# Constitution of The Order of Australia Association Foundation Ltd

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# The Order of Australia Association Foundation Ltd

**A company limited by guarantee**

# Constitution

## 1 Company's name

The name of the company is **The Order of Australia Association Foundation Ltd**.

## 2 Company's object

The object for which the company is established is to accept appointment as and act as trustee of **The Order of Australia Association Foundation.**

## 3 Company's powers

Solely for the purpose of carrying out the company's object, the company may:

(a) by personal or public appeals or otherwise procure contributions by way of gifts (by will or otherwise), grants, sponsorships or otherwise;

(b) provide funds or other material benefits by way of grant or otherwise;

(c) accept and hold funds or property of any kind on or for any charitable objects or purposes specified or to be specified by any person or to be selected by the directors from a class of trusts, objects or purposes specified by any person;

(d) accept and undertake trusteeship, administration and management of trusts and funds, whether as trustee or as agent for the trustee or otherwise, and charge and accept fees, commission or other remuneration for doing so;

(e) purchase, take on lease or in exchange, hire or otherwise acquire real or personal property, and any rights or privileges;

(f) control, manage, lease, exchange, mortgage, charge, sell, transfer, surrender, dispose of, develop, carry on business or otherwise deal with any real or personal property of any kind or any estate or interest in that property;

(g) invest, deal with and lend money and otherwise provide financial accommodation to, and guarantee or otherwise secure loans to, charitable objects or purposes;

(h) construct, improve, maintain, develop, work, manage and control real or personal property;

(i) enter into contracts and deeds;

(j) appoint an attorney or agent with the powers (including the power to sub-delegate) and on the terms the company thinks fit, and procure registration or recognition of the company in any other country or place;

(k) enter into arrangements with any government or authority, and obtain from any government or authority any right, privilege or concession;

(l) engage, dismiss or suspend any employee, agent, contractor or professional person;

(m) borrow, raise or secure the payment of money and secure the repayment or performance of any debt, liability, contract, guarantee or other engagement in any way and, in particular, by mortgage, charge or overdraft or by the issue of debentures or debenture stock (perpetual or otherwise) charged on all or any of the company's property (both present and future) and purchase, redeem or pay off those securities;

(n) make, draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange and other negotiable or transferable instruments;

(o) print and publish newspapers, periodicals, books or leaflets or otherwise publish information in hard copy or by electronic means;

(p) accept any gift of property, whether subject to any special trust or not;

(q) appoint patrons of the company;

(r) decline or otherwise refuse to accept any gift (by will or otherwise), donation, settlement or other disposition of money or property;

(s) co-ordinate and arrange conferences, meetings, standing committees and commissions and other forums; and

(t) do all other things that are incidental or conducive to doing so.

## 4 Additional powers

The company has the powers set out in the Act but only to the extent necessary or convenient to carry out, or incidental to carrying out, the company's object.

## 5 Income and property

The company's income and property must be applied solely towards promoting the company's object. No part of the income or property may be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus, fee or otherwise, to any of the members or directors. However, this rule 5 does not prohibit making a payment approved by the directors for:

(a) out-of-pocket expenses incurred by a director in performing a duty as a director of the company; or

(b) a service rendered to the company by a director in a professional or technical capacity or as an employee, other than in the capacity as a director of the company, where:

(1) the provision of the service has the prior approval of the directors; and

(2) the amount payable is not more than an amount which commercially would be reasonable payment for the service,

or prohibit payment:

(c) in good faith to any member for goods supplied in the ordinary and usual course of business;

(d) of reasonable and proper interest on money borrowed from a member; or

(e) of reasonable and proper rent for premises let by any member to the company,

or indemnification of, or payment of premiums on contracts of insurance for, any director to the extent permitted by law and this constitution.

## 6 Liability of members

The liability of the members is limited.

## 7 Guarantee by members

Every member undertakes to contribute an amount not more than $100 to the property of the company if it is wound up while he or she is a member or within one year after he or she ceases to be a member, for:

(a) payment of the company's debts and liabilities contracted before the time he or she ceased to be a member;

(b) the costs, charges and expenses of winding up; and

(c) the adjustment of the rights of the contributories among themselves.

## 8 Winding up

(a) If, on the winding up or dissolution of the company, any property remains after satisfaction of all its debts and liabilities, this property must only be given or transferred to a fund, authority or institution:

(1) which is charitable at law; and

(2) whose constitution prohibits distributions or payments to its members and directors (if any) to an extent at least as great as is outlined in rule 5.

