



ActivateUTS Constitution

**Adopted by UTS Council
26 November 2025**

Contents

1. PRELIMINARY	1
1.1 <i>Name</i>	1
1.2 <i>Definitions</i>	1
1.3 <i>Interpretation</i>	4
1.4 <i>Exclusion of replaceable rules</i>	4
1.5 <i>Validity of acts of Directors</i>	5
1.6 <i>Validity of acts</i>	5
1.7 <i>Alteration of the Constitution</i>	5
1.8 <i>University rights protective only</i>	5
2. OBJECTIVES	6
3. INCOME TO BE APPLIED IN PROMOTING OBJECTIVES.....	7
3.1 <i>Promotion of objectives</i>	7
3.2 <i>Permitted payments to a member who is not a Director</i>	7
3.3 <i>Permitted payments to Directors</i>	7
4. AMOUNT OF GUARANTEE ON WINDING UP	8
5. APPLICATION OF SURPLUS ON WINDING UP	8
6. MEMBERSHIP	9
6.1 <i>Initial member</i>	9
6.2 <i>Admission of further members</i>	9
6.3 <i>Consequential changes</i>	9
6.4 <i>Class rights of the University as a member</i>	9
6.5 <i>Recording resolutions</i>	10
7. POWERS, DUTIES AND LIABILITIES.....	10
7.1 <i>Legal capacity of ActivateUTS</i>	10
7.2 <i>Effect of this Constitution</i>	10
7.3 <i>Duties owed to ActivateUTS by Directors</i>	10
7.4 <i>Interests of the University</i>	11
8. GOVERNANCE STRUCTURE OF ACTIVATEUTS	12

8.1	<i>The Board</i>	12
8.2	<i>Composition of the Board</i>	12
8.3	<i>Powers of the Board</i>	12
8.4	<i>Delegation of powers of the Board</i>	12
8.5	<i>The Executive</i>	13
8.6	<i>Powers of the Executive</i>	13
8.7	<i>Corporate Governance Committee</i>	14
8.8	<i>Powers of the Corporate Governance Committee</i>	14
8.9	<i>Regulations</i>	14
8.10	<i>Codes of Conduct and Policies</i>	15
8.11	<i>Standing Orders</i>	15
8.12	<i>Quorum</i>	15
9.	PRESIDENT AND VICE-PRESIDENT	16
9.1	<i>President</i>	16
9.2	<i>Vice-President</i>	16
9.3	<i>Rules for the conduct of election of President and Vice-President</i>	16
9.4	<i>Role of the President</i>	16
9.5	<i>Role of the Vice-President</i>	16
10.	COMMITTEES	17
10.1	<i>Delegation to committee</i>	17
10.2	<i>Chair of committee</i>	17
10.3	<i>Constraints</i>	18
11.	CONDUCT OF MEETINGS	18
11.1	<i>Standing Orders</i>	18
11.2	<i>Required majority</i>	18
12.	WRITTEN RESOLUTION OF DIRECTORS	19
12.1	<i>Written resolution signed by Directors</i>	19
12.2	<i>Signing of written resolution</i>	19
12.3	<i>Deemed minute</i>	19
13.	MATERIAL PERSONAL INTERESTS OF DIRECTORS	20
13.1	<i>Requirement to leave the meeting</i>	20
13.2	<i>Exemptions from having to leave the meeting</i>	20
13.3	<i>Director's duty to notify</i>	20
13.4	<i>Notice of material personal interest</i>	21
13.5	<i>Standing notice about an interest</i>	22
13.6	<i>Effect of contravention</i>	22
14.	TRUST FUNDS	22
14.1	<i>Investment of trust funds</i>	22
14.2	<i>Application of trust funds</i>	23
15.	ANNUAL ELECTIONS	23

15.1	<i>Returning Officer</i>	23
15.2	<i>Three Student Directors in odd-numbered years</i>	23
15.3	<i>Four Student Directors in even-numbered years</i>	23
15.4	<i>Reporting of election results</i>	24
15.5	<i>Rules for the conduct of elections</i>	24
6.	APPOINTMENT AND REMOVAL OF DIRECTORS	24
16.1	<i>Membership qualifications</i>	24
16.2	<i>Chair</i>	24
16.3	<i>Treasurer</i>	24
16.4	<i>Staff Directors</i>	25
16.5	<i>Three Student Directors in odd-numbered years</i>	25
16.6	<i>Four Student Directors in even-numbered years</i>	25
16.7	<i>Executive Director</i>	25
16.8	<i>Removal of Directors</i>	25
16.9	<i>Manner of appointment and removal of Directors</i>	26
16.10	<i>Period of office of Chair, Treasurer, Staff Directors and Executive Director</i>	26
16.11	<i>Period of office of Student Directors</i>	27
16.12	<i>Vacation of office</i>	27
16.13	<i>Filling of vacancies</i>	28
16.14	<i>Less than minimum number of seven Directors</i>	28
16.15	<i>Maximum tenure</i>	28
17.	COMPANY SECRETARY	29
17.1	<i>Appointment of Company Secretary</i>	29
17.2	<i>Duties of Company Secretary</i>	29
17.3	<i>Assistant Company Secretary</i>	29
17.4	<i>Resignation of Company Secretary</i>	29
18.	CHIEF EXECUTIVE OFFICER	30
18.1	<i>Engagement</i>	30
18.2	<i>Powers of the Corporate Governance Committee in relation to the Chief Executive Officer</i>	30
19.	COMMON SEAL	30
19.1	<i>Optional</i>	30
19.2	<i>Use of the Common Seal</i>	30
19.3	<i>Execution of Common Seal</i>	30
19.4	<i>Delegation of authority to use Common Seal</i>	31
19.5	<i>Execution of a document without a Common Seal</i>	31
20.	NOTICES	31

20.1	<i>Service of notices</i>	31
20.2	<i>Date of deemed service</i>	31
20.3	<i>Counting of days</i>	32
20.4	<i>Service on ActivateUTS or its officers</i>	32
20.5	<i>Signature</i>	32
21.	INDEMNITY, INSURANCE AND ACCESS	32
21.1	<i>Indemnity for officers</i>	32
21.2	<i>Insurance premiums</i>	32
21.3	<i>Access</i>	32

1. PRELIMINARY

1.1 Name

The name of the organisation is ActivateUTS.

1.2 Definitions

In this Constitution, unless the contrary intention appears:

ActivateUTS means ActivateUTS, a company limited by guarantee, which is established to be, and to continue as, a charity.

Appointed means, in the context of **clause 8.2(a)**, appointed to the office of Director by the University in accordance with **clause 16.9**, and includes any re-appointment or appointment to fill a vacancy.

Board means the Board of ActivateUTS Ltd., as constituted under **clause 8.2**.

Chair means the individual appointed as Chair of ActivateUTS Board for the time being under **clause 16.2** and who has the powers, rights and duties conferred on the Chair by this Constitution.

Chief Executive Officer means the individual engaged by the Corporate Governance Committee under **clause 18.1**.

Common Seal means the Common Seal of ActivateUTS, as referred to in section 123 of the Corporations Act, and includes any duplicate seal of ActivateUTS.

