



CPSISC

Construction & Property Services
Industry Skills Council

CONSTITUTION

of Construction and Property Services Industry Skills Council

Public Document

16.07.2015

ABN: 99 108 823 758

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1. PRELIMINARY

1.1 Company limited by guarantee

The Company is limited by guarantee and the liability of members is limited as provided in this document.

1.2 Objects of the Company

The Company is formed with the object to:

- (a) advance education and training and to identify generic and emerging skills to support the employability of individuals and provide for local community development and to give strategic advice to government, on these issues.
- (b) support the development, implementation and continuous improvement of high quality, nationally recognised training products and services, including enhancing innovation, rationalising materials where there are cross-industry synergies, and improving efficiency.
- (c) assist industries, enterprises and their workforce to integrate skill development with business goals.
- (d) support accurate industry intelligence on future directions, including provision of strategic advice on industry skills and training needs to the National Industry Skills Forum.
- (e) research, collect, plan, coordinate and provide input to national research and develop strategies relating to education and training within the industries.
- (f) act as the principal voice of the industries on issues related to vocational education and training for employment.
- (g) market the advantages of recognised training to all users and stakeholders relevant to the Company.
- (h) give strategic advice regarding education and training to employers, existing workers and new entrants.
- (i) to do all such things as are incidental or conducive to the objects contained in this rule.

1.3 Application of income and property

Subject to rules 1.4 and 10.1, the Company must apply its income solely towards promoting the objects of the Company as stated in rule 1.2. No part of the Company's income may be paid or transferred directly or indirectly by way of dividend bonus or otherwise to members.

1.4 Certain payments allowed

Rule 1.3 does not prevent the payment of reasonable remuneration to any officer or employee of the Company or to any member of the Company or other person in return for service rendered to the Company. In addition rule 1.3 does not prevent the Company paying to a member:

- (a) interest on money lent by the member to the Company at a rate not exceeding the rate charged by Australian banks for overdrawn accounts;
- (b) reasonable remuneration for goods supplied by the member to the Company in the ordinary course of business; and
- (c) reasonable rent for premises lent by the member to the Company.

1.5 Replaceable rules

The replaceable rules referred to in section 141 of the Act do not apply to the Company and are replaced by the rules set out in this document.

1.6 Definitions

The following definitions apply in this document.

“**Act**” means the *Corporations Act 2001* (Cwlth).

“**Alternate**” means an alternate Director appointed under rule 4.1.

“**AGM**” means annual general meeting.

“**Appointor**” in relation to an Alternate, means the Nominating Member who appointed the Alternate.

“**Board**” means the Directors acting collectively under this document.

“**Company**” means the Company named at the beginning of this document whatever its name is for the time being.

“**Construction Industry Organisation**” means an Organisation that is entered in the Register as a Construction Industry Organisation.

“**CPSISC Directors**” means the Directors nominated or elected by the Members provided for in rule 3.4(a).

“**Director**” means a person who is, for the time being, a director of the Company including, where appropriate, an Alternate.

“**Industry Advisory Committee**” means a committee appointed pursuant to rule 8.5 to carry out some or all of the functions listed in rule 8.5(b) to (g).

“**Member**” means an organisation whose name is entered in the Register as a member of the Company.

“**membership eligibility requirements**” are those requirements as approved by the Board pursuant to rule 2.3.

“**Nominating Organisation**” means a Member listed in rules 3.4(a)(i) and (ii) and the Member Organisation from whom a Director has been elected under rule 3.4(a)(iii) and (iv).

“**officer**” means an officer of the Company as defined by the Act.

“**Ordinary resolution**” means a resolution passed at a meeting of members by a simple majority of the members voting at the meeting.

“**Organisation**” means: a registered or incorporated peak industry or employer organisation; or a registered national union of employees; or a State/Territory recognised industry training advisory board; or professional association; or licensing or regulatory authorities; or an enterprise; with substantial activity in the industry in more than one State or Territory, as determined by the Board.

“**Property Services Industry Organisation**” means an Organisation that is entered in the Register as a Property Services Industry Organisation.

“**Proxy**” means written authorisation given by one person to another so that the second person can act for the first, such as that given by a member to someone else to represent him/her and vote at a members' general meeting.

“**Register**” means the register of Members kept as required by sections 168 and 169 of the Act.

“**Secretary**” means, during the term of that appointment, a person appointed as a secretary of the Company in accordance with this document.

“**Special resolution**” has the meaning given by section 9 of the Act.

1.7 Interpretation of this document

Headings and marginal notes are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
- (i) legislation (including subordinate legislation) is to that legislation as amended, modified in relation to the Company, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document or agreement, or a provision of a document or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person;
 - (iv) an Organisation shall be a reference to the body corporate so named in this document or that body corporate for the time being so incorporated provided that purposes of such body corporate are similar to or identical to the Organisation so named in this document; and
 - (v) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests 1 gender includes the other genders.
- (d) If a word is defined, another part of speech has a corresponding meaning.
- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing, right, obligation or concept.
- (f) The word "agreement" includes an undertaking or other binding arrangement or understanding.
- (g) A power to do something includes a power, exercisable in the like circumstances, to revoke or undo it.
- (h) A reference to a power is also a reference to authority or discretion.
- (i) A reference to something being "written" or "in writing" includes that thing being represented or reproduced in any mode in a visible form.
- (j) A word (other than a word defined in rule 1.6) that is defined by the Act has the same meaning in this document where it relates to the same matters as the matters for which it is defined in the Act.

- (k) A reference to a Chapter, Part, Division, or section is a reference to a Chapter, Part, Division or section of the Act.