(b) The identity of the fund, authority or institution referred to in rule 8(a) must be decided by the members by ordinary resolution at or before the time of winding up or dissolution of the company and, if the members cannot decide, by the Supreme Court of Australian Capital Territory.

## 9 Altering this constitution

(a) A special resolution making a material alteration to, or materially affecting, rules 2, 5, 8, and 9 must be notified in writing to a Deputy Commissioner of Taxation.

(b) In addition to the requirements of rule 9(a), so long as The Order of Australia Association Limited is a member of the company, a special resolution making a material alteration to, or materially affecting, rules 2, 5, 8, 9, 11.2(c), or 17 has no effect unless approved in writing by The Order of Australia Association Limited ABN 40 008 612 664.

## 10 Membership

(a) The members are:

(1) the persons consenting to be the initial members set out below; and

(2) any other persons the directors admit to membership in accordance with this constitution.

(b) Every applicant for membership of the company (except the initial member) must be proposed by one member. The application for membership must be:

(1) made in writing and signed by the applicant and his or her proposer; and

(2) in the form prescribed by the directors.

(c) At the next meeting of the directors after the receipt of an application for membership, the directors must consider the application and decide whether to admit or reject the admission of the applicant. The directors need not give any reason for rejecting an application.

(d) Despite the foregoing provisions of the rule, for so long as The Order of Australia Association Ltd is a member of the company, no applicant may be admitted without the written approval of The Order of Australia Association Ltd.

## 11 When membership ceases

### 11.1 Death, resignation and other events

A person immediately ceases to be a member if the person:

(a) dies;

(b) resigns as a member by giving written notice to the company;

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

(d) becomes bankrupt or insolvent or makes any arrangement or composition with his or her creditors;

(e) is expelled under rule 11.2; or

(f) becomes, if the directors so decide in their absolute discretion, an untraceable member because the person has ceased to reside at, attend or otherwise communicate with his or her registered address.

### 11.2 Expulsion

(a) Subject to rule 11.2(c), the directors may by resolution expel a member from the company if, in their absolute discretion, they decide it is not in the interests of the company for the person to remain a member.

(b) If the directors intend to propose a resolution under rule 11.2(a), at least one week before the meeting at which the resolution is to be proposed, they must give the member written notice:

(1) stating the date, place and time of the meeting;

(2) setting out the intended resolution and the grounds on which it is based; and

(3) informing the member that he or she may attend the meeting and may give an oral or written explanation or submission before the resolution is put to the vote.

(c) Despite the foregoing provisions of this rule, The Order of Australia Association Limited may not be expelled as a member.

## 12 General meetings

### 12.1 Calling general meetings

(a) The directors may call and arrange to hold a general meeting whenever they think fit.

(b) A general meeting may be called and arranged to be held only as provided by this rule 12.1 or as provided by sections 249D, 249E, 249F and 249G of the Act.

(c) The directors may change the venue for, postpone or cancel a general meeting, unless the meeting is called and arranged to be held by the members or the court under the Act. If a general meeting is called and arranged to be held under section 249D of the Act, the directors may not:

(1) postpone it beyond the date by which section 249D requires it to be held; or

(2) cancel it without the consent of the requisitioning member.

### 12.2 Notice of general meetings

(a) Notice of every general meeting must be given in any manner authorised by rule 18 to:

(1) every member entitled to vote, except a member who has not supplied the company with an address in Australia for giving notices;

(2) each director; and

(3) the auditor.

No other person is entitled to receive notice of general meetings.

(b) A notice of a general meeting must:

(1) specify the date, time and place of the meeting; and

(2) except as provided by the Act, state the general nature of the business to be transacted at the meeting.

(c) A person may waive notice of a general meeting by written notice to the company.

(d) The non-receipt of notice of a general meeting or proxy form by, or a failure to give notice of a general meeting or a proxy form to, any person entitled to receive notice of a general meeting under this rule 12.2 does not invalidate any thing done or resolution passed at the general meeting if:

(1) the non-receipt or failure occurred by accident or error; or

(2) before or after the meeting, the person:

(A) has waived or waives notice of that meeting under rule 12.2(c); or

(B) has notified or notifies the company of the person's agreement to that thing or resolution by written notice to the company.

(e) A person's attendance at a general meeting waives any objection that person may have to:

(1) a failure to give notice, or the giving of a defective notice, of the meeting unless, at the beginning of the meeting, the person objects to the holding of the meeting; and

(2) the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting, unless the person objects to considering the matter when it is presented.

