for **general meetings** set out in this constitution
- (b) call the meeting using the list of Legal Members on the **company's** Legal Members register, which the **company** must provide to the Legal Members making the request at no cost, and
- (c) hold the **general meeting** within three months after the request was given to the **company**.

19.3 The **company** must pay the Legal Members who request the **general meeting** any reasonable expenses they incur because the directors did not call and hold the meeting.

20. Annual general meeting

20.1 A **general meeting**, called the annual **general meeting**, must be held:

- (a) within 18 months after registration of the **company**, and
- (b) after the first annual **general meeting**, at least once in every calendar year.

20.2 Even if these items are not set out in the notice of meeting, the business of an annual **general meeting** may include:

- (a) a review of the **company's** activities
- (b) a review of the **company's** finances
- (c) any auditor's report
- (d) the election of directors, and
- (e) the appointment and payment of auditors, if any.

20.3 Before or at the annual **general meeting**, the directors must give information to the Legal Members on the **company's** activities and finances during the period since the last annual **general meeting**.

20.4 The chairperson of the annual **general meeting** must give Legal Members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the **company**.

21. Notice of general meetings

21.1 Notice of a **general meeting** must be given to:

- (a) each Legal Member entitled to vote at the meeting
 - (b) each director, and
 - (c) the auditor (if any).
- 21.2 Notice of a **general meeting** must be provided in writing at least 21 days before the meeting.
- 21.3 Subject to clause 21.4, notice of a meeting may be provided less than 21 days before the meeting if:
- (a) for an annual **general meeting**, all the Legal Members entitled to attend and vote at the annual **general meeting** agree beforehand, or
 - (b) for any other **general meeting**, Legal Members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- 21.4 Notice of a meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:
- (a) remove a director
 - (b) appoint a director in order to replace a director who was removed, or
 - (c) remove an auditor.
- 21.5 Notice of a **general meeting** must include:
- (a) the place, date and time for the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this)
 - (b) the general nature of the meeting's business
 - (c) if applicable, that a **special resolution** is to be proposed and the words of the proposed resolution
 - (d) a statement that Legal Members have the right to appoint proxies and that, if a Legal Member appoints a proxy:
 - i. the proxy does not need to be a Legal Member of the **company**
 - ii. the proxy form must be delivered to the **company** at its registered address or the address (including an electronic address) specified in the notice of the meeting, and
 - iii. the proxy form must be delivered to the **company** at least 48 hours before the meeting.
- 21.6 If a **general meeting** is adjourned (put off) for one month or more, the Legal Members must be given new notice of the resumed meeting.

22. Quorum at general meetings

- 22.1 For a **general meeting** to be held, at least 3 Legal Members (a quorum) must be present (in person, by proxy or by representative) for the whole meeting. When determining whether a quorum is present, a person may only be counted once (even if that person is a representative or proxy of more than one Legal Member).
- 22.2 No business may be conducted at a **general meeting** if a quorum is not present.

- 22.3 If there is no quorum present within 30 minutes after the starting time stated in the notice of **general meeting**, the **general meeting** is adjourned to the date, time and place that the chairperson specifies. If the chairperson does not specify one or more of those things, the meeting is adjourned to:
- (a) if the date is not specified – the same day in the next week
 - (b) if the time is not specified – the same time, and
 - (c) if the place is not specified – the same place.
- 22.4 If no quorum is present at the resumed meeting within 30 minutes after the starting time set for that meeting, the meeting is cancelled.

23. Auditor's right to attend meetings

- 23.1 The auditor (if any) is entitled to attend any **general meeting** and to be heard by the Legal Members on any part of the business of the meeting that concerns the auditor in the capacity of auditor.
- 23.2 The **company** must give the auditor (if any) any communications relating to the **general meeting** that a Legal Member of the **company** is entitled to receive.

24. Representatives of Legal Members

- 24.1 An incorporated Legal Member may appoint as a representative:
- (a) one individual to represent the Legal Member at meetings and to sign circular resolutions under clause 31, and
 - (b) the same individual or another individual for the purpose of being appointed or elected as a director.
- 24.2 The appointment of a representative by a Legal Member must:
- (a) be in writing
 - (b) include the name of the representative
 - (c) be signed on behalf of the Legal Member, and
 - (d) be given to the **company** or, for representation at a meeting, be given to the chairperson before the meeting starts.
- 24.3 A representative has all the rights of a Legal Member relevant to the purposes of the appointment as a representative.
- 24.4 The appointment may be standing (ongoing).

