

Constitution of

TAI Practitioners & Advisers Ltd.

ACN 161 462 620

Corporations Act 2001 (Cth)

A public company limited by guarantee

As per changes approved by the Members on 25 October 2018

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1. INTERPRETATION

1.1 Definitions

In this Constitution meanings apply to capitalised terms used as specified in this provision unless the context otherwise requires:

“**Act**” means the *Corporations Act 2001* (Cth);

“**AGM**” means an annual general meeting held in accordance with section 250N of the Act;

“**Appointed Director**” means a person appointed as a director of the Company by the Board of Directors of Taxpayers Australia Limited ABN 96 075 950 284 pursuant to the Act or this Constitution;

“**Associate Member**” means a person who has been admitted as a Member to the class of Membership pursuant to Clause 5.3;

“**BAS Service**” has the meaning given to BAS service set out in section 90-1 of TASA;

“**Board**” means the board of Directors of the Company duly appointed in accordance with Clause 9;

“**Business Day**” means any day on which trading banks generally are open for business in Melbourne;

“**By-law**” means a by-law made pursuant to Clause 12 of the Constitution;

“**Code of Professional Conduct**” means the Code of Professional Conduct approved by the board and specified in the By-Laws from time to time;

“**Company**” means TAI Practitioners & Advisers Ltd, ACN 161 462 620;

“**Complaints Report**” means the report prepared pursuant to Clause 8.4;

“**Constitution**” means this constitution;

“**CPE**” means continuing professional education;

“**Director**” means a person appointed as a director of the Company pursuant to the Act or this Constitution and where relevant includes an alternate director of a Director;

“**Elected Director**” means a person appointed as a director of the Company by the Voting Members of the Company pursuant to the Act or this Constitution;

“**Ethics Committee**” means the committee appointed or established under Clause 8.2;

“**Governmental Agency**” means any governmental, semi-governmental, administrative, fiscal, municipal, local, judicial or regulatory agency department instrumentality, body, utility, authority, commission, court or tribunal;

“**Liquidation**” includes winding up and dissolution;

“**Members**” means those persons who have been admitted to membership in any class of membership pursuant to Clause 5, and “**Membership**” has a corresponding meaning;

“**Month**” means a calendar month;

“**Ordinary Resolution**” means any resolution passed by a majority of Members who being entitled to do so vote in person or by proxy at a general meeting of the Company;

“President” means the president of the Company appointed pursuant to clause 10.1 of this Constitution;

“Register” means the register of Members to be kept pursuant to the Act;

“Registered Tax Agent” and “Registered BAS Agent” have the meaning given to registered tax agents and BAS agents in section 90-1 of TASA;

“Secretary” means the person appointed to perform the duties of secretary of the Company;

“SIS” means the Superannuation Industry (Supervision) Act 1993;

“Special Resolution” has the same meaning as in the Act;

“TASA”; means the *Tax Agent Services Act 2009* (Cth);

“TASR” means the *Tax Agent Services Regulations 2009* (Cth);

“Tax” includes any tax, duty, charge or rate imposed or assessed under any legislation or by any Governmental Agency, together with any associated interest, penalty, fine, fee or other charge;

“Tax Agent Service” has the meaning given to tax agent service in section 90-1 of TASA;

“Taxation Law” has the meaning set out in section 995-1 of the *Income Tax Assessment Act 1997* (Cth);

“Taxpayers Australia Limited” means Taxpayers Australia Limited. ABN 96 075 950 284 and its successor bodies;

“Tax Practitioners Board” means the Tax Practitioners Board established by section 60-5 of the Tax Agent Services Act and its successor bodies;

“Voting Member” means an individual entitled to vote at a members’ meeting pursuant to the Act and Clause 5.2 of this Constitution.

1.2 Interpretation

In this Constitution, unless the subject or the context otherwise requires:

- (a) **(headings)**: headings and subheadings are for convenience only and do not affect interpretation;
- (b) **(plurality)**: words denoting the singular number include the plural, and the converse also applies;
- (c) **(gender)**: words denoting any gender include all genders;
- (d) **(person)**: person includes a natural person and any body or entity, whether incorporated or not;
- (e) **(variants)**: a defined word or expression has corresponding effect in relation to its other grammatical forms;
- (f) **(parties)**: any reference to a party to any agreement or document includes its executors, administrators, legal personal representatives, successors and permitted assigns and substitutes by way of assignment or novation;
- (g) **(amendments)**: any reference to any agreement or document includes that agreement or document as amended, ratified, supplemented, novated or replaced at any time;

- (h) **(provisions)**: any reference to a provision, comprising a rule, clause or schedule, is a reference to a provision of this Constitution, including each rule, clause, sub rule, subclause, paragraph and subparagraph of that provision, and any reference to this Constitution includes all provisions of this Constitution;
- (i) **(legislation)**: any reference to any legislation includes a reference to that legislation as amended, re-enacted, consolidated or replaced at any time, and includes all regulations, delegations, instruments and orders made under it;
- (j) **(inclusions)**: the words include, including, for example and similar expressions are used without limitation;
- (k) **(components)**: any reference to any whole or collective item includes any part of that item;
- (l) **(time): at any time** includes reference to past, present and future time and the performance of any action from time to time and any liability at all times during any specified period;
- (m) **(cost): cost** includes any cost, charge, expense, disbursement, fee, commission, outgoing, premium, Tax, levy, fine, penalty or loss incurred at any time, whether directly or indirectly;
- (n) **(credit): credit** includes any present or future loan, advance, credit facility or other financial accommodation;
- (o) **(default): default** includes any default, breach, non-performance, non-compliance or repudiation;
- (p) **(liability): liability** includes any liability or obligation of any nature, whether present, prospective or contingent;
- (q) **(present): present** at any general meeting, means being present in person or by proxy, attorney, representative or other permitted agent.