2. MEMBERSHIP

2.1 Membership

Subject to rules 2.7 and 2.8, the Members are:

- (a) the initial Members named in the application for the Company's registration and any other Members so admitted pursuant to rule (b) below; and
- (b) any Organisation that fulfils the membership eligibility requirements of a Construction Industry Organisation or Property Services Industry Organisation which the Board admits to membership.

2.2 Company to reflect bipartite membership

The Company may admit to membership any Organisation provided that:

- (a) the total membership reflects broadly based bi-partisan representation,
- (b) there is a reasonable balance of all industry sectors within the Company's coverage; and
- (c) an organisation whose primary purpose is the delivery of employment, training or education services shall not be eligible to be a member of the Company.

2.3 Membership eligibility requirements

The membership eligibility requirements for admission as Member of the Company shall:

- (a) for admission as a Construction Industry Organisation be determined by an Ordinary resolution of the Board; and
- (b) for admission as a Property Services Industry Organisation be determined by an Ordinary resolution of the Board.

2.4 The role of members

The role of Members will be to provide industry advice to the Company. This advice may be provided through the Industry Advisory Committees established under rule 8.5.

2.5 Fees

There shall be no entrance or subscription fee levied or required of a Member of the Company.

2.6 Limited liability of Members

If the Company is wound up each member undertakes to contribute to the assets of the Company up to an amount not exceeding \$2.00 for payment of the debts and liabilities of the Company including the costs of the winding up. This undertaking continues for 1 year after an Organisation ceases to be a Member.

2.7 Resigning as a member

A member may resign from the Company by giving written notice to the Secretary.

2.8 Expelling a member

- (a) The Board may, by resolution, expel from the Company any Member:
- (i) who does not comply with this document or any by-laws, rules or regulations of the Company; or
 - (ii) whose conduct in the opinion of the Board acting reasonably, is prejudicial to the interests of the Company,

and remove that Member's name from the Register.

- (b) At least 21 days before the Board holds a meeting to expel a Member, the Board must give a written notice to the Member which states:
- (i) the allegations against the Member;
 - (ii) the proposed resolution for the Member's expulsion;
 - (iii) that the Member has an opportunity at the meeting to address the allegations either orally and/or in writing; and
 - (iv) that if the Member notifies the Secretary in writing at least 48 hours before the meeting, the Member may elect to have the question of that Member's expulsion dealt with by the Company in general meeting.
- (c) The Company must expel a Member and remove the member's name from the Register where:
- (i) a general meeting is held to expel a Member; and
 - (ii) a resolution is passed at the meeting by a majority of two-thirds of those present and voting for the Member to be expelled. The vote must be taken by ballot.
- (d) A Member properly expelled from the Company under this rule does not have any claim on the Company, its funds or property.

2.9 Register of Members

The Company must set up and maintain the Register.

The Register must contain the following information:

- (a) the name and address of each Member;
- (b) the date on which the entry of the Member's name in the Register is made;
- (c) a Member's representative, if appointed under rule 15.3;
- (d) whether the Member is a Construction Industry Organisation or a Property Services Industry Organisation;
- (e) the date on which the Organisation stopped being a Member; and
- (f) an index of Members' names if the Company has more than 50 members and the Register itself is not kept in a form that operates effectively as an index.

3. DIRECTORS

3.1 Number of Directors

- (a) The Company will be bipartite in nature and it is acknowledged that the Board need not be equally made up of persons nominated by employer and employee organisations.
- (b) The Company shall have no more than 12 Directors, which shall comprise those persons nominated or elected to the Board pursuant to rule 3.4.

3.2 Term of Appointment of Directors

Subject to rule 3.5, each director shall be appointed for a term of 2 years.

3.3 Eligibility qualification of Directors

A Director:

- (a) must be a nominee of a Member organisation;
- (b) must not be the auditor of the Company nor any partner or employee of the auditor
- (c) must not be an employee of the Company or of any related entity employing staff of the Company.

3.4 Composition of Board

- (a) The Board shall comprise:

- (i) One director nominated by each of the following Construction Industry Organisations:
 - (A) Australian Industry Group;
 - (B) Communications Electrical Plumbing Union (representing the plumbing sector);
 - (C) Construction Forestry Mining Energy Union;
 - (D) Housing Industry Association; and
 - (E) Master Builders Australia.
 - (ii) One director nominated by each of the following Property Services Industry Organisations as follows:
 - (A) Australian Security Industry Association;
 - (B) United Voice;
 - (C) Real Estate Institute of Australia;
 - (D) Building Services Contractors Association of Australia;
 - (iii) One director nominated by and from the following Members:
 - (A) Air-conditioning and Mechanical Contractors Association;
 - (B) Master Plumbers of Australia;
 - (C) Master Plumbers and Mechanical Services Association of Australia; and
 - (D) National Fire Industry Association;
 - (iv) Two directors elected from those Members comprising the Property Services Industry Organisations not otherwise listed in rule 3.4(a)(ii).
- (b) Where in this rule, Members are required to elect a Director to the Board, the Board shall ensure that any election is conducted in such a fashion as to:
- (i) enable all Construction Industry Organisations and Property Services Organisations to which rule 3.4(a)(iii) and (iv) apply, respectively, sufficient opportunity to consider all nominations; and
 - (ii) ensure that sufficient period is allowed to complete any postal or electronic ballot conducted at least 7 days prior to the holding of the relevant AGM.

