

Constitution
of the
Migration Institute of Australia



MIGRATION INSTITUTE
— **OF AUSTRALIA** —

**CONSTITUTION OF
THE MIGRATION INSTITUTE OF AUSTRALIA LIMITED
ACN 003 409 390**

AN UNLISTED PUBLIC COMPANY LIMITED BY GUARANTEE
AND NOT HAVING A SHARE CAPITAL

1. **Preliminary**

1.1 **Replaceable rules**

The Act allows a company's internal management to be governed by certain replaceable rules set out in the Act, by a Constitution or a by combination of both. The Institute will be governed by this Constitution and any replaceable rules contained in the Act do not apply.

1.2 **Definitions**

In this Constitution, unless contrary to or inconsistent with the context:

- (a) "**Act**" means the Corporations Act for the time being in force or any replacement of that Act;
- (b) "**Alternate Director**" means an alternate Director appointed under clause 25.1;
- (c) "**Board**" means the Board of Directors of the Institute from time to time;
- (d) "**Branch**" means a branch of the Institute constituted pursuant to clause 26.1;
- (e) "**Branch President**" means the individual holding office as President of a Branch;
- (f) "**Branch Committee Member**" means an office-bearer or other member of a Branch committee appointed under clauses 26.7 and 26.8;
- (g) "**Chapter**" means a group of Members of common interest or geographical location;
- (h) "**Chief Executive Officer**" means the person appointed under clause 20 to perform the duties of a chief executive officer of the Institute;
- (i) "**Code of Ethics**" means the Migration Institute of Australia Code of Ethics promulgated by the Board from time to time;
- (j) "**Director**" means a person appointed as a director of the Institute under clause 15.1, 15.4 15.6 or 15.7;
- (k) "**Disciplinary Committee**" means a disciplinary committee appointed in accordance with clause 14.2;
- (l) "**Institute**" means The Migration Institute of Australia Limited ACN 003 409 390;
- (m) "**Member**" means a member of the Institute under clause 7.1 and "**Membership**" has a corresponding meaning;

- (n) "**Migration Agents Registration Authority**" or "**MARA**" means the Migration Agents Registration Authority under the *Migration Act 1958* (Cth);
- (o) "**Non-voting Member**" means a Member admitted under clause 7.3;
- (p) "**Office**" means the Institute's principal place of business from time to time;
- (q) "**Officer**" means:
 - (i) a director or secretary of the Company; or
 - (ii) a person who makes or participates in making decisions that affect the whole, or a substantial part of the business of the Company including the Chief Executive Officer of the Company;
- (r) "**Practice Entity**" means any partnership, trust, corporation or unincorporated body in which a Member or Members practice as Registered Migration Agents;
- (s) "**Qualified Director**" means a Director who has been granted a security clearance by the Commonwealth of Australia;
- (t) "**Register**" means the register of Members kept under the Act;
- (u) "**Registered Migration Agent**" means an individual registered as a migration agent under the *Migration Act 1958* (Cth) who is not suspended or otherwise restricted from practising as a migration agent;
- (v) "**Rules**" means the Rules of the Institute prescribed by the Board from time to time;
- (w) "**Secretary**" means the person appointed under clause 21 to perform the duties of a Secretary of the Institute; and
- (x) "**Voting Member**" means a Member admitted under clause 7.2.

1.3 **Interpretation**

In this Constitution, unless contrary to or inconsistent with the context:

- (a) words or expressions shall be interpreted according to the *Acts Interpretation Act 1901* (Cth);
- (b) the singular shall include the plural and vice versa;
- (c) headings do not affect the interpretation of this Constitution; and
- (d) a reference to a section of the Act includes a reference to a corresponding provision of previous or subsequent legislation.

2. **Name**

The name of the Institute is "The Migration Institute of Australia Limited".

