

CONSTITUTION OF Institute of Management Consultants

Australian Company Number (ACN) [000 628 884]
Australian Business Number (ABN) [32 000 628 884]
A company limited by guarantee

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Preliminary

1. Name of the Institute

The name of the **Institute** is Institute of Management Consultants (the **Institute**).

2. Type of company

The **Institute** is a not-for-profit public **company** limited by guarantee.

3. Limited liability of members

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

4. The guarantee

Each member must contribute an amount not more than \$20 (the guarantee) to the property of the **Institute** if the **Institute** is wound up while the member is a member, or within 12 months after they stop being a member, and this contribution is required to pay for the:

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

5. Definitions

In this constitution, words and phrases have the meaning set out in clauses 69 and 71.

Purposes and powers

6. Object

The object of the Institute is to promote excellence and integrity in the management consulting profession, to improve the knowledge and skill of management consultants with respect to their roles, duties and responsibilities and to encourage and require the highest professional standards and ethics among management consultants and, in fulfilling this object, the Institute will:

- a. Raise the awareness of the Institute and the benefits of using professional management consultants among business and government.
- b. Act as the peak organisation for management consulting in Australia and act as the Australian affiliated member of the International Council of Management Consulting Institutes and other peak professional organisations that help achieve the object.
- c. Only apply the income and property of the Institute in promoting the object of the Institute.

7. Powers

Subject to clause 8 the **Institute** 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 **Institute** must not distribute any income or assets directly or indirectly to its members, except as provided in clauses 8.2 and 68.
- 8.2 Clause 8.1 does not stop the **Institute** from doing the following things, provided they are done in good faith:
- (a) paying a 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 **Institute**, or
 - (b) making a payment to a member in carrying out the **Institute's** purposes.

9. Amending the constitution

- 9.1 Subject to clause 9.2, the members may amend this constitution by passing a **special resolution**.
- 9.2 The members must not pass a **special resolution** that amends this constitution if passing it causes the **Institute** to no longer be a company limited by guarantee nor revoke clauses 67 and 68.

Members

10. Membership and register of members

- 10.1 The members of the **Institute** are:
- (a) current members, and
 - (b) any other classes that the directors allow to be a member, in accordance with this constitution.
- 10.2 The Institute has the following classes of members:
- (a) Individual professional and non-professional, and
 - (b) Member Firm
- 10.3 The Institute has the following professional member grades :
- (a) Associate,
 - (b) Member,
 - (c) Fellow, and
 - (d) Emeritus (Emeritus Fellow and Emeritus Member)
- 10.4 The Institute has the following non-professional member grades:
- (a) Affiliate,
 - (b) Honorary Fellow, and
 - (c) Member Firm.
- 10.5 Each **Member Firm** will designate in writing a representative who meets one of the individual professional membership grades to act on its behalf in all dealings with the Institute.
- 10.6 **Designations:**
Members may, upon satisfying the assessment, financial, and/or other criteria determined by the Institute have the right to use post-nominals and designations.
- 10.7 The **Institute** must establish and maintain a register of members. The register of members must be kept by the secretary or their duly appointed nominee and must contain:
- (a) for each current member:

- i. name,
 - ii. address,
 - iii. any alternative address nominated by the member for the service of notices, and
 - iv. date the member was entered on to the register.
 - (b) for each person who stopped being a member in the last 7 years:
 - i. name,
 - ii. address,
 - iii. any alternative address nominated by the member for the service of notices, and
 - iv. dates the membership started and ended.
- 10.8 The **Institute** may give current members access to the register of members for a specific purpose, provided that privacy considerations of members are maintained.
- 10.9 Information that is accessed from the register of members must only be used in a manner relevant to the interests or rights of members or as permitted by the Corporations Act.

11. Who can be a member

- 11.1 A person who supports the purposes of the **Institute** is eligible to apply to be a member of the **Institute** under clause 12.
- 11.2 In this clause, 'person' means an individual or firm (incorporated body).