3.5 Cessation of Director's appointment

A person automatically ceases to be a Director if the person:

- (a) is not permitted by the Act (or an order made under the Act) to be a director;
- (b) becomes disqualified from managing corporations under Part 2D.6 of the Act and is not given permission or leave to manage the Company under section 206F or 206G of the Act;
- (c) becomes of unsound mind or physically or mentally incapable of performing the functions of that office;
- (d) fails to attend 3 Board meetings (either personally or by an Alternate) for a continuous period without leave of absence from the Board;
- (e) resigns by notice in writing to the Company; or
- (f) is removed from office under rule 3.6; or
- (g) ceases to qualify as a Director under rule 3.3.

3.6 Removal from office

Whether or not a Director's appointment was expressed to be for a specified period, the Company by special resolution may remove a Director from office. The power to remove a Director under this rule is in addition to section 203D of the Act.

3.7 Too few Directors

If the number of Directors is reduced below 6, the continuing Directors may act as the Board only:

- (a) to accept the appointment of CPSISC Directors who are no longer represented on the Board, in accordance with the composition of the Board set out in rule 3.4(a);
- (b) to convene a meeting of Members.

3.8 Filling casual vacancies of directors

A Nominating Organisation may at any time appoint a person who would be eligible to stand for election or be appointed as a Director, to be a Director to fill a casual vacancy:

- (a) created by the early retirement of the Nominating Organisation's nominated Director; or
- (b) in any other circumstances where the maximum number of Elected Directors on the Board will not be exceeded as a result of the appointment, as an addition to the existing Directors.

If a Director has been duly appointed to fill a casual vacancy:

- (a) that Director shall, notwithstanding any other provision, be required to retire, but be eligible for election, at the next AGM following their appointment;

If a Director appointed to fill a casual vacancy is nominated or elected at an AGM following their initial appointment, that Director shall be regarded thereafter as a Director entitled to serve for 2 years from the AGM at which they were first nominated or elected.

4. ALTERNATE DIRECTORS

4.1 Appointment of Alternates

Subject to rule 3.3, a Nominating Organisation, may appoint a person to act as Alternate for a specified period or each time the Appointor is unable to attend a Board meeting or act as a Director.

4.2 Obligations and entitlements of Alternates

An Alternate:

- (a) may attend and vote in place of the Appointor at a Board meeting at which the Appointor is not present;
- (b) if also a Director, has a separate right to vote as Alternate;
- (c) if Alternate for more than 1 Appointor, has a separate right to vote in place of each Appointor;
- (d) when acting as Alternate, is an officer of the Company and subject to all the duties, and entitled to exercise all the powers and rights, of the Appointor as a Director; and
- (e) with the approval of the Board, is entitled to reasonable travelling, accommodation and other expenses incurred in attending meetings of the Board or of the Company or while otherwise engaged on the business of the Company on the same basis as other Directors but is not entitled to any other remuneration from the Company (but the Appointor may further remunerate the Alternate).

4.3 Termination of appointment

The Appointor may at any time revoke the appointment of a person as an Alternate whether or not that appointment is for a specified period. Any appointment of an Alternate immediately ceases if:

- (a) the Appointor ceases to be a Director; or
- (b) an event occurs which would cause the Alternate to cease to be a Director under rule 3.5 if the Alternate were a Director.

4.4 Appointments and revocations in writing

The Appointor must appoint, and revoke the appointment of, any Alternate in writing. The appointment or revocation is not effective until a copy is provided to the Company.

5. POWERS OF THE BOARD

5.1 Powers generally

Except as otherwise required by the Act, any other applicable law or this document, the Board:

- (a) has power to govern the business of the Company;
- (b) may exercise every right, power or capacity of the Company; and
- (c) shall meet at least 4 times per year.

5.2 Exercise of powers

A power of the Board can be exercised only:

- (a) by resolution passed at a meeting of the Board or otherwise in accordance with rule 12;
or
- (b) in accordance with a delegation of the power under rule 8.

6. EXECUTING NEGOTIABLE INSTRUMENTS

The Board must decide the manner (including the use of facsimile signatures if thought appropriate) in which negotiable instruments can be executed, accepted or endorsed for and on behalf of the Company. The Company may execute, accept, or endorse negotiable instruments only in the manner decided by the Board.

7. CHIEF EXECUTIVE OFFICER

7.1 Appointment and power of Chief Executive Officer

The Board may appoint 1 or more executives. One executive will be appointed Chief Executive Officer either for a specified term (but not for life) or without specifying a term.

The Board may delegate any of the powers of the Board to a Chief Executive Officer but the delegation shall be:

- (a) limited to those that are permitted by law;
- (b) on the terms and subject to any restrictions the Board decides; and

- (c) concurrent with, or to the exclusion of, the powers of the Board,
and may be revoked by the Board at any time.

7.2 Terms of Employment of Chief Executive Officer

A Chief Executive Officer, if appointed, will be employed under a contract agreed and offered by the Board.

8. DELEGATION OF BOARD POWERS

8.1 Power to delegate

The Board may delegate any of its powers as permitted by section 198D of the Act.

8.2 Power to revoke delegation

The Board may revoke a delegation previously made whether or not the delegation is expressed to be for a specified period.

8.3 Terms of delegation

A delegation of powers under rule 8.1 may be made:

- (a) for a specified period or without specifying a period;
- (b) on the terms and subject to any restrictions the Board decides; and
- (c) a document of delegation may contain the provisions for the protection and convenience of those who deal with the delegate that the Board thinks appropriate.

8.4 Proceedings of committees

Subject to the terms on which a power of the Board is delegated to a committee, the meetings and proceedings of committees are, to the greatest extent practical, governed by the rules of this document that regulate the meetings and proceedings of the Board.