1.3 Act, TASA, SIS

In this Constitution unless the contrary intention appears, a word or expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of either the *Act, TASA or SIS*, the same meaning as in that provision of the *Act, TASA or SIS*.

2. CORPORATE REGULATION

2.1 Exclusion of Replaceable Rules

The rules of the Company specified in the provisions of this Constitution apply to the Company and displace any replaceable rules prescribed by Part 2B.4 of the *Act*.

2.2 Legal Compliance

- (a) The provisions of this Constitution apply subject to and in compliance with any mandatory provision of the *Act*; and
- (b) Any mandatory provision of the *Act* is incorporated into, and applies instead of any provision of this Constitution in the event of any conflict.

2.3 Statutory Powers

The Company has power under this provision to perform any action in any case where the *Act* confers that power on any company, if that power is comprised in its constitution documents, despite any other provision of this Constitution.

3. CORPORATE TYPE

3.1 Name

The name of the Company is TAI Practitioners & Advisers Ltd, ACN 161 462 620.

3.2 Registered Office

The registered office of the Company shall be at a location determined by the Board.

3.3 Application of Profits or Income

- (a) The assets and income of the Company must be applied solely in promoting the objects of the Company as set out in clause 4 of this Constitution;
- (b) No portion of the assets or income is to be paid or transferred directly or indirectly by way of profit to Members or Directors;
- (c) Subject to clause 3.3(d) no remuneration or other monetary benefit shall be paid or given by the Company to any Director or any other person who is an officeholder of the Company;
- (d) Nothing in this clause prevents the payment in good faith of or to any Member for:
 - (i) goods supplied in the ordinary and usual course of business;
 - (ii) interest at a reasonable commercial rate on money borrowed from any Member;
 - (iii) reasonable commercial rent for premises demised, let or licensed by any Member to the Company;
 - (iv) remuneration to any officers or servants of the Company in return for any services rendered to the Company in a professional or technical capacity, if the Board considers that the provision of the service is on reasonable commercial terms and such payment has the prior approval of the Board;
 - (v) out-of-pocket or travel expenses incurred by a Director in the performance of any duty as a Director of the Company where the amount payable does not exceed any amount previously approved by the Board;
 - (vi) any salary or wage to an employee of the Company where the terms of employment have been approved by the Board;
 - (vii) an insurance premium in respect of a liability incurred as an officer of the Company, where such payment has been approved by the Board and is permitted under the *Act*; or
 - (viii) legal costs incurred by an officer of the Company in defending an action for liability incurred as an officer of the Company, where such payment has been approved by the Board and is permitted under the *Act*.

The liability of Members is limited.

3.4 Members Guarantee

Every Member undertakes to contribute to the property of the Company in the event of the Company being wound up while he or she is a Member, or within one year after he or she ceases to be a Member, for payment of the debts and liabilities of the Company contracted before he or she ceased to be a Member and of the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding the sum of ten dollars (\$10.00).

3.5 Distribution of Property upon Liquidation

If upon the winding up or dissolution of the Company any property or money remains after satisfaction of all debts and liabilities, it shall be given or transferred to one or more organisations having objects similar to the objects of the Company and the constitution of which prohibits the distribution of its or their income and property among its or their members to at least the same extent as is imposed on the Company under clause 3.3 of this Constitution, such institution or institutions to be determined by the Board at or before the time of dissolution.

4. OBJECTIVES

The principal objectives and purposes of the Company, the priority of which is at the discretion and direction of the Board, are to:

- (a) adopt and promote the objectives and purposes of Taxpayers Australia Limited. to the extent they are consistent with the provisions of this Constitution;
- (b) be a recognised association for professionals who are registered agents under TASA;
- (c) (deleted SGM 20 June 2016)
- (d) assist individuals to become Members;
- (e) ensure that Members undertake an appropriate number of hours of CPE each year;
- (f) represent the Members on issues that affect them including registration and the administration of complaints;
- (g) ensure that Members who are registered agents under the TASA regime strictly adhere to the code of professional conduct prescribed by TASA;
- (h) ensure that Members that are found by the Ethics Committee to have breached the Code of Professional Conduct or are determined to be guilty of misconduct of any kind are appropriately disciplined including, where appropriate, referring Members to the Tax Practitioners Board or other relevant regulatory body;
- (i) provide a system for the fair and equitable handling of complaints against Members;
- (j) provide education services and to promote and arrange conferences, seminars, workshops and lectures dealing with but not limited to Taxation Law, TASA and SIS for Members or the general public;
- (k) improve, promote, facilitate and advance the knowledge and understanding of the Members and the general public on matters dealing with but not limited to taxation and superannuation matters as they relate to Members and the general public;
- (l) enhance the confidence of the public in TASA and Tax Agent Services provided by Members who are registered agents under the TASA regime;
- (m) publish papers, journals, newsletters, periodical and books and to disseminate information amongst the Members in relation to all matters of professional and community interest;
- (n) provide a forum for the Members to discuss and consider matters relating to the

provision of Tax Agent Services and BAS Services;