## 12.3 Quorum at general meetings

(a) No business may be transacted at a general meeting, except the election of a chairperson and the adjournment of the meeting, unless a quorum of members is present when the meeting proceeds to business.

(b) A quorum consists of:

(1) if the members have fixed a number for the quorum, that number of members; and

(2) in any other case, 2 members,

entitled to vote and present at the meeting.

(c) If a quorum is not present within 30 minutes after the time appointed for a general meeting:

(1) where the meeting was convened on the requisition of members, the meeting must be dissolved; or

(2) in any other case:

(A) the meeting stands adjourned to the day, and at the time and place, that the directors decide or, if the directors do not make a decision, to the same day in the next week at the same time and place; and

(B) if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

## 12.4 Chairperson of general meetings

(a) The chairperson of directors must (if present within 15 minutes after the time appointed for the meeting and willing to act) preside as chairperson at each general meeting.

(b) If at a general meeting:

(1) there is no chairperson of directors;

(2) the chairperson of directors is not present within 15 minutes after the time appointed for the meeting; or

(3) the chairperson of directors is present within that time but is not willing to act as chairperson of the meeting,

the members present must elect as chairperson of the meeting:

(4) another director who is present and willing to act; or

(5) if no other director present at the meeting is willing to act, a member who is present and willing to act.

## 12.5 Conducting and adjourning general meetings

(a) A question arising at a general meeting relating to the order of business, procedure or conduct of the meeting must be referred to the chairperson of the meeting, whose decision is final.

(b) The chairperson of a general meeting may, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting except the business left unfinished at the meeting from which the adjournment took place.

(c) Where a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as for an original meeting.

(d) Except as provided by rule 12.5(c), it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

(e) Where a meeting is adjourned, the directors may change the venue of, or postpone or cancel, the adjourned meeting, unless the meeting was called and arranged to be held by the members or the court under the Act. If a meeting is called and arranged to be held under section 249D of the Act, the directors may not postpone it beyond the date by which section 249D requires it to be held and may not cancel it without the consent of the requisitioning member.

## 12.6 Decisions at general meetings

(a) Except where by law a resolution requires a special majority, questions arising at a general meeting must be decided by a majority of votes cast by

the members present at the meeting. Such a decision is for all purposes a decision of the members.

(b) Where the votes on a proposed resolution are equal, the chairperson of the meeting has a casting vote in addition to his or her deliberative vote.

(c) A resolution put to the vote of a general meeting must be decided on a show of hands unless, before the vote is taken or before or immediately after the declaration of the result of the show of hands, a poll is demanded by:

(1) the chairperson of the meeting;

(2) at least 2 members present and with the right to vote on the resolution; or

(3) a member or members present at the meeting and representing at least 5% of the total voting rights of all the members entitled to vote on the resolution on a poll.

(d) A demand for a poll does not prevent a general meeting continuing for the transaction of any business except the question on which the poll has been demanded.

(e) Unless a poll is duly demanded, a declaration by the chairperson of a general meeting that a resolution has on a show of hands been carried or carried unanimously, or carried by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

(f) If a poll is duly demanded at a general meeting, it must be taken in such manner, and either at once or after an interval or adjournment or otherwise, as the chairperson of the meeting directs. The result of the poll is the resolution of the meeting at which the poll was demanded.

(g) A poll demanded at a general meeting on the election of a chairperson of the meeting or on a question of adjournment must be taken immediately.

(h) The demand for a poll may be withdrawn.

(i) If the company has only one member, the company may pass a resolution by the member recording it and signing the record.

## 12.7 Voting rights

(a) Subject to this constitution and to any rights or restrictions attached to any class of membership, at a general meeting every member present has one vote.

(b) A proxy, attorney or representative is entitled to a separate vote for each member the person represents, in addition to any vote the person may have as a member in his or her own right.

(c) An objection to the qualification of a person to vote at a general meeting must be:

(1) raised before or at the meeting at which the vote objected to is given or tendered; and

(2) referred to the chairperson of the meeting, whose decision is final.

(d) A vote not disallowed by the chairperson of a meeting under rule 12.7(c) is valid for all purposes.

## 12.8 Representation at general meetings

(a) Subject to this constitution, each member entitled to vote at a meeting of members may vote:

(1) in person or, where a member is a body corporate, by its representative;

(2) by proxy; or

(3) by attorney.

(b) A proxy, attorney or representative may, but need not, be a member of the company.

(c) A proxy, attorney or representative may be appointed for:

(1) all general meetings;

(2) any number of general meetings; or

(3) a particular general meeting.