3. **Purposes of the Institute**

3.1 The Institute's objects are to:

- (a) advance the interests of the migration advice profession;

- (b) serve the interests of Members;
- (c) increase knowledge about the migration advice profession;
- (d) preserve the professional independence of migration advice professionals;
- (e) contribute to increased levels of professionalism, including through increasing the level of knowledge and understanding of migration law and practice, in the migration advice profession;
- (f) set and administer standards of conduct within the migration advice profession to ensure that Members and those associated with Members provide services that are of the highest standard;
- (g) prescribe disciplinary procedures and sanctions, exercise disciplinary powers and impose sanctions for the better observance of professional standards;
- (h) provide a forum for liaison with governments, government agencies, the media, industry, business and other organisations;
- (i) provide a medium by which Members can effectively communicate with each other;
- (j) act as the Migration Agents Registration Authority in accordance with the provisions of this Constitution and the *Migration Act 1958 (Cth)* for as long as the Institute is appointed as MARA; and
- (k) engage in other activities in support of these objects.

3.2 For the objects listed in clause 3.1, the Institute has the legal capacity of a natural person with all the consequential powers conferred by the Act.

4. **Liability**

The liability of the Members is limited.

5. **Assets and income**

5.1 The assets and income of the Institute must be applied solely towards the promotion of the objects of the Institute as set out in this Constitution. No portion is to be distributed directly or indirectly to Members except as bona fide compensation for services rendered or expenses incurred on behalf of the Institute.

6. **Effect of winding up**

6.1 At the time of adoption of this Constitution it is not the intention of the Institute or the Board that the Institute be wound up in the foreseeable future.

6.2 Every Member undertakes to contribute an amount, not exceeding \$100.00, to the assets of the Institute if it is wound up while they are a Member, or within 1 year after they cease to be a Member, for:

- (a) payment of the debts and liabilities of the Institute contracted before the time at which they ceased to be a Member;
- (b) the costs, charges and expenses of winding up; and
- (c) any adjustment of the rights of contributories among themselves.

- 6.3 If the Institute is wound up, any property remaining after the satisfaction of all the Institute's debts and liabilities must be transferred to one or more institutions that:
- (a) have objects or purposes substantially similar to the objects of the Institute;
 - (b) are not carried on for the profit or gain of their individual members; and
 - (c) are determined by the Members at or before the time of winding up, or in default, by application to the Federal Court of Australia for determination.

7. **Members**

- 7.1 Subject to this Constitution, the Members of the Institute shall be those persons who are members of the Institute at the time of adoption of this Constitution and any new persons admitted under clauses 7.2 and 7.3. Persons who were members eligible to vote at the time of adoption of this Constitution continue to be Voting Members under this Constitution and persons who were members within other categories at the time of adoption of this Constitution and were Non-voting Members continue to be Non-voting Members under this Constitution.
- 7.2 A person may be admitted as a Voting Member if they meet (and continue during their membership to meet), the criteria determined by the Board in the Rules from time to time.
- 7.3 A person or other legal entity may become a Non-voting Member if they meet the criteria determined by the Board in the Rules from time to time.
- 7.4 The Board may in the Rules, without requiring the approval of Members, consolidate membership categories or prescribe further categories of membership.
- 7.5 The Board may from time to time prescribe Rules not inconsistent with this Constitution on procedures for admission of Members.
- 7.6 The Board shall inform Members of any changes made to the Rules within 21 days of making such changes, by publishing the new version of the Rules on the Institute's website.

8. **Privileges and obligations of Members**

- 8.1 Voting Members are entitled to attend and vote at general meetings of the Institute. Non-voting Members are entitled to attend general meetings of the Institute but may not vote.
- 8.2 Every Member is bound by the terms of the Code of Ethics.
- 8.3 Only Voting Members and corporate members are entitled to a certificate of membership. The certificate of membership is the property of the Institute.
- 8.4 A Voting Member may use the post-nominals as prescribed in the Rules for their category of membership. A Non-voting Member must not use any words, post-nominals, letters, numbers or any designation which may indicate that the person is a Member.

9. **Membership fees**

- 9.1 The Board may from time to time determine the amount and arrangements for payment of fees by an applicant or existing Member of a particular category.
- 9.2 The Board may make Rules governing membership fees not inconsistent with this Constitution.