Company Secretary means any individual appointed by the Directors, as required by section 204A(2) of the Corporations Act, to perform the duties of Company Secretary of ActivateUTS, and includes an assistant Company Secretary or any individual appointed to act as such temporarily.

Constitution means the Constitution of ActivateUTS Ltd., in force for the time being.

Corporate Governance Committee means the Corporate Governance Committee provided for in **clause 8.7**.

Corporate Representative means an appropriate person nominated by the University from time to time to conduct the business referred to in 16.9.

Corporations Act means the Corporations Act 2001 (Cth) as it applies to ActivateUTS for the time being.

Council means the Council of the University, as set out in the University Act.

Directors means the Directors of ActivateUTS in office for the time being, or a quorum of the Directors present at a meeting thereof.

Eligible Directors means all Directors in office for the time being, but excluding those who have been given prior leave of absence by the Board and further excluding Directors who have notified a fellow Director of their unavailability to attend a meeting.

Endorsed means, in the context of **clause 8.2(a)**, confirmed by the University as eligible to be appointed as a Director, in accordance with this Constitution. Endorsement does not constitute appointment.

Executive means collectively the Directors holding the offices referred to in **clause 8.5**.

Executive Director means the individual appointed by the University to hold the position of Executive Director under **clause 16.7**.

Extraordinary Matter means a matter pertaining to:

- (a) borrowing by ActivateUTS of a sum of money from a person or financial institution; or
- (b) entry into a contract where the subject matter of the contract, or its terms, are outside the range of contracts commonly or normally entered into by ActivateUTS; or
- (c) purchase or sale of an asset where the higher of:
 - (i) the value of the asset; or
 - (ii) the purchase or sale price payable for the asset
 exceeds \$150,000, or such amount as determined by the Board by Special Resolution, whichever is the greater; or
- (d) any other capital expenditure in excess of \$1,000,000.

Individual means a natural person.

Material personal interest has the meaning contained in the relevant policy of the Board published from time to time pursuant to **clause 8.10**.

Member means any person entered in the Register of Members as a member for the time being of ActivateUTS.

UTS community means:

- (a) the students of the University; and
- (b) the members of non-academic staff of the University; and
- (c) the members of the academic staff of the University; and
- (d) the members of the staff (paid or unpaid) of ActivateUTS and UTS Students' Association; and
- (e) the graduates of the University; and

(f) the members of the Council.

Officer has the same meaning as “officer of a corporation” under the interpretation provisions of the Corporations Act.

Ordinary Resolution means a resolution passed by a simple majority of the votes cast in favour of the resolution.

Person includes an individual, company, other body corporate, partnership, association or other entity.

President means the Student Director elected for the time being by the Directors as the President under **clause 9.1**.

Quorum in relation to a meeting of the Board or a committee thereof, means the minimum number of Directors or committee members who must be present in order to constitute a valid meeting, as set out in the Standing Orders applicable from time to time.

Register of Members means the register of members maintained by ActivateUTS in accordance with **section 168(1)** of the Corporations Act.

Registered Office means the registered office for the time being of ActivateUTS, as required by **section 142(1)** of the Corporations Act.

Returning Officer means the individual who is for the time being appointed by the Council to perform the duties of conducting the annual election of Student Directors under **section 15** and of the President and Vice-President under **section 9**. In the absence of any such appointment by the Council at any time, that individual is the University Secretary.

Section means a clause or group of clauses in this Constitution identified by a specified heading or by the same initial number.

Senior Management means the individuals appointed by the CEO from time to time to a role having full operational responsibility for a department of ActivateUTS.

Special Majority means approval by at least least three-quarters of all Directors, rounded up to the nearest whole number. For example, where there are 13 Directors, a Special Majority requires 10 votes.

Special Resolution means a resolution passed by a Special Majority.

Staff means a person who is a member of the academic or non-academic staff of the University and whose category of employment is either continuing or fixed-term, where the conditions of employment do not attract a casual loading.

Staff Director means an individual who is a member of the staff appointed for the time being as a Staff Director under **clause 16.4**.

Standing Orders means instructions and directions approved by the Board from time to time pursuant to **clause 8.11** for the conduct of meetings of the

Board and, where appropriate, meetings of committees of the Board and as set out in a document by that name.

Student means a person enrolled as a candidate proceeding to a degree, diploma or other award course of the University, and includes both an undergraduate student and a postgraduate student.

Student Director means an individual who is a student appointed for the time being as a Student Director under either **clause 15.2** or **clause 15.3**.

Treasurer means the individual appointed as Treasurer of the Board of ActivateUTS for the time being under **clause 16.3** and who has the powers, rights and duties conferred on the Treasurer by this Constitution.

University means the University of Technology, Sydney, established under the University Act.

University Act means the University of Technology, Sydney, Act 1989 (NSW) as amended from time to time, or such equivalent legislation that governs the operation of the University.

University By-law means the University of Technology, Sydney By-law, 2005 as amended from time to time, or such equivalent by-law that governs the operation of the University.

Vice-Chancellor means the Vice-Chancellor of the University.

Vice-President means the Student Director elected for the time being by the Directors as the Vice-President under **clause 9.2**.

1.3 Interpretation

In this Constitution:

- (a) Singular includes plural, and vice versa.
- (c) Except for the definition in **clause 1.3(a)**, an expression that relates to a matter dealt with by a particular provision of the Corporations Act, the University Act or the University By-law, has the same meaning as in that provision of the legislation.
- (d) All references to statutory provisions are construed as references to any statutory modification or re-enactment for the time being in force.

1.4 Exclusion of replaceable rules

All of the replaceable rules contained in the Corporations Act are displaced by this Constitution and do not apply to ActivateUTS.

1.5 Validity of acts of Directors

All acts done at any meeting of the Directors or of a committee or other persons or by any individual acting as a Director or any person purporting to act as an attorney under power of ActivateUTS are, despite the fact that later it is discovered that there was some defect in the appointment or continuance in office of such Director, person or attorney so acting or that they or any of them were disqualified or were not entitled to vote, as valid as if every such person had been duly appointed or had duly continued in office and was qualified to be a Director or attorney and was entitled to vote.

1.6 Validity of acts

Despite anything contained in this Constitution, if it is found that some formality required by this Constitution has been inadvertently omitted or has not been carried out, such omission or failure to carry out does not invalidate any resolution, act, matter or thing which, but for such omission or failure to carry out, would have been valid.

1.7 Alteration of the Constitution

- (a) This Constitution may only be amended, or a new constitution adopted, by:
 - (i) The passing of a Special Resolution of the Board; and
 - (ii) Approval of any amendment to or replacement of this Constitution by the Council.
- (b) Any such amendment or replacement takes effect on the date on which the University provides written approval, or such later date as may be specified in, or determined in accordance with, the written approval. A member is bound by any such modification made after the date on which they became a member, except so far as the modification increases the member's liability to pay money to ActivateUTS.
- (c) The consent of the University must not be unreasonably withheld and may only be withheld where the proposed amendment would, in the reasonable opinion of the University, pose undue risk to the interests or operations of ActivateUTS or the University.