(d) Unless otherwise provided in the instrument, an instrument appointing a proxy, attorney or representative is taken to confer authority:

(1) to agree to a meeting being convened by shorter notice than is required by the Act or by this constitution;

(2) to speak to any proposed resolution on which the proxy, attorney or representative may vote;

(3) to demand or join in demanding a poll on any resolution on which the proxy, attorney or representative may vote;

(4) even though the instrument may refer to specific resolutions and may direct the proxy, attorney or representative how to vote on those resolutions:

(A) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;

(B) to vote on any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the meeting; and

(C) to act generally at the meeting; and

(5) even though the instrument may refer to a specific meeting to be held at a specified time or venue, where the meeting is rescheduled or adjourned to another time or changed to another venue, to attend and vote at the re-scheduled or adjourned meeting or at the new venue.

(e) An instrument appointing a proxy or attorney may direct the manner in which the proxy or attorney is to vote in respect of a particular resolution. Where an instrument contains such a direction, the proxy or attorney is not entitled to vote on the proposed resolution except as directed in the instrument.

(f) Subject to rule 12.8(g), an instrument appointing a proxy or attorney need not be in any particular form as long as it is in writing, legally valid and signed by the appointer or the appointer's attorney.

(g) A proxy or attorney may not vote at a general meeting or adjourned meeting or on a poll unless the instrument appointing the proxy or attorney, and the authority (if any) under which the instrument is signed or a certified copy of the authority, are received in the place or at the fax number, and before the time, specified for that purpose in the notice calling the meeting. In the notice:

(1) the place may be the company's office or another place and a fax number may be the fax number at the company's office or another fax number; and

(2) the time may be before the time for holding the meeting or adjourned meeting.

(h) The directors may waive all or any of the requirements of rules 12.8(f) and (g) and in particular may, on production of any other evidence the directors require to prove the validity of the appointment of a proxy or attorney, accept:

(1) an oral appointment of a proxy or attorney;

(2) an appointment of a proxy or attorney which is not signed or executed in the manner required by rule 12.8(f); or

(3) the deposit, tabling or production of a copy (including a copy sent by fax) of an instrument appointing a proxy or attorney, or of the power of attorney or other authority under which the instrument is signed.

(i) A vote given in accordance with the terms of an instrument appointing a proxy or attorney is valid despite the revocation of the instrument, or of the authority under which the instrument was executed, if the company has not received written notice of revocation by the time and at the place at which the instrument appointing the proxy or attorney is required to be received under rule 12.8(g).

(j) The appointment of a proxy or attorney is not revoked by the appointer attending and taking part in the general meeting but, if the appointer votes on a resolution, the proxy or attorney is not entitled to vote, and must not vote, as the appointer's proxy or attorney on the resolution.

# 13 Directors

## 13.1 Appointing and removing directors

(a) Subject to rule 13.1(c), there must be:

(1) at least 3 directors; and

(2) not more than 12 directors.

(b) The first directors are the persons who have consented to act as directors and who are named as proposed directors in the application for registration of the company.

(c) The company may by resolution:

(1) increase or reduce the minimum or maximum number of directors; and

(2) appoint or, in accordance with section 203D of the Act, remove a director.

(d) The directors may appoint any individual as a director, either to fill a casual vacancy or as an addition to the existing directors, but the total number of directors must not at any time exceed the maximum number allowed under this constitution.

## 13.2 When office of director becomes vacant

In addition to the circumstances prescribed by the Act, the office of a director becomes vacant if the director:

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

(b) becomes bankrupt or insolvent or makes an arrangement or composition with his or her creditors generally;

(c) is convicted on indictment of an offence and the directors do not within one month after that conviction resolve to confirm the director's appointment or election (as applicable) to the office of director;

(d) is removed from office under rule 13.1(c)(2);

(e) resigns by written notice to the company; or

(f) dies.

## 13.3 Director need not be a member

(a) A director need not be a member to qualify for appointment.

(b) A director may attend and speak at general meetings even though that director is not a member.

## 13.4 Interested directors

(a) Subject to rule 5, a director may hold another position (except as auditor) in the company or any related body corporate in conjunction with his or her directorship and may be appointed to that position on terms as to remuneration, tenure and otherwise that the directors think fit.

(b) A director:

(1) may be or become a director or other officer of, or otherwise interested in, any related body corporate or other body corporate

promoted by the company or in which the company is interested as a shareholder or otherwise; and

(2) is not accountable to the company for any remuneration or other benefits he or she receives as a director or officer of, or from having an interest in, that body corporate.