10. **General Meetings**

- 10.1 An annual general meeting of the Institute will be held in accordance with the Act. All general meetings other than the annual general meeting will be called extraordinary general meetings.
- 10.2 An extraordinary general meeting of the Institute may be convened by:
- (a) the President or Secretary on a resolution of the Board;
 - (b) the President or Secretary at the request of either:
 - (i) Voting Members with at least 5% of the votes that may be cast at a general meeting; or
 - (ii) at least 100 Voting Members in the manner permitted by the Act; or
 - (c) Voting Members with at least 5% of the votes that may be cast at a general meeting, in the manner permitted by the Act;
- or may otherwise be called or requisitioned in accordance with the Act.
- 10.3 The Board may, subject to the Act, postpone, cancel or change the venue for a general meeting.
- 10.4 The Secretary must give notice of every general meeting in accordance with the Act. A person entitled to notice of any general meeting may waive that right by advising the Institute in writing.
- 10.5 The non-receipt of notice of a general meeting or proxy form, or of a ballot paper or a failure to give one of these to someone entitled to notice of a general meeting does not invalidate anything done or resolution passed at the general meeting if the non-receipt or failure occurred by accident or the Member waives notice or attends the meeting.
- 10.6
- (a) The President or (in their absence) Vice President, if present within 10 minutes after the time appointed for the start of the general meeting and willing to act, must preside as Chairperson at each general meeting.
 - (b) If the President or Vice President is not present within 10 minutes of the appointed time, or is not willing to act, the Voting Members may elect any other Director present and willing to act to preside as Chairperson of the general meeting.
 - (c) If no Director is present and willing to act, then the Voting Members may elect one of their number to be the Chairperson of the general meeting.
- 10.7 No business shall be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business. A quorum is 5 Voting Members present in person or by proxy.
- 10.8 If, at any general meeting, a quorum is not present within half an hour of the time appointed for holding the meeting:
- (a) if convened by the Voting Members, the meeting will be dissolved; or
 - (b) if convened otherwise, the meeting will stand adjourned to a day and hour and at a place fixed by the Board, and at such adjourned meeting there must be present a quorum, failing which 3 Voting Members present will be deemed to be a quorum for that meeting.
- 10.9 The Chairperson of any general meeting may with the consent of the meeting, and must if directed by the meeting, adjourn a general meeting in accordance with the Act.

11. **Proceedings at General Meetings**

- 11.1 The Chairperson of a general meeting may require the adoption of any procedures which are in his or her opinion necessary or desirable for proper and orderly debate, discussion or voting, and for the casting or recording of votes.
- 11.2 The Chairperson of an annual general meeting must allow a reasonable opportunity for Members as a whole at the meeting to ask questions (including asking questions of the Auditor or Auditor's representative) or make comments on subjects permitted by the Act.
- 11.3 Subject to clause 11.2, the Chairperson of a general meeting may refuse to allow a debate or discussion on any business, question, motion or resolution which is not within the business referred to in the notice of meeting and not otherwise required by the Act to be considered at the meeting.
- 11.4 Subject to the Act, the decision of the Chairperson of a general meeting on any matter relating to the conduct of or procedures to be followed at the meeting is final.
- 11.5 The Board may prescribe such Rules regarding proceedings and votes at general meetings, including the exclusion of persons from meetings, as it sees fit from time to time subject to the Act and this Constitution.

12. **Votes of Members**

- 12.1 Each Voting Member present in person or by proxy is entitled to one vote, provided that all joining fees and membership fees owing to the Institute have been paid by that Voting Member.
- 12.2 At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is demanded by a Voting Member present in person or by proxy. The demand for a poll may be withdrawn. A poll may not be demanded on the appointment of the Chairperson for the general meeting, an adjournment or a procedural motion.
- 12.3 Unless a poll is demanded, a declaration by the Chairperson of the general meeting that a resolution has been carried on a show of hands or carried unanimously or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Institute, shall be conclusive evidence of fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- 12.4 A Voting Member may appoint another person as their proxy to attend and vote for the Voting Member at any general meeting by:
- (a) signing an instrument appointing a proxy in the form prescribed by the Board in the Rules or otherwise in a form complying with the Act; and
 - (b) depositing the instrument appointing the proxy, or sending it by such means as the Board prescribes, at or to the Office or other place specified for that purpose in the notice meeting, no later than the deadline specified in the notice.
- 12.5 No objections can be made about the validity of any vote unless the objection is made at the time of the general meeting or poll at which the vote was tendered. Unless a vote is disallowed at the general meeting or poll at which the vote was tendered the vote, whether given personally or by proxy, will be deemed valid.

