

Constitution

Samaritan's Purse – Australia Limited

ACN 070 722 404

A Public Company Limited by Guarantee

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1 Definitions and interpretation

1.1 Definitions

In this Constitution unless a contrary intention appears:

ACNC Act means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth).

ASIC means the Australian Securities and Investments Commission.

Company means Samaritan's Purse – Australia Limited being an Australian public company limited by guarantee established under the Corporations Act which bears the ACN 070 722 404.

Constitution means this constitution as amended from time to time.

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

Director means an individual holding office as director of the Company.

Director Identification Number has the same meaning it has in the Corporations Act.¹

Directors means some or all of the Directors acting as a board.

Gift Fund means a management account of the Company that is established in accordance with clause 26.

Insolvency Event occurs where:

- (a) an order is made or a resolution is passed by creditors for the winding up, dissolution or external administration of the Member;
- (b) the Member enters into any arrangement, compromise or composition with or assignment for the benefit of its creditors or any class of them; or
- (c) a controller, receiver, receiver and manager, official manager or other external administrator is appointed to the Member.

Legal Capacity means, in relation to an individual, that the individual is at least 18 years of age, and that:

- (a) in the Directors' reasonable assessment, the individual is capable of understanding the nature and effect of their participation in the Company's affairs without the need of special assistance or explanation; or
- (b) in the Directors' reasonable assessment, the individual is able to receive and understand communications and express their will in relation to the Company's affairs; or
- (c) their person or estate is not liable to be dealt with under the laws relating to mental health:
 - (i) on a permanent or ongoing basis,

¹ At the time of adoption of this Constitution, section 9 provides that a Director Identification Number means a director identification number given under:

- (a) section 1272; or
- (b) section 308-5 of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth).

- (ii) in an involuntary manner, or
- (iii) on a court ordered basis.

Member means a person specified as the member of the Company under clause 6(a) and entered on the Register.

Objects means the objects of the Company as set out in clause 2.

Overseas Aid Fund means the Samaritan's Purse Australia Overseas Aid Fund that is a public fund established under item 9.1.1 of the table in section 30-80(1) of the Tax Act.

Public Officer means an individual appointed under clause 15.3 and in accordance with the *Income Tax Assessment Act 1936* (Cth).

Register means the register of members under the Corporations Act.

Representative means an individual appointed to represent a corporate Member at a general meeting of the Company or to exercise all or any of the powers the body corporate may exercise in accordance with the Corporations Act.

Samaritan's Purse USA means Samaritan's Purse being a section 501(c)(3) charitable entity, bearing the Employer Identification Number 58-1437002, whose international headquarters is located in Boone, North Carolina, USA.

Secretary means an individual appointed as the secretary of the Company in accordance with clause 15.2.

Tax Act means the *Income Tax Assessment Act 1997* (Cth).

Virtual Meeting Technology has the same meaning it has in the Corporations Act.²

1.2 Interpretation

In this Constitution unless a contrary intention appears:

- (a) words importing any gender include all other genders;
- (b) the singular includes the plural and vice versa;
- (c) a reference to a clause is a reference to a clause in this Constitution unless otherwise stated;
- (d) a reference to a law includes regulations and instruments made under the law;
- (e) a reference to a law or a provision of a law includes amendments, re-enactments or replacements of that law or the provision, whether by a state, a territory, the Commonwealth of Australia or otherwise;
- (f) a reference to a meeting includes a meeting by technology provided the technology gives the persons entitled to attend the meeting, as a whole, reasonable opportunity to participate without being physically present in the same place, and includes a general meeting of the Company:
 - (i) at one or more physical venues;

² At the time of adoption of this Constitution, section 9 provides that Virtual Meeting Technology means any technology that allows a person to participate in a meeting without being physically present at the meeting.

