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Constitution of Health Care Insurance Limited

Health Care Insurance Limited
ABN 43 009 579 088

[As amended with effect from the close of the 2018 Annual General Meeting](#)

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Constitution of Health Care Insurance Limited

1. Preliminary

1.1 Company limited by guarantee

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

1.2 Objects of the Company

The Company is formed with the objects of:

- (a) conducting health insurance business as a private health insurer under the Private Health Insurance ~~Legislation~~; and
- (b) carrying on any other activity or business complementary to the object stated in paragraph (a).

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1.3 Application of income and property

Subject to rules 1.4 and ~~12.1~~, the Company must apply its income solely towards promoting the objects of the Company as stated in rule 1.2. No part of the Company's income may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise to members.

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1.4 Certain payments allowed

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

- (a) interest on money lent by the member to the Company at a rate not exceeding the rate charged by Australian banks for overdrawn accounts;
- (b) reasonable remuneration for goods or services supplied by the member to the Company in the ordinary course of business;
- (c) reasonable rent for premises leased by the member to the Company; and
- (d) benefits under a complying health insurance policy in accordance with the Health Benefits Fund Rules.

1.5 Replaceable rules

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

1.6 Definitions

The following definitions apply in this document.

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

Appointed Director means a Director appointed by the Board in accordance with rule [4.7\(a\)](#) (but does not include a Director appointed to fill a casual vacancy in the office of an Elected Director).

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Approved Fees for a Director (other than a Managing Director), means fees, salary, bonuses, fringe benefits and superannuation contributions provided by the Company, but does not include:

- (a) a payment made as compensation for loss of office or in connection with retirement from office (which includes resignation from office and death while in office); or
- (b) an insurance premium paid by the Company or indemnity under rule [13](#).

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Board means the Directors acting collectively under this document.

Chair means the Director elected under rule [14.4\(a\)](#) to chair meetings of the Directors.

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

Deputy Chair means the Director elected under rule [14.4\(a\)](#) to chair meetings of the Directors if the office of Chair is vacant or the Chair is not present or is unwilling to act.

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Director means a person who is, for the time being, a director of the Company.

Elected Director means:

- (a) a Director elected by the Company in accordance with rule [4.3\(b\)](#) or rule [4.5](#); or
- (b) a Director appointed by the Board to fill a casual vacancy in the office of an Elected Director in accordance with rule [4.6\(b\)](#).

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Fit and Proper Policy means the fit and proper policy of the Company (as defined in [Prudential Standard HPS 001 – Definitions made under section 92\(1\) of the Private Health Insurance \(PS\) Act](#)) adopted by the Company in accordance with [Prudential Standard CPS 520 – Fit and Proper made under section 92\(1\) of the Private Health Insurance \(PS\) Act](#).

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General Manager means the chief executive officer (as defined in the Private Health Insurance Act) of the Company, irrespective of that person's title.

Governance Standard means [Prudential Standard CPS 510 – Governance made under section 92\(1\) of the Private Health Insurance \(PS\) Act](#).

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Health Benefits Fund has the same meaning as in the Private Health Insurance Act.

Health Benefits Fund Rules means the rules of any Health Benefits Fund conducted by the Company.

Independent Director has the same meaning as in the [Governance Standard](#).

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Managing Director means a managing director appointed under rule [8.1](#) (irrespective of that person's title).

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member means a person whose name is entered in the Register as a member of the Company.

ordinary resolution means a resolution passed at a meeting of members by a majority of the votes cast by members entitled to vote on the resolution.

Private Health Insurance Act means the *Private Health Insurance Act 2007* (Cth).

Private Health Insurance (PS) Act means the *Private Health Insurance (Prudential Supervision) Act 2015* (Cth).

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Private Health Insurance Legislation means:

(a) the Private Health Insurance Act; and

(b) the Private Health Insurance (PS) Act.

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Prudential Standards has the same meaning as in the Private Health Insurance (PS) Act.

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Register means the register of members kept as required by sections 168 and 169 of the Act.

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

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special resolution has the meaning given by section 9 of the Act.

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See sections 168 and 169

1.7 Interpretation of this document

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

- (a) A reference to:
 - (i) legislation (including subordinate legislation) or a legislative instrument is to that legislation or legislative instrument as amended, modified in relation to the Company, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a Prudential Standard (whether or not a legislative instrument) is to that Prudential Standard as amended, modified in relation to the Company, re-made or replaced;
 - (iii) a document or agreement, or a provision of a document or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
 - (v) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests one gender includes the other genders.
- (d) If a word is defined, another part of speech has a corresponding meaning.

- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (f) The word **agreement** includes an undertaking or other binding arrangement or understanding, whether or not in writing.
- (g) A power to do something includes a power, exercisable in the like circumstances, to revoke or undo it.
- (h) A reference to a power is also a reference to authority or discretion.
- (i) A reference to something being **written** or **in writing** includes that thing being represented or reproduced in any mode in a visible form.
- (j) A word (other than a word defined in rule 1.6) which is defined by the Act has the same meaning in this document where it relates to the same matters as the matters for which it is defined in the Act.
- (k) A reference to a Chapter, Part, Division, or section is a reference to a Chapter, Part, Division or section of the Act.
- (l) A word (other than a word defined in rule 1.6) which is defined in the Private Health Insurance [Legislation](#) has the same meaning in this document where it relates to the same matters as the matters for which it is defined in the Private Health Insurance [Legislation](#).

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2. Membership

2.1 Membership

Subject to rules 2.4 and 2.6, the members are:

- (a) the members of the Company as at the date of the adoption of this document; and
- (b) any other person admitted to membership in accordance with this document.

2.2 Eligibility for membership

Only those persons who are eligible to be insured under a complying health insurance policy issued by the Company are eligible to be members of the Company.

2.3 Limited liability of members

If the Company is wound up each member undertakes to contribute to the assets of the Company up to an amount not exceeding one dollar (\$1.00) for payment of the debts and liabilities of the Company including the costs of the winding up. This undertaking continues for one year after a person ceases to be a member.

2.4 Application for membership

- (a) A natural person may apply for membership of the Company.
- (b) An application of a person for membership of the Company must:
 - (i) be made in writing in the form as the Board may from time to time require;



- (ii) be lodged with the Company; and
 - (iii) be accompanied by any evidence of eligibility for membership as the Board may require.
- (c) Where two or more persons seek to be insured under a complying health insurance policy issued by the Company, only one person insured under the complying health insurance policy may apply for membership of the Company.
- (d) If a person who is not a member of the Company ceases to be insured under a complying health insurance policy issued by the Company that covers two or more persons and becomes separately insured under a complying health insurance policy issued by the Company in his or her own right, the person will be taken to have applied for membership under rule 2.4(a).