25. Using technology to hold meetings

- 25.1 The **company** may hold a **general meeting** at two or more venues using any technology that gives the Legal Members as a whole a reasonable opportunity to participate, including to hear and be heard.
- 25.2 Anyone using this technology is taken to be present in person at the meeting.

26. Chairperson for general meetings

- 26.1 The **elected chairperson** is entitled to chair **general meetings**.

- 26.2 The Legal Members present and entitled to vote at a **general meeting** may choose a director or Legal Member to be the chairperson for that meeting if:
- (a) there is no **elected chairperson**, or
 - (b) the **elected chairperson** is not present within 30 minutes after the starting time set for the meeting, or
 - (c) the **elected chairperson** is present but says they do not wish to act as chairperson of the meeting.

27. Role of the chairperson

- 27.1 The chairperson is responsible for the conduct of the **general meeting**, and for this purpose must give Legal Members a reasonable opportunity to make comments and ask questions (including to the auditor (if any)).
- 27.2 The chairperson does not have a casting vote.

28. Adjournment of meetings

- 28.1 If a quorum is present, a **general meeting** must be adjourned if a majority of **Legal Members present** direct the chairperson to adjourn it.
- 28.2 Only unfinished business may be dealt with at a meeting resumed after an adjournment.

Legal Members' resolutions and statements

29. Legal Members' resolutions and statements

- 29.1 Legal Members with at least 5% of the votes that may be cast on a resolution may give:
- (a) written notice to the **company** of a resolution they propose to move at a **general meeting** (Legal Members' resolution), and/or
 - (b) a written request to the **company** that the **company** give all of its Legal Members a statement about a proposed resolution or any other matter that may properly be considered at a **general meeting** (Legal Members' statement).
- 29.2 A notice of a Legal Members' resolution must set out the wording of the proposed resolution and be signed by the Legal Members proposing the resolution.
- 29.3 A request to distribute a Legal Members' statement must set out the statement to be distributed and be signed by the Legal Members making the request.
- 29.4 Separate copies of a document setting out the notice or request may be signed by Legal Members if the wording is the same in each copy.

- 29.5 The percentage of votes that Legal Members have (as described in clause 29.1) is to be worked out as at midnight before the request or notice is given to the **company**.
- 29.6 If the **company** has been given notice of a Legal Members' resolution under clause 29.1(a), the resolution must be considered at the next **general meeting** held more than two months after the notice is given.
- 29.7 This clause does not limit any other right that a Legal Members has to propose a resolution at a **general meeting**.

30. Company must give notice of proposed resolution or distribute statement

- 30.1 If the **company** has been given a notice or request under clause 29:
- (a) in time to send the notice of proposed Legal Members' resolution or a copy of the Legal Members' statement to Legal Members with a notice of meeting, it must do so at the **company's** cost, or
 - (b) too late to send the notice of proposed Legal Members' resolution or a copy of the Legal Members' statement to Legal Members with a notice of meeting, then the Legal Members who proposed the resolution or made the request must pay the expenses reasonably incurred by the **company** in giving Legal Members notice of the proposed Legal Members' resolution or a copy of the Legal Members' statement. However, at a **general meeting**, the Legal Members may pass a resolution that the **company** will pay these expenses.
- 30.2 The **company** does not need to send the notice of proposed Legal Members' resolution or a copy of the Legal Members' statement to Legal Members if:
- (a) it is more than 1 000 words long
 - (b) the directors consider it may be defamatory
 - (c) clause 30.1(b) applies, and the Legal Members who proposed the resolution or made the request have not paid the **company** enough money to cover the cost of sending the notice of the proposed Legal Members' resolution or a copy of the Legal Members' statement to Legal Members, or
 - (d) in the case of a proposed Legal Members' resolution, the resolution does not relate to a matter that may be properly considered at a **general meeting** or is otherwise not a valid resolution able to be put to the Legal Members.

