

CORPORATIONS LAW

MEMORANDUM OF ASSOCIATION

of

CoINVEST LIMITED

(ACN 078 004 985)

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CORPORATIONS LAW

COMPANY LIMITED BY GUARANTEE

MEMORANDUM OF ASSOCIATION

OF

CoINVEST LIMITED

(ACN 078 004 985)

1 NAME OF COMPANY

The name of the company is **CoINVEST LIMITED** ('Company').

2 OBJECTS OF COMPANY

2.1 ¹The objects for which the Company is established are:

- (a) to execute (as 'trustee') a trust deed in the form of Schedule 5 to the articles of association (such trust deed, as amended from time to time, '**Trust Deed**'); and
- (b) to act as trustee of, and to administer the fund known as the 'Construction Industry Long Service Leave Fund ('**Trust Fund**'), to be established under the Trust Deed, in accordance with:
 - (i) the terms and conditions of the Trust Deed as amended from time to time; and
 - (ii) the provisions of all legislation applicable to the Trust Deed including, as from the Effective Date, the *Construction Industry Long Service Leave Act 1997* ('**Act**').
- (c) subject to clause 2.1B, to act as a trustee and/or service provider for any business which is not incompatible with the core business undertaken by the Company (as set forth in clause 2.1(b)), provided that:
 - (i) such other activities being undertaken by the Company are risk adverse, insofar as they do not involve the Company undertaking or engaging in any activity, including without limitation the investment of any moneys, which involves greater risk than that which the Company is permitted to take under the Trust Deed; and
 - (ii) the Company acting as a trustee and/or service provider for such other business does not affect the level of service which the Company provides

¹ Amended by special resolution of members on 13 May 1997 and amended by special resolution of members on 2 December 1997

to the Beneficiaries, Contributors and Potential Beneficiaries (as those terms are defined in the Trust Deed) under the Trust Deed.

- 2.1A ²Subject to clause 2.1B, the services provided by the Company to the other business referred to in clause 2.1(c) need not be confined to the operation of long service leave funds or funds management but may include any other services which the Board by a Special Resolution concludes in its discretion are services in which the Company has expertise, skill or experience.
- 2.1B ³Although the Company may investigate any other business which it would reasonably expect to satisfy the requirements of clause 2.1(c) and/or clause 2.1A to determine whether:
- (a) it would be desirable for the Company to enter into such business; and
 - (b) such business would satisfy the requirements of clause 2.1(c) and/or clause 2.1A, prior to the Company commencing such other business the Board of the Company shall consider that business and the Company may only enter into such other business if a Special Resolution of the Board approves the Company doing so.
- 2.2 The Company can only exercise the powers in subsection 161(1) of the Corporations Law to:
- (a) carry out the objects in this clause 2; and
 - (b) do all things incidental or convenient in relation to the exercise of power under paragraph (a).

3 INTERPRETATION

Words and expressions defined in the articles of association have the same meaning in this memorandum unless the context otherwise requires.

4 INCOME AND PROPERTY

- 4.1 ⁴The income and property of the Company may only be applied towards the promotion of the objects of the Company set out in clause 2 or in making a payment:
- (a) which is permitted under clause 5;
 - (b) which is permitted by the Articles of Association; or
 - (c) which has been approved by a Special Resolution of Members.

² Inserted by special resolution of members on 2 December 1997

³ Inserted by special resolution of members on 2 December 1997

⁴ Replaced by special resolution of members on 14 July 1998

4.2 No income or property will be paid or transferred directly or indirectly, by way of dividend, bonus or otherwise to any Member of the Company provided that nothing in this memorandum will prevent payment to a Member in return for any services rendered or goods supplied in the ordinary and usual course of business to the Company.

5 PAYMENTS TO DIRECTORS

5.1 Subject to clauses 5.2 and 5.3 no payment will be made to any Director of the Company other than the payment of:

- (a) out of pocket expenses incurred by the Director in the performance of any duty as Director of the Company where the amount payable does not exceed an amount previously approved by the Directors of the Company;
- (b) any service rendered to the Company by the Director in a professional or technical capacity, other than in the capacity as Director, where the provision of the service has the prior approval of the Directors of the Company and where the amount payable is approved by the Directors of the Company and is not more than an amount which commercially would be reasonable payment for the service;
- (c) any salary or wage due to the Director as an employee of the Company where the terms of employment have been approved by the Directors of the Company; and
- (d) an insurance premium in respect of a contract insuring a director to which subsection 243K(7B) of the Corporations Law refers or the provision of a financial benefit to a director to which subsection 243K(7A) of the *Corporations Law* refers.