2.5 Admission to membership

- (a) After the lodgment of an application for membership of the Company in accordance with rule 2.4, the General Manager must:
- (i) where the General Manager is satisfied of the applicant's eligibility, accept an applicant for membership of the Company; or
 - (ii) if the General Manager is not satisfied of the applicant's eligibility, reject an applicant for membership of the Company.
- (b) Acceptance of an application for membership is conditional on the receipt of payment of the premium (or relevant premium instalment) for the complying health insurance policy the applicant has sought to be insured under.
- (c) If the General Manager rejects an application for membership, the applicant may apply to the Board for a review of the General Manager's decision. If the Board is satisfied of the applicant's eligibility, the General Manager must accept the application for membership. The Board's decision on review is final. This rule 2.5(c) applies to the extent permitted by law.

2.6 Ceasing to be a member

- (a) A member's membership of the Company ceases if:
- (i) the member resigns according to rule 2.7;
 - (ii) the member is expelled according to rule 2.8; or
 - (iii) the member ceases to be insured under a complying health insurance policy issued by the Company.
- (b) The General Manager must remove the name of a member ceasing to be a member from the Register.
- (c) A member ceasing to be a member:
- (i) does not have any claim on the Company, its funds or property (other than as may arise as a person insured under a complying health insurance policy issued by the Company); and
 - (ii) without limiting any other right of the Company:

- (A) is and remains liable to pay premiums due and payable under a complying health insurance policy issued by the Company;
- (B) is and remains liable to repay to the Company any benefits paid to the member (or any other person) under a complying health insurance policy issued by the Company:
 - (aa) during the period in which premiums are in arrears; or
 - (bb) where rule 2.8(a)(iii) applies, which the Company would not have been required to pay if the member had not obtained membership by fraud or deceit; and
- (C) is and remains liable for any other amounts due and payable to the Company (including amounts liable to be paid or repaid to the Company under the Health Benefits Fund Rules).

2.7 Resigning as a member

A member may resign from the Company by giving written notice to the General Manager. A member who cancels the complying health insurance policy under which they are insured is deemed to have resigned from the Company.

2.8 Expelling a member

- (a) Subject to rule 2.8(b) and rule 2.8(c), the General Manager may by notice in writing expel from the Company any member:
 - (i) whose premiums under a complying health insurance policy issued by the Company are in arrears for at least 45 days;
 - (ii) who does not comply with this document or the Health Benefits Fund Rules;
 - (iii) who has obtained membership of the Company by fraud or deceit; or
 - (iv) whose conduct as a member is prejudicial to the interests of the Company,and remove that member's name from the Register. Nothing in this rule 2.8 limits any other remedy of the Company (including under the Health Benefits Fund Rules).
- (b) Before expelling a member whose premiums under a complying health insurance policy issued by the Company are in arrears:
 - (i) the General Manager must give written notice to the member that, unless such premiums are fully paid up to date within 14 days (or such longer period stated in the notice), the member is liable to expulsion in accordance with this rule; and
 - (ii) if the member does not pay all outstanding amounts within the time specified in the notice, the General Manager may expel the member from the Company.
- (c) Before expelling a member for a reason other than an arrears of premiums, the General Manager must give 14 days' written notice to the member which:
 - (i) states the allegations against the member;

- (ii) proposes the expulsion of the member; and
- (iii) invites the member to address the allegations in writing.
- (d) If the General Manager expels a member from the Company for any reason other than an arrears of premiums, the member may apply to the Board for a review of the General Manager's decision within 14 days of receipt of the notice of expulsion. The Board may confirm or set aside the General Manager's decision. The Board's decision on review is final. This rule 2.8(d) applies to the extent permitted by law.
- (e) The General Manager or the Board (as applicable) may determine, where permitted by law, that a person who is expelled from the Company ceases to be insured under a complying health insurance policy issued by the Company.

2.9 Reinstating a member

The General Manager may reinstate a member who has ceased to be a member and restore the name of that member to the Register subject to any terms and conditions that the General Manager determines.

3. Health Benefits Fund

3.1 Health Benefits Fund

- (a) The Company may establish and maintain Health Benefits Funds in accordance with the Private Health Insurance Legislation.
- (b) The Company must control and manage each Health Benefits Fund conducted by it in accordance with the Private Health Insurance Legislation.

3.2 Health Benefits Fund Rules

The Company may make Health Benefits Fund Rules for the conduct of each Health Benefits Fund conducted by it. The power to make Health Benefits Fund Rules includes the power to amend, revoke or replace Health Benefits Fund Rules.

4. Directors

4.1 Composition of the Board

- (a) Subject to rule 4.1(b), the Company must have:
 - (i) three Elected Directors; and
 - (ii) three Appointed Directors.
- (b) The Board may from time to time determine to increase the maximum number of Directors but the maximum applying at any time cannot be reduced except by the Company in general meeting.
- (c) The Company must have a majority of Independent Directors, at all times. The Independent Directors may be either Elected Directors or Appointed Directors.

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Restricted Access Group¶

Where the Company is registered as a restricted access insurer under the Private Health Insurance Act, the following persons comprise the Restricted Access Group to whom the Company's complying health insurance products are, or will be, made available:¶

a person who is, or was, employed in any of the following trades or industries: ¶

timber or forestry production;¶

the downstream processing of timber or forestry products, including the production of timber and paper products; or¶

providing services to any trade or industry referred to paragraphs 4.1(a)(i) or 4.1(a)(ii); and¶

a person who is, or was, employed by:¶

an employer engaged in a trade or industry referred to in paragraphs 4.1(a)(i) or 4.1(a)(ii); or¶

a subsidiary of an employer engaged in a trade or industry referred to in paragraphs 4.1(a)(i) or 4.1(a)(ii); and¶

a person who, by the operation of the *Private Health Insurance (Registration) Rules* (Cth), is taken to belong to the Restricted Access Group.¶

For the purposes of paragraph 4.2(b) "subsidiary" has the same meaning as in the Act. For the purposes of paragraphs 4.1(a)(i) and 4.1(b), "employed" includes a person engaged in the relevant trade or industry on their own behalf or as a director of a company.¶

¶

Explanatory Note: The method of determining whether a person is included within the Restricted Access Group is included as Schedule 1 to this document. In the event of inconsistency between Schedule 1 and the Private Health Insurance Act and the *Private Health Insurance (Registration) Rules*, the

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4.2 Eligibility

- (a) A Director need not be a member. Neither the auditor of the Company nor any partner, director or employee of the auditor is eligible to act as a Director.
- (b) A person is not eligible to act as a Director if the person is, or becomes, ineligible to be a Director under rule 4.10.
- ~~(c) An employee of the Company is not eligible to be an Elected Director and, if already elected, a person automatically ceases to be an Elected Director if the person becomes an employee of the Company. This rule 4.2(c) does not apply to an Elected Director who is appointed as a Managing Director.~~
- ~~(d) A person is not eligible to act as a Director if they have been a Director for an aggregate period of greater than 12 years. For the purposes of this rule:

 - ~~(i) if an Elected Director was appointed to a casual vacancy prior to the annual general meeting at which he or she was first elected, the period between his or her appointment and the annual general meeting is ignored; and~~
 - ~~(ii) the period between consecutive annual general meetings is treated as one year.~~~~

Deleted: <#>Until the first annual general meeting following the adoption of this document, the Company may have not more than three Appointed Directors.¶

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4.3 Election of Directors

- (a) Subject to this document, section 201E of the Act and to the number of Elected Directors for the time being fixed under rule 4.1, not being exceeded, the Company must elect Directors in accordance with rule 4.5.
- (b) If, for any reason:
 - (i) the Board fails to conduct an election in accordance with rule 4.5; or
 - (ii) the number of Elected Directors is reduced below the minimum required by rule 4.1 (including by removal from office under rule 4.11)
 then, subject to this document, section 201E of the Act and to the number of Elected Directors for the time being fixed under rule 4.1, not being exceeded, the Company may elect Directors by ordinary resolution. A Director elected by ordinary resolution automatically retires at the next annual general meeting and is eligible to be nominated for re-election under rule 4.4(c).