- (o) monitor developments, research, consult, and make submissions or representations to governments or government authorities or bodies in relation to the provision of Tax Agent Services and BAS Services and changes or proposed changes to related Taxation Law and SIS;
- (p) promote and encourage education and research in relation to the provision of Tax Agent Services and BAS Services and to obtain recognition of, and to adopt such means for promoting, the aims and objects of the Company through the medium of the press and of broadcasting, television and other electronic communications as may seem expedient;
- (q) collect, consider, critically appraise and publish information relating to the provision of Tax Agent Services, BAS Services, Taxation Law and changes or proposed changes to Taxation Law or the regulation of Tax Agent Services and BAS Services and complaints and improvements in relation to the provision of the Tax Agents Services and BAS Services;
- (r) provide useful and cost effective services, facilities and benefits to Members and to watch over, represent and protect the interests of Members and taxpayers generally in regard to Parliamentary and Municipal legislation or administrative action affecting taxable property or any interest therein;
- (s) work co-operatively with any association, company or group whose objects or activities promote or support the interests of the Members including Taxpayers Australia Limited.;
- (t) conduct and participate in activities focused on enhancing the reputation of the accounting profession within the community.
- (u) generally do any such other things as may contribute to the attainment of the above objects or any of them, and if the Company is accredited as a recognised association under TASA, then the Company will:
 - (i) endeavour to ensure that the Company meets the conditions of recognition as an association has at least 1,000 Voting Members, of whom:
 - (a) at least 500 are Registered Tax Agents; and
 - (b) at least 500 are Registered BAS Agents; and
 - (ii) comply with the obligations of a recognised association as specified under TASA from time to time.

5. MEMBERS

5.1 Members

The Members of the Company are those persons:

- (a) who are members of Taxpayers Australia Limited that have been granted Membership by the Board prior to the adoption of this Constitution; and
- (b) who are admitted to Membership in accordance with this Constitution after it comes into operation.

and his or her Membership is subject to this Constitution.

5.2 Classes of Members

The Membership of the Company consists of the following classes of Members:

- (a) Fellows;
- (b) Ordinary Members;
- (c) Associate Members; and,
- (d) such other classes of Members as the Board determines from time to time;

Associate Members shall have no right to vote at meetings of the Members. Otherwise, the rights, privileges and obligations of each class of Membership shall be prescribed by the Board in the By-laws.

5.3 Eligibility for Membership

- (a) The eligibility criteria for the classes of Membership of the Company set out in clause 5.2 shall be prescribed by the Board in the By-laws.
- (b) The Board has the discretion to amend or waive any part of the eligibility criteria at any time in relation to any applicant for Membership.

5.4 Eligibility for Practising Certificate

The eligibility criteria for Members submitting applications for a practising certificate shall be prescribed by the Board in the By-Laws.

5.5 Application for Membership

Every application for Membership must be made in the form approved by the Board from time to time, and each application must include:

- (a) all relevant details of the application form;
- (b) evidence of the applicant's qualifications for Membership;
- (c) an undertaking on the part of the applicant to be bound by this Constitution; and
- (d) the signature of the applicant and approved proof of identity.

5.6 Lodging of applications for Membership

All applications for Membership must be addressed to the Secretary and accompanied by the applicable joining fee and/or annual subscription fee if the applicant is not entitled to an automatic exemption from the payment of fees pursuant to clause 6.2 of this Constitution.

5.7 Determination of an application for Membership

- (a) At meetings of the Board the Directors shall consider all of the applications for membership received and make a determination in respect of each applicant of their admission and the class of membership;
- (b) If an application is refused, the Board shall provide the applicant with reasons for its determination and any application or joining fees paid by the applicant will be refunded.

5.8 Register of Members

- (a) The Secretary shall maintain the Register in accordance with the Act; and
- (b) Applications to inspect the Register may be submitted to the Secretary and the Secretary must comply with the requirements of the Act in determining whether to allow any inspection of the Register.

5.9 Approval for Associate Members to become Ordinary Members

The Board may in its absolute discretion grant approval for an Associate Member to become an Ordinary Member provided the Associate Member:

- (a) meets the requirements set out in this Constitution; and
 - (b) completes the approved form and lodges it with the Secretary; and
- the fee exemption in Clause 6.2 will apply.

5.10 Change in Membership

The Board may at any time and in its absolute discretion:

- (a) determine that a Member is no longer eligible to hold their particular class of Membership and vary the Member's to the appropriate class; or
- (b) create a new or extinguish an existing class of Membership.

5.11 Termination of Membership

- (a) The Board may by an ordinary resolution passed at a meeting held by the Board pursuant to the provisions of this Constitution terminate a Member's Membership if the Member:
 - (i) resigns by submitting notice to the Secretary;
 - (ii) dies or becomes bankrupt;
 - (iii) being a body corporate becomes insolvent or is placed into liquidation;
 - (iv) fails to pay any fees owing to the Company within twenty eight (28) days from the date that a notice of demand for payment of outstanding fees is sent to the Member;
 - (v) ceases to satisfy the criteria for admission to any Membership class of the Company;
 - (vi) fails to comply with the provisions of this Constitution;
 - (vii) If in the opinion of the Board the Member has acted contrary to or in disregard of the Company's Constitution or any By-laws made by the Board under the Company's Constitution or in any manner prejudicial to the interests of the Company.
- (b) The Secretary shall record the termination of membership against the Member's name in the Register and remove the Member's name from the Register in accordance with the *Act*.
- (c) Any person who ceases to be a Member nevertheless remains liable for and bound to pay to the Company all moneys which were due and payable by him to the Company at the time of his ceasing to be a Member and for any sum not exceeding ten dollars (\$10) for which he is liable as a Member of the Company under Clause 3.5 of this Constitution.
- (d) Provided the Board has not ordered that the Member be permanently struck off the Register the Board may at its absolute discretion readmit the Member to Membership in accordance with the provisions of this Constitution.

5.12 Membership not transferable

Membership of the Company is personal and is not transferable whether by operation of law or otherwise. All rights and privileges of Membership of the Company cease on termination of Membership.