12. How to apply to become a member

- 12.1 A person (as defined in clause 11.2) may apply to become a member of the Institute by writing to the Institute stating that they:
- (a) want to become a member and comply with the Code of Ethics,
 - (b) support the purpose(s) of the **Institute**, and
 - (c) agree to comply with the **Institute's** constitution, including paying the guarantee under clause 4 if required.
- 12.2 The Directors may resolve from time to time that any person applying to become a member must pay an application fee and, if so, how much and when and how it is to be paid.
- 12.3 The Directors may determine whether there will be an Annual Subscription Fee and, if so, the annual amount for each member or grade of members.

13. Directors decide whether to approve membership

- 13.1 The directors must consider an application for membership within a reasonable time after the Institute receives the application.
- 13.2 If the directors approve an application, the Institute must as soon as possible:
- (a) enter the new member on the register of Members, and
 - (b) write or email to the applicant to tell them that their application was approved, and the date that their membership started (see clause 14).
- 13.3 If the directors reject an application, the Institute 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) or 12(c). In that case, by applying to be a member, the applicant agrees to those three matters.

14. When a person becomes a member

Other than current members, an applicant will become a member when they are entered on the register of members.

15. When a person stops being a member

A person immediately stops being a member if they:

- (a) die;
- (b) are wound up or otherwise dissolved or deregistered (for a member firm);
- (c) resign, by writing to the Institute;
- (d) are deemed by the board to be unfinancial;
- (e) are expelled under clause 18; or
- (f) have not responded within three months to a written request from the Institute that they confirm in writing that they want to remain a member.

Chapters and Special Interest Groups

16. Establishment of Chapters and Special Interest Groups

- 16.1 The Directors may from time to time designate any group of members to be a Chapter of the Institute and the Committee of any such Chapter will exercise the powers, authorities and discretions imposed on it by this Constitution and any by-laws made from time to time by Directors. The group may be a State or Territory or the combination of a State and Territory or States and Territories or any other group of members seeking to fulfil the Object of the Institute.
- 16.2 A member may not be a member of more than one Chapter.
- 16.3 A member may transfer from one Chapter to another Chapter provided that the member fulfils the requirements prescribed in the by-laws for membership of the Chapter to which that Member proposes to transfer.
- 16.4 The Directors may from time to time establish or disband any other group of members that is not a Chapter to be a Special Interest Group of the Institute.
- 16.5 A member of a Special Interest Group may also be a member of a Chapter
- 16.6 The requirements for membership of a Special Interest Group will be prescribed in the by-laws and the Special Interest Group will comply with those by-laws including the payment of any levy in addition to the Annual Subscription Fee.

Dispute resolution and disciplinary procedures

17. Dispute resolution

- 17.1 The dispute resolution procedure in this clause applies to disputes (disagreements) under this constitution between a member or director and:
 - (a) one or more members,
 - (b) one or more directors, or
 - (c) the **Institute**.
- 17.2 A member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 18 until the disciplinary procedure is completed.
- 17.3 Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.

- 17.4 If those involved in the dispute do not resolve it under clause 17.3, they must within 10 days:
- (a) tell the directors about the dispute in writing,
 - (b) agree or request that a mediator be appointed, and
 - (c) attempt in good faith to settle the dispute by mediation.
- 17.5 The mediator must:
- (a) be chosen by agreement of those involved, or
 - (b) where those involved do not agree:
 - i. for disputes between members, a person chosen by the directors; or
 - ii. for other disputes, a person chosen by either the Commissioner of the Australian Charities and Not-for-profits Commission or the president of the law institute or society in the state or territory in which the **Institute** has its registered office.
- 17.6 A mediator chosen by the directors under clause 17.5(b)(i):
- (a) may be a member or former member of the **Institute**,
 - (b) must not have a personal interest in the dispute, and
 - (c) must not be biased towards or against anyone involved in the dispute.
- 17.7 When conducting the mediation, the mediator 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.