1.8 University rights protective only

For the avoidance of doubt, any rights or powers conferred on the University under this Constitution - including but not limited to the University's rights to endorse and remove the Chief Executive Officer or student-elected Directors, to consent to amendment or replacement of this Constitution, and to consent to changes in membership - are protective in nature. These rights exist solely to safeguard the University's interests as a member of ActivateUTS and are not

intended to provide the University with, nor do they confer, the power to manage the most significant day-to-day operations or activities of ActivateUTS.

2. OBJECTIVES

It is the mission of ActivateUTS to “*Enrich the UTS community*”.

ActivateUTS is a key strategic partner of the university and primarily a student-centred organisation that also caters for the whole UTS community, with a particular focus on the provision of programs that complement the learning and development outcomes of the University. This community includes past, present and future students, university academic and professional staff, ActivateUTS workforce (staff and volunteers, Directors and club administrators), as well as the broader public and precinct community whom we service and with whom we interact.

The broad objectives of ActivateUTS in delivering its charitable purpose of Advancing Education are:

As a model organisation we will value accessibility, sustainability and diversity, and as such we will provide a safe, inclusive and accessible environment to maximise the experience of our community.

We will be an organisation that is innovative and dynamic, that strives for best practice in all we do, with a firm commitment to continuous improvement.

In providing our activities, events and programs to the UTS community, we will aim to develop key graduate attributes, ultimately enhancing the employability of UTS graduates.

ActivateUTS will provide products and services that are relevant, valuable, sustainable and enriching to meet the needs of the ever-changing UTS community.

We will provide visible, adaptive and contemporary places that maximise their usage and functionality.

We will provide a rewarding and inclusive workplace that values and enriches our workforce.

Without limiting the generality of the objectives stated above, ActivateUTS will:

- (a) Provide places for affiliated clubs, ActivateUTS sanctioned activities, programs and events, for the UTS community.
- (b) Organise, assist and subsidise sporting, social and cultural clubs and societies and programs for the UTS community.
- (c) Provide food, beverage and other support services for the UTS community.
- (d) Provide personal and professional development opportunities for students of UTS.

- (e) Encourage the continuing involvement of the graduates of the University in the life of the University.
- (f) Do such things as are incidental or conducive to the attainment of any or all of these objectives.

3. INCOME TO BE APPLIED IN PROMOTING OBJECTIVES

3.1 Promotion of objectives

The income and property of ActivateUTS must be applied solely towards the promotion of the objectives of ActivateUTS as set out in **clause 2**. No part of that income or property may be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise, to the members of ActivateUTS.

3.2 Permitted payments to a member who is not a Director

Clause 3.1 does not prevent the payment in good faith to a member who is not a Director:

- (a) of reasonable and proper remuneration to that member if they are an employee of ActivateUTS; or
- (b) for any services actually rendered by that member to ActivateUTS, or for goods supplied by that member to ActivateUTS, in the ordinary and usual way of business; or
- (c) of interest, at a rate not exceeding usual commercial rates prevailing at the relevant time, on money owed by ActivateUTS to that member; or
- (d) of reasonable and proper rent for premises by that member to ActivateUTS.

3.3 Permitted payments to Directors

Clause 3.1 does not prevent the payment in good faith to a Director (whether or not they are a member):

- (a) of expenses incurred, or to be incurred, by that Director in carrying out the duties of a Director; or
- (b) of remuneration for any service rendered to ActivateUTS in a professional or technical capacity, where the provision of that service has the prior approval of the Directors and the amount payable is approved by a resolution of the Directors and is on reasonable commercial terms; or
- (c) of remuneration of the Executive Director as an employee of ActivateUTS, where the terms of employment have been approved by a resolution of the Corporate Governance Committee; or

- (d) of interest, at a rate not exceeding usual commercial rates prevailing at the relevant time, on money owed by ActivateUTS to that Director; or
- (e) of reasonable and proper rent for premises leased by that Director to ActivateUTS; or
- (f) of remuneration of each of the Chair, the Treasurer, and the Staff Directors for their ordinary services as a Director, where the amount payable to that Director in any calendar year does not exceed such amount as may at any time be approved by the University, such approval given in the same way as a consent is given under **clause 6.2**.

4. AMOUNT OF GUARANTEE ON WINDING UP

Each member of ActivateUTS undertakes to contribute to the property of ActivateUTS, if ActivateUTS is wound up while the member is a member or within one year after the member ceases to be a member, for payment of the debts and liabilities of ActivateUTS contracted before the member ceases to be a member and of the costs, charges and expenses of winding up and for adjustment of rights of the contributories among themselves, such amount as may be required not exceeding \$2.

5. APPLICATION OF SURPLUS ON WINDING UP

If upon the winding up or dissolution of ActivateUTS any surplus assets remain after satisfaction of all its debts and liabilities then the following provisions apply:

- (a) that surplus must not be paid to, or distributed among, the members of ActivateUTS; and
- (b) that surplus must be given to another body affiliated with UTS, whether incorporated or otherwise, which has objectives similar to the objectives of ActivateUTS and which prohibits the distribution of its income and property among its members; and
- (c) such body must be determined by the members of ActivateUTS at or before the time of dissolution; and
- (d) to the extent that a body cannot be ascertained for the purpose of **clause 5(b)** the surplus must be given to a body, whether incorporated or otherwise, which prohibits the distribution of its income and property among its members and which has charitable objects, including the provision of student social, cultural, sporting and recreational services and facilities, in support of students enrolled at UTS.

6. MEMBERSHIP

6.1 Initial member

In accordance with **section 120(1)** of the Corporations Act, the University becomes the sole member of ActivateUTS on the registration of ActivateUTS as a company, the University having been specified in the application for registration, with its consent, as a proposed member. The University may continue as a member for so long as it wishes. The University may not resign its membership, or otherwise cease to be a member, unless at the time of ceasing there is at least one other member of ActivateUTS.

6.2 Admission of further members

No person, other than the University, may become a member of ActivateUTS, regardless of whether or not the person is to be an ordinary member or any other category or class of member of ActivateUTS, without the prior written consent of the University. The giving of the consent must be by a resolution of the Council, for and on behalf of the University. Any such consent may be given on conditions set out in the resolution and may be revoked at any time. The Secretary to Council must certify in writing to the Directors that such a resolution has been passed by the Council.

6.3 Consequential changes

The University must not give a consent under **clause 6.2** without also amending this Constitution to provide for all matters the Council considers, in its absolute discretion, relevant or appropriate, having regard to the fact that henceforth there may be multiple members of ActivateUTS. Without limiting the generality of what amendments to the Constitution may be made by the University, such amendments may include provisions concerned with categories of membership and their respective rights, membership fees, cessation of membership, and meetings of members.

6.4 Class rights of the University as a member

- (a) The powers and rights conferred by this Constitution upon the University, the Council or the Vice-Chancellor:
 - (i) are given to the Council or the Vice-Chancellor, or as the case may be, for and on behalf of the University; and
 - (ii) are powers and rights of the University in its capacity as a member of ActivateUTS; and
 - (iii) are class rights (regardless of whether or not there are other members of ActivateUTS) which may only be varied or abrogated with the prior written consent of the University, given in the way described in **clause 6.2**.