- (ii) at one or more physical venues and using Virtual Meeting Technology; or
- (iii) using Virtual Meeting Technology only;
- (g) a reference to a person being present in person includes an individual participating in a meeting as described in clause 1.2(f);
- (h) a reference to a person being present includes an individual participating in a meeting in person or through a proxy, attorney or Representative;
- (i) a reference to a “place” includes the place or location where a meeting may be held, is held or is taken to be held under the Corporations Act if Virtual Meeting Technology is used in holding the meeting;
- (j) a reference to a person includes a natural person, corporation or other body corporate;
- (k) “writing” and “written” includes printing, typing and other modes of reproducing words in a visible form including, without limitation, any representation of words in a physical document or in an electronic communication or form or otherwise; and
- (l) Australian dollars, dollars, A\$ or \$ is a reference to the lawful currency of Australia.

1.3 Signing and electronic communication

Where, by a provision of this Constitution, a document including a notice is required to be signed or communicated, that requirement may be satisfied in any manner permitted by the applicable law of a state, a territory, or the Commonwealth of Australia relating to electronic signing and transmission of documents.

1.4 Corporations Act

- (a) In this Constitution unless the contrary intention appears:
 - (i) expressions in this Constitution that deal with a matter dealt with by a particular provision of the Corporations Act have the same meaning as they have in the Corporations Act;
 - (ii) “section” means a section of the Corporations Act; and
 - (iii) while the Company is a registered charity under the ACNC Act:
 - (A) subject to clause 1.4(a)(iii)(B), the provisions of the Corporations Act in Part 2G.2 and Part 2G.3 apply as if section 111L(1) of the Corporations Act was not enacted; and
 - (B) if one of those provisions includes a reference to ASIC, including a reference to lodge any document with, or seek consent or approval from ASIC, that particular requirement does not apply to the Company.
- (b) The provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution and accordingly do not apply to the Company.

1.5 Headings

Headings are inserted for convenience and are not to affect the interpretation of this Constitution.

2 Objects of the Company

- (a) The Company is a nondenominational evangelical Christian organisation and so that it may follow the example of Christ, the Objects for which the Company is established are:
 - (i) to provide relief to individuals who are suffering from natural disaster, poverty, sickness, suffering, distress, misfortune, disability, destitution or helplessness in Australia and overseas;
 - (ii) to provide development and/or humanitarian assistance activities in developing countries; and
 - (iii) to collaborate with other bodies or organisations both within Australia and overseas having objects in whole or in part similar to the Objects of the Company, in order to pursue the Objects set out in clause 2(a)(i) and clause 2(a)(ii) above.
- (b) All activities described in clause 2(a) above, shall be conducted by the Company for beneficiaries unrestrained by age, gender, race, sectarian belief or political ideology for the betterment of the quality of life of the disadvantaged in the community.

3 Powers

The Company has the legal capacity and powers of:

- (a) an individual; and
- (b) a body corporate under the Corporations Act.

4 Application of income for Objects only

4.1 Application of income and property

The income and the property of the Company, however derived:

- (a) must be applied solely towards the promotion of the Objects; and
- (b) may not be paid or transferred to the Member, in whole or in part, either directly or indirectly by way of dividend, bonus, benefit or otherwise.

4.2 Payment in good faith

Clause 4.1 does not prevent payment, directly or indirectly, in good faith to the Member:

- (a) of reasonable remuneration for services to the Company in the ordinary course of business;
- (b) for goods supplied by the Member to the Company in the ordinary course of business;
- (c) of fair and reasonable interest on money borrowed by the Company in the ordinary course of business from the Member at a rate determined by the Directors;
- (d) of reasonable rent or equivalent payment (including licence fees) for use of premises let by the Member to the Company; or
- (e) in furtherance of the Objects.

5 Winding up

5.1 Guarantee by Member

- (a) The Member undertakes to contribute an amount not to exceed \$10 to the Company's property if the Company is wound up while they are a Member, or within 1 year after they cease to be a Member.
- (b) On winding up of the Company, this contribution is for:
 - (i) payment of the Company's debts; and
 - (ii) the costs of winding up.