18. Disciplining members

- 18.1 In accordance with this clause, the directors may resolve to warn, suspend or expel a member from the **Institute** if the directors consider that:
- (a) the member has breached this constitution, or the code of ethics, or
 - (b) the member's behaviour is causing, has caused, or is likely to cause harm to the **Institute**.
- 18.2 At least 14 days before the directors' meeting at which a resolution under clause 18.1 will be considered, the Institute must notify the member in writing:
- (a) that the directors are considering a resolution to warn, suspend or expel the member;
 - (b) that this resolution will be considered at a directors' meeting and the date of that meeting;
 - (c) what the member is said to have done or not done;
 - (d) the nature of the resolution that has been proposed; and
 - (e) that the member may provide an explanation to the directors, and details of how to do so.
- 18.3 Before the directors pass any resolution under clause 18.1 at the meeting scheduled under clause 18.2, the member must be given a chance to explain or defend themselves by sending the directors a written explanation before that directors' meeting, and/or speaking at the meeting.
- 18.4 After considering any explanation under clause 18.3, the directors may:
- (a) take no further action;
 - (b) warn the member;
 - (c) suspend the member's rights as a member for a period of no more than 12 months;
 - (d) expel the 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 directors could have made under this clause); or
 - (f) require the matter to be determined at a **general meeting**.
- 18.5 The directors cannot fine a member.
- 18.6 The Institute must give written notice to the member of the decision under clause 18.4 as soon as possible.
- 18.7 Disciplinary procedures must be completed as soon as reasonably practicable.
- 18.8 There will be no liability upon the Institute, its directors or any independent person appointed under clause 18.4 (e) for any loss or damage of whatsoever nature including consequential loss and loss of reputation suffered by the member as a result of any decision made in good faith under this clause.

General meetings of members

19. General meetings called by directors

- 19.1 The directors may call a **general meeting**.
- 19.2 If professional members with at least 5% of the votes that may be cast at a **general meeting** make a written request to the **Institute** for a **general meeting** to be held, the directors must:
- (a) within 21 days of the members' request, give all members notice of a **general meeting**; and
 - (b) hold the **general meeting** within 2 months of the members' request.
- 19.3 The percentage of votes that professional members have (in clause 19.2) is to be worked out as at midnight before the members request the meeting.
- 19.4 The professional 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 **Institute**.
- 19.5 Separate copies of a document setting out the request may be signed by professional members if the wording of the request is the same in each copy.

20. General meetings called by members

- 20.1 If the directors do not call the meeting within 21 days of being requested under clause 19.2, 50% or more of the members who made the request may call and arrange to hold a **general meeting**.
- 20.2 To call and hold a meeting under clause 20.1 the 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 members on the **Institute's** member register, which the **Institute** must provide to the members making the request at no cost; and
 - (c) hold the **general meeting** within three months after the request was given to the **Institute**.
- 20.3 The **Institute** must pay the members who request the **general meeting** any reasonable expenses they incur because the directors did not call and hold the meeting.

21. Annual general meeting

- 21.1 A **general meeting**, called the annual **general meeting**, must be held:
- (a) at least once in every calendar year, and in accordance with, the Corporations Act.
- 21.2 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 **Institute's** activities
 - (b) a review of the **Institute's** finances,
 - (c) any auditor's report, and
 - (d) the appointment and payment of auditors, if any.
- 21.3 Before or at the annual **general meeting**, the directors must give information to the members on the **Institute's** activities and finances during the period since the last annual **general meeting**.
- 21.4 The chairperson of the annual **general meeting** must give members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the **Institute**.