5.13 Prohibition on voting agreements

A Member must not enter into or give effect to any contract, arrangement or understanding under which the Member (or any associate of the member) has or will receive any material benefit in consideration for voting in a particular way (including not voting) on any matter before a general meeting including any election.

6. MEMBERSHIP FEES

6.1 Determination of fees

- (a) The Board shall determine all Membership fees payable by Members and/or classes of Members including any joining or application fees or annual subscription fees and will notify Members in writing of any changes in the fees payable at least twenty-eight (28) days before the fees become due; and
- (b) The Board may in its absolute discretion grant an exemption from or discount any fees payable by any Member and/or class of Member at any time.

6.2 Power to waive fees

The Board shall determine whether to waive any subscription or other fees that may otherwise be payable by Members of the Company.

6.3 Payment of fees

- (a) Subject to clause 6.2 the joining fee and the first annual subscription fee are payable with the application for Membership and all subsequent annual subscription fees are payable at least three (3) Business Days before 30 June of each calendar year following the first anniversary of the date the Member became a Member of the Company.
- (b) Notwithstanding clause 6.3(a) above, the Board may in its absolute discretion extend the time for payment of any fees payable by a Member.

6.4 Unpaid fees

Subject to clauses 5.11(a)(iv) and 6.3(b), if a Member fails to pay their annual subscription fees within twenty-eight (28) days from the date the fees become due and payable, the Member shall not be entitled to attend any general meeting of the Company and all of the Member's rights and privileges of Membership will be suspended until such time as the fees are paid in full.

7. RIGHTS AND DUTIES

7.1 General Rights and Duties

Subject to clauses 5 and 6.4, all Members:

- (a) are entitled to attend the AGM of the Company, and actively participate in any meeting or other forum for discussion provided that only Voting Members are entitled to vote at any meeting;
- (b) must act in accordance with the values and objectives of the Company and consider themselves ambassadors of the Company in all dealings that may have a bearing on the reputation of the Company;
- (c) must immediately notify the Secretary in writing of:
 - (i) any change in their address; or
 - (ii) any change in circumstance which may affect their entitlement to or eligibility for Membership of the Company or to their class of Membership.

7.2 Of Members

All Members must observe the obligations of their class of membership prescribed by the Board in the By-laws, including:

- (a) undertake the number of hours of CPE as prescribed by the Board in the By-laws;
- (b) be of good fame, integrity and character;
- (c) strictly adhere to the Code of Professional Conduct;
- (d) immediately notify the Secretary in writing if they fail to comply with their obligations as Members under this Constitution;
- (e) have professional indemnity insurance for the minimum level prescribed by the Board in the By-laws from time to time; and
- (f) comply with any other professional and ethical standards prescribed by the Board in the By-laws from time to time.

8. DISCIPLINE AND MISCONDUCT

8.1 Misconduct

Any Member who:

- (a) fails to comply with the provisions of this Constitution;

- (b) acts contrary to the values or prejudicially to the interests of the Company;
 - (c) acts dishonestly or negligently in relation to his or her professional duties as a Member;
 - (d) acts in a manner unbecoming a Member of the Company;
 - (e) fails to comply with the professional standards prescribed by the Board in the By-laws from time to time; or
 - (f) is found by a court of law to have committed an offence punishable by imprisonment, irrespective of whether a conviction is recorded and irrespective of what penalty;
- is guilty of misconduct.

8.2 Ethics Committee

The Board shall appoint and otherwise establish an Ethics Committee consisting of an odd number of persons but no fewer than three (3) persons and comprising:

- (a) at least one Director; and
- (b) Members.

8.3 Procedure for making complaints

Procedures for the making of complaints against members and the conduct of hearings by the Ethics Committee into complaints shall be prescribed by the Board in a By-law.

8.4 Annual complaint reporting

- (a) Each financial year, the Board must cause a Complaints Report to be prepared which sets out statistics about:
 - (i) the kinds and frequency of complaints made to the Company (except complaints under *TASA* about entities registered under *TASA*);
 - (ii) findings made as a result of the complaints; and
 - (iii) action taken as a result of those findings.
- (b) The Complaints Report must not contain any personal information of any person involved in the complaints process.
- (c) The Complaints Report will be made readily accessible on the Company's website on or before the date of the AGM for the relevant financial year and/or will be published in such other manner as approved by the Board.

9. BOARD OF DIRECTORS

9.1 Composition of Board

- (a) The Board is constituted by the Directors of the Company at any time, and each Director while he holds office is a member of the Board;
- (b) Subject to Clause 9.1(d), the Company shall have five (5) directors of which three (3) directors shall be appointed by the board of directors of Taxpayers Australia Limited and two (2) directors shall be elected by the Voting Members.
- (c) The Board must include a President duly appointed in accordance with the provisions of this Constitution; and
- (d) The Directors in office at the date of the adoption of this Constitution shall, subject to this Constitution and the *Act*, remain in office until the next AGM of the Company following the adoption of this Constitution.

9.2 Election of directors

The election of Elected Directors shall be conducted as prescribed by the Board in a By-law.

9.3 Powers and duties of the Board

The Board shall have the power to:

- (a) perform any and all duties imposed on the Directors collectively or individually by law or as set out in this Constitution;
- (b) appoint and remove, employ and discharge and, except as otherwise provided in this Constitution, prescribe the duties and fix the compensation, if any, of all officers, agents and employees of the Company;
- (c) supervise all officers, agents and employees of the Company to ensure that their duties are performed properly;
- (d) subject to this Constitution and the Act, perform all such acts and things as appear to the Board to be necessary for the proper management of the business and affairs of the Company;
- (e) ensure the objectives and purposes of the Company are maintained and developed to comply with legislative changes and the public's expectations;
- (f) establish a course or courses of study for the classes of Membership to:
 - (i) promote the continuing education of Members;
 - (ii) assist Members to meet the requirements of clause 5.3;
 - (iii) provide accreditation for Members;
- (g) conduct examinations or arrange for the conduct of examinations on behalf of the Company for the purpose of examining candidates in any subject or relevant to the Company which may be prescribed by the Board in a By-law;
- (h) prescribe the frequency, time and place at which examinations under Clause 9.3(g) shall take place, the method of examination and of assessment, the fees to be paid by candidates and all matters necessary or incidental to the conduct of such examinations and assessments; and
- (i) meet at such times and places as required by this Constitution.