5.2 Application of property

- (a) Subject to clause 4.2(e), if any property remains on the winding up or dissolution of the Company after satisfaction of all its debts and liabilities, then, subject always to clause 5.3 that property must be given or transferred to one or more funds or institutions:
 - (i) that have charitable purposes similar to, or inclusive of, the Objects; and
 - (ii) are not-for-profit entities whose governing documents prohibit the distribution of its income and property among its members (if it has members) to at least the same extent as imposed on the Company under this Constitution.
- (b) The funds or institutions will be determined by the Member at or before the time of dissolution.

5.3 Application of property if deductible gift recipient

- (a) Where the Company has been endorsed as a deductible gift recipient under Subdivision 30-BA of the Tax Act as an entity, and:
 - (i) the Company is wound up; or
 - (ii) the endorsement under Subdivision 30-BA of the Tax Act is revoked;then, after satisfaction of all debts and liabilities, any surplus:
 - (iii) assets of the Gift Fund (if the Company maintains a Gift Fund); or
 - (iv) if the Company does not operate a Gift Fund:
 - (A) gifts of money or property for the principal purpose of the Company;
 - (B) contributions of money or property as described in item 7 or item 8 of the table in section 30-15 of the Tax Act in relation to a fundraising event held for the principal purpose of the Company; and
 - (C) money received by the Company because of such gifts or contributions;

must be transferred to one or more funds or institutions that comply with clause 5.2 and are each deductible gift recipients.

- (b) Subject to clause 5.3(c), where the Company has been endorsed as a deductible gift recipient under Subdivision 30-BA of the Tax Act in relation to a fund or institution it operates, and:

- (i) the fund or institution is wound up; or
- (ii) the endorsement under Subdivision 30-BA of the Tax Act in relation to a fund or institution it operates is revoked;

any surplus assets of the Gift Fund for that fund or institution remaining after payment of all liabilities must be transferred to one or more funds or institutions that comply with clause 5.2 and are each deductible gift recipients.

- (c) Where the Company has been endorsed as a deductible gift recipient in relation to the Overseas Aid Fund it operates under item 9.1.1 of the table in section 30-80(1) of the Tax Act, and:

- (i) the fund or institution is wound up; or
- (ii) the endorsement under section 30-85 of the Tax Act in relation to the Overseas Aid Fund it operates is revoked;

any surplus assets of the Gift Fund for that Overseas Aid Fund remaining after payment of all liabilities must be transferred to one or more funds or institutions that comply with clause 5.2 and are each qualifying under the overseas aid gift provisions under item 9.1.1 of the table in section 30-80(1) of the Tax Act.

- (d) Where the Company operates more than one fund or institution for which it is a deductible gift recipient and its endorsement under Subdivision 30-BA of the Tax Act is revoked only in relation to one of those funds or institutions then it may transfer any surplus assets of that fund or institution remaining after payment of all liabilities to any other fund or institution for which it is endorsed as a deductible gift recipient. This clause does not apply to any Overseas Aid Fund operated by the Company.

6 Sole Membership

- (a) The Member of the Company is Samaritan's Purse USA, or such other person admitted as the replacement sole Member under clause 7.1, where the Member is subject to an Insolvency Event.
- (b) The Member may, at its sole discretion, appoint a Representative to exercise the Member's rights and powers on behalf of the Member.

7 Ceasing to be a Member and admitting a replacement Member

7.1 Cessation of membership and admission of replacement Member

If the Member is subject to an Insolvency Event, it ceases to be a Member and the Directors must immediately admit another person as the replacement Member, subject to that person:

- (a) consenting to become a Member; and
- (b) having its name entered on the Register.

7.2 Limited liability

The Member has no liability as a Member except as set out in clause 5.1.

8 Resolutions of the Member

The Company may pass a resolution by the Member recording it and signing the record and recording it in the minute book of the Company.

9 Directors

9.1 Number of Directors

- (a) The number of Directors must be at least 3 and no more than 15.
- (b) Subject to clause 9.1(a), the Member may by resolution determine the number of Directors.

9.2 Appointment of Directors

- (a) Directors are to be appointed by the Member on such terms as the Member thinks fit.
- (b) In addition to the right to remove Directors under section 203D of the Corporations Act, the Member may remove any Director before the expiration of a Director's term of office, and may appoint another person in the place of that Director.