22. Notice of general meetings

- 22.1 Notice of a **general meeting** must be given to:
- (a) each professional member entitled to vote at the meeting ,
 - (b) each director, and
 - (c) the auditor (if any).
- 22.2 Notice of a **general meeting** must be provided in writing at least 21 days before the meeting.
- 22.3 Subject to clause 22.4, notice of a meeting may be provided less than 21 days before the meeting if:
- (a) for an annual **general meeting**, all the members entitled to attend and vote at the annual **general meeting** agree beforehand; or
 - (b) for any other **general meeting**, members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- 22.4 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.
- 22.5 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; and
 - (d) a statement that members have the right to appoint proxies and that, if a member appoints a proxy:
 - i. the proxy does not need to be a member of the **Institute**,
 - ii. the proxy form must be delivered to the **Institute** 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 **Institute** at least 48 hours before the meeting.
- 22.6 If a **general meeting** is adjourned for one month or more, the members must be given new notice of the resumed meeting.

23. Quorum at general meetings

- 23.1 For a **general meeting** to be held, at least the greater of 5% of professional members or 3 professional members (a quorum) must be present (in person, by electronic attendance, 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 member).
- 23.2 No business may be conducted at a **general meeting** if a quorum is not present.
- 23.3 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.
- 23.4 If no quorum is present at the resumed meeting within 30 minutes after the starting time set for that meeting, the meeting is cancelled.

24. Auditor's right to attend meetings

- 24.1 The auditor (if any) is entitled to attend any **general meeting** and to be heard by the members on any part of the business of the meeting that concerns the auditor in the capacity of auditor.
- 24.2 The **Institute** must give the auditor (if any) any communications relating to the **general meeting** that a member of the **Institute** is entitled to receive.

25. Using technology to hold meetings

- 25.1 The **Institute** may hold a **general meeting** at two or more venues using any technology that gives the 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 members present and entitled to vote at a **general meeting** may choose a director or 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 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 **professional members present** direct the chairperson to adjourn it.

28.2 Only unfinished business may be dealt with at a meeting resumed after an adjournment.

Members' resolutions and statements

29. Members' resolutions and statements

29.1 Professional members with at least 5% of the votes that may be cast on a resolution may give:

- (a) written notice to the **Institute** of a resolution they propose to move at a **general meeting** (members' resolution), and/or
- (b) a written request to the **Institute** that the **Institute** give all of its members a statement about a proposed resolution or any other matter that may properly be considered at a **general meeting** (members' statement).

29.2 A notice of a professional members' resolution must set out the wording of the proposed resolution and be signed by the members proposing the resolution.

29.3 A request to distribute a professional members' statement must set out the statement to be distributed and be signed by the professional members making the request.

29.4 Separate copies of a document setting out the notice or request may be signed by professional members if the wording is the same in each copy.

29.5 The percentage of votes that professional 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 **Institute**.

29.6 If the **Institute** has been given notice of a professional members' resolution under clause 29.1(a), the resolution must be considered at the next **general meeting** held no more than two months after the notice is given.

29.7 This clause does not limit any other right that a member has to propose a resolution at a **general meeting**.

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

30.1 If the **Institute** has been given a notice or request under clause 29:

- (a) in time to send the notice of proposed members' resolution or a copy of the members' statement to members with a notice of meeting, it must do so at the **Institute's** cost; or
- (b) too late to send the notice of proposed members' resolution or a copy of the members' statement to members with a notice of meeting, then the members who proposed the resolution or made the request must pay the expenses reasonably incurred by the **Institute** in giving members notice of the proposed members' resolution or a copy of the members' statement. However, at a **general meeting**, the members may pass a resolution that the **Institute** will pay these expenses.

30.2 The **Institute** does not need to send the notice of proposed members' resolution or a copy of the members' statement to 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 members who proposed the resolution or made the request have not paid the **Institute** enough money to cover the cost of sending the notice of the proposed members' resolution or a copy of the members' statement to members; or
- (d) in the case of a proposed 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 members.

Voting at general meetings

31. How many votes a member has

- 31.1 Each professional member who is financial has one vote.
- 31.2 Non-professional members and member firms do not have the right to vote.