9.4 Compensation

Subject to clause 9.8 that provides for the remuneration of Elected Directors, other Directors shall serve without compensation, except that they shall be allowed reasonable reimbursement of expenses incurred in the performance of their duties.

9.5 Appointment of Directors and term of office

- (a) Subject to clause 9.5(b) a Director elected by members of the Company shall hold office for a period of four (4) years except in the circumstances outlined in 9.5(b).
- (b) At the first AGM of the Company after the adoption of this Constitution, all of the Directors in office at the time of the AGM shall vacate office and be eligible for re-election. The Voting Members shall elect two (2) Elected Directors. Only one of the Elected Directors shall serve a full four year term. The director serving a half-term shall be determined as prescribed by the Board in a By-law.
- (c) *(deleted SGM 20 June 2016)*
- (d) Any Elected Director vacating office shall be eligible for re-election to office and there is a limit to a maximum of two terms that the Elected Director can hold office, provided that the Elected Director is nominated and elected in accordance with this clause at the end of each of their terms;
- (e) In the event that an Elected Director vacates office, the Board may nominate a person to fill the casual vacancy;
- (f) Any Elected Director appointed pursuant to clause 9.5(e) shall hold office only until the following AGM and shall then be eligible for re-election but shall not be taken into account in calculating the number of Elected Directors who are vacating office by rotation at that meeting.

9.6 Removal of Directors

- (a) The forced removal of an Elected Director requires a vote of no-confidence passed by a Special Resolution of the Voting Members at a general meeting of the Company.

- (b) The removal of an Appointed Director shall be determined by the board of directors of Taxpayers Australia Limited.

9.7 Disqualification of Directors

9.7.1 The office of Director will become vacant if the Director:

- (a) ceases to be a Director by virtue of the *Act*;
- (b) *(deleted SGM 20 June 2016)*
- (c) becomes bankrupt or makes any arrangement or composition or assignment with his creditors generally;
- (d) becomes prohibited from being a Director by reason of any order made under the *Act*;
- (e) becomes of unsound mind, insane or mentally ill or a person whose person or estate is liable to be dealt with in any way under any State or Federal law relating to mental health;
- (f) resigns office by notice in writing to the Company;
- (g) is absent for three (3) or more consecutive meetings of the Board without leave of absence from the Board;
- (h) without the consent of the Company in general meeting or as permitted by clause 3.3 holds any office of profit under the Company; or
- (i) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of such interest in the manner required by the *Act*.

9.7.2 The office of an Appointed Director will become vacant if the Director is removed from office by the board of directors of Taxpayers Australia Limited.

9.8. Remuneration of Elected Directors

- (a) The Company may pay or provide to Elected Directors fees in an amount or value determined by the Voting Members at a general meeting.
- (b) Where an Elected Director is not permitted to receive fees from the Company personally, the Company shall pay or provide amounts to the Elected Director's employer by way of an honorarium to compensate the Elected Director's employer for the release of the Elected Director's time from their employment and making the Elected Director available to serve as a director of the Company.
- (c) The Company must pay all reasonable travelling, accommodation and other expenses that an Elected Director properly incurs in attending meetings of the Board, committees of the Board, meetings of Members, or otherwise in connection with the business of the Company.
- (d) Where an Elected Director assumes duties additional to those of a director of the company from time to time the individual Elected Director shall be paid an amount deemed reasonable by the Board for the performance of such duties.

10. PROCEEDINGS OF BOARD MEETINGS

10.1 First meeting

- (a) Following the adoption of this Constitution, the Board must meet as soon as practicable to:
 - (i) elect a President;
 - (ii) determine the Membership fees for each class of Membership; and
 - (iii) consider and determine each application for Membership received as at the date of or following the adoption of this Constitution.
- (b) Following each AGM, the Board must meet as soon as practicable to elect a

President of the newly constituted Board.

10.2 Regular meetings

The Board will convene regular meetings at such times as shall be determined by the Board.

10.3 Special meetings

Special meetings of the Board may be called at any time by the President or by at least two (2) Directors.

10.4 Notice of meetings

Either at least five (5) business days prior notice of a regular Board meeting or reasonable notice of a special Board meeting shall be given by the Secretary of the Company, or by persons designated by the chairperson, to each Director of the Board. Such notice must be written and state the place, date and time of the meeting and the agenda of the meeting, and may be delivered by post or email.

10.5 Quorum for meetings

- (a) A quorum (which will not reduce to less than three) shall consist of a simple majority of the members of the Board.
- (b) Directors can participate in meetings using any technology consented to by all the Directors and their presence and vote will be counted as valid if the Directors present at the meeting so approve or if the meeting has been specifically designated to include such technology.
- (c) No business shall be considered by the Board at which the required quorum is not present.

10.6 Majority action as Board action

Every act or decision done or made by a majority of the Directors present at a meeting duly held at which a quorum is present is the act of the Board, unless this Constitution states that a greater percentage or different voting rules for approval of a matter by the Board is required.