31. Circular resolutions of Legal Members

- 31.1 Subject to clause 31.3, the directors may put a resolution to the Legal Members to pass a resolution without a **general meeting** being held (a circular resolution).

- 31.2 The directors must notify the auditor (if any) as soon as possible that a circular resolution has or will be put to Legal Members, and set out the wording of the resolution.
- 31.3 Circular resolutions cannot be used:
- (a) for a resolution to remove an auditor, appoint a director or remove a director
 - (b) for passing a **special resolution**, or
 - (c) where the **Corporations Act** or this constitution requires a meeting to be held.
- 31.4 A circular resolution is passed if all the Legal Members entitled to vote on the resolution sign or agree to the circular resolution, in the manner set out in clause 31.5 or clause 31.6.
- 31.5 Legal Members may sign:
- (a) a single document setting out the circular resolution and containing a statement that they agree to the resolution, or
 - (b) separate copies of that document, as long as the wording is the same in each copy.
- 31.6 The **company** may send a circular resolution by email to Legal Members and Legal Members may agree by sending a reply email to that effect, including the text of the resolution in their reply.

Voting at general meetings

32. How many votes a Legal Member has

Each Legal Member has one vote.

33. Challenge to Legal Member's right to vote

33.1 A Legal Member or the chairperson may only challenge a person's right to vote at a **general meeting** at that meeting.

33.2 If a challenge is made under clause 33.1, the chairperson must decide whether or not the person may vote. The chairperson's decision is final.

34. How voting is carried out

34.1 Voting must be conducted and decided by:

- (a) a show of hands
- (b) a vote in writing, or
- (c) another method chosen by the chairperson that is fair and reasonable in the circumstances.

34.2 Before a vote is taken, the chairperson must state whether any proxy votes have been received and, if so, how the proxy votes will be cast.

- 34.3 On a show of hands, the chairperson's decision is conclusive evidence of the result of the vote.
- 34.4 The chairperson and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.

35. When and how a vote in writing must be held

- 35.1 A vote in writing may be demanded on any resolution instead of or after a vote by a show of hands by:
 - (a) at least five **Legal Members present**
 - (b) **Legal Members present** with at least 5% of the votes that may be passed on the resolution on the vote in writing (worked out as at the midnight before the vote in writing is demanded), or
 - (c) the chairperson.
- 35.2 A vote in writing must be taken when and how the chairperson directs, unless clause 35.3 applies.
- 35.3 A vote in writing must be held immediately if it is demanded under clause 35.1:
 - (a) for the election of a chairperson under clause 26.2, or
 - (b) to decide whether to adjourn the meeting.
- 35.4 A demand for a vote in writing may be withdrawn.

36. Appointment of proxy

- 36.1 A Legal Member may appoint a proxy to attend and vote at a **general meeting** on their behalf.
- 36.2 A proxy does not need to be a Legal Member.
- 36.3 A proxy appointed to attend and vote for a Legal Member has the same rights as the Legal Member to:
 - (a) speak at the meeting
 - (b) vote in a vote in writing (but only to the extent allowed by the appointment), and
 - (c) join in to demand a vote in writing under clause 35.1.
- 36.4 An appointment of proxy (proxy form) must be signed by the Legal Member appointing the proxy and must contain:
 - (a) the Legal Member's name and address
 - (b) the **company's** name
 - (c) the proxy's name or the name of the office held by the proxy, and
 - (d) the meeting(s) at which the appointment may be used.
- 36.5 A proxy appointment may be standing (ongoing).
- 36.6 Proxy forms must be received by the **company** at the address stated in the notice under clause 21.5(d) or at the **company's** registered address at least 48 hours before a meeting.

- 36.7 A proxy does not have the authority to speak and vote for a Legal Member at a meeting while the Legal Member is at the meeting.
- 36.8 Unless the **company** receives written notice before the start or resumption of a **general meeting** at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing Legal Member:
- (a) dies
 - (b) is mentally incapacitated
 - (c) revokes the proxy's appointment, or
 - (d) revokes the authority of a representative or agent who appointed the proxy.
- 36.9 A proxy appointment may specify the way the proxy must vote on a particular resolution.