5.2^{5 6 7 8 9 10 11 12} Each Director is entitled to be remunerated at the following rates:

- (a) the Chairperson, \$128,405 per annum;
- (b) each C Class Director (other than the Chairperson), \$71,366 per annum;
- (c) each A Class Director, \$37,092 per annum; and
- (d) each B Class Director, \$37,092 per annum.

This remuneration is deemed to accrue from day to day.

Included in the amounts permitted by this clause 5.2 and clause 5.3 is:

5 Replaced by special resolution of members on 8 May 2001

6 Replaced by special resolution of members on 29 July 2003

7 Replaced by special resolution of members on 26 July 2005

8 Replaced by special resolution of members on 3 July 2007

9 Replaced by special resolution of members on 8 September 2009

10 Replaced by special resolution of members on 8 November 2011

11 Replaced by special resolution of members on 10 September 2013

12 Replaced by special resolution of members on 8 September 2015

- (e) an amount payable to a superannuation fund for a Director so that the Company is not required to pay an additional amount for a superannuation guarantee charge or similar statutory charge; and
- (f) an equivalent amount to a Director for whom the Company is not required or permitted to make a superannuation contribution.

5.3 ^{13 14 15 16 17 18 19 20} Each A Class and B Class Director, including each Alternative A Class Director and Alternative B Class Director, is entitled to a fee of \$1,790 for each Directors Committee meeting he or she attends, which Directors Committee has been established under Article 35 of the company.

5.4 The fees and allowances payable to the Directors under this clause 5 cannot be increased by the Company except by a Special Resolution of Directors made with the prior written approvals of the Secretary of the Victorian Trades Hall Council and a nominee of the Victorian Congress of Employer Associations.²¹

6 MEMBERS

6.1 The Company will have 11 members.

6.2 The Membership of the Company will be divided into three classes as follows:

- (a) four A Class Members appointed under Article 2;
- (b) four B Class Members appointed under Article 2; and
- (c) three C Class Members appointed under Article 2.

7 LIABILITY OF MEMBERS LIMITED

The liability of the Members is limited.

8 CONTRIBUTION

If the Company is wound up:

- (a) each Member; and
- (b) each person who has ceased to be a Member in the preceding twelve months, undertakes to contribute to the property of the Company for the:

13 Replaced by special resolution of members on 7 December 1999

14 Replaced by special resolution of members on 29 July 2003

15 Replaced by special resolution of members on 26 July 2005

16 Replaced by special resolution of members on 3 July 2007

17 Replaced by special resolution of members on 8 September 2009

18 Replaced by special resolution of members on 8 November 2011

19 Replaced by special resolution of members on 10 September 2013

20 Replaced by special resolution of members on 8 September 2015

21 Replaced by special resolution of members on 4 March 2014

- (c) payment of debts and liabilities of the Company (in relation to paragraph (b), contracted before the person ceased to be a Member) and payment of costs, charges and expenses of winding up; and
- (d) adjustment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding \$1.00 (One Dollar).

9 WINDING UP

If any surplus remains following the winding up of the Company, the surplus will not be paid to or distributed amongst Members, but will be given or transferred to such corporation to be determined by the Members at or before the winding up and in default, by application to the Supreme Court for determination, which must be another corporation which has objects specified in its memorandum which are:

- (a) restricted to one or more of those specified in clause 2, or in subsection 383(1)(a) of the *Corporations Law*; and
- (b) incidental or conducive to the objects specified, and which by its memorandum is:
- (c) required to apply its profits (if any) or other income in promoting its objects; and
- (d) prohibited from paying any dividend to its members.

10 AMENDMENT

10.1 Prior to the Effective Date, no provision of this Memorandum may be added to, revoked, amended, modified, varied, substituted or replaced except:

- (a) by the Minister by notice in writing to the Company; or
- (b) by a Special Resolution of Members made with the prior written approval of the Minister.

10.2 ²²As from the Effective Date:

- (a) the provisions of this Memorandum other than clause 6, this clause 10.2 and clause 10.3; and
- (b) the provisions of the Articles other than:
 - (1) the meaning of Special Resolution as defined in Article 1.1;
 - (2) Articles 20, 24, 50.2, 50.3 and paragraph 1.1 of schedule 4 to the Articles; and
 - (3) the meanings given to terms defined in Article 1.1 (including by reference to any other provisions in the Articles or in the Rules) to the extent to which they are used in any or all of:
 - (A) the provisions of the Articles specified in paragraph (b)(i) or (b)(ii);
 - (B) in clause 6, this clause 10.2 or clause 10.3 of this Memorandum,

²² Amended by special resolution of members on 13 May 1997

may subject to the Act, be added to, revoked, amended, modified, varied, substituted or replaced in whole or in part by a Special Resolution of Members.