10.7 Conduct of meetings

- (a) The President of the Board shall preside at all meetings of the Board. In the President's absence or unwillingness or inability to act, an acting chairperson shall be chosen by a majority of the Directors present at the meeting and fulfil the duties of the chairperson.
- (b) The Secretary shall act as secretary of all meetings of the Board, provided that, in his or her absence, the chairperson shall appoint another person to act as secretary of the meeting.
- (c) The Secretary shall cause to be kept and recorded minutes of all meetings of the Board.

10.8 Circulating resolutions

- (a) The Directors may pass a resolution without a Directors' meeting being held if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of the document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- (c) The resolution is passed when the last director signs.

10.9 Delegation

The Directors may delegate any of their powers to:

- (i) a committee of Directors;
- (ii) a committee or committees consisting of such persons and of such numbers as the Board thinks fit;
- (iii) a Director;
- (iv) an employee of the Company; or

- (v) any other person.
- (b) The delegate must exercise the powers delegated in accordance with any directions of the Directors.
- (c) The exercise of the power by the delegate is as effective as if the Directors had exercised it.
- (d) The meetings and proceedings of a committee must be carried out in accordance with the provisions in this Constitution relating to meetings and proceedings of Directors, subject to any necessary changes and any directions made by the Directors.
- (e) If the Directors delegate a power under clause 10.9(a), the Directors are responsible for the exercise of the power by the delegate as if the power had been exercised by the Directors themselves unless exonerated under section 190(2) of the Act.

10.10 Vacancies

Any Director may resign effective upon giving written notice to the President, the Secretary, or the Board, unless the notice specifies another time for the effectiveness of such resignation.

10.11 Restrictions on voting

Unless permitted by the Act a Director who has a material personal interest in a matter that is being considered at a Directors meeting must not be present while the matter is being considered at the meeting, or vote on the matter.

11. MEETINGS OF MEMBERS

11.1 Calling of meetings of Members by a Director

A Director may call a meeting of the Members.

11.2 Calling of general meeting by Directors when requested by Members

- (a) The Directors of the Company must call and arrange to hold a general meeting on the request of:
 - (i) Members with at least 5% of the votes that may be cast at the general meeting;
 - or
 - (ii) at least 100 Members (or such different number as may be prescribed by the regulations) who are entitled to vote at the general meeting.

The request must:

 - (i) be in writing;
 - (ii) state any resolution to be proposed at the meeting;
 - (iii) be signed by the Members making the request; and
 - (iv) be given to the Company.
- (b) Separate copies of a document setting out the request may be used for signing by Members if the wording of the request is identical in each copy.
- (c) The Directors must call the meeting within 21 days after the request is given to the Company. The meeting is to be held not later than 2 months after the request is given to the Company.

11.3 Failure of Directors to call a general meeting

- (a) Members with more than 50% of the votes of all of the Members who make a request under clause 11.2 may call and arrange to hold a general meeting if the Directors do not do so within 21 days after the request is given to the Company.
- (b) The meeting must be called in the same way, so far as is possible, in which general meetings of the Company may be called. The meeting must be held not later than 3 months after the request is given to the Company.
- (c) To call the meeting the Members requesting the meeting may ask the Company for a

copy of the Register. The Company must give the Members the copy of the Register within 7 days after request without charge.

- (d) The Company must pay the reasonable expenses the Members incurred because the Directors failed to call and arrange the meeting.
- (e) The Company may recover the amount of the expenses under clause 11.3(d) from the Directors. However, a Director is not liable for the amount if that Director proves that all reasonable steps to cause the Directors to comply with clause 11.2 have been taken. The Directors who are liable are jointly and individually liable for the amount. If a Director who is liable for the amount does not reimburse the Company, the Company must deduct the amount from any sum payable as fees to, or remuneration of, the Directors.

11.4 Calling of general meetings by Members

- (a) Members with at least 5% of the votes that may be cast at a general meeting of the Company may call, and arrange to hold, a general meeting. The Members calling the meeting must pay the expenses of calling and holding the meeting.
- (b) The meeting must be called in the same way, so far as is possible, in which general meetings of the Company may be called.

Annual General Meetings

- (c) An AGM shall be held at least once in each calendar year and within 5 months after the end of its financial year.
- (d) Subject to clauses 5.2 and 6.4 all Members are invited to participate in the AGM provided that only Members have the right to vote on any business raised and voted upon at the AGM.
- (e) Each Member who is unable to attend the AGM is entitled to a proxy vote sent in the form set out in clause 11.13 to the Secretary to be received at least 48 hours before the AGM.
- (f) The Board shall determine the location, the agenda and the procedures of the AGM.

11.5 Notice of meetings

- (a) Subject to clause 11.6(b) the Secretary must at least twenty - one (21) days before the date fixed for holding a general meeting cause a notice of the meeting to be sent to each Director and Member:
 - (i) Personally;
 - (ii) by prepaid post to the address of the Director or Member specified in the Register;
 - (iii) by fax to any facsimile number of the Director or Member specified in the Register; or
 - (iv) by electronic transmission to any electronic mail address specified in the Register;
- (b) If a Member nominates:
 - (i) an electronic means (nominated notification means) by which the Member may be notified that the notice of meeting is available; and
 - (ii) an electronic means (nominated access means) the Member may use to access the notice of meeting, the Company may give the Member notice of the meeting by notifying the Member using the nominated notification means that the notice of meeting is available and how the Member may use the nominated access means to access the notice of meeting.
- (c) The Company may call on shorter notice:
 - (i) an AGM, if all the Members agree beforehand; and
 - (ii) any other general meeting, if Members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- (d) A notice of general meeting must:
 - (i) set out the place, date and time for the meeting (and, if the meeting is to be held in two (2) or more places, the technology that will be used to facilitate this);
 - (ii) state the general nature of the meeting's business;
 - (iii) state the names of the candidates standing for office;
 - (iii) if a Special Resolution is to be proposed at the meeting, set out an intention to propose the resolution as a Special Resolution and state that resolution; and
 - (iv) contain a statement that each Member has the right to appoint a proxy and that the proxy does not need to be a Member;

11.6 Auditor entitled to notice and other communications

The Company must give the Company's auditor, if any:

- (a) notice of a general meeting in the same way that a Member is entitled to receive notice; and
- (b) other communications relating to the general meeting that a Member is entitled to receive.