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4.4 Elected Directors – nomination

- (a) The Board must appoint:
 - (i) the General Manager; or
 - (ii) a person, being a member or a Director who is not standing for election or re-election as a Director,
 as the returning officer for the election of Directors (**Returning Officer**).
- (b) The Returning Officer must, not later than 90 days prior to the scheduled date for the annual general meeting of the Company, determine:
 - (i) the date on which nominations for the election of Directors close; and

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- (ii) the date on which a ballot held under rule [4.5](#) closes.
- (c) A candidate for election as a Director must submit to the Company:
 - (i) a nomination in writing:
 - (A) signed by the candidate and one member (other than the candidate); and
 - (B) specifying the name and address of the candidate and the nominating member;
 - (ii) a declaration in such form as the Board requires that sets out:
 - (A) the candidate's qualifications and eligibility to be a Director;
 - (B) the candidate's skills, knowledge and experience and their relevance to discharging his or her duties as a director of the Company;
 - (C) whether the candidate has any interest or is aware of any matter which would affect his or her independence (including any matter relevant to the assessment of whether he or she would be an Independent Director);
 - ~~(D) whether the candidate holds an office or has an interest in property whereby, whether directly or indirectly, duties or interests may be created that could conflict with the interests of a Director of the Company;~~
 - ~~(E) such matters as are necessary to determine whether the candidate meets the requirements of the Fit and Proper Policy; and~~
 - (F) any other matter the Board reasonably requires; and
 - (iii) a written consent to act as Director, signed by the candidate.
- (d) The documentation submitted by a candidate in accordance with rule [4.4\(c\)](#) must be made available to members at the registered office of the Company from the time of the closure of nominations according to rule [4.4\(e\)](#) until the time of the general meeting at which the candidate seeks election. ~~This clause does not apply to information which is sensitive information (as defined in the *Privacy Act 1988 (Cth)*).~~
- (e) A nomination, declaration and consent of a candidate made in accordance with rule [4.4\(c\)](#) must be received at the registered office of the Company not later than 5:00pm on the day determined by the Returning Officer under rule [4.4\(b\)](#). If insufficient nominations are received, the Board may extend the date determined by the Returning Officer under rule [4.4\(b\)](#).
- (f) The Returning Officer must scrutinise nominations, declarations and consents promptly upon their receipt. The Returning Officer may reject a candidate's nomination if:
 - (i) the Returning Officer is not satisfied that the candidate is eligible to be a Director; or
 - (ii) the candidate has not submitted the documentation under rule [4.4\(c\)](#) (or that documentation is incomplete).

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The Returning Officer must not reject a candidate's nomination on the basis that the candidate does not meet the requirements of the Fit and Proper Policy (any such determination being reserved to the Board in accordance with rule 4.4(g)(iii)). If the Returning Officer rejects a candidate's nomination, the Returning Officer must notify the candidate and the Board promptly. Any dispute with respect to a candidate's eligibility for election must be referred to the Board for determination under rule 4.4(g).

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(g) The Returning Officer must submit all nominations to the Board. The Board may reject a nomination if:

(i) the Board is not satisfied that the candidate is eligible to be a Director;

(ii) having regard to relevant considerations including the range of skills, knowledge and experience on the Board and the requirements of the Act, the Private Health Insurance Legislation, and the Prudential Standards, the Board considers that the candidate is not qualified to be a Director and/or their skills, knowledge and experience do not satisfy a present need of the Board and/or the Company;

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(iii) the Board considers that, following assessment of the candidate in accordance with the Fit and Proper Policy, the candidate is not fit and proper; or

(iv) the Board considers the candidate has an interest which may interfere with the exercise of his or her independent judgment (including any matter which would disqualify the candidate from being an Independent Director).

The functions of the Board under this rule may be delegated to a committee of the Board convened for this purpose.

(h) A Director who is standing for election at the meeting at which the relevant election is scheduled to occur is not entitled to be present for the Board's deliberation under rule 4.4(g), and is not entitled to vote in respect of the Board's determination. The Board's determination on the matter is final.

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(i) A nominated candidate may prepare a statement in support of his or her candidacy for circulation to members. A candidate's statement must not be more than 250 words long and must not include any statement or assertion that is demonstrably false, misleading, or defamatory.

4.5 Elected Directors – election procedure

(a) The results of the election of Directors must be declared by the Returning Officer at the annual general meeting of the Company.

(b) If the number of candidates for election as Directors is equal to or less than the number of vacancies for the position of Elected Director, the Returning Officer must declare those candidates to be duly elected as Directors.

(c) If the number of candidates for election is greater than the number of vacancies for the position of Elected Director, a ballot of the members of the Company must be held in accordance with this rule 4.5. Each member eligible to vote at the general meeting at which the election of Directors is to be declared is entitled to lodge a direct vote in respect of that ballot in advance of the general meeting.

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(d) The Board may determine that a direct vote may be lodged with the Company by hand, by post or by electronic means specified by the Board. The Board may

specify procedures and rules for direct voting (including specifying the method for authenticating votes).

- (e) After the closure of nominations in accordance with rule [4.4\(e\)](#), the Returning Officer must prepare the ballot (including preparing ballot papers for the election).
- (f) The Returning Officer must determine the order in which candidates appear on the ballot paper by drawing of lots. Where the ballot is conducted in part by electronic means, the order in which the candidates appear on the ballot paper must be reflected in the electronic message or electronic form which is seen by the member when lodging a vote in the ballot by electronic means.
- (g) The ballot for an election of Directors closes at 5:00pm on the date determined by the Returning Officer under rule [4.4\(b\)](#).
- (h) As soon as practicable after the closure of the ballot for an election, the Returning Officer must cause the votes lodged to be scrutinised under his or her supervision.
- (i) The Returning Officer must reject all informal votes. A vote is informal if:
 - (i) the Returning Officer cannot be satisfied that the vote is authenticated in the manner specified by the Board; or
 - (ii) it does not indicate a vote of the member made in accordance with the instructions for the ballot.
- (j) The Returning Officer must declare the result of a ballot at the annual general meeting of the Company. The candidate with the highest number of votes will be elected to the first vacancy; the candidate with the next highest number of votes will be elected to the second vacancy; and so on, until each vacancy is filled. Where two or more candidates have received an equal number of votes, the Returning Officer must determine the candidate elected by the drawing of lots.
- (k) An accidental error or omission by the Returning Officer that does not materially affect the result of a ballot does not invalidate an election of a Director made as a result of that ballot.
- (l) The Returning Officer must securely retain ballot papers and such other records (including electronic records) necessary to authenticate the ballot at the registered office of the Company for a minimum period of three months after the declaration of the ballot (at which time the ballot papers and records may be securely destroyed).