8.5 Industry Advisory Committees

The Board shall establish Industry Advisory Committees as appropriate.

Those Industry Advisory Committees shall:

- (a) broadly reflect the bi-partite nature of the Company by having as members relevant employer, industry, professional associations, licensing or regulatory authorities, and union representatives;
- (b) have terms of reference endorsed by the Board;

- (c) have membership determined by the Board;
- (d) report to and be responsible to the Board;
- (e) advise the Board on all matters relating to their areas of responsibility and coverage;
- (f) either deal with an issue as an Industry Advisory Committee or appoint a sub-committee to address an issue or perform a specific task; and
- (g) act within the agreed business plan of the Company.

The Board shall, in determining membership of any Industry Advisory Committee pursuant to rule 8.5(c), endeavour to ensure that all Members who have a relevant interest in any Industry Advisory Committee can, at the Board's or Member's nomination, become a member of that Industry Advisory Committee.

9. DIRECTORS' DUTIES AND INTERESTS

9.1 Compliance with duties under the Act

Each Director must comply with sections 180 to 183 of the Act.

9.2 Director not disqualified from holding other offices etc.

A Director is not disqualified by reason only of being a Director from:

- (a) holding any office or place of profit or employment other than that of the Company's auditor;
- (b) being a member or creditor of any corporation (including the Company) or partnership other than the auditor; or
- (c) entering into any agreement with the Company.

9.3 Disclosure of interests

Each Director must comply with section 191 of the Act.

9.4 Director interested in a matter

Each Director must comply with section 195 of the Act in relation to being present, and voting, at a Board meeting that considers a matter in which the Director has a material personal interest. Subject to section 195 of the Act:

- (a) a Director may be counted in a quorum at a Board meeting that considers, and may vote on, any matter in which that Director has an interest;

- (b) the Company may proceed with any transaction that relates to the interest and the Director may participate in the execution of any relevant document by or on behalf of the Company;
- (c) the Director may retain benefits under the transaction even though the Director has the interest;
- (d) the Company cannot avoid the transaction merely because of the existence of the interest; and
- (e) a Director shall not be regarded as having a material personal interest in a matter only because the proposal may benefit or affect a member of the Company.

If the interest is required to be disclosed under section 191 of the Act, paragraph (c) applies only if it is disclosed before the transaction is entered into.

9.5 Agreements with third parties

The Company cannot avoid an agreement with a third party merely because a Director:

- (a) fails to make a disclosure of an interest; or
- (b) is present at, or counted in the quorum for, a Board meeting that considers or votes on that agreement.

9.6 Obligation of confidentiality

Every Director and Secretary must keep the transactions and affairs of the Company and the state of its financial reports confidential unless required or permitted to disclose them:

- (a) in the course of duties as an officer of the Company;
- (b) by the Board or the Company in general meeting; or
- (c) by law.

The Company may require a Director, Secretary, auditor, trustee, committee member or other person engaged by it to sign a confidentiality undertaking consistent with this rule. A Director or Secretary must do so if required by the Company.

9.7 Act in best interests of Company

All Directors shall act in the best interests of the Company, acknowledging that in doing so, it may be inconsistent with the interests of one or more appointing Organisations.

10. DIRECTORS' REMUNERATION

10.1 Restrictions on payments to Directors

Subject to rule 10.2 and rule 11 the Company must not pay fees or other remuneration to a Director.

10.2 Payments to Directors with Board approval

With the approval of the Board the Company may pay to a Director:

- (a) reasonable expenses (including travelling and accommodation) incurred in carrying out duties as a Director;
- (b) reasonable reimbursement for any service rendered by the Director to the Company;
- (c) reasonable reimbursement for goods supplied by the Director to the Company in the ordinary course of business; and
- (d) reasonable rent for premises leased by the Director to the Company.

11. OFFICERS' INDEMNITY AND INSURANCE

11.1 Indemnity

Subject to and so far as permitted by the Act:

- (a) the Company may, to the extent the person is not otherwise indemnified, indemnify every officer of the Company; and
- (b) the Company, at the discretion of the Board, may make a payment (whether by way of advance, loan or otherwise) in respect of legal costs incurred by an officer or employee in defending an action for a Liability incurred as such an officer or employee or in resisting or responding to actions taken by against such officer or employee.

In this rule, "Liability" means a liability of any kind (whether actual or contingent and whether fixed or unascertained) and includes costs, damages and expenses, including costs and expenses incurred in connection with any investigation or inquiry in relation to such officer or employee.

11.2 Insurance

Subject to the Act:

- (a) the Company may enter into, and pay premiums on, a contract of insurance in respect of any Director or officer of the Company; and

- (b) a Director is not precluded from voting in respect of any contract or proposed contract of insurance, merely because the contract insures or would insure the Director against liability incurred by the Director as an officer of the Company.

11.3 Former officers

The indemnity in favour of officers under rule 11.1 is a continuing indemnity. It applies in respect of all acts done by a person while an officer of the Company or one of its wholly owned subsidiaries even though the person is not an officer at the time the claim is made.

12. BOARD MEETINGS

12.1 Convening Board meetings

The convening of a Board meeting may be requested by no less than three Directors, which request shall be directed to the Company Secretary.

12.2 Notice of Board meeting

The convenor of each Board meeting:

- (a) must give reasonable notice of the meeting (and, if it is adjourned, of its resumption) individually to each Director who is in Australia; and
- (b) must give that notice in writing.

In the event of non-receipt of notice by a Director the convenor will be required to provide proof of posting of the notice to the Director's registered address.