37. **Voting by proxy**

- 37.1 A proxy is not entitled to vote on a show of hands (but this does not prevent a Legal Member appointed as a proxy from voting as a Legal Member on a show of hands).
- 37.2 When a vote in writing is held, a proxy:
- (a) does not need to vote, unless the proxy appointment specifies the way they must vote
 - (b) if the way they must vote is specified on the proxy form, must vote that way, and
 - (c) if the proxy is also a Legal Member or holds more than one proxy, may cast the votes held in different ways.

Directors

38. **Number of directors**

The **company** must have at least three and no more than nine directors.

39. **Election and appointment of directors**

- 39.1 The initial directors are the people who have agreed to act as directors and who are named as proposed directors in the application for registration of the **company**.
- 39.2 Incoming directors may be appointed into office by resolution of the existing directors. The company will confirm the appointment by resolution at the company's next Annual General Meeting. If the Appointment is not confirmed, the person ceases to be a director at the end of the Annual General Meeting.
- 39.3 If there the number of directors is reduced to fewer than three or is less than the number required for a quorum, additional directors may appointed by resolution of the Legal Members at a general meeting until there are three directors or the

number of directors required for a quorum. This does not limit the power of continuing director(s) under clause 39.2.

- 39.4 Each of the directors must be appointed by a separate resolution, unless:
- (a) the Legal Members present have first passed a resolution that the appointments may be voted on together, and
 - (b) no votes were cast against that resolution.
- 39.5 A person is eligible for election as a director of the **company** if they:
- (a) are a Legal Member of the **company**, a representative of a Legal Member of the **company** (appointed under clause 24), an Executive Committee Legal Member or any other person made eligible by company by-law or resolution of the directors.
 - (b) are nominated by two Legal Members, representatives of Legal Members entitled to vote, Executive Committee Legal Members or directors (unless the person was previously elected as a director at a **general meeting** and has been a director since that meeting),
 - (c) give the **company** their signed consent to act as a director of the **company**, and
 - (d) are not ineligible to be a director under the **Corporations Act** or the **ACNC Act**.
- 39.6 The directors may appoint a person as a director to fill a casual vacancy or as an additional director if that person:
- (a) is a Legal Member of the **company**, or a representative of a Legal Member of the **company** (appointed under clause 24)
 - (b) gives the **company** their signed consent to act as a director of the **company**, and
 - (c) is not ineligible to be a director under the **Corporations Act** or the **ACNC Act**.
- 39.7 If the number of directors is reduced to fewer than three or is less than the number required for a quorum, the continuing directors may act for the purpose of increasing the number of directors to three (or higher if required for a quorum) or calling a **general meeting**, but for no other purpose.

40. Election of chairperson

The directors must elect a director as the **company's elected chairperson**.

41. Term of office

- 41.1 Other than a director appointed under clause 39.6, a director's term of office starts at the end of the annual **general meeting** at which they are elected and ends at the end of the annual **general meeting** at which they retire.

- 41.2 Each director is to retire on the 4th annual general meeting of their term (excluding the annual general meeting at which they are appointed).
- 41.3 A director who retires under clause 41.1 may nominate for election or re-election, subject to clause 41.4, and may do so at the same annual general meeting at which they are to retire in accordance with clause 41.2.
- 41.4 A director who has held office for a continuous period of twelve years or more may only be re-appointed or re-elected by a **special resolution**

42. When a director stops being a director

A director stops being a director if they:

- (a) give written notice of resignation as a director to the **company**
- (b) die
- (c) are removed as a director by resolution of the Legal Members in accordance with section 203D of the Corporations Act.
- (d) stop being a Legal Member of the **company**
- (e) are a representative of a Legal Member, and that Legal Member stops being a Legal Member
- (f) are a representative of a Legal Member, and the Legal Member notifies the **company** that the representative is no longer a representative
- (g) are absent for 4 consecutive directors' meetings or from all directors' meetings within a 6 month period without proper excuse or approval from the directors;
- (h) become ineligible to be a director of the **company** under the **Corporations Act** or the **ACNC Act**;
- (i) are removed by passing of a **Special Resolution**;
- (j) become a mentally incapacitated person; or
- (k) persistently carry out their duties and powers in a manner that is inconsistent or prejudicial to the interests of the company.