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4.6 Elected Directors – casual vacancies

- (a) Subject to this document, and to the number of Directors for the time being fixed under rule [4.1](#), not being exceeded, the Board may at any time except during a general meeting appoint a person to fill a casual vacancy in the office of Elected Director.
- (b) A person appointed to fill a casual vacancy in the office of an Elected Director is taken to be an Elected Director and automatically retires at the next annual general meeting and is eligible for election by that general meeting.

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4.7 Appointed Directors

- (a) Subject to this document, and to the number of Directors for the time being fixed under rule [4.1](#), not being exceeded, the Board may appoint a person to be a Director at any time except during a general meeting.

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(b) A person appointed by the Board to be a Director under rule [4.7\(a\)](#), (an **Appointed Director**):

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- (i) if appointed for a term specified by the Board (not exceeding three years), holds office until the end of that term; or
- (ii) if not appointed for a specified term, holds office until the next annual general meeting of the Company.

(c) Rule [4.7\(b\)\(ii\)](#), does not apply to a Managing Director appointed under rule [8.1\(a\)](#),

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4.8 Retirement of Elected Directors

(a) An Elected Director must retire from office at the third annual general meeting after the Elected Director was elected or last re-elected.

(b) An Elected Director may elect to retire and seek re-election at an annual general meeting before the time required by rule [4.8\(a\)](#), provided that the Elected Director has given the Board notice of their intention to do so prior to the close of nominations for the position of Elected Director under rule [4.4\(e\)](#). If the Elected Director gives such a notice, the Elected Director must then retire from office at the relevant annual general meeting.

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(c) ~~A Director who retires under this rule [4.8](#) is eligible for re-election.~~

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4.9 Time of retirement

An Elected Director's retirement under [rule 4.8](#) takes effect at the end of the relevant annual general meeting unless the Director is re-elected at that meeting.

4.10 Eligibility for appointment and cessation of Director's appointment

(a) A person is not eligible to be a Director unless:

(i) the person has been assessed in accordance with the Fit and Proper Policy; and

(ii) is determined by the Board to meet the requirements of the Fit and Proper Policy.

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(b) A person is not eligible to be a Director and, if already appointed, a person automatically ceases to be a Director if the person:

- (i) is not permitted by the Act (or an order made under the Act) to be a director;
- (ii) is disqualified from managing corporations under Part 2D.6 and is not given permission or leave to manage the Company under section 206F or 206G;
- (iii) is of unsound mind or physically or mentally incapable of performing the functions of that office; or
- (iv) is determined to be a disqualified person under the Private Health Insurance (PS) Act.

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(c) A person automatically ceases to be a Director if the person:

- (i) fails to attend at least one scheduled Board meeting in any six month period (not including meetings of a committee of the Board) without leave of absence from the Board;
- (ii) resigns by notice in writing to the Company;
- (iii) is removed from office under rule [4.11](#);
- (iv) ceases to be eligible to act as a Director under rule [4.2\(a\)](#), [4.2\(b\)](#) or [4.2\(d\)](#); or
- (v) is a Managing Director and ceases to hold that office.

Rule 4.10(e)(ii) replaces section 203A

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4.11 Removal from office

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

4.12 Too few Directors

(a) If the number of Directors is reduced below the minimum required by rule [4.1\(a\)](#), the continuing Directors may act as the Board only:

- (i) to appoint Directors up to that minimum number;
- (ii) to convene a meeting of members; and
- (iii) in emergencies.

(b) The Directors must act to appoint Directors up to the minimum number required by rule [4.1\(a\)](#) as soon as practicable.

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5. Powers of the Board

5.1 Powers generally

Replaces section 198A

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

- (a) has power to manage the business of the Company; and
- (b) may exercise every right, power or capacity of the Company to the exclusion of the Company in general meeting and the members.

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5.2 Exercise of powers

A power of the Board can be exercised only:

- (a) by resolution passed at a meeting of the Board or otherwise in accordance with rule [14](#); or
- (b) in accordance with a delegation of the power under rule [8](#) or [9](#).

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6. Board Charter

The Directors must adopt a charter in writing which must be consistent with the Act, the Private Health Insurance ~~Legislation~~, the Prudential Standards and this document.

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7. Executing Negotiable Instruments

Negotiable instruments can be executed, accepted or endorsed for and on behalf of the Company by being signed by two Directors or a Director and Secretary or in such other manner (including the use of facsimile signatures if thought appropriate) as the Board may decide.

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8. Managing Director

8.1 Appointment and power of Managing Director

(a) The Board may appoint one or more persons to be a Managing Director either for a specified term (but not for life) or without specifying a term.

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(b) The General Manager may be, but need not be, appointed as a Managing Director.

(c) Subject to this document, a Managing Director has all the duties, and can exercise all the powers and rights, of a Director.

~~(d) The Board may delegate any of the powers of the Board to a Managing Director on the terms and subject to any restrictions the Board decides and may revoke the delegation at any time. This rule does not limit rule 9.~~

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(e) A delegation:

(i) ~~must be in writing and retained as a record by the Company; and~~

(ii) ~~must be made in accordance with the Prudential Standards.~~

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8.2 Retirement and removal of Managing Director

A Managing Director is subject to the same rules regarding resignation, removal and retirement from office as the other Directors.

8.3 Termination of appointment of Managing Director

The appointment of a Managing Director terminates if:

(a) the Managing Director ceases for any reason to be a Director; or

(b) the Board removes the Managing Director from the office of Managing Director (which, without affecting the rights of the Managing Director under any contract between the Company and the Managing Director, the Board has power to do),

whether or not the appointment was expressed to be for a specified term.

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9. Delegation of Board Powers

9.1 Power to delegate

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

9.2 Power to revoke delegation

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

9.3 Terms of delegation

- (a) A delegation of powers under rule 9.1 may be made:
 - (i) for a specified period or without specifying a period; and
 - (ii) on the terms (including power to further delegate) and subject to any restrictions the Board decides.
- (b) A delegation:
 - (i) must be in writing and retained as a record by the Company; and
 - (ii) must be made in accordance with the Prudential Standards.
- (c) A document of delegation may contain provisions for the protection and convenience of those who deal with the delegate as the Board thinks appropriate.