12.3 Use of technology

- (a) For the purpose of rule 12 the contemporaneous linking together by telephone, radio or other form of instantaneous audio or audio and visual communication of a number of Directors constituting not less than the quorum required for a meeting of Directors, whether or not one or more of the Directors is outside the Commonwealth of Australia, shall be deemed to constitute a meeting of the Board and all the provisions set out in this document relating to the meetings of the Board shall apply to such meeting so long as the conditions set out in the rule 12.3(b) are met.
- (b) The conditions referred to in rule 12.3(a) are that:
 - (i) all the Directors for the time being entitled to receive notice of a meeting of the Board shall be entitled to notice of the meeting to be conducted by telephone, radio or other form of instantaneous audio or audio and visual communication;
 - (ii) notice of any such meeting shall be given in accordance with rule 12.2;

- (iii) each of the Directors taking part in the meeting shall be linked by telephone, radio or other form of instantaneous audio or audio and visual communication and must throughout the meeting be able to hear each of the other Directors so taking part;
 - (iv) at the commencement of the meeting each Director must acknowledge his/her presence to all the other Directors taking part;
 - (v) a Director may not leave a meeting conducted pursuant to rule 12.3(a) by disconnecting his or her telephone, radio or other form of communication unless he/she has previously obtained the express consent of the chair of the meeting;
 - (vi) a Director shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting by telephone, radio or other form of instantaneous audio or audio and visual communication unless they have previously obtained the express consent of the chair of the meeting to leave the meeting;
 - (vii) a minute of the proceedings at a meeting held by telephone, radio or instantaneous audio or audio and visual communication shall be sufficient evidence of such proceedings and of the observance of all necessary formalities if certified as a correct minute by the chair of the meeting if present at the meeting; and
 - (viii) a meeting by electronic communications shall not be invalidated by a voluntary or involuntary disconnection of a participant provided that there shall remain or be reconnected sufficient Directors able to communicate with each other as constitutes a quorum.
- (c) A Board meeting held solely or partly by technology is treated as held at the place at which the greatest number of the Directors present at the meeting is located or, if an equal number of Directors is located in each of 2 or more places, at the place where the chair of the meeting is located.

12.4 Chairing Board meetings

- (a) After each AGM, the Directors must elect one of their number pursuant to rule 12.4(d) to chair its meetings.
- (b) If there is no chair of Directors or the chair is not present within 15 minutes after the time for which a Board meeting is called or is unwilling to act, the deputy chair shall chair the meeting.
- (c) If there is no deputy chair of Directors or the deputy chair is not present within 15 minutes after the time for which a Board meeting is called or is unwilling to act, the Directors present must elect a Director present to chair the meeting.
- (d) Where the chair is a Director:

- (i) from a Construction Industry Organisation, the deputy chair shall be from a Property Services Industry Organisation; and
- (ii) from a Property Services Industry Organisation, the deputy chair shall be from a Construction Industry Organisation,

and the position of chair will every two years alternate between the nominated Directors of the Construction Industry Organisations and the Property Services Industry Organisations.

- (e) Subject to the eligibility requirements set out in rules 12.4(d), the chair and deputy chair of the Board shall be elected in accordance with the following provisions:
 - (i) all CPSISC Directors will be eligible for election as Board:
 - (A) chair; or
 - (B) deputy chair,except for any Director who expressly indicates that they do not wish to be considered such position;
 - (ii) the election of the chair will be conducted first and will be held by secret ballot, unless only one Director wishes to be considered for election to this office, in which case that Director will be considered automatically, elected as chair;
 - (iii) in the case of more than one Director wishing to be considered for the position of chair, the Director who obtains a simple majority of votes from the Board shall be considered elected to the position of chair;
 - (iv) if the outcome of the secret ballot in rule 12.4(e)(iii) is a tie, a further secret ballot shall be conducted between the tied Directors and the Director who obtains a simple majority of votes shall be elected to the position of chair, and if the outcome of the further secret ballot is also a tie, the result will be determined by drawing lots;
 - (v) subject to the next following paragraph, once the chair has been elected, the provisions of 12.4(e)(i) to 12.4(e)(iv) (inclusive) shall apply with necessary modifications, in relation to the election of a deputy chair; and
 - (vi) notwithstanding any other provision, a Director may at any one time occupy only one of the office bearer positions referred to in this rule (chair and deputy chair) and so once elected to, and whilst occupying, an office bearer position is no longer eligible for election to any other office bearer position.

12.5 Quorum

Unless the Board decides otherwise, the quorum for a Board meeting is 50% of listed Directors and a quorum must be present for the whole meeting. An Alternate who is also a Director or a person who is an Alternate for more than 1 Appointor may only be counted once toward a quorum. For the avoidance of doubt, a Director is considered as present at a meeting held by audio or audio-visual communication if the requirements of rule 12.3 are met. If a meeting is held in another way permitted by section 248D of the Act, the Board must resolve the basis on which Directors are treated as present.

12.6 Majority decisions

A resolution of the Board must be passed by a majority of the members voting at the meeting. The chair of a Board meeting does not have a casting vote. If an equal number of votes are cast for and against a resolution, the matter is decided in the negative.

12.7 Procedural rules

The Board may adjourn and, subject to this document, otherwise regulate its meetings as it decides.

12.8 Written resolution

If all the Directors entitled to receive notice of a Board meeting and to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document, a Board resolution in those terms is passed at the time when the last Director signs.