32. Challenge to member's right to vote

- 32.1 A member or the chairperson may only challenge a person's right to vote at a **general meeting** at that meeting.
- 32.2 If a challenge is made under clause 32.1, the chairperson must decide whether or not the person may vote. The chairperson's decision is final.

33. How voting is carried out

- 33.1 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.
- 33.2 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.
- 33.3 On a show of hands, the chairperson's decision is conclusive evidence of the result of the vote.
- 33.4 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.

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

- 34.1 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 **members present**,
 - (b) **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.
- 34.2 A vote in writing must be taken when and how the chairperson directs, unless clause 34.3 applies.
- 34.3 A vote in writing must be held immediately if it is demanded under clause 34.1:
 - (a) for the election of a chairperson under clause 26.2, or
 - (b) to decide whether to adjourn the meeting.
- 34.4 A demand for a vote in writing may be withdrawn.

35. Appointment of proxy

- 35.1 A member may appoint a proxy to attend and vote at a **general meeting** on their behalf.
- 35.2 A proxy does not need to be a professional member.
- 35.3 A proxy appointed to attend and vote for a member has the same rights as the 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 34.1.
- 35.4 An appointment of proxy (proxy form) must be signed by the member appointing the proxy and must contain:
- (a) the professional member's category, name and address,
 - (b) the **Institute'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.
- 35.5 A proxy appointment may be standing (ongoing).
- 35.6 Proxy forms must be received by the **Institute** at the address stated in the notice under clause 22.5(d) or at the **Institute's** registered address at least 48 hours before a meeting.
- 35.7 A proxy does not have the authority to speak and vote for a member at a meeting while the member is at the meeting.
- 35.8 Unless the **Institute** 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 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.
- 35.9 A proxy appointment may specify the way the proxy must vote on a particular resolution.

36. Voting by proxy

- 36.1 A proxy is not entitled to vote on a show of hands (but this does not prevent a member appointed as a proxy from voting as a member on a show of hands).
- 36.2 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 member or holds more than one proxy, may cast the votes held in different ways.

Directors

37. Number of directors

- 37.1 The **Institute** must have at least three and no more than nine directors.

37.2 Subject to clause 37.1, not more than six Chapter Directors are to be elected by the directors, and not more than three Appointed Directors are to be appointed.

38. Election and appointment of directors

38.1 Appointment of Chapter Directors

- (a) Each **Chapter Committee** is entitled to nominate a Chapter Director Nominee.
- (b) Chapter Nominees are appointed to the Board of Directors by a majority of the Directors.
- (c) A Chapter Director will be appointed for a term, not exceeding 3 years, as determined by the Board of Directors following agreement with the relevant Chapter.
- (d) The Board of Directors may appoint the Nominee as a Director at a meeting of the Board of Directors and that Director will be taken to have been appointed on the later of the date of that meeting and the date of retirement or resignation of the previous Chapter Director for that Chapter (if any).
- (e) In the event that a Chapter and the Board of Directors cannot agree on a Nominee:
 - (i) The Chair will appoint a Fellow from a Chapter other than the Chapter in question (“Appointee”) who the Chair reasonably believes to be free from any conflicts of interest regarding the selection of the relevant Nominee;
 - (ii) The Appointee will consider the potential candidates in respect of the relevant Chapter and advise the Chair and the relevant Chapter President of the most suitable candidate in the opinion of the Appointee; and
 - (iii) The Board of Directors must appoint that Nominee as a Director in accordance with clause 38.1(d).
- (f) The Chapter will act through its Chapter President and the Board of Directors will act through the Chair in relation to the consultation and agreement referred to in this Section 38.1.