- (b) The powers and rights conferred by this Constitution on the Board and the Directors:
 - (i) are given to them as officers of ActivateUTS, and not in their capacity as members (if they happen to be members); and
 - (ii) are not class rights of any of the Directors.

6.5 Recording resolutions

- (a) While the University is the only member of ActivateUTS, if the corporate representative of the University, appointed by the Council pursuant to **section 250D** of the Corporations Act, records in writing a resolution and signs the record, the record of the resolution counts as the passing by the University, as the sole member of ActivateUTS, of the resolution to that effect.
- (b) A written record under **clause 6.5(a)** constitutes minutes and must be entered into the Board minute book.

7. POWERS, DUTIES AND LIABILITIES

7.1 Legal capacity of ActivateUTS

ActivateUTS has the legal capacity and powers of an individual both in and outside of Australia. ActivateUTS also has all the powers of a body corporate.

7.2 Effect of this Constitution

This Constitution has effect as a contract and is legally binding:

- (a) between ActivateUTS and each member; and
- (b) between ActivateUTS and each Director and Company Secretary; and
- (c) between a member and each other member, under which each person agrees to observe and perform this Constitution so far as it applies to that person.

7.3 Duties owed to ActivateUTS by Directors

In addition to the duties owed under **sections 180 to 184** of the Corporations Act, each Director or other officer of ActivateUTS (each an officer) owes the following duties to ActivateUTS:

- (a) a fiduciary duty to act *bona fide*, that is in good faith, in what the officer believes to be in the best interests of ActivateUTS; and

- (b) a fiduciary duty to exercise the officer's powers strictly for the purpose for which those powers were conferred, and not for an extraneous purpose; and
- (c) a fiduciary duty not to fetter the officer's discretion to exercise those powers; and
- (d) a fiduciary duty not to place themselves in a position of conflict of interest without the consent of ActivateUTS; and
- (e) a duty to exercise the officer's powers and discharge the officer's duties with the degree of care and diligence that a reasonable person would exercise if they:
 - (i) were an officer of a corporation incorporated under the Corporations Act in the circumstances of ActivateUTS; and
 - (ii) occupied the office held by, and had the same responsibilities within the ActivateUTS, as the officer, and
- (f) a duty not to permit ActivateUTS to incur a debt where, immediately before the time the debt is incurred there are reasonable grounds to suspect that:
 - (i) ActivateUTS will not be able to pay all its debts as and when they become due; or
 - (ii) if ActivateUTS incurs the debt, it will not be able to pay all its debts as and when they become due; and
- (g) a duty not to permit, by act or omission, ActivateUTS to contravene any provision of the Corporations Act or other legislation.
- (h) In relation to these duties:
 - (i) the duties in **clauses 7.3 (a), (b), (c) and (d)** are fiduciary in that each officer must act in the interests of ActivateUTS to the exclusion of their own interests;
 - (ii) the officer is not in breach of a duty where they are not, or would not be, in the relevant circumstances in breach of a comparable duty applicable to the officer under either the general law or legislation.

7.4 Interests of the University

While the University is the sole member of ActivateUTS, each Director may, to the extent permitted by law, act in good faith in the best interests of the University, and if the Director does so, the Director shall be taken to act in good faith in the best interests of ActivateUTS.

8. GOVERNANCE STRUCTURE OF ACTIVATEUTS

8.1 The Board

Subject to the Corporations Act and to any other provisions of this Constitution, the management and control of ActivateUTS is vested in the Board.

8.2 Composition of the Board

(a) There are 13 Directors, such Directors being:

- (i) the Chair, who is neither a Staff Director nor a Student Director, appointed by the University;
- (ii) the Treasurer, appointed by the University;
- (iii) three Staff Directors, appointed by the University;
- (iv) seven Student Directors, from whom are elected the President and the Vice-President, endorsed by the University; and
- (v) the Executive Director, being the Chief Executive Officer of ActivateUTS, endorsed by the University.

(b) The Directors referred to in **clause 8.2(a)(iv)** are elected to be eligible to be endorsed as prescribed in **clauses 15.1 – 15.5**.

(c) The Directors referred to in **clause 8.2(a)** are:

- (i) to have such qualifications as prescribed by **clauses 16.1 – 16.7**; and
- (ii) to be appointed in the manner prescribed by **clause 16.9**.

8.3 Powers of the Board

- (a) The Directors may exercise all such powers of ActivateUTS and do all such acts or things that are not expressly required by this Constitution or the Corporations Act to be done by a meeting of members.
- (b) No Ordinary Resolution, Special Resolution, amendment or replacement of this Constitution invalidates any prior act of the Directors which would have been valid if that resolution, amendment or replacement had not been adopted or passed.

8.4 Delegation of powers of the Board

- (a) The Directors may delegate any of their powers to:

- (i) a committee (see **Section 10**); or
 - (ii) a Director; or
 - (iii) an employee of ActivateUTS; or
 - (iv) any other individual.
- (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 Directors may still act in exercise of concurrent power so delegated.
 - (e) The Directors may at any time, and without having to give a reason, alter or revoke any delegation of power.
 - (f) The Directors may at any time, by power of attorney, appoint any person or persons to be the attorney or attorneys of ActivateUTS for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under this Constitution) and for such period and subject to such conditions as they may think fit. Any such powers of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the Directors may think fit.

8.5 The Executive

The Executive consists of the Chair, the Treasurer, the President and the Vice-President.

8.6 Powers of the Executive

The Executive:

- (a) may transact the business and carry on the management of the affairs of ActivateUTS between meetings of the Board; and
- (b) may exercise such other powers as may at any time be delegated to it by the Board under **clauses 8.4(b) to 8.4(e)**; and
- (c) may, for the purposes in **clauses 8.6(a) and 8.6(b)**, exercise all the powers and authorities conferred on the Board as referred to in **clause 8.3** but in doing so must comply with any directions as to policy or restrictions that may at any time be given or imposed by the Board; and
- (d) must, wherever required by the Board, furnish the Board with full reports of its administration.

8.7 Corporate Governance Committee

The Corporate Governance Committee consists of the Chair, the Treasurer, the President, the Vice-President and one other Director, as determined by the sitting Corporate Governance Committee.

8.8 Powers of the Corporate Governance Committee

- (a) The Corporate Governance Committee may at any time exercise the powers set out in **Section 18** in relation to the Chief Executive Officer.
- (b) The Corporate Governance Committee may at any time review and make recommendations to the Board on:
 - (i) the remuneration packages of senior management;
 - (ii) the recruitment, retention and termination policies and procedures for senior management;
 - (iii) incentive schemes;
 - (iv) superannuation arrangements;
 - (v) the effectiveness with which committees established by the Board under **clause 10.1** have discharged their function.