11.7 Quorum for meetings

- (a) Except as otherwise provided under this Constitution, no item of business shall be transacted at a meeting unless a quorum of Voting Members entitled to vote, including any persons attending a proxy for a Voting Member in accordance with clause 11.12 and Associate Members is present at the meeting;
- (b) A quorum shall consist of at least ten (10) Members who can be either Voting members or Associate members, whether present in person or by proxy;
- (c) If within thirty (30) minutes from the time appointed for the meeting a quorum is not present, the meeting:
 - (i) is dissolved if convened on the requisition of Members; and
 - (ii) otherwise, is adjourned to a date five (5) business days from the date of the original meeting, at the same time and place of the original meeting, or to another day, time and place as the Directors decide, and if at the adjourned meeting a quorum of Members is not present within thirty (30) minutes after the time appointed for the meeting, the meeting is dissolved.

11.8 Adjournment

- (a) The chairperson of a meeting of Members at which a quorum is present may with the consent of the meeting (and must if directed by the meeting) adjourn the meeting from time to time and from place to place but no business shall be transacted at the adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- (b) it is not necessary to give notice of an adjournment or of the business to be transacted at an adjourned meeting, unless the meeting is adjourned for one (1) month or more in which case notice of the adjourned meeting is to be given as in the case of an original meeting.

11.9 Voting procedure

- (a) At any meeting a resolution put to the vote of the meeting shall be decided on a show of hands or by ballot, as the chairperson directs, (or if via teleconference by a call of "yes" or "no") unless a poll is demanded either before a vote is taken, before the voting results on a show of hands are declared or immediately after the voting results are declared:
 - (i) by the chairperson; or
 - (ii) by 5 Voting Members present at the meeting and entitled to vote on the resolution; or
 - (iii) by Voting Members with at least 5% of the votes that may be cast on the resolution on a poll.
- (b) A poll that is demanded in relation to the election of a chairperson or on a question of an adjournment must be taken forthwith and a poll that is demanded on any other question must be taken at such time before the close of the meeting as the chairperson may direct.
- (c) A declaration by the chairperson that a resolution has, either on a show of hands or a poll, been carried or carried unanimously, or carried by a particular majority, or lost is final and conclusive, and an entry to that effect in the minute book of the Company is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

- (d) A demand for a poll may be withdrawn.

11.10 Entitlement to vote

- (a) Subject to clause 6.4 all Voting Members shall be entitled to vote at general meetings and may exercise one vote only. If the Voting Member is a body corporate it may appoint an individual to exercise all or any of the powers the body corporate may exercise.
- (b) A Voting Member is not entitled to vote at a meeting unless all moneys due and payable by him to the Company have been paid in full.
- (c) Where voting at meetings is equal the chairperson may exercise a second or casting vote.

11.11 Proxy Appointment

- (a) Each Voting Member who is entitled to vote at a meeting of the Company may appoint a person as their proxy to attend and vote for the Voting Member at such a meeting.
- (b) A proxy may, but need not, be a Member of the Company.
- (c) A proxy appointed to attend and vote for a Voting Member has the same rights as the Voting Member pursuant to the Act.
- (d) A proxy's authority to speak and vote for a Voting Member at a meeting is suspended whilst the Voting Member is present at the meeting.

11.12 Proxy Form

- (a) An instrument appointing a proxy need not be in any particular form provided it is in writing, and signed by the appointer or the appointer's attorney and contains the following information:
 - (i) the Voting Member's name and address;
 - (ii) the Company's name;
 - (iii) the proxy's name or the name of the office in the Company held by the proxy; and
 - (iv) the meetings at which the appointment may be used and an appointment may be a standing one.
- (b) The form appointing a proxy must be received by the Company 48 hours prior to the commencement or resumption of the meeting.

11.13 Proxy Validity

- (a) Unless the Company receives written notice of the fact at least 48 hours prior to the commencement of a meeting, a vote cast by a proxy will be valid despite any:
 - (i) incapacity of the Voting Member; or
 - (ii) revocation by the appointer of the proxy's appointment;
- (b) An objection to a proxy's validity to vote must be raised at or before the meeting that the proxy votes and the chairperson, whose decision shall be final and conclusive, shall determine the validity of the proxy to vote.

11.14 Omission to give notice

The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice does not invalidate the proceedings at the meeting.

11.15 Cancellation or postponement of general meeting

Except for general meetings called by Members, the Board may at any time cancel or postpone a general meeting before the time for holding the general meeting. The Board shall endeavour to notify each Member of the cancellation or postponement, but failure to notify a Member does not invalidate the cancellation or postponement.

11.16 Conduct of meetings

- (a) The President of the Board shall preside as chairperson at all meetings of Members. In the President's absence or unwillingness or inability to act, an acting chairperson shall be chosen by a majority of the Directors present at the meeting and fulfil the duties of the chairperson but, if they do not do so, an acting chairperson shall be chosen by a majority of the Members present at the meeting.
- (b) The Secretary shall act as secretary of all meetings of Members, provided that, in his or her absence, the chairperson shall appoint another person to act as secretary of the meeting.
- (c) The Secretary shall cause to be kept and recorded minutes of all meetings of Members.