38.2 Appointment of Appointed Directors

- (a) Subject to clause 37.2, the Board of Directors may appoint one or more Appointed Directors, from within or outside the **Institute**, from time to time.
- (b) Subject to Clause 40, an Appointed Director will be appointed for a term commencing on the date of appointment in accordance with this clause 38.2 and ending on the date determined in accordance with clause 40.2.
- (c) Where an Appointed Director must retire as required under, and at the time contemplated by, clause 40.4, and upon that retirement the Board of Directors is either obliged to, or is permitted and proposes to, appoint an Appointed Director in accordance with clause 37.2 in the place of the retiring Appointed Director, the Board of Directors will appoint the relevant person as an Appointed Director at the first meeting of the Board of Directors following the Annual General Meeting in the relevant calendar year.
- (d) An Appointed Director appointed at a meeting of the Board of Directors will be taken to have been appointed on the date of that meeting.

38.3 A person is eligible for nomination as a director of the **Institute if they:**

- (a) are a member of the **Institute**,

- (b) are nominated by two chapter committee members or representatives of members entitled to vote (unless the person was previously elected as a director at a **general meeting** and has been a director since that meeting),
 - (c) give the **Institute** their signed consent to act as a director of the **Institute**, and
 - (d) are not ineligible to be a director under the **Corporations Act**.
- 38.4 The directors may appoint a person as a director to fill a casual vacancy or as an additional director if that person:
- (a) gives the **Institute** their signed consent to act as a director of the **Institute**, and
 - (b) is not ineligible to be a director under the **Corporations Act**.
- 38.5 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.

39. Election of chairperson

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

40. Term of office

- 40.1 At each annual **general meeting**:
- (a) any director appointed by the directors to fill a casual vacancy or as an additional director must retire, and
 - (b) at least one of the remaining directors must retire.
- 40.2 The directors who must retire at each annual **general meeting** under clause 40.1(b) will be the directors who have been longest in office since last being elected. Where directors were elected on the same day, the director(s) to retire will be decided by lot unless they agree otherwise.
- 40.3 Other than a director appointed under clause 38.4, 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.
- 40.4 Each director must retire at least once every three years.
- 40.5 A director who retires under clause 40.4 may nominate for election or re-election, subject to clause 40.6.
- 40.6 A director who has held office for a continuous period of nine years or more may only be re-appointed or re-elected by a **special resolution**.

41. 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 **Institute**;
- (b) die;
- (c) have served three consecutive three year terms and are not re-elected by special resolution;
- (d) are removed as a director by a resolution of the members;
- (e) stop being a financial member of the **Institute** (membership fees are paid after 90 days of renewal);
- (f) are a representative of a chapter, and the chapter notifies the **Institute** that the representative is no longer a representative;

- (g) breaches the directors code of conduct;
- (h) are absent for 3 consecutive directors' meetings without approval from the directors; or
- (i) become ineligible to be a director of the **Institute** under the **Corporations Act**.

Powers of directors

42. Powers of directors

- 42.1 The directors are responsible for managing and directing the activities of the **Institute** to achieve the purposes set out in clause 6.
- 42.2 The directors may use all the powers of the **Institute** except for powers that, under the **Corporations Act** or this constitution, may only be used by members.
- 42.3 The directors must decide on the responsible financial management of the **Institute** including:
 - (a) any suitable written delegations of power under clause 43; and
 - (b) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.
- 42.4 The directors cannot remove a director or auditor. Directors and auditors may only be removed by a members' resolution at a **general meeting**.

43. Delegation of directors' powers

- 43.1 The directors may delegate any of their powers and functions to a committee, a director, an employee of the **Institute** (such as a chief executive officer) or any other person, as they consider appropriate.
- 43.2 The delegation must be recorded in the **Institute's** minute book.

44. Payments to directors

- 44.1 The **Institute** must not pay fees to a director for acting as a director.
- 44.2 The **Institute** may:
 - (a) pay a director for work they do for the **Institute**, other than as a director, if the amount is no more than a reasonable fee for the work done; or
 - (b) reimburse a director for expenses properly incurred by the director in connection with the affairs of the **Institute**.
- 44.3 Any payment made under clause 44.2 must be approved by the directors.
- 44.4 The **Institute** shall pay premiums for insurance indemnifying directors, as allowed for by law (including the **Corporations Act**) and this constitution.