(c) The directors may exercise the voting rights conferred by shares in any body corporate held or owned by the company in the manner in all respects that they think fit.

(d) A director is not disqualified merely because he or she is a director from contracting with the company in any respect including, but not limited to:

(1) selling property to, or purchasing property from, the company;

(2) lending money to the company with or without interest or security;

(3) guaranteeing the repayment of money borrowed by the company for a commission or profit;

(4) underwriting or guaranteeing the subscription for securities in any related body corporate or other body corporate promoted by the company or in which the company is interested as a shareholder or otherwise, for a commission or profit; or

(5) being employed by the company or acting in any professional capacity (except as auditor) on behalf of the company.

(e) A contract made by a director with the company and a contract or arrangement entered into by or on behalf of the company in which any director may be in any way interested is not avoided or rendered voidable merely because the director holds office as a director or because of the fiduciary obligations arising out of that office.

(f) A director contracting with or being interested in any arrangement involving the company is not liable to account to the company for any profit realised by or under that contract or arrangement merely because the director holds office as a director or because of the fiduciary obligations arising out of that office.

(g) Unless section 195 of the Act permits, a director who has a material personal interest in a matter that is being considered at a directors' meeting must not:

(1) be present while the matter is being considered at the meeting; or

(2) vote on the matter.

(h) The directors may make regulations requiring the disclosure of interests that a director, and any person considered by the directors as related to or associated with the director, may have in any matter concerning the company or a related body corporate. Any regulations made under this constitution bind all directors.

## 13.5 Powers and duties of directors

(a) The directors are responsible for managing the company's business and affairs and may exercise to the exclusion of the company in general

meeting all the company's powers which are not required, by the Act or by this constitution, to be exercised by the company in general meeting.

(b) Without limiting rule 13.5(a), the directors may exercise all the company's powers to:

(1) borrow or otherwise raise money;

(2) charge any property or business of the company; and

(3) issue debentures or give any other security for a debt, liability or obligation of the company or of any other person.

(c) The directors may decide how cheques, promissory notes, bankers drafts, bills of exchange or other negotiable instruments must be signed, drawn, accepted, endorsed or otherwise executed (as applicable) by or on behalf of the company.

(d) The directors may pay out of the company's funds all expenses of the promotion, formation and registration of the company and the vesting in it of the assets acquired by it.

(e) The directors may:

(1) appoint or employ a person to be an officer, agent or attorney of the company for the purposes, with the powers, discretions and duties (including powers, discretions and duties vested in or exercisable by the directors), for the period and on the conditions they think fit;

(2) authorise an officer, agent or attorney to delegate all or any of the powers, discretions and duties vested in the officer, agent or attorney; and

(3) subject to any contract between the company and the relevant officer, agent or attorney, remove or dismiss any officer, agent or attorney at any time, with or without cause.

(f) A power of attorney may contain any provisions for the protection and convenience of the attorney or persons dealing with the attorney that the directors think fit.

## 13.6 Proceedings of directors

(a) The directors may meet together and adjourn and otherwise regulate their meetings as they think fit.

(b) The contemporaneous linking together by telephone or other electronic means of a sufficient number of the directors to constitute a quorum constitutes a meeting of the directors. All the provisions in this constitution relating to meetings of the directors apply, so far as they can and with any necessary changes, to meetings of the directors by telephone or other electronic means.

(c) A director who takes part in a meeting by telephone or other electronic means is taken to be present in person at the meeting.

(d) A meeting by telephone or other electronic means is taken as held at the place decided by the chairperson of the meeting, as long as at least one of the directors involved was at that place for the duration of the meeting.

## 13.7 Convening meetings of directors

(a) A director may convene a meeting of the directors. .

(b) A secretary must, on the requisition of a director, convene a meeting of the directors.

## 13.8 Notice of meetings of directors

(a) Subject to this constitution, notice of a meeting of directors must be given to each person who is at the time of giving the notice:

(1) a director, except a director on leave of absence approved by the directors; or

(2) an alternate director appointed under rule 13.13 by a director on leave of absence approved by the directors.

(b) A notice of a meeting of directors:

(1) must specify the time and place of the meeting;

(2) need not state the nature of the business to be transacted at the meeting;

(3) must, except in cases of urgency, be given not less than 48 hours before the meeting;

(4) may be given in person or by post, telephone, fax or other electronic means ; and

(5) is taken as given to an alternate director if it is given to the director who appointed that alternate director.