Powers of directors

43. Powers of directors

- 43.1 The directors are responsible for managing and directing the activities of the **company** to achieve the purposes set out in clause 6.
- 43.2 The directors may use all the powers of the **company** except for powers that, under the **Corporations Act** or this constitution, may only be used by Legal Members.
- 43.3 The directors must decide on the responsible financial management of the **company** including:
- (a) any suitable written delegations of power under clause 44,

- (b) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved, and
- (c) how financing arrangements may be pursued and managed.

43.4 The directors cannot remove a director or auditor. Directors and auditors may only be removed by a Legal Members' resolution at a **General Meeting**.

44 Delegation of directors' powers

44.1 The directors may delegate any of their powers and functions to the Executive Committee, a subcommittee or any Legal Member thereof, a director, an employee of the **company** (such as a chief executive officer) or any other person, as they consider appropriate.

44.2 The delegation must be recorded in the **company's** minute book.

45. Payments to directors

45.1 The **company** may pay fees of a certain amount to a director for acting as a director if approved by resolution of the Legal Members.

45.2 The **company** may:

- (a) pay a director for goods or services they provide to the the **company**, other than as a director, if the amount is no more than a reasonable fee for the goods provided or work done, or
- (b) reimburse a director for expenses properly incurred by the director in connection with the affairs of the **company**.

45.3 Any payment made under clause 45.2 must be approved by resolution of the directors of which such resolution may be standing or incorporated in a by-law.

45.4 The **company** may pay premiums for insurance indemnifying directors, as allowed for by law (including the **Corporations Act**) and this constitution.

46. Execution of documents

The **company** may execute a document without using a common seal if the document is signed by:

- (a) two directors of the **company**, or
- (b) a director and the secretary.

Duties of directors

47. Duties of directors

The directors must comply with their duties as directors under legislation and common law (judge-made law), and with the duties described in governance standard 5 of the regulations made under the **ACNC Act** which are:

- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a director of the **company**
- (b) to act in good faith in the best interests of the **company** and to further the charitable purpose(s) of the **company** set out in clause 6
- (c) not to misuse their position as a director
- (d) not to misuse information they gain in their role as a director
- (e) to disclose any perceived or actual material conflicts of interest in the manner set out in clause 48
- (f) to ensure that the financial affairs of the **company** are managed responsibly, and
- (g) not to allow the **company** to operate while it is insolvent.

48. Conflicts of interest

- 48.1 A director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of directors (or that is proposed in a circular resolution):
- (a) to the other directors, or
 - (b) if all of the directors have the same conflict of interest, to the Legal Members at the next **general meeting**, or at an earlier time if reasonable to do so.
- 48.2 The disclosure of a conflict of interest by a director must be recorded in the minutes of the meeting.
- 48.3 Each director who has a material personal interest in a matter that is being considered at a meeting of directors (or that is proposed in a circular resolution) must not, except as provided under clauses 48.4:
- (a) be present at the meeting while the matter is being discussed, or
 - (b) vote on the matter.
- 48.4 For the avoidance of doubt holding any position on an Australian Business/ Commerce Student Association or being in employment or association with a business/ commerce faculty of an Australian approved higher education institution is not, in and of itself, a conflict of interest.
- 48.5 A director may still be present and vote if:
- (a) their interest arises because they are a Legal Member of the **company**, and the other Legal Members have the same interest

- (b) their interest relates to an insurance contract that insures, or would insure, the director against liabilities that the director incurs as a director of the **company** (see clause 66)
- (c) their interest relates to a payment by the **company** under clause 65 (indemnity), or any contract relating to an indemnity that is allowed under the **Corporations Act**
- (d) the Australian Securities and Investments Commission (ASIC) makes an order allowing the director to vote on the matter, or
- (e) the directors who do not have a material personal interest in the matter pass a resolution that:
 - (i) identifies the director, the nature and extent of the director's interest in the matter and how it relates to the affairs of the **company**, and
 - (ii) says that those directors are satisfied that the interest should not stop the director from voting or being present.