45. Execution of documents

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

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

Duties of directors

46. Duties of directors

The directors must comply with their duties as directors under legislation and common law (judge-made law):

- (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 **Institute**,
- (b) to act in good faith in the best interests of the **Institute** and to further the purposes of the **Institute** 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 47,
- (f) to ensure that the financial affairs of the **Institute** are managed responsibly, and
- (g) not to allow the **Institute** to operate while it is insolvent.

47. Conflicts of interest

- 47.1 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 members at the next **general meeting**, or at an earlier time if reasonable to do so.
- 47.2 The disclosure of a conflict of interest by a director must be recorded in the minutes of the meeting.
- 47.3 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 47.4:
- (a) be present at the meeting while the matter is being discussed, or
 - (b) vote on the matter.
- 47.4 A director may still be present and vote if:
- (a) their interest arises because they are a member of the **Institute**, and the other 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 **Institute** (see clause 65);
 - (c) their interest relates to a payment by the **Institute** under clause 64 (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 **Institute**; and

- (ii) says that those directors are satisfied that the interest should not stop the director from voting or being present.

Directors' meetings

48. When the directors meet

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

49. Calling directors' meetings

- 49.1 A director may call a directors' meeting by giving reasonable notice to all of the other directors.
- 49.2 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.

50. Chairperson for directors' meetings

- 50.1 The **elected chairperson** is entitled to chair directors' meetings.
- 50.2 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.

51. Quorum at directors' meetings

- 51.1 Unless the directors determine otherwise, the quorum for a directors' meeting is a majority (more than 50%) of directors.
- 51.2 A quorum must be present for the whole directors' meeting.

52. Using technology to hold directors' meetings

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

53. 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.

54. Circular resolutions of directors

- 54.1 The directors may pass a circular resolution without a directors' meeting being held.
- 54.2 A circular resolution is passed if 75% of the directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in clause 54.3 or clause 54.4.
- 54.3 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.

- 54.4 The **Institute** 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.

Secretary

55. Appointment and role of secretary

- 55.1 The **Institute** must have at least one secretary, who may also be a director.
- 55.2 A secretary must be appointed by the directors (after giving the **Institute** their signed consent to act as secretary of the **Institute**) and may be removed by the directors.
- 55.3 The directors must decide the terms and conditions under which the secretary is appointed, including any remuneration.
- 55.4 The role of the secretary includes:
- (a) ensuring the register of the **Institute**'s members is established and maintained,
 - (b) maintaining the minutes and other records of **general meetings** (including notices of meetings), directors' meetings and circular resolutions, and
 - (c) performing the specific responsibilities of a company secretary under the Corporations Act.

Minutes and records

56. Minutes and records

- 56.1 The **Institute** 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 members, and
 - (c) a copy of a notice of each **general meeting**.
- 56.2 The **Institute** 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.
- 56.3 To allow members to inspect the **Institute**'s records:
- (a) the **Institute** must give a member access to the records set out in clause 56.1, and
 - (b) the directors may authorise a member to inspect other records of the **Institute**, including records referred to in clause 56.2 and clause 57.1.
- 56.4 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.
- 56.5 The directors must ensure that minutes of the passing of a circular resolution (of members or directors) are signed by a director within a reasonable time after the resolution is passed.

57. Financial and related records

- 57.1 The **Institute** 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.
- 57.2 The **Institute** must also keep written records that correctly record its operations.
- 57.3 The **Institute** must retain its records for at least 7 years.
- 57.4 The directors must take reasonable steps to ensure that the **Institute's** records are kept safe.