9.3 Qualifications of Directors

- (a) To be eligible for the office of Director a person must:
 - (i) have a Director Identification Number; and
 - (ii) consent in writing to act as a Director.
- (b) The Company must ensure that a majority of the Directors ordinarily reside in Australia.

9.4 Appointment of officers

The Directors are to appoint the other officers with such frequency as the Directors from time to time determine.

9.5 Casual vacancy

- (a) Subject to clause 9.1(b), the Directors may at any time appoint any person to be a Director:
 - (i) to fill a casual vacancy; or
 - (ii) if at any time the number of Directors is less than 3.
- (b) A Director appointed under clause 9.5(a) holds office:
 - (i) for a period of 12 months or such lesser period as specified at the time of appointment; or
 - (ii) until the Member appoints a new or additional Director under clause 9.2(a) to replace the Director whose retirement caused the casual vacancy;

whichever is sooner, but is eligible for appointment by the Member under clause 9.2.

10 Remuneration of Directors

The Directors must not be paid any remuneration for their services as Directors.

11 Expenses of Directors

- (a) A Director is entitled to be reimbursed out of the funds of the Company for such reasonable travelling, accommodation and other expenses as the Director may incur when travelling to or from meetings of the Directors or a committee of Directors or when otherwise engaged in the business of the Company.
- (b) Any payment to a Director must be approved by the Directors.

12 Vacation of office of Director

In addition to the circumstances in which the office of a Director becomes vacant under the Corporations Act, the office of a Director becomes vacant if the Director:

- (a) is removed by the Member by notice in writing pursuant to clause 9.2(b), such removal taking effect from the date of such notice or other date specified in the notice;
- (b) resigns from the office by notice in writing to the Company having immediate effect or with effect from a specified date in the notice;
- (c) is absent without the consent of the Chairperson from all meetings of the Directors held during a period of six months and the Directors resolve that their office be vacated;
- (d) does not have Legal Capacity;
- (e) becomes bankrupt, compounds with their creditors, or assigns their estate for the benefit of their creditors;
- (f) becomes prohibited, disqualified or removed from being a Director by reason of any order of any court of competent jurisdiction or regulator;
- (g) is, without the consent of the Directors, directly or indirectly interested in a contract or proposed contract with the Company;
- (h) has attained the age of seventy-five years; or
- (i) dies.

13 Powers and duties of Directors

13.1 Directors to manage the Company

- (a) Subject to clause 13.1(b), the Directors are to manage the business of the Company and may exercise all the powers of the Company that are not required to be exercised by the Member under this Constitution or by the Company in general meeting under the Corporations Act.
- (b) Any decision concerning the proposed sale, disposal or encumbrance of the Company's assets having a value in excess of \$1,000,000.00 shall not take effect until approved by the Member by resolution.

13.2 Specific powers of Directors

Without limiting the generality of clause 13.1, and subject to any trusts relating to the assets of the Company, the Directors may exercise all the powers of the Company to:

- (a) borrow or raise money;
- (b) charge any property or business of the Company; and
- (c) give any security for a debt, liability or obligation of the Company or of any other person.

13.3 Compliance with duties

While the Company is a registered charity under the ACNC Act, each Director must comply with the duties described in governance standard 5 as set out in the regulations made under the ACNC Act and such other obligations as apply under the ACNC Act or the Corporations Act from time to time.

13.4 Delegation

- (a) The Directors may resolve to delegate any of their powers to:
 - (i) a committee in accordance with clause 23;
 - (ii) a Director;
 - (iii) an employee of the Company on terms and subject to any restrictions to be decided by the Directors; or
 - (iv) any other person on terms and subject to any restrictions to be decided by the Directors.
- (b) The power may be delegated for such time as determined by the Directors and the Directors may at any time revoke or vary the delegation.
- (c) The delegate must exercise the powers delegated in accordance with any directions of the Directors, and the exercise of the power by the delegate is as effective as if the Directors had exercised it.
- (d) The Directors may continue to exercise any power they have delegated.