8.9 Regulations

- (a) The Board may by Special Resolution at any time make Regulations, not inconsistent with either the Corporations Act or this Constitution, with respect to any matter that is:
 - (i) the subject of this Constitution; or
 - (ii) necessary, convenient or desirable in relation to the management and control of the business and affairs of ActivateUTS; including but not limited to codes of conduct, policies and standing orders.
- (b) In relation to any such Regulation:
 - (i) The Regulation has the same force and effect as a clause in this Constitution (see **clause 7.2**).
 - (ii) The Regulation may at any time be altered or repealed by the Board (with **clause 1.7** not being applicable to any Regulation).
 - (iii) The Regulation takes effect on the day after it is adopted by the Board, or on such later day as may be specified in the Regulation.

- (iv) The Regulation must indicate that it was adopted by the Board under **clause 8.9** of this Constitution.
- (v) If there is an inconsistency between the Constitution and the Regulation, this Constitution prevails to the extent of the inconsistency and its duration.
- (c) A Regulation passed by the Board pursuant to this rule is an authoritative direction of the Board regarding the matter of the subject of the Special Resolution.

8.10 Codes of Conduct and Policies

- (a) The Board may at any time publish codes of conduct or policies in relation to any matters.
- (b) Any such code of conduct or policy is binding upon ActivateUTS and its Directors.

8.11 Standing Orders

- (a) The Board must make Standing Orders by Special Resolution for the conduct of meetings of the Board and its committees.
- (b) Such Standing Orders may be amended only by Special Resolution.
- (c) If there is an inconsistency between the Constitution and a Standing Order, this Constitution prevails to the extent of the inconsistency and its duration.

8.12 Quorum

No business may be transacted at any meeting of the Board or a committee thereof unless a quorum is present at the commencement of the meeting. The Standing Orders shall determine the number of Directors or committee members who shall constitute a quorum for Board and committee meetings.

9. PRESIDENT AND VICE-PRESIDENT

9.1 President

At the first meeting of ActivateUTS Board held after 6 October in each year the Directors must elect, from among the Student Directors, an individual to hold the position of President from then until the end of the next 6 October.

9.2 Vice-President

At the first meeting of ActivateUTS Board held after 6 October in each year the Directors must elect, from among the Student Directors, an individual to hold the position of Vice-President from then until the end of the next 6 October.

9.3 Rules for the conduct of election of President and Vice-President

- (a) The election of each of the President and Vice-President is conducted by the Returning Officer at the first meeting of the Board held after 6 October in each year.
- (b) In conducting such election, the Returning Officer must comply with the rules for conduct of such elections as may have been made at any time as a Regulation by a previous Special Resolution of the Board.

9.4 Role of the President

The role of the President is:

- (a) to represent ActivateUTS on social and ceremonial occasions; and
- (b) to communicate with students on behalf of ActivateUTS; and
- (c) to exercise the power under **clause 10.2(a)** to nominate the chair of certain committees; and
- (d) to carry out such other duties as directed by the Board from time to time.

9.5 Role of the Vice-President

The role of the Vice-President is:

- (a) to act as President in the President's absence; and
- (b) to support the President; and
- (c) in the absence of the President, to exercise the power of the President under **clause 10.2(a)**; and
- (d) to carry out such other duties as directed by the Board from time to time.

10. COMMITTEES

10.1 Delegation to committee

- (a) The Directors may delegate any of their powers to committees consisting of:
 - (i) such of the Chair, the Treasurer, the President and the Vice-President as consent to being a member of the committee in question; and
 - (ii) such one or more other individuals, whether Directors or not, as they think fit.
- (b) In relation to **clause 10.1(a)(i)**:
 - (i) such consent must be given to the Company Secretary, either orally or in writing, and may be in respect of all such committees or in respect of committees selected at any time by the individual giving consent;
 - (ii) the individual who consents to being a member of such committee automatically remains a member of that committee while continuing to hold the position of the Chair, the Treasurer, the President or the Vice-President and may resign from that committee at any time by oral or written resignation given to the Company Secretary.
- (c) Each individual appointed to a committee under **clause 10.1(a)**, if not otherwise an officer of ActivateUTS, is an officer when exercising the powers so delegated or functions entrusted.
- (d) The Directors may establish advisory committees, or other committees not having delegated power of Directors.
- (e) Any committee formed under this clause must, in the exercise of the powers so delegated, or functions entrusted, conform to any directions that may at any time be given or imposed by the Directors.

10.2 Chair of committee

- (a) The President is the chair of any committee that deals predominantly with social, cultural, recreational or sporting activities, clubs and societies or financial grants to clubs and societies or individual students. If the President is not a member of the committee, or declines to act as its chair, they must nominate a chair who is both a Student Director and a member of the committee.
- (b) Subject to **clause 10.2(a)**, the chair of the committee must be such individual who is specified by the Directors either when forming the committee or at any time subsequent to it being formed.

- (c) If the chair is not filled under **clause 10.2(a) or 10.2(b)**, then the chair is elected by the committee from among its members.

10.3 Constraints

- (a) Unless expressly authorised by the Directors, a committee to which the Directors have delegated power cannot, in turn, sub-delegate that power.
- (b) The Directors may at any time remove from a committee any individual, except one who is a member of the committee by virtue of **clause 10.1(a)(i)**, and need not give a reason for doing so.
- (c) The Executive is not a committee for the purposes of this section and may not delegate its powers, or establish advisory committees, pursuant to this section.
- (d) The Corporate Governance Committee is not a committee for the purposes of this section and may not delegate its powers, or establish advisory committees, pursuant to this section.

11. CONDUCT OF MEETINGS

11.1 Standing Orders

Meetings of the Board and its committees are conducted in accordance with the provisions of the Standing Orders for the time being in force, as provided for in **clause 8.11**.

11.2 Required majority

Notwithstanding any other provision of this Constitution or the Standing Orders the votes required to pass a resolution of the Board will:

- (a) For any resolution, other than a resolution referred to in (b) or (c), be an Ordinary Resolution of the Eligible Directors.
- (b) For a resolution pertaining to an Extraordinary Matter, be a Special Majority.
- (c) For a resolution in respect of any matter for which this Constitution requires a Special Resolution, be a Special Majority.

12. WRITTEN RESOLUTION OF DIRECTORS

12.1 Written resolution signed by Directors

- (a) A resolution in writing signed by the requisite majority of the Directors entitled to vote on the resolution (not being less than the number required for a quorum at a meeting of the Board) is a valid resolution of the Board.
- (b) A resolution in writing:
 - (i) signed on the same day by the requisite majority of the Directors entitled to vote on the resolution is effective on the date of execution;
 - (ii) signed on different days by the requisite majority of the Directors entitled to vote on the resolution is effective on the day on which the last Director signed it;

unless the document contains a provision indicating that the document is effective as of a specific date.

12.2 Signing of written resolution

- (a) Each Director, other than one not entitled to vote on the resolution, may sign the document.
- (b) If an individual who is not entitled to vote on the resolution signs the document, it does not invalidate the resolution if it is otherwise valid.
- (c) An electronic transmission purporting to be signed by a Director is treated as being in writing signed by such individual.
- (d) Two or more separate documents containing identical statements, each of which is signed by one or more Directors, are treated as constituting one document containing a statement in those terms signed by those Directors on the respective days on which they signed the separate documents.