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9.4 Proceedings of committees

- (a) Subject to the terms on which a power of the Board is delegated to a committee, the meetings and proceedings of committees are, to the greatest extent practical, governed by the rules of this document which regulate the meetings and proceedings of the Board.
- (b) When a committee is established as required by the Prudential Standards, each such committee must be composed in accordance with, and have those functions and responsibilities required by, the Prudential Standards.

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10. Board Committees

10.1 Board Audit Committee

- (a) The Board must establish a board audit committee. The board audit committee must be composed, and must operate, in accordance with the Prudential Standards.
- (b) The functions and responsibilities of the board audit committee are:
 - (i) those functions and responsibilities set out in the Prudential Standards; and
 - (ii) such other functions and responsibilities, not inconsistent with the Prudential Standards, as determined by the Board.

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(c) ~~The Board must adopt a board audit committee charter in accordance with the Prudential Standards.~~

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10.2 Board Risk Committee

(a) ~~The Board must establish a board risk committee. The board risk committee must be composed, and must operate, in accordance with the Prudential Standards.~~

(b) ~~The functions and responsibilities of the board risk committee are:~~

(i) ~~those functions and responsibilities set out in the Prudential Standards; and~~

(ii) ~~such other functions and responsibilities, not inconsistent with the Prudential Standards, as determined by the Board.~~

(c) ~~The Board must adopt a board risk committee charter in accordance with the Prudential Standards.~~

10.3 Board Remuneration Committee

(a) ~~The Board must establish a board remuneration committee. The board remuneration committee must be composed, and must operate, in accordance with the Prudential Standards.~~

(b) ~~The functions and responsibilities of the board remuneration committee are:~~

(i) ~~those functions and responsibilities set out in the Prudential Standards; and~~

(ii) ~~such other functions and responsibilities, not inconsistent with the Prudential Standards, as determined by the Board.~~

(c) ~~The Board must adopt a board remuneration committee charter in accordance with the Prudential Standards.~~

10.4 Other committees

~~This rule 10 does not limit the ability of the Board to establish other committees.~~

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11. Directors Duties and Interests

11.1 Compliance with duties under the Act, the Private Health Insurance Legislation and general law

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Each Director must comply with his or her obligations and duties under the Act, the Private Health Insurance Legislation and the general law.

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11.2 Director can hold other offices etc.

Subject to the Governance Standard, a Director may:

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(a) hold any office or place of profit or employment other than that of the Company's auditor or any partner, director or employee of the auditor;

(b) be a member of any corporation (including the Company) or partnership other than the Company's auditor;

- (c) be a creditor of any corporation (including the Company) or partnership; or
- (d) enter into any agreement with the Company.

11.3 Disclosure of interests

Each Director must comply with the general law in respect of disclosure of conflicts of interest or duty and with section 191 in respect of disclosure of material personal interests.

11.4 Director interested in a matter

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

- (a) a Director may be counted in a quorum at a Board meeting that considers, and may vote on, any matter in relation to which that Director has a conflict of interest or duty;
- (b) the Company may proceed with any transaction in relation to which a Director has an interest or conflict of duty and the Director may participate in the execution of any relevant document by or on behalf of the Company;
- (c) the Director may retain any benefits accruing to the Director under the transaction; and
- (d) the Company cannot avoid the transaction merely because of the existence of the Director's interest or conflict of duty.

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

11.5 Agreements with third parties

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

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

11.6 Obligation of secrecy

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

- (i) in the course of duties as an officer of the Company;
- (ii) by the Board or the Company in general meeting; or
- (iii) by law.

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

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(c) This rule must not be interpreted as constraining or impeding a Director or Secretary from disclosing information to APRA.

12. Directors' Remuneration

12.1 Restrictions on payments to Directors

Except as provided in rules 8, 12.2, 12.3, 12.4 and 13, the Company must not pay fees or other remuneration to a Director.

12.2 Remuneration of a Managing Director

Subject to any contract with the Company, the Board may fix the remuneration of a Managing Director. ~~That remuneration may consist of salary, bonuses or any other elements but must not include a commission on, or percentage of, operating revenue.~~

12.3 Remuneration of Directors

- (a) Subject to paragraph (c), the Directors (other than a Managing Director) are entitled to be paid, out of the funds of the Company, such remuneration as the Board determines to be reasonable given the circumstances of the Company. The remuneration determined by the Board must be a fixed sum inclusive of all remuneration, entitlements and fringe benefits.
- (b) The Directors must report to the annual general meeting of the Company the total remuneration received by the Directors in the prior financial year.
- (c) The members may determine by ordinary resolution at an annual general meeting of the Company a maximum amount of Approved Fees to be paid to the Directors until the next annual general meeting of the Company.
- (d) Where the members have determined the maximum amount of Approved Fees under paragraph (c), the Directors (other than a Managing Director) are entitled to be paid, out of the funds of the Company, an amount of Approved Fees which:
 - (i) does not exceed in aggregate the amount determined by members under paragraph (c); and
 - (ii) is allocated among them:
 - (A) on an equal basis having regard to the proportion of the relevant year for which each Director held office; or
 - (B) as otherwise decided by the Board; and
 - (iii) is provided in the manner the Board decides, which may include provision of non-cash benefits. If the Board decides to include non-cash benefits in the Approved Fees of a Director, the Board must also decide the manner in which the value of those benefits is to be calculated for the purposes of this rule.
- (e) A determination under paragraph (c) applies until the next annual general meeting of the Company. If the members do not make a determination under paragraph (c) at the next annual general meeting, paragraph (a) will apply from that annual general meeting.

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Replaces section 202A

12.4 Payments to Directors with Board approval

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

- (a) reasonable expenses (including travelling and accommodation) incurred in carrying out duties as a Director;
- (b) reasonable remuneration for any service rendered to the Company by the Director in a professional or technical capacity where the amount payable is approved by the Board and is on reasonable commercial terms;
- (c) interest on money lent by the Director to the Company at a rate not exceeding the rate charged by Australian banks for overdrawn accounts;
- (d) reasonable remuneration for goods supplied by the Director to the Company in the ordinary course of business;
- (e) reasonable rent for premises leased by the Director to the Company; and
- (f) subject to Division 2 of Part 2D.2, compensation for loss of office or in connection with retirement from office (which includes resignation from office and death while in office).

13. Officers' Indemnity and Insurance

13.1 Indemnity

Subject to and so far as permitted by the Act, [the Private Health Insurance Legislation](#), the *Competition and Consumer Act 2010* (Cth) and any other applicable law:

- (a) the Company must indemnify every officer of the Company and its wholly owned subsidiaries and may indemnify its auditor against a Liability incurred as such an officer or auditor to a person (other than the Company or a related body corporate) including a Liability incurred as a result of appointment or nomination by the Company or subsidiary as a trustee or as an officer of another corporation, unless the Liability arises out of conduct involving a lack of good faith; and
- (b) the Company may make a payment (whether by way of advance, loan or otherwise) in respect of legal costs incurred by an officer or employee or auditor in defending an action for a Liability incurred as such an officer, employee or auditor or in resisting or responding to actions taken by a government agency or a liquidator.