13. **Cessation of Membership**

- 13.1 A Member may resign their membership by notice in writing to the Secretary accompanied by their certificate of membership, unless the Institute consents to its retention by the resigning Member.

13.2 Any Member who has failed to pay their membership fees in full by the due date may be removed from the Register, if the fees are not paid in full within 28 days of their being given notice in the form prescribed in the Rules that they will cease to be a Member if the fees are not paid in full. During the period in which the membership fees remain unpaid, the Member will have no membership entitlements.

13.3 If a Member:

- (a) wilfully refuses or neglects to comply with the provisions of this Constitution or the Code of Ethics; or
- (b) is guilty of any conduct which, in the opinion of the Board, is unbecoming of a Member or prejudicial to the interests of the Company;

then the Member may be censured, fined, suspended, expelled or subjected to another determination against the Member, provided that the procedure for discipline of Members under clause 14 and the Rules is followed.

14. **Discipline of Members**

14.1 The Board will set out in the Rules the circumstances that may give rise to disciplinary proceedings, and may set out different consequences or processes for different circumstances.

14.2 Where the Institute becomes aware that there may be circumstances which would be grounds for disciplinary action against a Member, the Chief Executive Officer or any other Officer nominated by the Board for that purpose ("**Investigating Officer**") may investigate the matter further and decide whether to refer it to a Disciplinary Committee in accordance with the Rules.

14.3 The Board may appoint disciplinary committees of 3 or more individuals to investigate hear and determine any disciplinary matter brought before them.

14.4 A Member subject to consideration of disciplinary action must be given a reasonable opportunity to make written or oral submissions before any final decision unfavourable to the Member is made.

14.5 Where:

- (a) all avenues of appeal under the Rules have been pursued; or
- (b) the Board has given a final determination on the discipline of a Member,

neither the Member nor any other person has a right to further appeal. However, if additional facts relevant and significant to the matter subsequently emerge, the Investigating Officer may consider the facts and if thought fit refer the matter to the Board or relevant committee for reconsideration.

14.6 The Board may prescribe Rules that elaborate on, and do not contradict, the principles for discipline of Members and procedures for decision-making in this clause 14.

15. **Appointments to the Board**

15.1 The Board will consist of:

- (a) up to 6 Voting Members who are elected in a general ballot of Voting Members conducted before every second annual general meeting in accordance with clause 15.3; and
- (b) the Branch Presidents elected before every second annual general meeting in accordance with clause 26.7 (or alternatively any other Voting Member of that Branch nominated by that

Branch President) for the 5 Branches in existence at the time of adoption of this Constitution, namely Qld/NT, NSW, Vic/Tas, SA and WA.