13.5 Interests of Member

Subject to compliance with clauses 2, 4 and 5, the Directors are authorised to act in the best interests of the Member in the circumstances contemplated by section 187 of the Corporations Act.

14 Rules

Subject to this Constitution, the Directors may from time to time by resolution make and rescind or alter rules, which are binding on the Member and the Directors, for the management and conduct of the business of the Company, but such rules may be altered or revoked by the Member.

15 Chief Executive Officer, Executive Director, Secretary and Public Officer

15.1 Chief Executive Officer or Executive Director

- (a) The Directors may appoint a Chief Executive Officer or Executive Director on such terms and conditions (including as to remuneration) as they think fit.
- (b) The Directors may delegate any of their powers to the Chief Executive Officer or Executive Director and the Chief Executive Officer or Executive Director must exercise those powers:
 - (i) in accordance with the terms and subject to any restrictions or the directions of the Directors; and
 - (ii) so as to be concurrent with, or to the exclusion of, the powers of the Directors;and may revoke the delegation at any time.
- (c) The Chief Executive Officer or Executive Director may be invited to attend all meetings of the Directors but may not hold the office of a Director and is not entitled to vote.

15.2 Secretary

- (a) There must be one Secretary who is to be appointed by the Directors.
- (b) The Directors may suspend or remove the Secretary from that office.
- (c) The Secretary holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, as determined by the Directors. The exercise of those powers and authorities and the performance of those duties by the Secretary are subject at all times to the control of the Directors.

15.3 Public Officer

Unless otherwise appointed by the Directors, the Secretary is the Public Officer.

16 Appointment of attorney

- (a) By power of attorney, the Directors may appoint any person to be an attorney of the Company with such powers, authorities and discretions of the Directors as the Directors think fit and for such purposes, period and conditions as determined by the Directors.
- (b) A power of attorney granted under clause 16(a) may contain any provisions for the protection and convenience of the attorney and persons dealing with the attorney that the Directors think fit and may also authorise the attorney to delegate (including by way of appointment of a substitute attorney) all or any of the powers, authorities and discretions of the attorney.

17 Conflicts of interest

17.1 Disclosure of conflict of interest

A Director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of Directors (or that is proposed in a circular resolution):

- (a) to the Directors; or

- (b) if all of the Directors have the same conflict of interest, to the Member as soon as reasonably practicable.

17.2 Disclosure recorded in minutes

The disclosure of a conflict of interest by a Director must be recorded in the minutes of the meeting.

17.3 Material personal interest

Each Director who has a material personal interest in a matter that is being considered at a meeting of the Directors (or that is proposed in a circular resolution) must not, except as provided under clause 17.4:

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

17.4 Present and voting

A Director with a material personal interest in a matter may still be present and vote if:

- (a) their interest relates to an insurance contract that insures, or would insure, the Director against liabilities that the Director incurs as a Director of the Company (see clause 30.2);
- (b) their interest relates to a payment by the Company under clause 30.1, or any contract relating to an indemnity that is allowed under the Corporations Act;
- (c) ASIC makes an order allowing the Director to vote on the matter; or
- (d) the Directors who do not have material personal interest in the matter pass a resolution that:
 - (i) identifies the Director, the nature and extent of the Director's interest in the matter and how it related to the affairs of the Company; and
 - (ii) states that those Directors are satisfied that the interest should not stop the Director from voting or being present.

18 Proceedings of Directors

18.1 Directors' meetings

- (a) The Directors may meet together for conducting business, adjourn and otherwise regulate their meetings as they think fit.
- (b) A Director may at any time, and the Secretary must on the written request of a Director, convene a meeting of the Directors.

18.2 Questions decided by majority

A question arising at a meeting of Directors is to be decided by a majority of votes of Directors present and entitled to vote, and that decision is for all purposes a decision of the Directors.

19 Chairperson and vice chairperson of Directors

19.1 Election of chairperson and vice chairperson

The Directors may elect from their number a chairperson and a vice chairperson of their meetings and may also determine the period for which the persons elected as chairperson and vice chairperson are to hold office.