12.9 Additional provisions concerning written resolutions

For the purpose of rule 12.8:

- (a) 2 or more separate documents in identical terms, each of which is signed by 1 or more Directors, are treated as 1 document;
- (b) signature of a document by an Alternate is not required if the Appointor of that Alternate has signed the document;
- (c) signature of a document by the Appointor of an Alternate is not required if that Alternate has signed the document in that capacity; and
- (d) a facsimile or electronic message containing the text of the document expressed to have been signed by a Director that is sent to the Company is a document signed by that Director at the time of its receipt by the Company.

12.10 Valid proceedings

Each resolution passed or action taken or action approved by, or with the participation of, a person acting as a Director or member of a committee is valid even if it is later discovered that:

- (a) there was a defect in the appointment of the person; or

- (b) the person was disqualified from continuing in office, voting on the resolution or doing the action.

13. MEETINGS OF MEMBERS

13.1 Annual general meeting

The Company must hold an annual general meeting as required by section 250N of the Act.

13.2 Calling meetings of members

A meeting of members:

- (a) may be convened at any time by the Board or no less than three Directors; and
- (b) must be convened by the Board when required by section 249D or 250N of the Act or by order made under section 249G of the Act.

13.3 Notice of meeting

Subject to rule 13.4, at least 21 days' written notice of a meeting of Members must be given individually to:

- (a) each Member (whether or not the Member is entitled to vote at the meeting);
- (b) each Director (other than an Alternate); and
- (c) to the auditor.

The notice of meeting must comply with section 249L of the Act and may be given in any manner permitted by section 249J(3) of the Act.

13.4 Short notice

Subject to sections 249H(3) and (4) of the Act:

- (a) if the Company has elected to convene a meeting of Members as the annual general meeting, if all the Members entitled to attend and vote agree; or
- (b) otherwise, if members who together have power to cast at least 95% of the votes that may be cast at the meeting agree,

a resolution may be proposed and passed at a meeting of which less than 21 days' notice has been given.

13.5 Postponement or cancellation

Subject to sections 249D(5) and 250N of the Act, the Board may:

- (a) postpone a meeting of Members;
- (b) cancel a meeting of Members; or
- (c) change the place for a general meeting,

by written notice given individually to each person entitled to be given notice of the meeting.

13.6 Fresh notice

If a meeting of Members is postponed or adjourned for 1 month or more, the Company must give new notice of the resumed meeting.

13.7 Technology

The Company may hold a meeting of Members at 2 or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate.

14. PROCEEDINGS AT MEETINGS OF MEMBERS

14.1 Member present at meeting

If a Member has appointed a proxy to act at a meeting of Members, that Member is taken to be present at a meeting at which the proxy is present.

14.2 Quorum

The quorum for a meeting of Members is not less than 20% (inclusive of proxies) of Members, including at least 6 Directors being three from each of the Property Services Organisations and the Construction Industry Organisations.

Each individual present in person and by proxy may be counted once toward a quorum.

If a Member has appointed more than 1 proxy or representative only 1 of them may be counted towards a quorum.

14.3 Quorum not present

If a quorum is not present within 45 minutes after the time for which a meeting of Members is called:

- (a) if called as a result of a request of Members under section 249D of the Act, the meeting is dissolved; and
- (b) in any other case:
 - (i) the meeting is adjourned to the day, time and place that the Board decides and notifies to Members,

- (ii) if a quorum is not present at the adjourned meeting, the meeting is dissolved.

14.4 Chairing meetings of members

If the Board has appointed a Director to chair Board meetings, that Director may also chair meetings of Members.

If:

- (a) there is no Director who the Board has appointed to chair Board meetings for the time being; or
- (b) the Director appointed to chair Board meetings is not present at the time for which a meeting of Members is called or is not willing to chair the meeting,

the deputy chair will chair the meeting.

If the Director elected deputy chair is not present at the time for which a meeting of members is called or is not willing to chair the meeting, the Members present must elect a Director present to chair the meeting.

14.5 Attendance at general meetings

- (a) Every Member has the right to attend all meetings of Members.
- (b) Every Director has the right to attend and speak at all meetings of Members.
- (c) The auditor has the right to attend any meeting of Members and to speak on any part of the business of the meeting that concerns the auditor in the capacity of auditor.

14.6 Adjournment

Subject to rule 13.6, the chair of a meeting of Members at which a quorum is present:

- (a) may; and
- (b) must, if directed by ordinary resolution of the meeting,

adjourn it to another time and place.

14.7 Business at adjourned meetings

The only business that may be transacted at a meeting resumed after an adjournment is the business left unfinished immediately before the adjournment.

15. PROXIES AND REPRESENTATIVES

15.1 Appointment of proxies

A member may appoint a proxy to attend and act for the Member at a meeting of members. An appointment of proxy must be made by written notice to the Company:

- (a) that complies with section 250A(1) of the Act; or
- (b) in any other form and mode that is, and is signed or acknowledged by the member in a manner, satisfactory to the Board.

15.2 Deposit of proxy forms

An appointment of a proxy is not effective for a particular meeting of Members unless:

- (a) the proxy form is received by the Company at its registered office or a fax number at that office (or another address specified for the purpose in the relevant notice of meeting, including an e-mail address) at least 48 hours before the time for which the meeting was called; or,
- (b) if the meeting has been adjourned, at least 48 hours before the meeting is resumed.

15.3 Corporate representatives

A Member that is a body corporate may appoint an individual to act as its representative at meetings of Members as permitted by section 250D of the Act.

15.4 Standing appointments

A Member may appoint a proxy, to act at a particular meeting of Members or make a standing appointment and may revoke any appointment. A proxy, may, but need not, be a Member.