Directors' meetings

49. When the directors meet

The directors may decide how often, where and when they meet.

50. Calling directors' meetings

50.1 A director may call a directors' meeting by giving reasonable notice to all of the other directors.

50.2 A director may give notice in writing or by any other means of communication that has previously been agreed to by all of the directors.

51. Chairperson for directors' meetings

51.1 The **elected chairperson** is entitled to chair directors' meetings.

51.2 The directors at a directors' meeting may choose a director to be the chairperson for that meeting if the **elected chairperson** is:

- (a) not present within 30 minutes after the starting time set for the meeting, or
- (b) present but does not want to act as chairperson of the meeting.

52. Quorum at directors' meetings

52.1 Unless the directors determine otherwise, the quorum for a directors' meeting is the greater of 3 directors or a majority (more than 50%) of directors at the time the meeting is called.

52.2 A quorum must be present for the whole directors' meeting.

53. Using technology to hold directors' meetings

- 53.1 The directors may hold their meetings by using any technology (such as video or teleconferencing) that is agreed to by all of the directors.
- 53.2 The directors' agreement may be a standing (ongoing) one.
- 53.3 A director may only withdraw their consent within a reasonable period before the meeting.

54. Passing directors' resolutions

A directors' resolution must be passed by a majority of the votes cast by directors present and entitled to vote on the resolution.

55. Circular resolutions of directors

- 55.1 The directors may pass a circular resolution without a directors' meeting being held.
- 55.2 A circular resolution is passed if all the directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in clause 55.3 or clause 55.4.
- 55.3 Each director may sign:
 - (a) a single document setting out the resolution and containing a statement that they agree to the resolution, or
 - (b) separate copies of that document, as long as the wording of the resolution is the same in each copy.
- 55.4 The **company** may send a circular resolution by email to the directors and the directors may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.
- 55.5 A circular resolution is passed when the last director signs or otherwise agrees to the resolution in the manner set out in clause 55.3 or clause 55.4.

Secretary

56. Appointment and role of secretary

- 56.1 The **company** must have at least one secretary, who may also be a director.
- 56.2 A secretary must be appointed by the directors (after giving the **company** their signed consent to act as secretary of the **company**) and may be removed by the directors.
- 56.3 The directors must decide the terms and conditions under which the secretary is appointed, including any remuneration.
- 56.4 The role of the secretary includes:
 - (a) maintaining a register of the **company's** Legal Members, and

- (b) maintaining the minutes and other records of **general meetings** (including notices of meetings), directors' meetings and circular resolutions.

Minutes and records

57. Minutes and records

- 57.1 The **company** must, within one month, make and keep the following records:
 - (a) minutes of proceedings and resolutions of **general meetings**
 - (b) minutes of circular resolutions of Legal Members
 - (c) a copy of a notice of each **general meeting**, and
 - (d) a copy of a Legal Members' statement distributed to Legal Members under clause 30.
- 57.2 The **company** must, within one month, make and keep the following records:
 - (a) minutes of proceedings and resolutions of directors' meetings (including meetings of any committees), and
 - (b) minutes of circular resolutions of directors.
- 57.3 To allow Legal Members to inspect the **company's** records:
 - (a) the **company** must give a Legal Member access to the records set out in clause 57.1, and
 - (b) the directors may authorise a Legal Member to inspect other records of the **company**, including records referred to in clause 57.2 and clause 58.1.
- 57.4 The directors must ensure that minutes of a **general meeting** or a directors' meeting are signed within a reasonable time after the meeting by:
 - (a) the chairperson of the meeting, or
 - (b) the chairperson of the next meeting.
- 57.5 The directors must ensure that minutes of the passing of a circular resolution (of Legal Members or directors) are signed by a director within a reasonable time after the resolution is passed.

58. Financial and related records

- 58.1 The **company** must make and keep written financial records that:
 - (a) correctly record and explain its transactions and financial position and performance, and
 - (b) enable true and fair financial statements to be prepared and to be audited.
- 58.2 The **company** must also keep written records that correctly record its operations.
- 58.3 The **company** must retain its records for at least 7 years.