19.2 Absence of chairperson at Directors' meeting

If a Directors' meeting is held and:

- (a) a chairperson has not been elected under clause 19.1; or
- (b) the chairperson is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act;

then the vice chairperson, if elected under clause 19.1, must be the chairperson of the meeting or, if the vice chairperson is not present, the Directors present must elect one of their number to be a chairperson of the meeting.

19.3 No casting vote for chairperson at Directors' meetings

In the event of an equality of votes cast for and against a resolution, the chairperson of the Directors' meeting does not have a second or casting vote, and consequently the resolution will not be passed.

20 Quorum for Directors' meeting

- (a) At a meeting of Directors, the number of Directors whose presence in person is necessary to constitute a quorum is as determined by the Directors, and, unless so determined, is a majority of Directors holding office, or 3, whichever is the greater.
- (b) The Directors may act despite a vacancy in their number. If their number is reduced below the minimum fixed by clause 9.1(a), the Directors may, except in an emergency, act only for the purpose of filling vacancies to the extent necessary to bring their number up to that minimum, subject to ratification by the Member.

21 Circular resolutions of Directors

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

22 Validity of acts of Directors

All acts done at a meeting of the Directors or of a committee of Directors, or by a person acting as a Director, are taken as valid as if the relevant person had been duly appointed or had duly continued in office and was qualified and entitled to vote, even if it is afterwards discovered that:

- (a) there was a defect in the appointment or continuance in office of a person as a Director or of the person so acting; or

- (b) a person acting as a Director was disqualified or was not entitled to vote.

23 Committees

23.1 Delegation to committees

- (a) The Directors may delegate any of their powers, to a committee consisting of one or more Directors and such other persons as they think fit and may revoke the delegation at any time.
- (b) A committee to which any powers have been delegated under clause 23.1(a) must exercise those powers:
 - (i) in accordance with the terms and subject to any restrictions and any directions of the Directors; and
 - (ii) so as to be concurrent with, or to the exclusion of, the powers of the Directors,

and a power so exercised is taken to have been exercised by the Directors.

23.2 Meetings of committees

A committee may meet and adjourn as it thinks proper.

23.3 Chairperson of a committee

The members of a committee may elect one of their number as chairperson of their meetings. If a meeting of a committee is held and:

- (a) a chairperson has not been elected; or
- (b) the chairperson is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act;

then the committee members involved may elect one of their number to be chairperson of the meeting.

23.4 Determination of questions

- (a) Questions arising at a meeting of a committee are to be determined by a majority of votes of the members present and voting.
- (b) In the event of an equality of votes, the chairperson of the meeting does not have a casting vote.

24 Execution of documents

Documents executed for and on behalf of the Company must be executed by:

- (a) 2 Directors;
- (b) a Director and the Secretary; or
- (c) such other persons as the Directors by resolution appoint from time to time.

25 Accounts

- (a) The Directors must cause proper financial records to be kept and, if required by a law, regulation or guideline applicable to the Company or otherwise considered by the Directors to be appropriate, cause the accounts of the Company to be audited or reviewed accordingly.
- (b) The Directors must distribute to the Member a copy of the annual financial reports of the Company accompanied by a copy of the report of the auditor or reviewer (as required) and report of Directors in accordance with the requirements of a relevant law, regulation or guideline.

26 Gift Fund

- (a) Without limiting clause 25, the Company may maintain a Gift Fund:
 - (i) to identify and record gifts of money or property for the principal purpose of the Company or of a fund or institution it operates;
 - (ii) to identify and record contributions of money or property as described in item 7 or item 8 of the table in section 30-15 of the Tax Act in relation to a fundraising event held for the principal purpose of the Company or of a fund or institution it operates; and
 - (iii) to identify and record money received by the Company because of such gifts or contributions; and
 - (iv) that does not identify and record any other money or property.
- (b) The Gift Fund forms part of the accounts of the Company.
- (c) Where the Company operates more than one fund or institution for which it is endorsed as a deductible gift recipient, the Company must maintain a separate Gift Fund for the principal purpose of each fund or institution for which it is endorsed as a deductible gift recipient.