15.5 Suspension of proxy if Member present

A proxy has no power to act for a Member at a meeting at which the Member is present:

- (a) in the case of an individual, in person; or
- (b) in the case of a body corporate, by representative.

15.6 Priority of conflicting appointments of representative

If more than 1 representative appointed by a Member is present at a meeting of Members and the Company has not received notice of revocation of any of the appointments:

- (a) a representative appointed to act at that particular meeting may act to the exclusion of a representative appointed under a standing appointment; and

- (b) subject to rule 15.6(a), a representative appointed under a more recent appointment may act to the exclusion of a representative appointed earlier in time.

15.7 More than 1 current proxy appointments

An appointment of proxy by a Member is revoked (or, in the case of a standing appointment, suspended for that particular meeting) if the Company receives a further appointment of proxy from that Member which would result in there being more than 1 proxy of that Member entitled to act at a meeting. The appointment of proxy made first in time is the first to be treated as revoked or suspended by this rule.

15.8 Continuing authority

An act done at a meeting of Members by a proxy or representative is valid even if, before the act is done, the appointing Member:

- (a) dies or becomes mentally incapacitated;
- (b) becomes bankrupt or an insolvent under administration or is wound up; or
- (c) revokes the appointment or the authority under which the appointment was made by a third party,

unless the Company has received written notice of the matter before the start or resumption of the meeting at which the vote is cast.

16. ENTITLEMENT TO VOTE

16.1 Number of votes

At any meeting of Members, subject to any contrary provision in this document:

- (a) Each member has 1 vote on a show of hands or a poll.
- (b) A resolution put to the vote at a meeting of the Company's Members must be decided on a show of hands unless a poll is demanded under rule 17.2.
- (c) Before a vote is taken the chair must inform the meeting whether any proxy votes have been received and how the proxy votes are cast.
- (d) On a show of hands, a declaration of the chair is conclusive of the result, provided the declaration reflects the show of hands and the votes of the proxies received. Neither the chair nor the minutes need to state the number or proportion of the votes recorded in favour or against.

16.2 Casting vote of chair

The chair of a meeting of Members does not have a casting vote. If an equal number of votes are cast for and against a resolution, the matter is decided in the negative.

16.3 Voting restrictions

If:

- (a) the Act requires that some Members are not to vote on a resolution, or that votes cast by some members be disregarded, in order for the resolution to have an intended effect; and
- (b) the notice of the meeting at which the resolution is proposed states that fact, those Members have no right to vote on that resolution and the Company must not count any votes purported to be cast by those Members. If a proxy purports to vote in a way or in circumstances that contravene section 250A(4) of the Act, on a show of hands the vote is invalid and the Company must not count it and on a poll rule 17.3(c) applies.

16.4 Decision on right to vote

- (a) A Member or Director may challenge a person's right to vote at a meeting of Members.
- (b) A challenge may only be made at the meeting referred to in rule 16.4(a).
- (c) Subject to the rule 16.4(d), the chair, whose decision is final, must decide a challenge, or any other doubt as to the validity of a vote.
- (d) If the challenge is in relation to the chair's right to vote at a meeting of Members, the chair must:
 - (i) stand down as chair of the meeting on the challenge;
 - (ii) allow the Members then present and entitled to vote, to elect a new chair of the meeting on the challenge (**Chair**), which Chair shall decide a challenge, or any other doubt as to the validity of the chair to vote; and
 - (iii) abide by the decision of the Chair elected pursuant to rule 16.4(d)(ii) on the validity to vote, whose decision shall be final.
- (e) For the avoidance of doubt, the Chair elected pursuant to rule 16.4(d)(ii) must stand down after the determination in rule 16.4(d)(ii).

17. HOW VOTING IS CARRIED OUT

17.1 Method of voting

A resolution put to the vote at a meeting of Members must be decided on a show of hands unless a poll is demanded under rule 17.2 either before or on declaration of the result of the vote on a show of hands. Unless a poll is demanded, the chair's declaration of a decision on a show of hands is final. A resolution must be passed by a majority of the Members voting at the meeting.

17.2 Demand for a poll

At a meeting of Members, a poll may be demanded by:

- (a) at least 5 Members entitled to vote on the resolution;
- (b) members with at least 5% of the votes that may be cast on the resolution on a poll; or
- (c) the chair.

The demand for a poll does not affect the continuation of the meeting for the transaction of other business and may be withdrawn.

17.3 When and how polls must be taken

If a poll is demanded:

- (a) if the resolution is for the adjournment of the meeting, the poll must be taken immediately and, subject to rule 17.3(c), in the manner that the chair of the meeting directs;
- (b) in all other cases, the poll must be taken at the time and place and, subject to rule 17.3(c), in the manner that the chair of the meeting directs;
- (c) votes which section 250A(4) of the Act requires to be cast in a given way must be treated as cast in that way;
- (d) a person voting who has the right to cast 2 or more votes need not cast all those votes and may cast those votes in different ways; and
- (e) the result of the poll is the resolution of the meeting at which the poll was demanded.

18. SECRETARY

18.1 Appointment of Secretary

The Board shall appoint at least 1 individual to be Secretary.

18.2 Terms and conditions of office

A Secretary holds office on the terms (including as to remuneration) that the Board decides. The Board may vary any decision previously made by it in respect of a Secretary.

18.3 Cessation of Secretary's appointment

The person automatically ceases to be a Secretary if the person:

- (a) is not permitted by Act (or an order made under the Act) to be a secretary of a company;
- (b) becomes disqualified from managing corporations under Part 2D.6 of the Act and is not given permission or leave to manage the Company under section 206F or 206G of the Act;
- (c) becomes of unsound mind or physically or mentally incapable of performing the functions of that office;
- (d) resigns by notice in writing to the Company; or
- (e) is removed from office by the Board, for any reason.