- 58.4 The directors must take reasonable steps to ensure that the **company's** records are kept safe.

By-laws

59. By-laws

- 59.1 The directors may pass a resolution to make by-laws to give effect to this constitution.
- 59.2 Legal Members and directors must comply with by-laws as if they were part of this constitution.
- 59.3 The Directors may alter, modify or remove by-laws from time to time by passing a resolution.
- 59.4 The Executive Committee may all do those things authorised to be done the directors under clause 59.1 and 59.3 if they do so in accordance with an applicable by-law passed by resolution of the directors.
- 59.5 In the event there is any consistency between a by-law and this constitution, the interpretation of the constitution will prevail.

Notice

60. What is notice

- 60.1 Anything written to or from the **company** under any clause in this constitution is written notice and is subject to clauses 61 to 63, unless specified otherwise.
- 60.2 Clauses 61 to 63 do not apply to a notice of proxy under clause 36.6.

61. Notice to the company

Written notice or any communication under this constitution may be given to the **company**, the directors or the secretary by:

- (a) delivering it to the **company's** registered office
- (b) posting it to the **company's** registered office or to another address chosen by the **company** for notice to be provided
- (c) sending it to an email address or other electronic address notified by the **company** to the Legal Members as the **company's** email address or other electronic address, or
- (d) sending it to the fax number notified by the **company** to the Legal Members as the **company's** fax number.

62. Notice to Legal Members

- 62.1 Written notice or any communication under this constitution may be given to a Legal Member:
- (a) in person
 - (b) by posting it to, or leaving it at the address of the Legal Member in the register of Legal Members or an alternative address (if any) nominated by the Legal Member for service of notices
 - (c) sending it to the email or other electronic address nominated by the Legal Member as an alternative address for service of notices (if any)
 - (d) sending it to the fax number nominated by the Legal Member as an alternative address for service of notices (if any), or
 - (e) if agreed to by the Legal Member, by notifying the Legal Member at an email or other electronic address nominated by the Legal Member, that the notice is available at a specified place or address (including an electronic address).
- 62.2 If the **company** does not have an address for the Legal Member, the **company** is not required to give notice in person.

63. When notice is taken to be given

A notice:

- (a) delivered in person, or left at the recipient's address, is taken to be given on the day it is delivered
- (b) sent by post, is taken to be given on the third day after it is posted with the correct payment of postage costs
- (c) sent by email, fax or other electronic method, is taken to be given on the business day after it is sent, and
- (d) given under clause 62.1(e) is taken to be given on the business day after the notification that the notice is available is sent.

Financial year

64. Company's financial year

The **company's** financial year is from 1 July to 30 June, unless the directors pass a resolution to change the financial year.

Indemnity, insurance and access

65. Indemnity

- 65.1 The **company** indemnifies each officer and auditor of the **company** out of the assets of the **company**, to the relevant extent, against all proceedings, claims, damages, losses and liabilities (including costs, expenses and charges) suffered or incurred by that person as an officer or auditor of the **company** including, but

limited to, in relation to any acts or omissions of the person in performing their duties as an officer or any agreement that the company has entered into.

- 65.2 In this clause, 'officer' means a director or secretary and includes a director or secretary after they have ceased to hold that office, or any person that acts under the delegated authority of a director or secretary or is resolved to be indemnified by the directors.
- 65.3 In this clause, 'to the relevant extent' means:
- (a) to the extent that the **company** is not precluded by law (including the **Corporations Act** and **ACNC Act**) from doing so, and
 - (b) for the amount that the officer or auditor is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).
- 65.4 The indemnity is a continuing obligation and is enforceable by an officer or auditor even though that person is no longer an officer or auditor of the **company**.
- 65.5 The indemnity described in clause 65.1 does not apply to liabilities owed by the officer or auditor to the company, liabilities for pecuniary penalties orders imposed under the Corporations Act or for liabilities owed to someone other than the company that did not arise from conduct in good faith.

66. Insurance

To the extent permitted by law (including the **Corporations Act**), and if the directors consider it appropriate, the **company** may pay or agree to pay a premium for a contract insuring a person who is or has been an officer of the **company** against any liability incurred by the person as an officer of the **company**.