- 15.2 The election and appointment of Directors under clauses 15.1(a) and 15.1(b) will occur in alternate years, beginning with the appointment of Directors under clause 15.1(b) to take effect at the close of the 2007 annual general meeting. A new Board will automatically be constituted at the close of each annual general meeting comprising continuing and newly appointed Directors.
- 15.3 Nominations and elections for appointment to the Board under clause 15.1(a) will be conducted before every second annual general meeting as follows:
- (a) Nominations for election must be signed by 2 Voting Members, include the written consent of the candidate and otherwise comply with any applicable Rules.
 - (b) If the number of nominations received for election to the Board under clause 15.1(a) is equal to or less than the number of positions available, no ballot is required. Those persons nominated will be declared elected if the Voting Members approve the appointment of each at the annual general meeting.
 - (c) The Secretary must otherwise distribute ballot papers in accordance with the Rules. Ballot papers must be returned to the Secretary at least 14 days before the annual general meeting at which the election will be announced.
 - (d) The results of each election will be announced by the Chair at the annual general meeting following the election and those Directors declared elected will take office from the close of that annual general meeting.
- 15.4 In addition to the Directors appointed under clause 15.1, the Board may by ordinary resolution appoint up to 3 additional persons to act as Directors for a specified period (not longer than the period expiring at the end of the next annual general meeting) to provide additional expertise or for any other reason the Board thinks fit.
- 15.5 The maximum number of Directors on the Board is 17, however the Members may by ordinary resolution increase or reduce the maximum number of Directors.
- 15.6 If there is a casual vacancy due to the removal of a Director who was appointed under clause 15.1(b), the position may be filled by the relevant Branch Vice President or, if the Branch Vice President bearer declines the role, the relevant Branch may appoint any Branch member who is a Voting Member to fill that position. The appointment will continue until the close of the Institute's next annual general meeting, unless there is no election of Branch Presidents under clause 26.7 before that annual general meeting, and the Members of the Branch vote by ballot before that annual general meeting to extend the appointment to the close of the following annual general meeting.
- 15.7 If there is a casual vacancy due to the retirement of a Director who was appointed under clause 15.1(a), the Board may appoint any Voting Member to fill that position. The appointment will continue until the close of the Institute's next annual general meeting, unless there is no election of Directors under clause 15.1(a) before that annual general meeting and the Members vote by ordinary resolution at that annual general meeting to extend the appointment to the close of the following annual general meeting.
- 15.8 So that the Board may exercise the Institute's functions as the Migration Agents Registration Authority each Director and any Alternate Director consents to and agrees to co-operate with all security checks required by the Commonwealth of Australia. A Director or Alternate Director who fails to pass any security checks required by the Commonwealth may continue to act and be involved in any matter which does not involve in any way the exercise of any function, power or discretion in the Institute's capacity as the Migration Agents Registration Authority.

15.9 The Board may make Rules with respect to the conduct of nominations and elections of Directors, provided they promote fairness do not breach the Act and do not alter the fundamental rights of Members, Directors or candidates under this Constitution.

16. **Election of office bearers of the Board**

16.1 Immediately after an annual general meeting, the newly constituted Board shall elect from its Directors the following office bearers:

- (a) President;
- (b) Vice-President; and
- (c) Honorary Treasurer.

16.2 If the position of an office bearer becomes vacant the Board must elect another Director to fill the office until the close of the next annual general meeting.

16.3 The Members may by ordinary resolution increase or reduce the number of office bearers.

17. **Retirement, resignation and removal of Directors**

17.1 Directors appointed under clause 15.1 will retire at the close of the second annual general meeting after the annual general meeting at which they are appointed. A Director retiring from office is eligible for re-election.

17.2 A person ceases to be a Director if they:

- (a) cease to be a Voting Member or are suspended or excluded for any period from being a Voting Member (unless appointed under clause 15.2 and not a Voting Member at the time of that appointment);
- (b) fail to attend 3 meetings of the Board, or 3 meetings of a committee of the Board of which the Director is a member, in the period between the holding of an annual general meeting and the holding of the subsequent annual general meeting, without the leave of the Board or relevant committee, and the Board agrees that the person should cease to be a Director;
- (c) become bankrupt;
- (d) become of unsound mind or an individual whose personal or financial affairs are liable to be managed by another person under the law relating to mental health;
- (e) become prohibited from being a director of a company by reason of any order made under the Act; or
- (f) resign by notice in writing to the Institute, effective upon receipt of that notice.

17.3 The Institute in general meeting may:

- (a) remove a Director from office by ordinary resolution in accordance with the Act; and
- (b) by resolution fill the office vacated by a Director who is removed under clause 17.3(a) by appointing another eligible candidate to that office until the close of the annual general meeting at which the appointment of the replaced Director would have expired in the ordinary course.