19. MINUTES

19.1 Minutes must be kept

The Board must cause minutes of:

- (a) proceedings and resolutions of meetings of the Company's Members;
- (b) the name of Directors present at each Board meeting, meeting of Members or committee meeting;
- (c) proceedings and resolutions of Board meetings (including meetings of a committee to which Board powers are delegated under rule 8);
- (d) resolutions passed by Directors without a meeting; and
- (e) disclosures and notices of Directors' interests, to be kept in accordance with sections 191, 192 and 251A of the Act.

19.2 Minutes as evidence

A minute recorded and signed in accordance with section 251A of the Act is evidence of the proceeding, resolution or declaration to which it relates unless the contrary is proved.

19.3 Inspection of minute books

The Company must allow Members to inspect, and provide copies of, the minute books for the meetings of Members in accordance with section 251B of the Act.

20. COMPANY SEALS

20.1 Common seal

The Board:

- (a) may decide whether or not the Company has a common seal; and
- (b) is responsible for the safe custody of that seal (if any) and any duplicate seal it decides to adopt under section 123(2) of the Act.

20.2 Use of seals

The common seal and duplicate seal (if any) may only be used with the authority of the Board. The Board must not authorise the use of a seal that does not comply with section 123 of the Act.

20.3 Fixing seals to documents

The fixing of the common seal, or any duplicate seal, to a document must be witnessed:

- (a) by 2 Directors;
- (b) by 1 Director and 1 Secretary; or
- (c) by any other signatories or in any other way (including the use of facsimile signatures) authorised by the Board.

21. FINANCIAL REPORTS AND AUDIT

21.1 Company must keep financial records

The Board must cause the Company to keep written financial records that:

- (a) correctly record and explain its transactions (including transactions undertaken as trustee) and financial position and performance; and
- (b) would enable true and fair financial statements to be prepared and audited, and must allow a Director and the auditor to inspect those records at all reasonable times.

21.2 Financial reporting

The Board must cause the Company to prepare a financial report and a directors' report that comply with Part 2M.3 of the Act and must report to members in accordance with section 314 of the Act no later than the deadline set by section 315 of the Act.

21.3 Audit

The Board must cause the Company's financial report for each financial year to be audited and obtain an auditor's report. Sections 324 to 331 and 1280 and 1289 of the Act regulate the eligibility, appointment, removal, remuneration, rights and duties of the auditor.

21.4 Conclusive reports

Audited financial reports laid before the Company in general meetings are conclusive except as regards errors notified to the Company within 3 months after the relevant general meeting. If the Company receives notice of an error within that period, it must immediately correct the report and the report as corrected is then conclusive.

21.5 Inspection of financial records and books

Subject to rule 19.3 of this Constitution and section 247A of the Act, a member who is not a Director does not have any right to inspect any document of the Company except as authorised by the Board or by ordinary resolution.

22. WINDING UP

If the Company is wound up any surplus property must not be paid to Members but must be paid or transferred to another corporation that complies with section 150(1) of the Act which has similar objects to the Company.

23. NOTICES

23.1 Notices by Company

A notice is properly given by the Company to a person if it is:

- (a) in writing signed on behalf of the Company (by original or printed signature);
- (b) addressed to the person to whom it is to be given; and
- (c) either:
 - (i) delivered personally;
 - (ii) sent by prepaid mail (by airmail, if the addressee is overseas) to that person's address;
 - (iii) sent by fax to the fax number (if any) nominated by that person; or
 - (iv) sent by electronic message to the electronic address (if any) nominated by that person.

23.2 Notice Member by *nominated access means*

In addition to the methods of service set out in rule 23.1, if a Member nominates:

- (a) an electronic means (**nominated notification means**) by which the Member may be notified that notices of meeting are available; and
- (b) an electronic means (**nominated access means**) that the Member may use to access notices of meeting;

the Company may give the Member notice of the meeting by notifying the Member (using the nominated notification means):

- (c) that the notice of meeting is available; and
- (d) how the Member may use the nominated access means to access the notice of meeting

23.3 When notice is given

A notice to a person by the Company is regarded as given and received:

- (a) if it is delivered personally or sent by fax or electronic message (including the nominated notification means in rule 23.2):
 - (i) by 5.00 pm (local time in the place of receipt) on a business day - on that day; or
 - (ii) after 5.00 pm (local time in the place of receipt) on a business day, or on a day that is not a business day - on the next business day; and
- (b) if it is sent by mail:
 - (i) within Australia - 3 business day after posting;
 - (ii) to a place outside Australia - 5 business days after posting.

A certificate in writing signed by a Director or Secretary stating that a notice was sent is conclusive evidence of service.

23.4 Business days

For the purposes of rule 23.3, a business day is a day that is not a Saturday, Sunday or public holiday in the place to which the notice is sent.

23.5 Counting days

If a specified period must pass after a notice is given before an action may be taken, neither the day on which the notice is given nor the day on which the action is to be taken may be counted in reckoning the period.

23.6 Notices to "lost" members

If, after making reasonable enquiry and on at least 2 or more consecutive occasions a notice served on a Member in accordance with this rule is returned unclaimed or with an indication that the Member is not known at the address to which it was sent, the Company may give effective notice to that Member by exhibiting the notice at the Company's registered office for at least 48 hours.

This rule ceases to apply if the Member gives the Company notice of a new address.