(c) A director or alternate director may waive notice of a meeting of directors by notifying the company to that effect in person or by post, telephone, fax or other electronic means.

(d) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, a director does not invalidate any thing done or resolution passed at the meeting if:

(1) the non-receipt or failure occurred by accident or error;

(2) before or after the meeting, the director or an alternate director appointed by the director:

(A) has waived or waives notice of that meeting under rule 13.8(c); or

(B) has notified or notifies the company of his or her agreement to that thing or resolution personally or by post, telephone, fax or other electronic means; or

(3) the director or an alternate director appointed by the director attended the meeting.

(e) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, an alternate director of a director on leave of absence approved by the directors does not invalidate any thing done or resolution passed at the meeting if:

(1) the non-receipt or failure occurred by accident or error;

(2) before or after the meeting, the alternate director or the director who appointed the alternate director:

(A) has waived or waives notice of that meeting under rule 13.8(c); or

(B) has notified or notifies the company of his or her agreement to that thing or resolution personally or by post, telephone, fax or other electronic means; or

(3) the alternate director or the director who appointed the alternate director attended the meeting.

(f) Attendance by a person at a meeting of directors waives any objection which that person and:

(1) if the person is a director, an alternate director appointed by that person; or

(2) if the person is an alternate director, the director who appointed that person as alternate director,

may have to a failure to give notice of the meeting.

### 13.9 Quorum at meetings of directors

(a) No business may be transacted at a meeting of directors unless a quorum of directors is present at the time the business is dealt with.

(b) A quorum consists of:

(1) if the directors have fixed a number for the quorum, that number of directors; and

(2) in any other case, 2 directors,

present at the meeting of directors.

(c) If there is a vacancy in the office of a director then, subject to rule 13.9(d), the remaining directors may act.

(d) If the number of directors in office at any time is not sufficient to constitute a quorum at a meeting of directors, or is less than the minimum number of directors fixed under this constitution, the remaining directors must act as soon as possible to:

(1) increase the number of directors to a number sufficient to constitute a quorum and to satisfy the minimum number of directors required under this constitution;

(2) convene a general meeting of the company for that purpose, or

(3) appoint additional directors,

and, until that has happened, may only act if and to the extent that there is an emergency requiring them to act.

### 13.10 Chairperson of directors

(a) The Order of Australia Association Limited may, for so long as it is a member of the company, appoint the chairperson of directors and remove any person so appointed. An appointment or removal under the rule must be by written notice to the secretary.

(b) For so long as no person is chairperson appointed under rule 13.10(a), the directors may elect one of the directors as chairperson of directors and may decide the period for which that director is to be the chairperson.

(c) The chairperson of directors must (if present within 10 minutes after the time appointed for the meeting and willing to act) preside as chairperson at each meeting of directors.

(d) If at a meeting of directors:

(1) there is no chairperson of directors;

(2) the chairperson of directors is not present within 10 minutes after the time appointed for the meeting; or

(3) the chairperson of directors is present within that time but is not willing to act as chairperson of the meeting,

the directors present must elect one of the directors as chairperson of the meeting.

### 13.11 Decisions of directors

(a) A meeting of directors at which a quorum is present may exercise all the powers and discretions vested in or exercisable by the directors under this constitution.

(b) Questions arising at a meeting of directors must be decided by a majority of votes cast by the directors present. Such a decision is for all purposes a decision of the directors.

(c) Where the votes on a proposed resolution are equal, the chairperson of the meeting has a casting vote in addition to his or her deliberative vote.

### 13.12 Written resolutions

(a) If:

(1) a majority of the directors assent to a document containing a statement to the effect that a thing has been done or resolution has been passed; and

(2) the directors who assent to the document would have constituted a quorum at a meeting of directors held to consider that thing or resolution,

then that thing or resolution is taken as done at or passed by a meeting of the directors.

(b) For the purposes of rule 13.12(a):

(1) the meeting is taken as held:

(A) if the directors assented to the document on the same day, on the day on which the document was assented to and at the time at which the document was last assented to; or

(B) if the directors assented to the document on different days, on the day on which, and at the time at which, the document was last assented to;

(2) 2 or more separate documents in identical terms, each of which is assented to by one or more directors, are taken as constituting one document; and

(3) a director may signify assent to a document by signing the document or by notifying the company of the director's assent in person or by post, telephone, fax or other electronic means.

(c) Where a director signifies assent to a document otherwise than by signing the document, the director must as confirmation sign the document at the next meeting of the directors that director attends, but failure to do so does not invalidate the thing or resolution to which the document relates.