By-laws

58. By-laws

- 58.1 The directors may pass a resolution to make by-laws to give effect to this constitution.
- 58.2 Members and directors must comply with by-laws as if they were part of this constitution provided always that if there is a conflict between a provision of the By Laws and a provision of this Constitution then the provision of the Constitution prevails.

Notice

59. What is notice

- 59.1 Anything written to or from the **Institute** under any clause in this constitution is written notice and is subject to clauses 60 to 62, unless specified otherwise.
- 59.2 Clauses 60 to 62 do not apply to a notice of proxy under clause 35.6.

60. Notice to the Institute

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

- (a) delivering it to the **Institute's** registered office,
- (b) posting it to the **Institute's** registered office or to another address chosen by the **Institute** for notice to be provided,
- (c) sending it to an email address or other electronic address notified by the **Institute** to the members as the **Institute's** email address or other electronic address, or

61. Notice to members

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

62. 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 61.1(d) is taken to be given on the business day after the notification that the notice is available is sent.

Financial year

63. Institute's financial year

The **Institute'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

64. Indemnity

- 64.1 The **Institute** indemnifies each officer of the **Institute** out of the assets of the **Institute**, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person as an officer of the **Institute**.
- 64.2 In this clause, 'officer' means a director or secretary and includes a director or secretary after they have ceased to hold that office.
- 64.3 In this clause, 'to the relevant extent' means:
 - (a) to the extent that the **Institute** is not precluded by law (including the **Corporations Act**) from doing so, and
 - (b) for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).
- 64.4 The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the **Institute**.

65. Insurance

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

66. Directors' access to documents

- 66.1 A director has a right of access to the financial records of the **Institute** at all reasonable times.
- 66.2 If the directors agree, the **Institute** 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

67. Surplus assets not to be distributed to members

If the **Institute** is wound up, any **surplus assets** must not be distributed to a member or a former member of the **Institute**, unless that member or former member is a company limited by guarantee described in clause 68.1.

68. Distribution of surplus assets

- 68.1 Subject to the **Corporations Act** and any other applicable Act, and any court order, any **surplus assets** that remain after the **Institute** is wound up must be distributed to one or more companies limited by guarantee:
- (a) with 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 members to at least the same extent as the **Institute**.
- 68.2 The decision as to the companies limited by guarantee to be given the **surplus assets** must be made by a **special resolution** of members at or before the time of winding up. If the members do not make this decision, the **Institute** must apply to the Supreme Court to make this decision.

Definitions and interpretation

69. Definitions

In this constitution:

Chapter means a group of members of the **Institute** identified by the Board or **Institute** as a Chapter.

Chapter Committee means the **Chapter Committee** referred to in clause 16.

Special Interest Group means the **Special Interest Group** referred to in clause 16.

State/Territory Chapter means a geographical based group defined by the Board.

Member Firm means a consulting organisation who is a financial member of the Institute.

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

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

Chapter Director means the **Chapter Director** referred to in clauses 37 and 38.

Appointed Director means the **Appointed Director** referred to in clauses 37 and 38.

An **Appointed Director** may or may not be a member of the **Institute**.

elected chairperson means a person elected by the directors to be the **Institute's** chairperson under clause 39

financial member means a member who has paid their subscriptions by the due date defined by the Board.

general meeting means a meeting of members and includes the annual **general meeting**, under clause 21.1

management consultant has meaning given in clause 6 and the by-laws

management consulting services has meaning given in the by-laws.

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

special resolution means a resolution:

- i. of which notice has been given under clause 22.5(c), and

- ii. that has been passed by at least 75% of the votes cast by **professional members present** and entitled to vote on the resolution.
- surplus assets** means any assets of the **Institute** that remain after paying all debts and other liabilities of the **Institute**, including the costs of winding up.
- Designations** means the post-nominal letters awarded by the Institute.

70. Reading this constitution with the Corporations Act

- 70.1 The replaceable rules set out in the **Corporations Act** do not apply to the **Institute**.
- 70.2 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.

71. 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).