12.3 Deemed minute

The document or documents referred to in **clauses 12.1 and 12.2** are deemed to constitute a minute of a meeting and must be entered in the Board minute book.

13. MATERIAL PERSONAL INTERESTS OF DIRECTORS

13.1 Requirement to leave the meeting

A Director who has a material personal interest in a matter that is being considered at a meeting of the Directors must not:

- (a) be present while the matter is being considered at the meeting; or
- (b) vote on the matter.

13.2 Exemptions from having to leave the meeting

Clause 13.1 does not apply if:

- (a) the interest does not need to be disclosed by reason of an exemption under **section 191(2)** of the Corporations Act;
- (b) the Director is permitted to do so by a declaration or order made by the Australian Securities and Investments Commission under **section 196** of the Corporations Act; or
- (c) there are not enough Directors to form a quorum for a Directors' meeting because of **clause 13.1**, in which case one or more of the Directors (including those who have a material personal interest in the matter) may call a general meeting to consider a proposed resolution to deal with the matter; or
- (d) the Directors who do not have a material personal interest in the matter have passed a resolution that:
 - (i) identifies the Director, the nature and extent of the Director's interest in the matter and its relation to the affairs of the company; and
 - (ii) states that those Directors are satisfied that the interest should not disqualify the Director from voting or being present.

13.3 Director's duty to notify

A Director who has a material personal interest in a matter that relates to the affairs of ActivateUTS must give the other Directors notice of the interest unless:

- (a) the interest:
 - (i) arises because the Director is a member of ActivateUTS and is held in common with the other members of ActivateUTS; or
 - (ii) relates to a contract ActivateUTS is proposing to enter into that is subject to approval by the members and will not impose any obligation on ActivateUTS if it is not approved by the members; or

- (iii) arises merely because the Director is a guarantor or has given an indemnity or security for all or part of a loan (or proposed loan); or
 - (iv) arises merely because the Director has a right of subrogation in relation to a guarantee or indemnity referred to in **clause 13.3(a)(iii)**; or
 - (v) relates to a contract that insures, or would insure, the Director against liabilities the Director incurs as an officer of ActivateUTS (but only if the contract does not make ActivateUTS or a related body corporate the insurer); or
 - (vi) relates to any payment by ActivateUTS or a related body corporate in respect of an indemnity permitted under **section 199A** of the Corporations Act or any contract relating to such an indemnity; or
 - (vii) is in a contract, or proposed contract, with, or for the benefit of, or on behalf of, a related body corporate and arises merely because the Director is a Director of the related body corporate; or
- (b) all of the following conditions are satisfied:
- (i) the Director has already given notice of the nature and extent of the interest and its relation to the affairs of ActivateUTS under **clause 13.2**; and
 - (ii) if an individual who was not a Director of ActivateUTS at the time when the notice under **clause 13.2** was given is appointed as a Director of ActivateUTS, the notice is given by someone to that individual; and
 - (iii) the nature or extent of the interest has not materially increased above that disclosed in the notice; or
- (c) the Director has given a standing notice of the nature and extent of the interest under **clause 13.5** and the standing notice is still effective in relation to the interest.

13.4 Notice of material personal interest

The notice required by **clause 13.3** must:

- (a) give details of the nature and extent of the interest; and
- (b) give details of the relation of the interest to the affairs of ActivateUTS; and
- (c) be given at a meeting of the Directors as soon as practicable after the Director becomes aware of their interest in the matter.

The details must be recorded in the minutes of the meeting.

13.5 Standing notice about an interest

- (a) A Director who has an interest in a matter may give the other Directors standing notice of the nature and extent of the interest. The notice may be given at any time and whether or not the matter relates to the affairs of ActivateUTS at the time the notice is given. The standing notice may be given to the other Directors before the interest becomes a material personal interest.
- (b) The standing notice must:
 - (i) give details of the nature and extent of the interest; and
 - (ii) be given at a meeting of the Directors, either orally or in writing, or to every other Director individually in writing.
- (c) If the standing notice is given to the other Directors individually in writing, it must be tabled at the next meeting of the Directors after it is given.
- (d) The Director must ensure that the nature and extent of the interest disclosed in the standing notice is recorded in the minutes of the meeting at which the standing notice is given or tabled.
- (e) The standing notice takes effect as soon as it is given and ceases to have effect if an individual who was not a Director of ActivateUTS at the time when the notice was given is appointed as a Director of ActivateUTS.
- (f) A standing notice that ceases to have effect under **clause 13.5(e)** comes into effect again if it is given to the individual referred to in that clause.
- (g) The standing notice ceases to have effect in relation to a particular interest if the nature or extent of the interest materially increases above that disclosed in the standing notice.

13.6 Effect of contravention

A contravention of any of the clauses in this section by a Director does not affect the validity of any act, transaction, agreement, instrument, resolution or other thing.

14. TRUST FUNDS

14.1 Investment of trust funds

If ActivateUTS is a trustee of trust funds, then unless forbidden by the instrument (if any) creating the trust or relevant legislation, the Directors may:

- (a) invest the trust funds in any form of investment; and
- (b) at any time vary any investment.

14.2 Application of trust funds

If ActivateUTS is a trustee of trust funds in circumstances where the objects or purposes of the trust are within one or more of the objectives of ActivateUTS, then unless forbidden by the instrument (if any) creating the trust, the general law, or relevant legislation, the Directors may at any time:

- (a) apply, set aside or distribute the capital or income of the trust fund in promoting those objectives of ActivateUTS; and
- (b) charge the trust a reasonable and proper fee, payable to ActivateUTS, for all aspects of administering the trust fund and fulfilling the objects or purposes of the trust; and
- (c) recover from the trust, for the benefit of ActivateUTS, all expenses incurred in relation to the matters referred to in **clause 14.2(a)** and **14.2(b)**.

15. ANNUAL ELECTIONS

15.1 Returning Officer

- (a) The annual ActivateUTS elections and the elections for President and Vice-President are conducted by the Returning Officer.
- (b) The Returning Officer may appoint a Deputy Returning Officer, with such powers as the Returning Officer may determine, and other persons to assist them in the conduct of all or any part of the elections referred to in **clause 15.1(a)**.
- (c) The Returning Officer's decision is final on all matters affecting the eligibility of candidates, the conduct and results of an election and such other matters as may at any time affect the conduct of elections.

15.2 Three Student Directors in odd-numbered years

- (a) The Returning officer must, in the third quarter of each odd-numbered calendar year, conduct an election in which students are invited to vote for one or more candidates, each of whom must be a student, who seek to be appointed to the three positions of Student Director.
- (b) Of the three Student Director positions elected in odd-numbered years, no more than two may be held by Directors of the same gender.

15.3 Four Student Directors in even-numbered years

- (a) The Returning Officer must, in the third quarter of each even-numbered calendar year, conduct an election in which students are invited to vote for one or more candidates, each of whom must be a

student, who seek to be appointed to the four positions of Student Director.