67. Directors' access to documents

- 67.1 A director has a right of access to the financial records of the **company** at all reasonable times.
- 67.2 If the directors agree, the **company** must give a director or former director access to:
- (a) certain documents, including documents provided for or available to the directors, and
 - (b) any other documents referred to in those documents.

Winding up

68 Surplus assets not to be distributed to Legal Members

If the **company** is wound up, any **surplus assets** must not be distributed to a Legal Member or a former Legal Member of the **company**, unless that Legal Member or former Legal Member is a charity described in clause 69.1.

69. Distribution of surplus assets

69.1 Subject to the **Corporations Act** and any other applicable Act, and any court order, any **surplus assets** that remain after the **company** is wound up must be distributed to one or more charities:

- (a) with charitable purpose(s) similar to, or inclusive of, the purpose(s) in clause 6, and
- (b) which also prohibit the distribution of any **surplus assets** to its Legal Members to at least the same extent as the **company**.

69.2 The decision as to the charity or charities to be given the **surplus assets** must be made by a **special resolution** of Legal Members at or before the time of winding up. If the Legal Members do not make this decision, the **company** may apply to the Supreme Court to make this decision.

Definitions and interpretation

70. Definitions

In this constitution:

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

Australian Business/ Commerce Degree means a degree (either research, undergraduate or postgraduate) approved by an Australian approved higher education institution that primarily covers topic areas pertaining to business commerce, finance and/or economics. Some examples include, but is not limited to, degrees covering actuarial studies, accounting, business analytics, business information systems, human resources, marketing, business law and business administration.

Australian Business/Commerce Student means any person enrolled in an **Australian Business/ Commerce Degree**, including international students studying for the period of their exchange or students studying an overseas business degree from Australia.

Australian Business/ Commerce Student Society means a society or Association representing Australian Business/ Commerce Students run by, and for the benefit of Australian Business/Commerce Students.

company means the **company** referred to in clause 1

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

Discipline and Grievance Committee means a committee formed and governed in accordance with a bylaw of the company to mediate disputes between parties associated with the company and administer disciplinary proceedings and judgements with regard to the Legal Members of the company.

elected chairperson means a person elected by the directors to be the **company's** chairperson under clause 40

general meeting means a meeting of Legal Members and includes the annual **general meeting**, under clause 20.1

Initial Legal Member means a person who is named in the application for registration of the **company**, with their consent, as a proposed Legal Member of the **company**

Legal Member has the meaning of 'member' in section 9 of the Corporations Act.

Legal Member present means, in connection with a **general meeting**, a **Legal Member present** in person, by representative or by proxy at the venue or venues for the meeting

registered charity means a charity that is registered under the **ACNC Act**

special resolution means a resolution:

- i. of which notice has been given under clause 21.5(c), and
- ii. that has been passed by at least 75% of the votes cast by **Legal Members present** and entitled to vote on the resolution, and

surplus assets means any assets of the **company** that remain after paying all debts and other liabilities of the **company**, including the costs of winding up.

71. Reading this constitution with the Corporations Act

71.1 The replaceable rules set out in the **Corporations Act** do not apply to the **company**.

71.2 While the **company** is a **registered charity**, the **ACNC Act** and the **Corporations Act** override any clauses in this constitution which are inconsistent with those Acts.

71.3 If the **company** is not a **registered charity** (even if it remains a charity), the **Corporations Act** overrides any clause in this constitution which is inconsistent with that Act.

71.4 A word or expression that is defined in the **Corporations Act**, or used in that Act and covering the same subject, has the same meaning as in this constitution.

72. Interpretation

In this constitution:

- (a) the words 'including', 'for example', or similar expressions mean that there may be more inclusions or examples than those mentioned after that expression, and
- (b) reference to an Act includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation made under that Act (such as regulations).

Committees

73. Committees and Subcommittees

- 73.1. The directors by resolution may create any committee or subcommittee that it sees fit and when the need arises.
- 73.2. The committees and subcommittees will be governed and given powers to act in relation to the company by by-laws.
- 73.3. Legal Members of committees and subcommittees will be appointed by the Directors or their delegates and may be removed.