- 10.3 ²³(a) As from the Effective Date:
- (i) clause 6, clause 10.2 of this memorandum and this clause 10.3;
 - (ii) the meaning of Special Resolution as defined in Article 1.1;
 - (iii) Articles 20, 24, 50.2, 50.3 and paragraph 1.1 of schedule 4 to the Articles; and
 - (iv) the meanings given to terms defined in Article 1.1 (including by reference to any other provisions in the articles or in the Rules) to the extent to which they are used in any or all of:
 - (A) the provisions of the Articles specified in paragraph (ii) or (iii) above;
 - (B) in clause 6, clause 10.2 or this clause 10.3 of this Memorandum, may be added to, revoked, amended, modified, varied, substituted or replaced in whole or in part either directly or indirectly only by a Special Resolution of Members where the Special Resolution has been approved pursuant to a referendum of Construction Industry Workers, Employers and Working Sub-Contractors other than Non-Voting Persons;
- (b) each referendum under this clause 10.3 must be conducted by the Company under the supervision of and in accordance with guidelines approved by either the Victorian State Electoral Office or the Australian Electoral Commission;
- (c) a Special Resolution will be approved pursuant to a referendum for the purposes of this clause 10.3 only if more than:
- (i) 50% of all Workers;
 - (ii) 50% of all Employers; and
 - (iii) 50% of all Working Sub-Contractors, other than Non-Voting Persons who:
 - (iv) were registered with the Trustee in accordance with the Rules as at the date nominated by the Trustee for the purposes of determining entitlements to vote at that referendum (being a date not more than 6 months or less than one month before the date for the referendum); and
 - (v) voted at that referendum, voted in favour of the Special Resolution.

23 Amended by special resolution of members on 13 May 1997 and amended by special resolution of members on 11 November 1997

10.4 ²⁴For the avoidance of doubt, nothing in clause 10.3 requires a Special Resolution to be approved in accordance with the referendum procedure prescribed in clause 10.3 if the Special Resolution relates to the exercise by the Company of any power, authority or discretion given to the Company under the Trust Deed, the exercise of which:

- (a) would have the effect of enlarging the class of persons capable of being paid benefits out of the Fund; and
- (b) has been approved by the Governor-in-Council pursuant to section 7 of the Act.

11 PROFITS

If the Company makes a profit at any time and in the reasonable opinion of the Board such profit is not required to meet any liability or contingent liability of the Company, the profit or such part of it as the Board determines is not needed by the Company to meet a liability or contingent liability of the Company shall be paid into the Fund.

12 SUBSCRIBERS

The full names, addresses and occupations of the subscribers to this memorandum are:

Name and address of Subscriber	Occupation
JOHN VAN CAMP of 3 Wheeler Street, Pascoe Vale, Vic, 3044	State Secretary
WILLIAM WARREN HARDIMAN of 13 Buckland Crescent, Keilor, Vic, 3036	Industrial Organizer
GREG ARNETT of 18 George Street, Brunswick, Vic, 3056	Industrial Officer
LES WILLMOTT of 26 Glenwood Drive, Croydon, Vic, 3136	Industrial Organiser
PETER JAMES GLYNN of 114 Wells Road, Beaumaris, Vic, 3193	Secretary

²⁴ Inserted by special resolution of members on 11 November 1997

Name and address of Subscriber	Occupation
DAVID MAURICE HEADBERRY of 73 Longview Road, North Balwyn, Vic, 3104	Commercial Manager
TREVOR JAMES FASHAM of 13 Hardwick Street, Balwyn, 3103	Managing Director
CHARLES DAVID WHITING of 73 Ian Grove, Mount Waverley, Vic, 3149	Director
OWEN JAMES WHELAN of 167 Franklin Street, Portsea, Vic, 3944	Director
JACK FRANCIS RYAN of 5 Ralph Court, Mount Waverley, Vic, 3149	Director
BARRY CHARLES AMOND of 23 Third Street, Black Rock, Vic, 3193	Director

13 FORMATION OF COMPANY

The subscribers wish to form a company pursuant to this memorandum.

Signatures of subscribers

Witness to signature and address of witness

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Signature - **John Van Camp**

Print name of Witness

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Signature of Witness

Print address of Witness

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Signature - **William Warren Hardiman**

Print name of Witness

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Signature of Witness

Print address of Witness

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Signature - **Greg Arnett**

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Print name of Witness

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Signature - **Les Willmott**

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Signature - **Peter James Glynn**

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Signature - **David Maurice Headberry**

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Signature - **Trevor James Fasham**

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Signature - **David Charles Whiting**

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Signature - **Owen James Whelan**

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Signature - **Jack Francis Ryan**

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Signature - **Barry Charles Amond**

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Print name of Witness

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Signature of Witness

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Print address of Witness

DATED this day of 19