- (b) Of the four Student Director positions elected in even-numbered years, no more than two may be held by Directors of the same gender.

15.4 Reporting of election results

The Returning Officer must, in conducting each such election, ensure that the results are reported by them to the University by no later than 30 September in each year to enable the University to endorse the appointments of Student Directors, with effect from the start of 7 October in that year.

15.5 Rules for the conduct of elections

- (a) The Returning Officer must, in conducting each election under this Section, comply with the rules for conduct of such elections as may at any time be made and given by the Returning Officer to the Company Secretary. Such rules must provide for a quota-preferential method of proportional representation in the case of an election where there is more than one position to be filled of a Student Director.
- (b) In satisfying clause 15.5(a), the Returning Officer may determine rules governing the conduct of elections, having regard to any election principles or guidance issued by the University from time to time.

6. APPOINTMENT AND REMOVAL OF DIRECTORS

16.1 Membership qualifications

The Board should possess the expertise and experience necessary to provide proper stewardship and control. An individual is entitled to be a Director notwithstanding that the individual is not a member of ActivateUTS.

16.2 Chair

The University may at any time appoint an individual to be a Director and to hold the position of Chair. Such individual should have such skills and business or other experience as the Council considers necessary to provide leadership of the Board in all relevant matters, including good corporate governance and business planning.

16.3 Treasurer

The University may at any time appoint an individual to be a Director and to hold the position of Treasurer. Such individual should have such skills and

business or other experience as the Council considers necessary to provide additional leadership of the Board in all relevant matters, including good corporate governance and business planning.

16.4 Staff Directors

The University may at any time appoint individuals to be Staff Directors. Such individuals should have such skills and business or other experience as the Council considers necessary.

16.5 Three Student Directors in odd-numbered years

The University must, in each odd-numbered year, endorse as a Student Director each of the three candidates whom the Returning Officer declares is eligible to be appointed as a Student Director in the most recently held election under **clause 15.2**. The University's endorsement must not be unreasonably withheld and would only be withheld in exceptional circumstances, such as where a reasonable person would consider the appointment to be detrimental to the interests of the UTS community.

16.6 Four Student Directors in even-numbered years

The University must, in each even-numbered year, endorse as a Student Director each of the four candidates whom the Returning Officer declares is eligible to be appointed as a Student Director in the most recently held election under **clause 15.3**. The University's endorsement must not be unreasonably withheld and would only be withheld in exceptional circumstances, such as where a reasonable person would consider the appointment to be detrimental to the interests of the UTS community.

16.7 Executive Director

The University shall endorse the individual who is the Chief Executive Officer of ActivateUTS as a Director, to hold the position of Executive Director.

16.8 Removal of Directors

- (a) The University may at any time remove each Director from office. This power may be exercised notwithstanding any provision to the contrary contained in:
 - (i) any other provision of this Constitution;
 - (ii) an agreement between ActivateUTS and the Director; or
 - (iii) an agreement between the University and the Director; or
 - (iv) the fact that the period of office of the Director has not yet expired.

Section 203D of the Corporations Act does not apply to the exercise of power of removal of a Director from office under this clause.

- (b) The University may remove a Director it has appointed at any time by providing written notice to the Company.
- (c) Any Director not appointed by the University may only be removed in accordance with a cause-based process approved by the Board and overseen by the Corporate Governance Committee. The process must ensure procedural fairness and specify clearly defined exceptional grounds for removal.
- (d) In the event a Student Director is removed, ActivateUTS may nominate a replacement Student Director, subject to the endorsement of the University.
- (e) A resolution to remove a Director who was not appointed by the University must be passed by a Special Majority.

16.9 Manner of appointment and removal of Directors

In respect of each appointment and each removal of a Director by the University under this Section:

- (a) Each such appointment or removal may be made by the University recording in writing such appointment or removal.
- (b) The University must give such record to ActivateUTS as soon as practicable, but failure to do so does not affect the validity of the appointment or removal.
- (c) Each such record constitutes minutes and must be entered in the Board minute book.
- (d) The Company Secretary must, as soon as practicable after ActivateUTS receives such record from the University, give a copy of that record to the individual so appointed or removed, but failure to do so does not affect the validity of the appointment or removal.

16.10 Period of office of Chair, Treasurer, Staff Directors and Executive Director

The period of office of each of the Chair, Treasurer, Staff Directors and the Executive Director, is determined, independent of each other, as follows:

- (a) The period starts on the date on which the relevant record is signed under **clause 16.9**, or such later start date as may be specified in, or determined in accordance with, the resolution in that record.
- (b) The period ends on such date as may be specified in, or determined in accordance with, the resolution as the end date in that record.

- (c) If no end date is specified in, or determined in accordance with, the resolution in that record, the Director continues in office until they resign, is removed from office or otherwise ceases to be a Director.

16.11 Period of office of Student Directors

The period of office of Student Directors appointed under **clauses 16.5 or 16.6** begins at the start of 7 October immediately following the election at which the Director was declared eligible to be appointed in that position, and ends immediately before the start of the second anniversary of such start date.

16.12 Vacation of office

- (a) A Staff Director, upon ceasing to be a member of staff, automatically ceases to be a Director.
- (b) A Student Director, upon ceasing to be a student, automatically ceases to be a Director.
- (c) Any Director may resign from office by giving notice in writing to the Company Secretary of ActivateUTS. Such resignation takes effect immediately unless otherwise stated in the notice, in which event the resignation takes effect upon the expiration of such time or the date three months from the giving of the notice, whichever is the earlier. A written resignation which has not yet taken effect may be withdrawn by the Director at any time prior to it taking effect.
- (d) Any Director may resign from office by giving oral notice, either at a meeting of the Directors or to the Chair. Such resignation takes effect only if the Directors, by resolution, passed by a simple majority accept the resignation. The Director may not withdraw the oral resignation within one month after it was given unless the Directors, by resolution consent to its withdrawal. The resignation takes effect from the date of the Directors' resolution of acceptance rather than the earlier date when the oral resignation was made.
- (e) In addition to the circumstances in which the office of Director becomes vacant by virtue of the Corporations Act or other provisions of this Constitution, the office of Director is automatically vacated in any of the following circumstances:
 - (i) if the Director is absent from three meetings of the Board. One or more of any such absences is not to be counted for this purpose if the Directors resolve by simple majority to grant that Director leave of absence either prospectively or retrospectively at any time providing it is so resolved by no later than the end of such third meeting of the Directors; or
 - (ii) if the period of office of the Director expires and no re-appointment of the individual as a Director took effect from such expiry; or
 - (iii) if the Director becomes an insolvent under administration; or

- (iv) if the Director cannot perform their duties as a Director due to their mental incapacity and is an individual whose estate or property has had a personal representative or trustee appointed to administer it.