27 Seals

27.1 Safe custody of common seals

The Directors must provide for the safe custody of any seal of the Company.

27.2 Use of common seal

If the Company has a common seal or duplicate common seal:

- (a) it may be used only by the authority of the Directors, or of a committee authorised by the Directors to authorise its use; and
- (b) every document to which it is affixed must be signed by a Director and be countersigned by another Director, the Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included.

28 Inspection of records

28.1 Inspection by the Member

Subject to the Corporations Act, the Directors may determine whether and to what extent and at what times and places and under what conditions, the accounting records and other documents of the Company or any of them will be open to inspection by the Member.

28.2 Right of a Member to inspect

The Member does not have the right to inspect any document of the Company except as provided by law or authorised by the Directors.

29 Service of documents

29.1 Document includes notice

In this clause 29, a reference to a document includes a notice.

29.2 Methods of service

- (a) The Company may give a document to the Member or a Director:
 - (i) personally;
 - (ii) by sending it by post to the address for the Member or Director in the Register or an alternative address nominated by the Member or Director;
 - (iii) by sending it to an electronic address nominated by the Member or Director; or
 - (iv) by any other method of service provided by the Corporations Act.
- (b) The Member or Director may give a document to the Company:
 - (i) by serving it on the Company at the registered office;
 - (ii) by sending it by post to the registered office; or
 - (iii) by sending it to the electronic address nominated by the Company.
- (c) The Member may elect to be sent documents that are required or permitted to be sent to the Member by the Company under the Corporations Act either in physical form; or in electronic form by notifying the Company of the election.
- (d) A document is taken to be given:
 - (i) if it is sent by post, on the 3rd business day after the date of its posting;
 - (ii) if it is sent by electronic transmission:
 - (A) by properly addressing and transmitting the electronic transmission; and
 - (B) if the document is properly addressed and transmitted in accordance with clause 29.2(d)(ii)(A), on the day following its transmission; and
 - (iii) if it is given in any other way permitted under the Corporations Act, then when it is taken to have been given under the Corporations Act.

29.3 Evidence of service

A certificate in writing signed by a Director or the Secretary stating that a document was sent to the Member by post or electronic transmission on a particular date is prima facie evidence that the document was so sent on that date.

30 Indemnity and insurance

30.1 Indemnity

The Company must indemnify any current or former Director, Secretary or executive officer of the Company out of the property of the Company against:

- (a) every liability incurred by the person in that capacity; and
- (b) all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity,

except to the extent that:

- (c) the Company is forbidden by law (including the Corporations Act) to indemnify the person against the liability or legal costs;
- (d) an indemnity by the Company of the person against the liability or legal costs would, if given, be made void by any law; or
- (e) the person is entitled to be, and is actually, indemnified by another person (including an insurer under any insurance policy).

The indemnity is a continuing obligation and is enforceable by a person even though they are no longer a Director, Secretary or executive officer of the Company.

30.2 Insurance

The Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a Director, Secretary or executive officer of the Company against liability arising out of conduct by the person in that capacity (**Relevant Conduct**), including a liability for legal costs, unless:

- (a) the Company is forbidden by law to pay or agree to pay the premium in respect of the Relevant Conduct (whether or not the law applies in the particular case); or
- (b) the contract would, if the Company paid the premium, be made void by any law (including the Corporations Act).

30.3 Contract

The Company may enter into an agreement with a person referred to in clauses 30.1 and 30.2 with respect to the matters covered by these clauses. An agreement entered into in accordance with this clause 30.3 may include provisions relating to rights of access to the books of the Company conferred by the Corporations Act or otherwise by law.

31 Amendment to Constitution

- (a) Subject to clause 31(b), this Constitution may only be amended by resolution of the Member.
- (b) Any modification of this Constitution takes effect on the date the resolution is recorded and signed, or any later date specified, or provided for, in the resolution.