18. Powers and Duties of the Board

- 18.1 Subject to the Act and this Constitution all the business and affairs of the Institute will be managed by the Board. The Board may exercise all the powers of the Institute not required by the Act or by this Constitution to be exercised by the Institute in general meeting. No resolution made by the Members in general meeting shall invalidate any prior act of the Board which would have been valid if that resolution had not been made.
- 18.2 If the number of Directors falls below the quorum fixed in this Constitution, the continuing Directors may only act for the purpose of increasing the number of Directors to at least the quorum or of summoning a general meeting of the Company or in emergencies. The term "**emergencies**" includes where the financial status of the Institute or privacy of Members is at serious risk, where failure to act could result in significant legal liability to the Institute and other urgent situations where so acting would be in the best interests of the Institute as a whole.
- 18.3 The Board may from time to time prescribe such Rules, not inconsistent with this Constitution, as the Board deems fit to govern the affairs of the Institute. The Board shall take reasonable steps to ensure that up-to-date copies of all Rules are available to interested Members.
- 18.4 The Board has the power to reasonably remunerate Directors and any other individual or entity for any work undertaken at the request of the Board in respect of the Institute's Migration Agent Registration Authority function and any other activity. The Board must disclose these amounts in the Institute's annual accounts and report.

19. Delegation

- 19.1 The Board may delegate any of its powers or functions.
- 19.2 The Board may:
- (a) specify that the delegate(s) may exercise those powers delegated to them as if the exercise were a decision of the Board itself;
 - (b) restrict the delegate(s) to providing advice or implementing other decisions of the Board; or
 - (c) direct the delegate(s) in any other manner.
- 19.3 Delegate(s) to which any powers or functions of the Board have been so delegated must comply with any written directions given by the Board.
- 19.4 A function or power delegated to a committee may be performed or executed by a majority of the members of the committee and may not otherwise be performed or exercised under the delegation.
- 19.5 Subject to any specific Rules governing a committee to which powers or functions of the Board have been delegated, the provisions of this Constitution applying to meetings and resolutions of the Board apply, so far as they can, to meetings and resolutions of a committee appointed under clause 19.1.

20. Chief Executive Officer

The Board may appoint any individual as Chief Executive Officer of the Institute. The Board may delegate to the Chief Executive Officer any powers, discretions and duties of the Board as the Board thinks fit and, subject to the rights of the parties under any contract, may remove the individual from that office.

21. Secretary

- 21.1 The Board must appoint a Secretary.

21.2 The Board may determine the term of office and remuneration for the Secretary in its discretion, and may replace the Secretary at any time.

21.3 The role of the Secretary will be to oversee the proper corporate governance of the Institute and undertake all other tasks required by this Constitution, the Act or as requested by the Board.

22. **Advisory Boards**

The Board may from time to time convene advisory boards or boards of reference, made up of persons who may or may not be Members, to provide advice to the Board in particular matters.

23. **Board Meetings**

23.1 The Directors may meet for the dispatch of business and regulate their meetings as they think fit.

23.2 Meetings of the Board shall be summoned by:

- (a) the President;
- (b) the Chief Executive Officer acting under the direction of the President or any 2 Directors; or
- (c) the Secretary acting under the direction of the President or any 2 Directors.

23.3 Notice of a meeting of the Board must be given to each Director who is then in Australia:

- (a) specifying the time and place and stating the nature of the business to be transacted at the meeting;
- (b) at least 3 clear days before the meeting (except in emergencies when 24 hours' notice may be given);
- (c) in person, by post, telephone, facsimile transmission, electronic mail or by any other method of written, audio or electronic communication to the Director; and
- (d) at the Director's address or number last notified to the Institute.

23.4 Failure to give notice of the meeting of the Board to a Director does not invalidate any thing done, or resolution passed at the Board meeting if the:

- (a) failure occurred by accident; or
- (b) Director concerned waives notice of that meeting; or
- (c) Director concerned attends the meeting.

23.5 No business may be transacted at a meeting of the Board unless a quorum of Directors is present at the time the business is dealt with. A quorum is 4 Directors. However, if the Board is considering any issue related to the Migration Agents Registration Authority, or connected with the activities of the Institute in its role as the Migration Agents Registration Authority, a quorum is 4 Qualified Directors.

23.6 The President will act as Chairperson of the Board to preside over meetings of the Board. If the President declines that appointment or is not present within 10 minutes after the appointed time for a Board meeting, the Vice President will act as Chairperson. If the Vice President declines that appointment or is not present within 10 minutes after the appointed time for the meeting, the Directors present may choose one of their number to act as Chairperson for that meeting.