In this rule, **Liability** means a liability of any kind (whether actual or contingent and whether fixed or unascertained) and includes costs, damages and expenses, including costs and expenses incurred in connection with any investigation or inquiry by a government agency or a liquidator.

13.2 Insurance

Subject to the Act and any other applicable law, the Company may enter into, and pay premiums on, a contract of insurance in respect of any person.

13.3 Former officers

The indemnity in favour of officers under rule 13.1 is a continuing indemnity. It applies in respect of all acts done by a person while an officer of the Company or one of its wholly owned subsidiaries even though the person is not an officer at the time the claim is made.

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13.4 Deeds

Subject to the Act, the Private Health Insurance Legislation, the Competition and Consumer Act 2010 (Cth) and any other applicable law, the Company may, without limiting a person's rights under this rule 13, enter into an agreement with a person who is or has been an officer of the Company or any of the Company's subsidiaries, to give effect to the rights of the person under this rule 13, on any terms and conditions that the Board thinks fit.

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14. Board Meetings

14.1 Convening Board meetings

- (a) The Chair (or, in the chair's absence, the Deputy Chair) may at any time, and the General Manager or a Secretary must on request from the Chair (or Deputy Chair), convene a Board meeting.
- (b) The General Manager or a Secretary must on request from at least three Directors convene a Board meeting.

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14.2 Notice of Board meeting

The convenor of each Board meeting:

- (a) must give reasonable notice of the meeting (and, if it is adjourned, of its resumption) individually to each Director who is in Australia; and
 - (b) may give that notice orally (including by telephone) or in writing,
- but failure to give notice to, or non-receipt of notice by, a Director does not result in a Board meeting being invalid.

14.3 Use of technology

A Board meeting may be held using any means of audio or audio-visual communication by which each Director participating can hear and be heard by each other Director participating or in any other way permitted by section 248D. A Board meeting held solely or partly by technology is treated as held at the place at which the greatest number of the Directors present at the meeting is located or, if an equal number of Directors is located in each of two or more places, at the place where the chair of the meeting is located.

14.4 Chairing Board meetings

- (a) At the first meeting of the Board following an annual general meeting of the Company, the Board:
 - (i) must elect an Independent Director to chair its meetings (**Chair**); and
 - (ii) may elect a Director to chair its meetings if the office of Chair is vacant or the Chair is not present or is unwilling to act (**Deputy Chair**).

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Replaces section 248C

Replaces section 248E

- (b) The term of office of the Chair and Deputy Chair is from their election until the earlier of:
 - (i) the election for the same office following the next annual general meeting;
 - (ii) him or her resigning from the office of Chair or Deputy Chair; or
 - (iii) him or her ceasing to be a Director.
- (c) Subject to rule [14.4\(d\)](#), a Director who has held office as Chair for more than 5 consecutive terms is not eligible to be elected as Chair.
- (d) If there is no Director eligible to hold office as Chair, or no eligible Director nominates to be elected as Chair, a Director who has held office as Chair for more than 5 consecutive terms (but not more than 10 consecutive terms) is eligible to be elected as Chair.
- (e) The Board may elect a Director to a casual vacancy in the office of Chair or Deputy Chair.
- (f) If there is no Chair or the Chair is not present within 15 minutes after the time for which a Board meeting is called or is unwilling to act, the Deputy Chair shall chair the meeting. If the Deputy Chair is not present within 15 minutes after the time for which a Board meeting is called or is unwilling to act, the Directors present must elect a Director present to chair the meeting.

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14.5 Quorum

Replaces section 248F

Unless the Board decides otherwise, the quorum for a Board meeting is a majority of Directors and a quorum must be present for the whole meeting. A Director is treated as present at a meeting held by audio or audio-visual communication if the Director is able to hear and be heard by all others attending. If a meeting is held in another way permitted by section 248D, the Board must resolve the basis on which Directors are treated as present.

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14.6 Majority decisions

Replaces section 248G

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

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14.7 Procedural rules

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

14.8 Written resolution

Replaces section 248A

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

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14.9 Additional provisions concerning written resolutions

For the purpose of rule [14.8](#):

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- (a) two or more separate documents in identical terms, each of which is signed by one or more Directors, are treated as one document; and
- (b) a facsimile or electronic message containing the text of the document expressed to have been signed by a Director that is sent to the Company is a document signed by that Director at the time of its receipt by the Company.

14.10 Valid proceedings

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

- (a) there was a defect in the appointment of the person; or
- (b) the person was disqualified from continuing in office, voting on the resolution or doing the thing.

15. Meetings of Members

15.1 Annual general meeting

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

15.2 Calling meetings of members

A meeting of members:

- (a) may be convened at any time by the Board; and
- (b) must be convened by the Board when required by section 249D or 250N or by order made under section 249G.

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15.3 Notice of meeting

- (a) Subject to rule 15.4, at least 21 days' written notice of a meeting of members must be given individually to:
 - (i) each member (whether or not the member is entitled to vote at the meeting);
 - (ii) each Director; and
 - (iii) to the auditor.
- (b) Subject to any regulation made under section 249LA, the notice of meeting must comply with section 249L and may be given in any manner permitted by section 249J(3).

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15.4 Short notice

Subject to sections 249H(3) and (4):

- (a) if the Company has elected to convene a meeting of members as the annual general meeting, if all the members entitled to attend and vote agree; or

Rule 15.2(a)
replaces
section 249C

- (b) otherwise, if members who together have power to cast at least 95% of the votes that may be cast at the meeting agree,

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

15.5 Postponement or cancellation

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

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

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

15.6 Fresh notice

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

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15.7 Technology

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

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15.8 Accidental omission

The accidental omission to give notice to, or the non-receipt of notice by, any of those entitled to it does not invalidate any resolution passed at a meeting of members.

16. Proceedings at Meetings of Members

16.1 Member present at meeting

If a member has appointed a proxy or attorney to act at a meeting of members, that member is taken to be present at a meeting at which the proxy or attorney is present.

16.2 Quorum

The quorum for a meeting of members is the lesser of:

- (a) six members present in person or by proxy; or
- (b) one tenth of all members of the Company, present in person or by proxy.

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Each individual present may only be counted once toward a quorum. If a member has appointed more than one proxy only one of them may be counted towards a quorum.

16.3 Quorum not present

If a quorum is not present within 30 minutes after the time for which a meeting of members is called:

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Replaces section 249M

See section 249S

Replaces sections 249T(1) and (2)

Replaces sections 249T(3) and (4)

- (a) if called as a result of a request of members under section 249D, the meeting is dissolved; and
- (b) in any other case:
 - (i) the meeting is adjourned to the day, time and place that the Board decides and notifies to members, or if no decision is notified, to the same time on the same day in the next week at the same place; and
 - (ii) if a quorum is not present at the adjourned meeting, the meeting is dissolved.