No business other than:

- (i) the business set out in the notice convening the meeting;
- (ii) any business to be considered pursuant to a notice given to the Company under section 249N of the *Act* notice of which is required to be given to the Members under section 249O of the *Act* not less than two months before the meeting; and
- (iii) any business permitted by the *Act*;
shall be transacted at the meeting.
- (d) A Member desiring to bring any business before the meeting shall give notice of that business in writing to the Secretary who shall include that business in the notice calling the next general meeting called after the receipt of the notice.
- (e) The ordinary business of the AGM shall be:
 - (i) to receive and consider the Company's annual financial report, directors' report and auditor's report covering the preceding financial year;
 - (ii) to receive from the Board the Complaints Report for the preceding year;
 - (iii) elect the members of the Board for the following year; and
 - (iv) to consider any matter brought before the meeting by a Member pursuant to clause 11.17(d).

12. BY-LAWS

The Board may at any time by resolution passed by majority of at least two-thirds of the Directors at a duly convened meeting of the Board make, repeal and amend such By-laws and regulations not inconsistent with this Constitution as it thinks expedient for or with respect to all matters necessary or expedient for carrying out the functions of the Company or for the regulation of its affairs or the management and control of its Members.

13. CORPORATE ACTION

13.1 Common seal

The Company may but need not have a common seal.

13.2 Execution of documents

The Company must execute documents in accordance with the provisions of the *Act*.

13.3 Records

- (a) The directors must cause the Company to maintain proper financial and other records and to provide annual financial statements to Members as required by law.
- (b) The directors may but are not required to consent to the inspection by any Member of any business record or other document of the Company to the extent, at any time and place and under any provisions decided by the directors.

14. CORPORATE INDEMNITY

14.1 Indemnity

- (a) The Company must indemnify any present or previous Director, Secretary, employee or other office holder of the Company against any liability resulting from any action by that officer in that capacity to any person, excluding the Company or a related body corporate of the Company, except for any action performed without good faith or with actual notice that the action was wrongful;
- (b) The indemnity in favour of that officer extends to any liability comprising any cost of engagement in any legal action, resulting in any judicial order for judgment, acquittal or relief under the *Act* in favour of that officer, provided that:
 - (i) payment of such costs is not prohibited by the *Act*; and
 - (ii) such cost relates directly to the Company or the actions of the director or officer in the performance of, or in connection with his or her role as a director or officer of the Company.
- (c) The Company is not liable to indemnify any officer to the extent that that officer is entitled to an indemnity in relation to any liability under any insurance agreement.
- (d) The Company may by decision of the directors create any:
 - (i) indemnity in favour of; or
 - (ii) insurance for the benefit of,any present or previous director, secretary, employee or other officer of the Company.
- (e) The benefit of any indemnity given under this provision continues subsequent to any modification or deletion of this provision, in relation to any liability resulting from any fact or action occurring prior to that modification or deletion.

15. SECRECY

15.1 Members not entitled to discovery

- (a) The Directors will determine whether and to what extent, at what time and place or places, and under what conditions, the accounting records and other documents of the Company will be open to the inspection of Members other than Directors.
- (b) Subject to the Law, (but excluding section 247D of the Law), a Member not being a Director does not have the right, but may in the absolute discretion of the Directors be authorised, to inspect or to require or to receive any information, or to require discovery of any record or document of the Company or any information respecting any detail of the Company's trading or business, or any matter which is or may be in the nature of a trade secret, confidential information, mystery of trade or secret process which may relate to the conduct of the business of the Company.

15.2 Officers of Company not to disclose information

- (a) Every Director, Secretary, auditor, member of a committee, or officer is bound to observe secrecy with respect to all transactions of the Company with its Members and all related matters.
- (b) If required by the Directors, every such person will, before commencing that person's duties or employment or at any time afterwards, sign and make a declaration in a book to be kept for that purpose that they will not reveal or make known any of the matters, affairs or concerns which may come to their knowledge as Director, Secretary, auditor, member of a committee, or officer and whether relating to transactions of the company with its Members or to anything else, to any person or persons except in the course and in the performance of their duties, or under compulsion or obligation of law, or when officially required so to do by the Directors or by the auditors for the time being, or by any general meeting of Members.

16. NOTICES

16.1 Notification Methods

- (a) Any notice by the Company to any Member may be served by:
 - (i) delivery in person;
 - (ii) post to or delivery at any address of the Member;
 - (iii) fax to any facsimile number specified by the Member to the Company;
 - (iv) electronic transmission to any electronic mail address specified by the Member to the Company; or
 - (v) service in any previously specified method on any attorney of that Member in compliance with this provision.
- (b) Any Member may by written notice to the Secretary delivered at or sent to the registered office direct that any notice by the Company be served on any attorney of that Member, and at an address, as specified in the notice.
- (c) Notice to any Member whose address for notices is outside Australia must be sent by airmail, facsimile or electronic mail.
- (d) Any Member is not entitled to receive any notice or document from the Company, if that Member has failed to deliver at or send to the registered office an address, facsimile number or electronic mail address as an address for service.

16.2 Notification Receipt

- (a) Service of any notice sent by post is taken to be given two days after it is posted.
- (b) Service of any notice sent by facsimile is effective upon proper addressing and transmission of the notice as at the date of transmission,
- (c) Service of any notice sent by electronic transmission is effective upon transmission unless the sender has been notified by a system or person involved in the delivery of the transmission to the addressee that the transmission has not been successfully delivered.

17. AMENDMENT

This Constitution (including this Rule) may not be amended, varied or replaced except by Special Resolution in accordance with the Act.