16.13 Filling of vacancies

The University may at any time appoint an individual as a Director to fill a casual vacancy on the Board, subject to the following:

- (a) Such appointment may be made in accordance with **clause 16.9**.
- (b) If the vacancy is that of a Staff Director, the casual appointee must be a member of the Staff and their period of office ends at the time the period of office of the Staff Director they replace would normally have ended.
- (c) If the vacancy is that of a Student Director, the casual appointee must be a Student and their period of office ends at the time the period of office of the Student Director they replace would normally have ended.
- (d) If the vacancy is that of any other Director, the period of office of the casual appointee ends on the date determined in accordance with **clause 16.10** as that clause applies to the record of the resolution appointing the casual appointee.

16.14 Less than minimum number of seven Directors

The continuing Directors may act despite any vacancy in their body, subject only to there being a minimum of seven. If the number of Directors falls below seven, the continuing Director or Directors may act only:

- (a) to appoint at any time one or more individuals as Directors so as to reach the minimum number of seven (and before or upon such appointments being made the Directors must notify the University of the fact of such appointments being made); or
- (b) in emergencies.

16.15 Maximum tenure

- (a) No person, other than the Executive Director, may be a Director if that person has already served as Director for aggregate terms of eight (8) years, or if a further term of office would take their tenure beyond aggregate terms of eight (8) years.
- (b) A person ceases to be a Director automatically by operation of **clause 16.15(a)**.
- (c) **Clauses 16.15(a) and 16.15(b)** do not apply if the Council and ActivateUTS Corporate Governance Committee sign a written agreement

stating that a person may continue to serve as a Director beyond aggregate terms of eight (8) years.

17. COMPANY SECRETARY

17.1 Appointment of Company Secretary

ActivateUTS must have at least one Company Secretary. Each Company Secretary is appointed by the Directors and holds office until removed from that office by the Directors. The Executive Director may, with their consent, elect to accept the appointment to the office of a Company Secretary.

17.2 Duties of Company Secretary

Each Company Secretary must perform:

- (a) such duties as are required of a Company Secretary by the Corporations Act, including the lodgment of notices and forms and, so far as it is within their power, securing compliance by ActivateUTS with its obligations to have the Registered Office open to the public for at least the minimum hours of each business day; and
- (b) those duties required of that individual by this Constitution; and
- (c) such other duties as may at any time be directed by the Directors.

17.3 Assistant Company Secretary

The Directors may also appoint an Assistant Company Secretary or Assistant Company Secretaries and temporary substitutes for the Company Secretary. Any such Assistant Company Secretary or substitute is treated as and may fulfil the duty of the Company Secretary subject to any limitation prescribed by the Directors.

17.4 Resignation of Company Secretary

Any Company Secretary may retire from that particular office by giving notice in writing to the Chair of ActivateUTS of their intention to do so. Such resignation takes effect immediately unless otherwise stated, in which event the resignation takes effect from the expiration of such time or the date three months from the giving of the notice, whichever is the earlier. A written resignation which has not yet taken effect may be withdrawn by the Company Secretary at any time prior to its taking effect.

18. CHIEF EXECUTIVE OFFICER

18.1 Engagement

The Corporate Governance Committee may at any time engage an individual (other than a Director) to be the Chief Executive Officer of ActivateUTS.

18.2 Powers of the Corporate Governance Committee in relation to the Chief Executive Officer

In relation to this engagement, the Corporate Governance Committee has the power to:

- (a) define, limit and restrict that individual's powers; and
- (b) fix that individual's remuneration and duties; and
- (c) subject to the provisions of any contract between that individual and ActivateUTS:
 - (i) vary any of the powers so conferred; and
 - (ii) terminate the service of that individual, or remove them from the position of Chief Executive Officer and appoint another in their place.

19. COMMON SEAL

19.1 Optional

ActivateUTS may at any time have a Common Seal.

19.2 Use of the Common Seal

The Common Seal must not be affixed to any document unless it is done by the authority of the Directors or a committee thereof.

19.3 Execution of Common Seal

- (a) Every document to which the Common Seal is affixed must be signed by two individuals to witness the fixing of the Common Seal, one of whom must be a Director and one of whom must be a Company Secretary, or a second Director, or such other individual as the Directors may appoint for that purpose. No individual may sign in more than one capacity.
- (b) It is not necessary for an individual signing under **clause 19.3(a)** to be present when the Common Seal is fixed or when another individual signs the document.

19.4 Delegation of authority to use Common Seal

The Directors may delegate to any Director power and authority to fix the Common Seal to such documents as the Directors may at any time by resolution determine. When so fixed and signed by such Director, it is binding on ActivateUTS in all respects as if it were duly signed by two Directors.

19.5 Execution of a document without a Common Seal

- (a) This clause operates regardless of whether ActivateUTS has a Common Seal.
- (b) ActivateUTS may execute a document (including a deed if it is expressed to be executed as a deed) without using a Common Seal if the document is signed by two individuals, one of whom must be a Director and one of whom must be a Company Secretary or a second Director. No individual may sign in more than one capacity.
- (c) It is not necessary for an individual signing under **clause 19.5(b)** to be present when another individual signs the document under that clause.

20. NOTICES

20.1 Service of notices

Where this Constitution, the Corporations Act or other legislation requires or permits a document to be served on, given or dispatched to any person (in this clause referred to as “**served**”), the document may be served on the person:

- (a) by delivering it personally; or
- (b) by dispatching it, whether by post, contractor, agent, electronic means or otherwise, to the last known residential, business address or email address, or in the case of a member, to the address entered in the Register of Members and the document, by such dispatch, is regarded as having left that address; or
- (c) subject to the Corporations Act, by publication in a newspaper circulating generally in the State in which the Registered Office is located.

20.2 Date of deemed service

A document served under **clause 20.1** is treated as having been duly served, irrespective of whether it is actually received:

- (a) where **clause 20.1(b)** applies – on the day following the dispatch; and
- (b) where **clause 20.1(c)** applies – on the day the newspaper is first published.

20.3 Counting of days

Subject to the Corporations Act, where a specified number of days' notice or notice extending over any period is required to be given, both the day of service and the day upon which such notice will expire are included in such number of days or other period.

20.4 Service on ActivateUTS or its officers

Every document required to be served upon ActivateUTS or upon any officer of ActivateUTS may be served by leaving it at the Registered Office.

20.5 Signature

The signature to any document to be given by ActivateUTS may be written, printed or stamped.

21. INDEMNITY, INSURANCE AND ACCESS

21.1 Indemnity for officers

To the extent that the Corporations Act allows it, each officer of ActivateUTS must be indemnified by ActivateUTS against any liability incurred by that individual in that capacity.

21.2 Insurance premiums

The Directors may at any time pay premiums in respect of a contract insuring an individual (whether with others or not) who is an officer of ActivateUTS against a liability incurred by the individual as such an officer. The liability insured against must not include that which the Corporations Act prohibits.

21.3 Access

The Board may, on such terms and conditions as it may resolve, at any time give an officer or former officer of ActivateUTS access to certain papers, including documents provided or available to the Directors and other papers referred to in those documents. Without limiting the foregoing, the Board may require such person to execute a deed of confidentiality in respect of information provided.

21.4 Contract

ActivateUTS may contract with any Director in relation to the matters in **clauses 21.1, 21.2 and 21.3** not only during that individual's Directorship but also after that individual has ceased to be a Director.