The quorum for the adjourned meeting is three members present in person or by proxy.

16.4 Chairing meetings of members

The Chair may also chair meetings of members. If:

- (a) there is no Chair for the time being; or
- (b) the Chair is not present at the time for which a meeting of members is called or is not willing to chair the meeting,

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the Deputy Chair may chair the meeting of members. If:

- (c) there is no Deputy Chair for the time being; or
- (d) the Deputy Chair is not present at the time for which a meeting of members is called or is not willing to chair the meeting,

the members present must elect a Director or member present to chair the meeting.

16.5 Attendance at general meetings

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

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16.6 Adjournment

Subject to rule [15.6](#), the chair of a meeting of members at which a quorum is present:

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- (a) may; and
- (b) must, if directed by ordinary resolution of the meeting, adjourn it to another time and place.

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16.7 Business at adjourned meetings

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

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Replaces sections 249U(1) to (3)

See section 249V

Replaces section 249W(4)

Replaces section 249W(2)

17. Proxies and Attorneys

17.1 Appointment of proxies

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

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

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17.2 Member's attorney

A member may appoint an attorney to act, or to appoint a proxy to act, at a meeting of members. A power of attorney must be signed in the presence of at least one witness.

17.3 Deposit of proxy appointment forms, powers of attorney and proxy appointment authorities

An appointment of a proxy or an attorney is not effective for a particular meeting of members unless:

- (a) in the case of a proxy, the proxy appointment form and, if it is executed or otherwise authenticated in a manner prescribed by a regulation made for the purposes of section 250A(1) by an attorney, the relevant power of attorney or other authority under which the appointment was authenticated or a certified copy of it; and
- (b) in the case of an attorney, the power of attorney or a certified copy of it,

are received by the Company in accordance with section 250B(3) at least 6 hours before the time for which the meeting was called or, if the meeting has been adjourned, before the resumption of the meeting.

17.4 Appointment for particular meeting, standing appointment and revocation

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

17.5 Position of proxy or attorney if member present

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

17.6 Priority of conflicting appointments of attorneys

If more than one attorney appointed by a member is present at a meeting of members and the Company has not received notice of revocation of any of the appointments:

- (a) an attorney appointed to act at that particular meeting may act to the exclusion of an attorney appointed under a standing appointment; and
- (b) subject to rule 17.6(a), an attorney appointed under a more recent appointment may act to the exclusion of an attorney appointed earlier in time.

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See section 249

17.7 More than one current proxy appointments

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

17.8 Continuing authority

An act done at a meeting of members by a proxy or attorney is valid even if, before the act is done, the appointing member:

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

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

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18. Entitlement to Vote

18.1 Number of votes

- (a) Subject to sections 250BB(1) and 250BC and rule [18.1\(b\)](#):
 - (i) each member has one vote on a show of hands or a poll; and
 - (ii) a member who is present and entitled to vote and is also a proxy or attorney of another member has one vote on a show of hands.
- (b) A member whose premiums under a complying private health insurance policy issued by the Company are in arrears by more than 30 days as at date of the relevant meeting of members is not entitled to cast a vote at that meeting, whether in person or by proxy.

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18.2 Casting vote of chair

If an equal number of votes is cast for and against a resolution at a meeting of members, the chair of the meeting has a casting vote whether or not the chair is a member.

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18.3 Voting restrictions

If:

- (a) the Act requires that some members are not to vote on a resolution, or that votes cast by some members be disregarded, in order for the resolution to have an intended effect; and
- (b) the notice of the meeting at which the resolution is proposed states that fact,

those members have no right to vote on that resolution and the Company must not count any votes purported to be cast by those members. If a proxy purports to vote in a way or in

Replaces section 250C(2)

Replaces section 250E(2)

Replaces section 250E(3)

circumstances that contravene section 250BB(1), on a show of hands the vote is invalid and the Company must not count it and on a poll rule [19.3\(c\)](#) applies.

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18.4 Decision on right to vote

A member or Director may challenge a person's right to vote at a meeting of members. A challenge may only be made at the meeting. A challenge, or any other doubt as to the validity of a vote, must be decided by the chair of the meeting, whose decision is final.

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19. How Voting is Carried Out

19.1 Method of voting

A resolution put to the vote at a meeting of members must be decided on a show of hands unless a poll is demanded under rule [19.2](#) either before or on declaration of the result of the vote on a show of hands. Unless a poll is demanded, the chair's declaration of a decision on a show of hands is final.

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19.2 Demand for a poll

A poll may be demanded on any resolution (except a resolution concerning the election of the chairman of a meeting) by:

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- (a) at least three members entitled to vote on the resolution; or
- (b) the chair of the meeting.

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

19.3 When and how polls must be taken

If a poll is demanded:

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- (a) if the resolution is for the adjournment of the meeting, the poll must be taken immediately and, subject to rule [19.3\(c\)](#), in the manner that the chair of the meeting directs;
- (b) in all other cases, the poll must be taken at the time and place and, subject to rule [19.3\(c\)](#), in the manner that the chair of the meeting directs;
- (c) votes which sections 250BB(1) or 250BC require to be cast in a given way must be treated as cast in that way;
- (d) a person voting who has the right to cast two or more votes need not cast all those votes and may cast those votes in different ways; and
- (e) the result of the poll is the resolution of the meeting at which the poll was demanded.

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20. Secretary

20.1 Appointment of Secretary

- (a) The Board:

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- (i) must appoint at least one individual; and
 - (ii) may appoint more than one individual,
- to be a Secretary either for a specified term or without specifying a term.

(b) The Board may, but is not required to, appoint the General Manager to be a Secretary.

(c) A person is not eligible to be a Secretary unless:

- (i) the person has been assessed in accordance with the Fit and Proper Policy; and
- (ii) is determined by the Board to meet the requirements of the Fit and Proper Policy.

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20.2 Terms and conditions of office

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

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20.3 Cessation of Secretary's appointment

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

- (a) is not permitted by the Act (or an order made under the Act) to be a secretary of a company;
- (b) becomes disqualified from managing corporations under Part 2D.6 and is not given permission or leave to manage the Company under section 206F or 206G;
- (c) is determined by the Board not to meet the requirements of the Fit and Proper Policy;
- (d) is determined to be a disqualified person under the Private Health Insurance (PS) Act;
- (e) becomes of unsound mind or physically or mentally incapable of performing the functions of that office;
- (f) resigns by notice in writing to the Company; or
- (g) is removed from office under rule [20.4](#).

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20.4 Removal from office

The Board may remove a Secretary from that office whether or not the appointment was expressed to be for a specified term.