- 23.7 All acts of the Board or a Director or a committee of the Board to whom powers, duties or discretions have been delegated, shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of that person, or that one or more Directors were disqualified, be as valid as if every such person had been duly appointed and every such Director was qualified.
- 23.8 Questions arising at a meeting of the Board are to be decided by a majority of votes of the Directors present.
- 23.9 In an equality of votes, the Chairperson has a casting vote.
- 23.10 A resolution in writing signed by all Directors who are in Australia and entitled to vote on the matter is as valid and effectual as if it had been passed at a meeting of the Board duly called and constituted on the date and at the time the last Director signed. That resolution may consist of several copies of a document each signed by one or more Directors.
- 23.11 The Directors may meet in person or by telephone or other instantaneous means of communication for the dispatch of business (or by any combination of those means) which allows each person present to hear and be heard by each other person present, and regulate their meetings as they determine.
- 23.12 A minute of any Board meeting shall be sufficient evidence of such proceedings and of the observance of all necessary formalities if signed as a correct record by the Chairperson of the meeting.
24. **Conflicts of Interest**
- 24.1 Subject to the Act:
- (a) The nature of a Director's interest in any contract, agreement or arrangement must be declared by that Director at a meeting of the Board in accordance with the Act as soon as practicable after the relevant facts have come to that Director's knowledge.
 - (b) A Director who holds an office or possesses property, in relation to which duties or interests might be created directly or indirectly in conflict with their duties as Director, must declare at a meeting of the Board the fact and the nature, character and extent of the conflict.
 - (c) A general notice that a Director is a member of any specified firm, partnership, entity or corporation and is to be regarded as interested in all transactions with that firm or corporation is a sufficient declaration by the Director under this clause 24.1 in relation to the transactions.
 - (d) The Secretary must record in the minutes any declaration made or any general notice given by a Director pursuant to this clause 24.1.
- 24.2 Subject to the Act, a Director who has a material personal interest in a matter that is being considered at a meeting of Directors:
- (a) must not vote on the matter (or in relation to a proposed resolution under clause 24.2(d) in relation to the matter, whether in relation to themselves or a different Director); and
 - (b) must not be present while the matter (or a proposed resolution of that kind) is being considered at the meeting,
- unless:
- (c) the matter applies to an interest that the Director has as a Member in common with the other Members; or

- (d) the Directors who do not have a material personal interest in the matter have passed a resolution that specifies the Director, the material personal interest and the matter, and states that the Directors voting for the resolution are satisfied that the interest should not disqualify the Director from considering or voting on the matter.

25. **Alternate Directors**

- 25.1 Any Director may appoint an individual to act as an alternate in that Director's place by giving notice in writing to the Secretary or by other means (including electronic means) that are acceptable to the Board. The Board must approve that appointment before it takes effect.
- 25.2 The Alternate Director will have the same rights and powers and be subject to the same terms and conditions of office that apply to the other Directors. The Alternate Director will observe and discharge all the duties of the Director which he or she represents. The Alternate Director will be responsible to the Company for his or her acts and defaults and will not be or be deemed to be the agent of the appointing Director.
- 25.3 The Alternate Director will be paid such remuneration for his or her services as the Board determines.
- 25.4 An appointing Director, or the Board by ordinary resolution, may suspend or remove an Alternate Director at any time.

26. **Branches**

- 26.1 The Board may, subject to this Constitution, make Rules relating to Branches and Chapters.
- 26.2 One Branch authorised by the Board may be formed by Members in each of the geographical areas prescribed by the Rules provided that at least 10 Members (or a smaller number of Members approved by the Board) agree to be members of that Branch.
- 26.3 The role of a Branch is to:
- (a) act as a regional contact and network for Members;
 - (b) organise regional events for the benefit of Members;
 - (c) represent Member interests at a regional level by liaising with government departments and agencies in the region;
 - (d) interact with the Institute and the Board at national level with regional feedback,
- subject to this Constitution, the Rules and any directions of the Board. The Board may approve and periodically review Terms of Reference for Branches.
- 26.4 Each Member has the right to become a member of a Branch if they ordinarily reside or have their principal office or principal place of business in Australia in the relevant geographical area. Members who ordinarily reside outside Australia may become a member of a Branch of their choosing. Each Member may only become a member of one Branch.
- 26.5 Membership of a Branch will not relieve the members of the Branch from any liabilities or obligations incidental to their membership of the Institute.
- 26.6 Only Members may become members of a Branch. A person will cease to be member of a Branch upon ceasing to be a Member.
- 26.7 Before every second annual general meeting commencing with the 2007 annual general meeting, the members of the Branch who are Voting Members will elect the following office bearers of the Branch,

who must be Voting Members, in accordance with the Rules and subject to any directions of the Board:

- (a) Branch President;
- (b) Branch Vice-President;
- (c) Branch Secretary; and
- (d) Branch Treasurer.

- 26.8 Before every second annual general meeting commencing with the 2007 annual general meeting, the members of the Branch who are Voting Members may, in addition to electing the office bearers referred to in clause 26.7, elect up to 6 committee members (as required by the Branch) who must be Voting Members, in accordance with the Rules and subject to any directions of the Board.
- 26.9 If there are insufficient candidates nominated to fill the Branch office bearer positions or casual vacancies in the roles of Branch office bearers from time to time:
- (a) The remaining Branch office bearers may appoint other Voting Members of that Branch to fill any vacancy.
 - (b) The appointment will continue until the close of the Institute's next annual general meeting unless there is no election of office bearers under clause 26.7 before that annual general meeting, and the members of the Branch vote by ballot before that annual general meeting to extend the appointment to the close of the following annual general meeting.
- 26.10 At least 2 of the 4 office bearer positions must be filled in order for a Branch to function.
- 26.11 Branch Committee Members appointed under this clause will retire at the close of the second annual general meeting after the annual general meeting at which they are appointed. An office bearer or other committee member retiring from office is eligible for re-election.
- 26.12 A person ceases to be a Branch Committee Member if they meet any of the criteria under clause 17.2.
- 26.13 Branch Members may by ordinary resolution remove a Branch Committee Member from office at a meeting of Branch Members convened by any 3 Branch Members in accordance with the Rules (or otherwise in accordance with the principles applicable to an extraordinary meeting of Members generally) and fill the office vacated by a Branch Committee Member who is removed under this clause by appointing another eligible candidate to that office until the close of the annual general meeting at which the appointment of the replaced Branch Committee Member would have expired in the ordinary course.
27. **Accounts**
- 27.1 The Board must cause proper financial records to be kept as required by the Act, copies of the Institute's financial report (including the financial statements), the directors' report and the auditor's report on the financial report, for each financial year of the Institute.
- 27.2 The Directors must lay before each annual general meeting the reports for the last financial year, as required by the Act.

28. **Audit**

The Board must cause the financial records of the Institute to be examined by a properly qualified auditor or auditors at least once for each financial year.

29. **Notices**

29.1 A notice may be given by the Institute to any Member either personally or by sending it by post, facsimile or by other electronic means to the Member at the address or number of that Member in the Register.

29.2 Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice, and is taken to have been served 7 days after the date of its posting. A notice sent by facsimile or by other electronic means will be deemed to be served on the following business day.

30. **Indemnity**

30.1 To the maximum extent permitted by the Act, the Institute indemnifies each Officer against any liability, including any liability for legal costs, incurred by the Officer in their capacity as Officer.

30.2 The indemnity given in clause 30.1 will apply to losses and liabilities incurred both before and after the date of adoption of that clause and will continue in force after the Officer ceases to be an Officer of the Institute.

30.3 The Institute may to the extent permitted by the Act purchase and maintain insurance or pay or agree to pay a premium for insurance for an Officer against any liability incurred by the person as an Officer, provided that the Board may then apply the indemnity given in clause 30.1 only to the extent that the loss or liability is not covered by such insurance.

DATED

2007

CORPORATIONS ACT 2001 (CTH)

CONSTITUTION

OF

**THE MIGRATION INSTITUTE OF AUSTRALIA LIMITED
ACN 003 409 390**

**AN UNLISTED PUBLIC COMPANY LIMITED BY GUARANTEE
AND NOT HAVING A SHARE CAPITAL**



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