### 13.13 Alternate directors

(a) A director may, with the approval of the directors, appoint a person as his or her alternate director for the period the director thinks fit.

(b) An alternate director may, but need not, be a member or director of the company.

(c) One person may act as alternate director to more than one director.

(d) An alternate director may, if the appointer does not attend a meeting of directors, attend and vote in place of and on behalf of the appointer.

(e) An alternate director is entitled to a separate vote for each director the alternate director represents in addition to any vote the alternate director may have as a director in his or her own right.

(f) In the absence of the appointer, an alternate director may exercise any power that the appointer may exercise. The exercise of such a power by the alternate director is taken to be the exercise of the power by the appointer.

(g) The office of an alternate director is vacated if and when the appointer vacates office as a director.

(h) The appointer may terminate the appointment of an alternate director at any time, even though the period of the appointment has not expired.

(i) An appointment, or the termination of an appointment, of an alternate director must be in writing signed by the director who makes or made the appointment and does not take effect until the company has received written notice of the appointment or termination.

(j) An alternate director is not to be taken into account in counting the minimum or maximum number of directors allowed under this constitution.

(k) In deciding whether a quorum is present at a meeting of directors, an alternate director who attends the meeting is to be counted as a director for each director on whose behalf the alternate director is attending the meeting.

(l) An alternate director, while acting as a director, is:

(1) responsible to the company for his or her own acts and defaults; and

(2) not to be taken to be the agent of the director by whom he or she was appointed.

### 13.14 Committees of directors

(a) The directors may delegate any of their powers to one or more committees consisting of the number of directors they think fit.

(b) A committee to which any powers have been delegated must exercise the powers delegated in accordance with any directions given by the directors.

(c) The provisions of this constitution that apply to meetings and resolutions of directors apply, so far as they can and with any necessary changes, to meetings and resolutions of a committee of directors.

### 13.15 Delegation to individual directors

(a) The directors may delegate any of their powers to one director.

(b) A director to whom any powers have been delegated must exercise the powers delegated in accordance with any directions given by the directors.

### 13.16 Validity of acts

An act done by a person acting as a director, a meeting of directors, or a committee of directors attended by a person acting as a director, is not invalidated merely because of:

(a) a defect in the appointment of the person as a director;

(b) the person being disqualified to be a director or having vacated office; or

(c) the person not being entitled to vote,

if that circumstance was not known by the person, the directors or the committee (as applicable) when the act was done.

## 14 Executive officers

### 14.1 Executive director

(a) The directors may appoint one of the directors as executive director.

(b) An executive director's appointment as executive director automatically terminates if he or she ceases to be a director.

### 14.2 Secretaries

(a) The first secretary is the person who has consented to act as secretary and who is named as the proposed secretary in the application for registration of the company.

(b) The directors must appoint at least one secretary and may appoint additional secretaries.

(c) The directors may appoint one or more assistant secretaries.

### 14.3 Provisions that apply to all executive officers

(a) A reference in this rule 14.3 to an executive officer is a reference to an executive director, secretary or assistant secretary appointed under this rule 14.

(b) The appointment of an executive officer may be for the period, at the remuneration and on the conditions that the directors think fit.

(c) Subject to any contract between the company and the relevant executive officer, an executive officer may be removed or dismissed by the directors at any time, with or without cause.

(d) The directors may:

(1) confer on an executive officer the powers, discretions and duties (including any powers, discretions and duties vested in or exercisable by the directors) they think fit;

(2) withdraw, suspend or vary any of the powers, discretions and duties conferred on an executive officer; and

(3) authorise the executive officer to delegate all or any of the powers, discretions and duties conferred on him or her.

(e) An executive officer need not be a member to qualify for appointment.

(f) An act done by a person acting as an executive officer is not invalidated merely because of:

(1) a defect in the person's appointment as an executive officer; or

(2) the person being disqualified to be an executive officer,

if that circumstance was not known by the person when the act was done.

## 15 Indemnity and insurance

### 15.1 Persons to whom rules 15.2 and 15.4 apply

Rules 15.2 and 15.4 apply to:

(a) each person who is or has been a director, alternate director or executive officer (within the meaning of rule 14.3(a)) of the company; and

(b) any other officers or former officers of the company or of its related bodies corporate that the directors decide in each case.