21. Minutes

21.1 Minutes must be kept

The Board must cause minutes of:

- (a) proceedings and resolutions of meetings of the Company's members;
- (b) the names of Directors present at each Board meeting or committee meeting;
- (c) proceedings and resolutions of Board meetings (including meetings of a committee to which Board powers are delegated under rule 9);
- (d) resolutions passed by Directors without a meeting; and
- (e) disclosures and notices of Directors' interests,

to be kept in accordance with sections 191, 192 and 251A.

21.2 Minutes as evidence

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

21.3 Inspection of minute books

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

22. Common Seals

22.1 Common seal

The Board:

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

22.2 Use of seals

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

22.3 Fixing seals to documents

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

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

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23. Financial Reports and Audit

23.1 Company must keep financial records

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

- (a) correctly record and explain its transactions (including transactions undertaken as trustee) and financial position and performance; and
- (b) would enable true and fair financial statements to be prepared and audited,

and must allow a Director and the auditor to inspect those records at all reasonable times.

23.2 Financial reporting

The Board must cause the Company to prepare a financial report and a directors' report that comply with Part 2M.3 and must report to members in accordance with section 316A.

23.3 Audit or review

The Board must cause the Company's financial report for each financial year to be audited or reviewed and obtain an auditor's report. The eligibility, appointment, removal, remuneration, rights and duties of the auditor are regulated by:

(a) Division 3 of Part 2M.3, Divisions 1 to 6 of Part 2M.4 and sections 1280, 1289, 1299B and 1299C; and

(b) the Prudential Standards.

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23.4 Conclusive reports

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

23.5 Inspection of financial records and books

Subject to rule 21.3 and section 247A, a member who is not a Director does not have any right to inspect any document of the Company except as authorised by the Board or by ordinary resolution.

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Replaces section 247D

24. Register of Members

The Company must set up and maintain a register of members.

In accordance with section 169, the Register must contain the following information:

- (a) the name and address of each member;
- (b) the date on which the entry of the member's name in the Register is made;
- (c) the name and details of each person who stopped being a member within the last seven years;
- (d) the date on which the person stopped being a member; and



- (e) an index of members' names (if the Register itself is not kept in a form that operates effectively as an index).

25. Winding Up

In the event of the winding up of the Company, any surplus property remaining after satisfaction of all the Company's debts and liabilities must not be paid to, or distributed amongst, the members, but must be paid or transferred to a corporation or institution in Australia to be determined by the Directors (or failing determination, by the liquidator of the Company), the constituent documents of which:

- (a) require the corporation or institution to pursue objects similar to those of the Company;
- (b) require the corporation or institution to pursue objects with respect to health care (including research, prevention or treatment); or
- (c) require the corporation or institution to pursue charitable objects, and

in each case, require the corporation or institution to apply its income solely towards promoting those objects and prohibit the corporation or institution from making distributions to its members.

26. Notices

26.1 Notices by Company

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

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

26.2 Overseas members

A member whose registered address is not in Australia may notify the Company in writing of an address in Australia to which notices may be sent.

26.3 When notice is given

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

- (a) if it is delivered personally:
 - (i) by 5.00 pm (local time in the place of receipt) on a business day - on that day; or
 - (ii) after 5.00 pm (local time in the place of receipt) on a business day, or on a day that is not a business day - on the next business day;
- (b) if it is sent by fax or electronic message or given under section 249J(3)(cb):
 - (i) by 5.00 pm (local time in the place from which it is sent or given) on a business day – on that day; or
 - (ii) after 5.00 pm (local time in the place from which it is sent or given) on a business day, or on a day that is not a business day – on the next business day; and
- (c) if it is sent by mail:
 - (i) within Australia - one business day after posting; or
 - (ii) to a place outside Australia - three business days after posting.

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

26.4 Business days

For the purposes of rule [26.3](#), a business day is a day that is not a Saturday, Sunday or public holiday in the place to which the notice is sent.

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26.5 Counting days

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

26.6 Notices to "lost" members

If:

- (a) on two or more consecutive occasions a notice served on a member in accordance with this rule is returned unclaimed or with an indication that the member is not known at the address to which it was sent; or
- (b) the Board believes on other reasonable grounds that a member is not at the address shown in the Register or notified to the Company under rule [26.2](#),

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the Company may give effective notice to that member by exhibiting the notice at the Company's registered office for at least 48 hours.

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

Replaces section 249J(4)

27. Transitional Rules

27.1 Exception to rule 4.1

27.1.1 Notwithstanding rule 4.1, between the close of the 2018 annual general meeting and the first to occur of:

- (a) an Elected Director resigning from office; and
(b) the 2019 annual general meeting.

the Company may have four Elected Directors and three Appointed Directors.

27.1.2 If an Elected Director does not retire from office before the 2019 annual general meeting (and without limiting rule 4.8), the longest serving Elected Director must retire from office. The retiring Elected Director is not eligible for re-election.

27.2 Exception to rule 4.2(d)

27.2.1 Rule 4.2(d) does not apply to an Elected Director who was first elected prior to the 2009 annual general meeting (each a Pre-2009 Elected Director). Each Pre-2009 Elected Director must retire from office on the first to occur of:

- (a) his or her retirement from office (whether under rule 4.8 or otherwise); and
(b) the 2021 annual general meeting.

27.2.2 On retiring from office under rule 27.2.1, a Pre-2009 Elected Director is not eligible for re-election.

27.2.3 This rule 27.2 applies from the close of the 2018 annual general meeting.

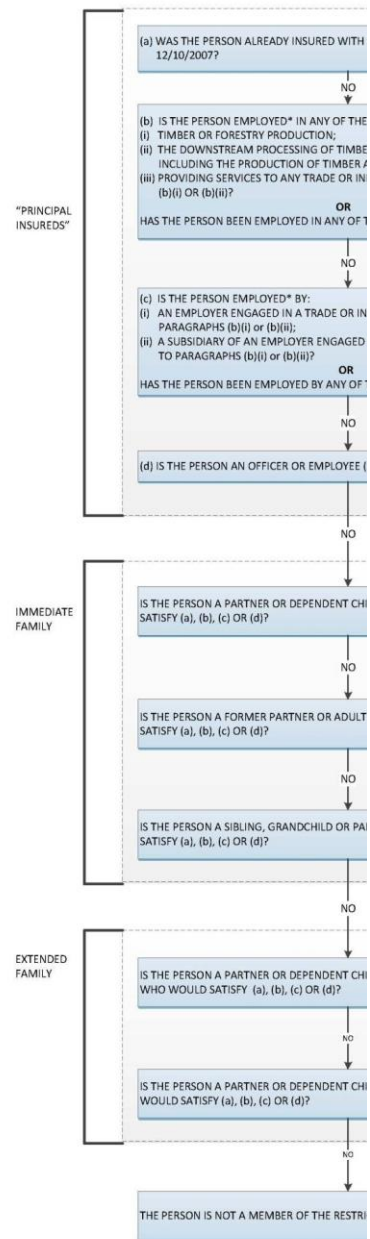
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