### 15.2 Indemnity

The company must

(a) indemnify; and

(b) if requested by a person to whom this rule 15.2 applies, enter into a deed indemnifying,

on a full indemnity basis and to the full extent permitted by law, each person to whom this rule 15.2 applies for all losses or liabilities incurred by the person as an officer of the company or of a related body corporate including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred:

(c) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or

(d) in connection with an application, in relation to those proceedings, in which the court grants relief to the person under the Act.

### 15.3 Extent of indemnity

The indemnity in rule 15.2:

(a) is a continuing obligation and is enforceable by a person to whom rule 15.2 applies even though that person has ceased to be an officer of the company or of a related body corporate; and

(b) operates only to the extent that the loss or liability is not covered by insurance.

### 15.4 Insurance

The company may, to the extent permitted by law:

(a) purchase and maintain insurance; or

(b) pay or agree to pay a premium for insurance,

for any person to whom this rule 15.4 applies against any liability incurred by the person as an officer of the company or of a related body corporate including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal and whatever their outcome.

### 15.5 Savings

Nothing in rules 15.2 or 15.4:

(a) affects any other right or remedy that a person to whom those rules apply may have in respect of any loss or liability referred to in those rules; or

(b) limits the capacity of the company to indemnify or provide insurance for any person to whom those rules do not apply.

## 16 Auditor

The company must appoint a properly qualified auditor whose duties will be regulated in accordance with the Act.

# 17 Name change deed

The company must forthwith after its establishment enter into a name change deed in the form decided by The Order of Australia Association Limited and must comply with the provisions of the name change deed.

# 18 Notices

## 18.1 How notices may be given

A notice may be given by the company to a member by:

(a) delivering it to the member personally;

(b) sending it to the member's fax number or electronic address, if the member has nominated one to the company for receipt of notices; or

(c) posting it by prepaid post to the member's registered address.

## 18.2 When taken as given

A notice is taken as given by the company and received by the member:

(a) if delivered, at the time of delivery;

(b) if faxed, when the company receives a confirmation report that all pages of the fax have been transmitted to the member's fax number, but if transmission or receipt is after 5.00 pm, it is taken as received on the next business day;

(c) if sent electronically, on the next business day; and

(d) if posted, on the second business day after it was posted.

## 18.3 When member has no registered address

If one or more members do not have a registered address in Australia, a notice addressed to the member or members and advertised in a daily national newspaper is taken to be duly given to the member or members at midday on the day on which the advertisement appears.

# 19 Definitions and interpretation

## 19.1 Definitions

In this constitution:

**Act** means the Corporations Act 2001;

**auditor** means the auditor of the company;

**business day** means a day on which the major trading banks are open for business in Canberra, except a Saturday, Sunday or public holiday;

**company** means **The Order of Australia Association Foundation Ltd**;

**company's office** means the company's registered office;

**directors** means the company's board of directors;

**member** means a member of the company;

**registered address** means a member's address as notified to the company by the member and recorded in the company's records; and

**secretary** means a person appointed to perform the duties of a secretary of the company and includes an honorary secretary.

### 19.2 Interpretation

In this constitution unless the context requires otherwise:

(a) references to notices include formal notices of meeting and all documents and other communications from the company to its members;

(b) a reference to any legislation or a provision of any legislation includes any amendment to that legislation or provision, any consolidation or replacement of that legislation or provision and any subordinate legislation made under that legislation;

(c) a reference to a member present at a general meeting is a reference to a member present in person or by proxy, attorney or representative;

(d) a reference to **writing** and **written** includes printing, lithography and other ways of representing or reproducing words in a visible form; and

(e) the singular (including defined terms) includes the plural and the plural includes the singular.

### 19.3 Headings

Headings are used for convenience only and do not affect the interpretation of this constitution.

## 20 Application of the Act

### 20.1 What parts of the Act apply

Unless the contrary intention appears:

(a) an expression used in a rule that deals with a matter dealt with by a provision of the Act has the same meaning as in that provision; and

(b) subject to rule 20.1(a), an expression in a rule that has a defined meaning for the purposes of the Act has the same meaning as in the Act.

### 20.2 Replaceable rules displaced

(a) The provisions of this constitution displace each provision of a section or subsection of the Act that applies (or would apply but for this rule) to the company.

(b) The replaceable rules do not apply to the company except those which operate as mandatory rules for public companies under the Act.

The initial member of the company (whose consent is set out below) adopts, on registration of the company, the above constitution as the company's constitution in accordance with section 136(1) of the Act.

| **Full name and address of initial member** | **Signature consenting to be a member** |
|---|---|
| **The Order of Australia Association Limited** | By its representative |

**Date**: