



Constitution of Derwent Estuary Program Limited

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Constitution of Derwent Estuary Program Limited

Preliminary

1. Definitions

In this Constitution:

"Alternate Director" means a person appointed in accordance with Article 43(e).

"Attending Member" means, in relation to a meeting of Members, the Member present at the place of the meeting, in person or by proxy, by attorney or, where the Member is a body corporate, by Corporate Representative.

"Board" means the Directors of the Company from time to time.

"Business Day" means a day except a Saturday, Sunday or public holiday in the state or territory in which the Company is taken to be registered for the purposes of the Corporations Act.

"Chief Executive Officer" means each person appointed under Article 47(a).

"Company" means Derwent Estuary Program Limited.

"Corporate Representative" means a person authorised in accordance with the Corporations Act (or a corresponding previous law) by a Member which is a body corporate to act as its representative at a meeting of Members.

"Corporations Act" means the Corporations Act 2001 (Commonwealth).

"Derwent Estuary" means:

- (a) the body of water which flows between New Norfolk (Tasmania) in the north to the longitude in the south bounded (approximately) by Tinderbox and Iron Pot;
- (b) the lakes, tributaries, estuaries, bays, catchments and other water flows that connect or are related to the body of water referred to in paragraph (a); and
- (c) means of access and land adjacent to the water referred to in paragraphs (a) and (b).

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

"Eligible Person" means any person who the Board considers:

- (a) has a material interest in the objects of the Company; or
 - (b) may be able to advance one or more of those objects if they were to become a Member,
- or both.

"Fee" means a fee or levy referred to in Article 19(a) or 21(b).

"Fund" has the meaning given in Article 5(j).

"Legal Costs" of a person means legal costs incurred by that person in defending or resisting any proceedings (whether criminal, civil, administrative or judicial), appearing before or responding to actions taken by any court, tribunal, government authority or agency, other body or commission, a liquidator, an administrator, a trustee in bankruptcy or other authorised

official, where that proceeding, appearance or response relates to a Liability of that person.

"Liability" of a person means any liability (except a liability for legal costs) incurred by that person in or arising out of the discharge of duties as an officer of the Company or in or arising out of the conduct of the business of the Company, including as result of appointment or nomination by the Company or a subsidiary as a trustee or as a director, officer or employee of another body corporate.

"Member" means an Eligible Person whose name is entered in the Register as a member of the Company.

"Notice" means a notice given pursuant to, or for the purposes of, this Constitution or the Corporations Act.

"Register" means the register of Members kept under the Corporations Act and, where appropriate, includes any branch register.

"Relevant Officer" means a person who is, or has been, a Director or Secretary.

"Secretary" means a person appointed as, or to perform the duties of, secretary of the Company for the time being.

2. Interpretation

Headings are for convenience only and do not affect interpretation. Unless the context indicates a contrary intention, in this Constitution:

- (a) a word importing the singular includes the plural (and vice versa);
- (b) a word indicating a gender includes every other gender;
- (c) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (d) the word **"includes"** in any form is not a word of limitation;
- (e) a reference to something being **"written"** or **"in writing"** includes that thing being represented or reproduced in any mode in a visible form;
- (f) a reference to a 'person' includes an individual, the estate of an individual, a corporation, a governmental authority, an incorporated or unincorporated association or parties in a joint venture, a partnership and a trust;
- (g) a notice or document required by this Constitution to be signed may be authenticated by any other manner permitted by the Corporations Act or any other law; and
- (h) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements.

3. Application of Corporations Act

- (a) Unless the context indicates a contrary intention, in this Constitution:
 - (i) a reference to the Corporations Act is to the Corporations Act in force in relation to the Company after taking into account any waiver, modification or exemption which is in force either generally or in

relation to the Company; and

(ii) a word or phrase given a meaning in the Corporations Act has the same meaning in this Constitution where it relates to the same matters as the matters for which it is defined in the Corporations Act, unless that word or phrase is otherwise defined in this Constitution.

(b) The replaceable rules in the Corporations Act do not apply to the Company.

4. Enforcement

(a) Each Member submits to the non-exclusive jurisdiction of the courts of the state or territory in which the Company is taken to be registered for the purposes of the Corporations Act, the Federal Court of Australia and the courts competent to determine appeals from those courts with respect to any proceedings that may be brought at any time relating to this Constitution.

(b) If at any time any provision of this Constitution is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, then that does not affect or impair:

(i) the legality, validity or enforceability in that jurisdiction of any other provision of this Constitution; or

(ii) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Constitution.

Objects

5. Objects of the Company

The objects of the Company are as follows:

(a) to advance the natural environment connected with the Derwent Estuary through its protection and enhancement;

(b) to maximise the health and diversity of the Derwent Estuary, such that it supports a wide range of recreational, tourism and commercial uses and initiatives and is a source of community pride and enjoyment;

(c) to coordinate initiatives to reduce water pollution, conserve habitats and species, monitor river health, and to promote greater use and enjoyment of the Derwent Estuary;

(d) to support monitoring activities and scientific investigations, and to compile and distribute relevant information in internal and public reports, in each case connected with the Derwent Estuary;

(e) to support the management and reduction pollution in the Derwent Estuary, including sewage, contaminated sediments, industrial discharges, marine waste and urban and catchment runoff;

(f) to support the conservation of estuarine habitats and species, and management of marine pests, coastal weeds and river flows;

(g) to support informed planning, policy and assessment by providing scientific information, guidelines and professional advice;

- (h) to provide information and education about the Derwent Estuary, so as to improve understanding, awareness of, and participation in, the Derwent Estuary, as well as celebrating achievements;
- (i) to participate in and support other organisations and programs whose focus is the advancement of the natural environment connected with water systems other than the Derwent Estuary;
- (j) to establish and maintain a public fund to be called the Derwent Estuary Fund (or with such other name as the Board determines) (**Fund**) for the specific purpose of supporting the environmental objects and purposes of the Company. The Fund is established to receive all gifts of money or property for this purpose and any money received because of such gifts must be credited to its bank account. The Fund must not receive any other money or property into its account and it must comply with subdivision 30-E of the Income Tax Assessment Act 1997 (Cth);
- (k) to undertake fundraising activities for the purposes of implementing the objectives and strategies of the Company in furtherance, or in aid, of the objects above; and
- (l) to take such other steps which are necessary or preferable to achieve or further the objects above.

Income and property

6. Application of income and property

- (a) Subject to Articles 6(b) and 6(c), the Company must apply the profits (if any) or other income and property of the Company solely towards the promotion of the objects of the Company set out in Article 5 and no portion of it may be distributed, paid or transferred, directly or indirectly, to any Member or Director or trustee of the Company whether by way of dividend, bonus or otherwise.
- (b) Nothing in Article 6(a) prevents the Company making any payment in good faith of:
 - (i) reasonable and proper remuneration to any Member for any services actually rendered or goods supplied to the Company in the ordinary and usual course of business of the Company;
 - (ii) the payment or reimbursement of out-of-pocket expenses incurred by a Member on behalf of the Company where the amount payable does not exceed an amount previously approved by the Board;
 - (iii) reasonable and proper rent or fees to a Member for premises leased or licensed by any Member to the Company;
 - (iv) money to any Member, being a solicitor, accountant or other person engaged in any profession, for all usual professional or other charges for work done by that person or that person's firm or employer, where the provision of the service has the prior approval of the Board and the amount payable is approved by the Board and is not more than an amount which commercially would be reasonable payment for the service;
 - (v) interest to a Member at a rate not exceeding a rate approved by the Board on money borrowed by the Company from the Member; or

- (vi) an amount under Article 63 or Article 66.
- (c) The Company must not pay fees to or on behalf of Directors or a Secretary but the Company may make payments to a Director or Secretary in good faith for:
 - (i) the payment or reimbursement of out-of-pocket expenses reasonably incurred by a Director or Secretary in the performance of any duty as a director or secretary of the Company where that payment or reimbursement has been approved by the Board;
 - (ii) money to any Director or Secretary, being a solicitor, accountant or other person engaged in any profession, for all usual professional or other charges for work done by that person or that person's firm or employer, where the provision of the service has the prior approval of the Board and the amount payable is approved by the Board and is not more than an amount which commercially would be reasonable payment for the service;
 - (iii) any salary or wage due to the Director or Secretary as an employee of the Company where the terms of employment have been approved by the Board;
 - (iv) an insurance premium in respect of a contract insuring a Director or Secretary for a liability incurred as an officer of the Company where the Board has approved the payment of the premium; or
 - (v) any payment under Article 49(a), 49(c) or 49(d) or a payment under any agreement or deed referred to in Article 49(e).

Goods and services

7. Goods and services

- (a) Subject to Article 7(b), the Company may:
 - (i) engage any person to render services or supply goods to the Company; and
 - (ii) enter into contracts with any person who renders services or provides goods to the Company.
- (b) The Company may not engage or enter into a contract for the rendering of services or the provision of goods with a person who is a Director unless:
 - (i) the engagement or contract is on arm's length terms; and
 - (ii) subject to Article 7(c), the Board or a committee of the Board resolves to approve the terms of the engagement or contract.
- (c) A Director who proposes to render services or provide goods to the Company:
 - (i) will have no vote for the purposes of the resolution referred to in Article 7(c)(ii); and
 - (ii) may not be part of any committee for the purposes of Article 7(c)(ii).

Liability of Members

8. Extent of liability

Each Member undertakes to contribute an amount not exceeding \$10 to the property of the Company if the Company is wound up at a time when that person is a Member, or within one year of the time that person ceased to be a Member, for:

- (a) payment of the Company's debts and liabilities contracted before that person ceased to be a Member;
- (b) payment of the costs, charges and expenses of winding up the Company; and
- (c) adjustment of the rights of the contributories among themselves.

Membership

9. Number of Members

The number of Members of the Company is not limited.

10. Invitations

- (a) The Board may invite any Eligible Person to become a Member. The Board may not invite any person who is not an Eligible Person to become a Member.
 - (b) Each Eligible Person invited by the Board to become a Member must, if they accept the Board's invitation, pay any initial fee which the Board determines.
 - (c) If an Eligible Person whom the Board invites to become a Member accepts that invitation (and provided they pay the initial fee referred to in Article 10(b), if applicable), the Company must enter the Eligible Person's name in the Register.
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11. Members Committee

- (a) The Company will have a committee named the 'Members Committee' or such other name as the Board gives to the committee from time to time (**Members Committee**). Each Member will be a member of the Members Committee.
- (b) The purposes of the Members Committee are:
 - (i) to identify and discuss matters which are or may be in furtherance, or in aid, of the objects of the Company; and
 - (ii) to make findings and recommendations about the strategy, direction and initiatives of the Company.
- (c) The Members Committee will meet as often as is necessary to achieve the purposes referred in Article 11(b). The Company will give reasonable notice to Members of an upcoming meeting, as well as a draft agenda. A quorum for a meeting of the Members Committee is half of all Members. A meeting of the Members Committee may be attended by telephone, video, any other technology which permits each Member to communicate with the others who are attending, or any combination of these technologies.
- (d) Each Member will choose the individual who represents it at a given meeting of the Members Committee. The Members may agree (by majority vote at or before a meeting of a Members Committee) to allow additional representatives of a Member to attend, and participate in, the meeting, as well as any person

who is not a representative of a Member. A Member will be deemed to have agreed to such a matter if they are informed of it before a meeting of the Members Committee and they do not object in writing prior to the meeting.

- (e) Each Member may act in its best interests at a meeting of the Members Committee.
- (f) The Board and the Chief Executive Officer will consider each finding or recommendation of the Members Committee. However, no finding or recommendation will be binding on the Company or the Board or any employee of the Company. Nothing in this Article 11 limits the rights or powers of a Member acting in a capacity outside of its capacity as a member of the Members Committee.
- (g) The Chief Executive Officer of the Company (or one of them, if more than one) will chair meetings of the Members Committee. However, in the absence of a Chief Executive Officer, the members present at a meeting of the Members Committee will decide by vote who will be the chair of that meeting. The role of the chair is to manage the agenda, facilitate discussion and ensure a record of a meeting is kept (whether personally or by another person nominated by the chair).
- (h) The Company will ensure that a copy of the record of each meeting of the Members Committee is sent to all Members for consideration and approval.

12. Other involvement of Members

- (a) The Company and a Member may agree from time to time that the Member will make financial or in-kind contributions to advance the objects of the Company. A Member is not obliged to agree to make such contributions.
- (b) Each Member will take reasonable steps to:
 - (i) integrate the objectives and strategies of the Company into its own policy and planning documents;
 - (ii) implement the objectives and strategies of the Company;
 - (iii) engage relevant employees or other representatives to assist the operation of the Members Committee or to achieve the objects of the Company;
 - (iv) identify and seek funding for the Company (beyond funding that may be provided by Members) so to implement the Company's objectives and strategies; and
 - (v) consult widely with the community, industry and other relevant stakeholders in relation to issues affecting the Derwent Estuary and the implementation of the objectives and strategies of the Company,provided that:
 - (vi) nothing obliges a Member to make a financial or in-kind contribution, or otherwise incur any cost, except to the extent agreed under Article 12(a) or otherwise in the Member's discretion; and
 - (vii) a Member is not required to take such steps if they are not consistent with the best interests of the Member.

- (c) Each Member will take reasonable steps to arrange meetings with and between, and otherwise seek input from, the Premier of Tasmania, relevant Ministers of the Parliament of Tasmania, council mayors and other elected members, and industry leaders, in each course in an effort to achieve the objects of the Company.
- (d) Two or Members may, from time to time at the request of the Company, form working groups (separate of the Members Committee) for a purpose or purposes connected with the achievement of the objects of the Company.
- (e) It is the intention of the Company that it will make all public and other external communications relating to the Company. A Member will not itself make any such communication without the prior written consent of the Company, provided that this Article 12(d) does not restrict a Member from disclosing publicly the fact that it is a member of the Company.

13. No transfers

The rights of being a Member are not transferable whether by operation of law or otherwise.

14. Class rights

- (a) Subject to the Corporations Act and the rights of a particular class of Members, the Company may vary or cancel rights of Members in that class:
 - (i) by a special resolution passed at a meeting of the Members included in that class; or
 - (ii) with the written consent of Members who are entitled to at least 75% of the votes that may be cast by Members included in that class.
- (b) Article 40 applies to a meeting held under Article 14(a)(i).

Cessation of membership

15. Resignation of a Member

- (a) Subject to Article 15(b), a Member may at any time resign as a member of the Company by giving the Company notice in writing. Unless the notice provides otherwise, a resignation by a Member takes effect immediately on the giving of that notice to the Company.
- (b) If there is only one Member and the Member gives proper notice of resignation or on the same day all of the Members give proper notice of resignation, the notice or notices will be ineffective and the Member or Members cannot resign until either another Eligible Person is appointed as a Member or the Company is wound up.
- (c) If a Member resigns, the Company must remove the Member's name from the Register.
- (d) The resignation of a Member will not, by itself, affect the rights and obligations of that Member under any agreement between that Member and the Company entered into in accordance with Article 12(a) or otherwise.

16. Expulsion of a Member

- (a) Subject to Article 16(b), if:
- (i) a Member ceases to be an Eligible Person;
 - (ii) a Member is in breach of a provision of this Constitution;
 - (iii) any act or omission of a Member is, in the opinion of the Board, unbecoming of a Member, or prejudicial to the interests or reputation of the Company (and for the avoidance of doubt, it will not be unbecoming of a Member, or prejudicial to the interests or reputation of the Company, merely because a Member does not agree to make a contribution of the sort contemplated by Article 12);
 - (iv) a Member is, or any step is taken for that Member to become, either an insolvent under administration or an externally administered body corporate; or
 - (v) the succession by another body corporate or entity to the assets and liabilities of the Member,
- the Company may expel the Member by a resolution of the Board and remove the Member's name from the Register.
- (b) The Company must not expel a Member under Article 16(a) unless:
- (i) at least 5 Business Days' notice has been given to the Member stating the date, time and place at which the question of expulsion of that Member is to be considered by the Board, and the nature of alleged event giving rise to the expulsion; and
 - (ii) the affected Member is given the opportunity of explaining to the Board, orally or in writing, why the Member should not be expelled.

17. Other cessation events

If a Member is deregistered under the laws of the jurisdiction in which the Member is incorporated or otherwise exists, the Member ceases to be a member of the Company and the Company may remove the Member's name from the Register.

18. Effect of cessation

- (a) A person who ceases to be a Member:
- (i) remains liable to pay, and must immediately pay, to the Company all amounts that at date of cessation were payable by the person to the Company as a Member; and
 - (ii) must pay to the Company interest at the rate the Board resolves on those amounts from the date of cessation until and including the date of payment of those amounts.
- (b) The Company may by resolution of the Board waive any or all of its rights under this Article 18.

Fees and other payments

19. Setting of Fees

- (a) The Company may by resolution of the Board require the payment of fees or levies by Members in connection with their membership in the amount, on any terms and at any times as the Board resolves, including payment by instalments. Such fees or levies are separate to the contributions which may or may not be agreed by a Member under Article 12(a).
- (b) The Company may when admitting Members make Fees payable for one or more Members for different amounts and at different times as the Board resolves.
- (c) The Company may by resolution of the Board revoke or postpone a Fee or extend the time for payment of a Fee, at any time prior to the date payment of that Fee is due.

20. Notice of Fees

- (a) The Company must give notice of Fees to the Members who are required to pay the Fees at least 20 Business Days before the due date for payment. The notice must specify the time or times and place of payment and any other information as the Board resolves.
- (b) The non-receipt of a notice of a Fee by, or the accidental omission to give notice of a Fee to, any Member does not invalidate the Fee.

21. Payment of Fees

- (a) Each Member must pay to the Company the amount of each Fee payable by the Member in the manner, at the time and at the place specified in the notice of the Fee.
- (b) If the terms of membership of a class of Members require an amount to be paid as fee or levy on a fixed date, each Member in that class of Members must pay that amount to the Company at that time and that amount is treated under this Constitution as if a Fee for that amount had been properly determined by the Board of which appropriate notice has been given.
- (c) In a proceeding to recover a Fee, or an amount payable due to the failure to pay or late payment of a Fee, proof that:
 - (i) the name of the Member is entered in the Register as a Member;
 - (ii) the Member is in the class of Members liable to pay the Fee;
 - (iii) there is a record in the minute books of the Company of the resolution determining the Fee or the terms of membership of a class of Members requiring the payment of the Fee; and
 - (iv) notice of the Fee was given or taken to be given to the Member in accordance with this Constitution,

is conclusive evidence of the obligation of that Member to pay the Fee.

22. Interest payable

- (a) If an amount payable to the Company as a Fee is not paid before or on the time for payment, the Member who owes the amount must pay to the Company:
 - (i) interest on the unpaid part of the amount from the date payment is due to the date of payment at the rate the Board resolves; and

- (ii) all costs and expenses the Company incurs due to the failure to pay or the late payment.
- (b) Interest under Article 22(a) accrues daily and may be capitalised at any interval that the Board resolves.
- (c) The Company may by resolution of the Board waive payment of some or all of the interest, costs or expenses payable under Article 22(a).

23. Company payments

- (a) A Member must pay to the Company on written demand an amount equal to all payments the Company makes to a government or taxation authority in respect of the Member, where the Company is either:
 - (i) obliged by law to make the relevant payment; or
 - (ii) advised by a lawyer qualified to practice in the jurisdiction of the relevant government or taxation authority that the Company is obliged by law to make the relevant payment.
- (b) The Company is not obliged to notify a Member in advance of its intention to make a payment under Article 23(a).
- (c) An amount payable by a Member to the Company under Article 23(a) is treated under this Constitution as if it is a Fee properly made by the Board of which notice has been given on the date on which the written demand is given by the Company to the Member.
- (d) Nothing in this Article affects any right or remedy which any law confers on the Company.

Proceedings of Members

24. Written resolutions of Members

While the Company has only one Member, the Company may pass a resolution by that Member signing a record in writing of that resolution.

25. Calling meetings of Members

- (a) References to meetings of Members in Articles 26 to 44, Article 47 and Article 56 are not references to meetings of the Members Committee in accordance with Article 11 or meetings of a working group in accordance with Article 12(d).
- (b) The Company may by resolution of the Board call a meeting of Members to be held at the time and place (including 2 or more venues using technology which gives Attending Members as a whole a reasonable opportunity to participate) and in the manner the Board resolves.
- (c) No Member may call or arrange to hold a meeting of Members except where permitted by the Corporations Act.

26. Notice of meetings of Members

- (a) At least 21 days' notice will be given of a meeting of Members, subject to the Company's ability to call a meeting on shorter notice in accordance with

the Corporations Act.

- (b) Notice of a meeting of Members and any proxy form for the meeting may be given in the form and in the manner in which the Board resolves, subject to any requirements in the Corporations Act.
- (c) Without affecting the operation of Article 26(a), Members will be given additional notice of the date on which any meeting will be held at which a Director is required to retire under Article 44(a), at least 40 days prior to that date.
- (d) A Member may waive notice of any meeting of Members by written notice to the Company.
- (e) A Member who has not duly received notice of a meeting of Members may, before or after the meeting, notify the Company of the Member's agreement to anything done or resolution passed at the meeting.
- (f) A Member's attendance at a meeting of Members waives any objection that Member may have had to a failure to give notice, or the giving of a defective notice, of the meeting, unless the Member at the beginning of the meeting objects to the holding of the meeting.
- (g) Subject to the Corporations Act, anything done (including the passing of a resolution) at a meeting of Members is not invalid because either or both a Member does not receive notice of the meeting or a proxy form, or the Company accidentally does not give notice of the meeting or a proxy form to a Member.

27. Business of meetings

Except with the approval of the Board, with the permission of the chairperson of the meeting or under the Corporations Act, no person may move at any meeting of Members:

- (a) any resolution (except in the form set out in the notice of meeting given under Article 26(b)); or
- (b) any amendment of any resolution or a document which relates to any resolution and a copy of which has been made available to Members to inspect or obtain.

28. Quorum

- (a) No business may be transacted at a meeting of Members except, subject to Article 29, the election of the chairperson of the meeting unless a quorum for a meeting of Members is present at the time when the meeting commences.
- (b) A quorum for a meeting of Members is that number of Attending Members which represents half of the Members entitled to vote on a resolution at that meeting. Each individual present may only be counted once towards a quorum. If a Member has appointed more than one proxy or attorney or Corporate Representative, only one of them may be counted towards a quorum.
- (c) If a quorum is not present within 30 minutes after the time appointed for the commencement of a meeting of Members, the meeting is dissolved unless the chairperson of the meeting or the Board adjourn the meeting to a date, time and place determined by that chairperson or the Board.
- (d) If a quorum is not present within 30 minutes after the time appointed for the commencement of an adjourned meeting of Members and:

- (i) that meeting is within 7 days following the meeting for which the adjourned meeting was set, the meeting is dissolved; or
- (ii) that meeting is not within 7 days following the meeting for which the adjourned meeting was set, the meeting will proceed as if a quorum were present.

29. Chairperson of meetings of Members

- (a) Subject to Articles 29(b) and 29(c), the chairperson of the Board must chair each meeting of Members.
- (b) If at a meeting of Members:
 - (i) there is no chairperson of the Board; or
 - (ii) the chairperson of the Board is not present within 15 minutes after the time appointed for the commencement of a meeting of Members or is not willing to chair all or part of the meeting,the Directors present may (by majority vote) elect one of their number or, in the absence of all the Directors or if none of the Directors present is willing to act, the Attending Members may elect one of their number, to chair that meeting.
- (c) A chairperson of a meeting of Members may, for any item of business at that meeting or for any part of that meeting, vacate the chair in favour of another person nominated by him or her.

30. Conduct of meetings of Members

- (a) Subject to the Corporations Act, the chairperson of a meeting of Members is responsible for the general conduct of that meeting and for the procedures to be adopted at that meeting.
- (b) The chairperson of a meeting of Members may make rulings without putting the question (or any question) to the vote if that action is required to ensure the orderly conduct of the meeting.
- (c) The chairperson of a meeting of Members may determine the procedures to be adopted for proper and orderly discussion or debate at the meeting, and the casting or recording of votes at the meeting.
- (d) The chairperson of a meeting of Members may determine any dispute concerning the admission, validity or rejection of a vote at the meeting.
- (e) The chairperson of a meeting of Members may, subject to the Corporations Act, at any time terminate discussion or debate on any matter being considered at the meeting and require that matter be put to a vote.
- (f) The chairperson of a meeting of Members may refuse to allow debate or discussion on any matter which is not business referred to in the notice of that meeting or is not business of the meeting permitted under the Corporations Act without being referred to in the notice of meeting.
- (g) The chairperson of a meeting of Members may refuse any person admission to, or require a person to leave and remain out of, the meeting if that person:
 - (i) in the opinion of the chairperson, is not complying with the reasonable

- directions of the chairperson;
- (ii) has any audio or visual recording or broadcasting device;
 - (iii) has a placard or banner;
 - (iv) has an article the chairperson considers to be dangerous, offensive or liable to cause disruption;
 - (v) behaves or threatens to behave in a dangerous, offensive or disruptive manner;
 - (vi) refuses to produce or to permit examination of any article (other than a document), or the contents of any article (other than a document), in the person's possession; or
 - (vii) is not entitled under the Corporations Act or this Constitution to attend the meeting.
- (h) If the chairperson of a meeting of Members considers that there are too many persons present at the meeting to fit into the venue where the meeting is to be held, the chairperson may nominate a separate meeting place using any technology that gives Attending Members as a whole a reasonable opportunity to participate.
- (i) The chairperson of a meeting of Members may delegate any power conferred by this Article 30 to any person.
- (j) Nothing contained in this Article 30 limits the powers conferred by law on the chairperson of a meeting of Members.

31. Attendance at meeting of Members

- (a) Subject to this Constitution and any rights and restrictions of a class of Members, a Member who is entitled to attend and cast a vote at a meeting of Members, may attend and vote in person or by proxy, by attorney or, if the Member is a body corporate, by Corporate Representative.
- (b) The chairperson of a meeting of Members may require a person acting as a proxy, attorney or Corporate Representative at that meeting to establish to the chairperson's satisfaction that the person is the person duly appointed to act. If the person fails to satisfy this requirement, the chairperson may exclude the person from attending or voting at the meeting.
- (c) A Director is entitled to receive notice of and to attend all meetings of Members and all meetings of a class of Members and is entitled to speak at those meetings.
- (d) A person, whether a Member or not, requested by the Board to attend a meeting of Members or a meeting of a class of Members is entitled to attend that meeting and, at the request of the chairperson of the meeting, is entitled to speak at that meeting.

32. Authority of Attending Members

- (a) Unless otherwise provided in the document or resolution appointing a person as proxy, attorney or Corporate Representative of a Member, the person has the same rights to speak, demand a poll, join in demanding a poll or act generally at a meeting of Members to which the appointment relates, as the appointing Member would have had if that Member was present at the meeting.

- (b) Unless otherwise provided in the document or resolution appointing a person as proxy, attorney or Corporate Representative of a Member, the appointment is taken to confer authority to:
 - (i) vote on any amendment moved to a proposed resolution and on any motion that a proposed resolution not be put or any similar motion; and
 - (ii) vote on any procedural motion, including any motion to elect the chairperson of the meeting of Members to which the appointment relates, to vacate the chair or to adjourn the meeting,even though the appointment may refer to specific resolutions and may direct the proxy, attorney or Corporate Representative how to vote on particular resolutions.
- (c) Unless otherwise provided in the document or resolution appointing a person as proxy, attorney or Corporate Representative of a Member, the appointment is taken to confer authority to attend and vote at a meeting which is rescheduled, postponed or adjourned to another time or changed to another place, even though the appointment may refer to a specific meeting to be held at a specified time or place.

33. Multiple appointments

- (a) If more than one attorney or Corporate Representative appointed by a Member is present at a meeting of Members and the Company has not received notice of any revocation of any of the appointments:
 - (i) an attorney or Corporate Representative appointed to act at that particular meeting may act to the exclusion of an attorney or Corporate Representative appointed under a standing appointment; and
 - (ii) subject to Article 33(a)33(a)(i) an attorney or Corporate Representative appointed under the most recent appointment may act to the exclusion of an attorney or Corporate Representative appointed earlier in time.
- (b) An appointment of a proxy of a Member is revoked (or, in the case of a standing appointment, suspended for that particular meeting of Members) if the Company receives a further appointment of a proxy from that Member which would result in there being more than one proxy of that Member entitled to act at the meeting. The appointment of the proxy made first in time is the first to be treated as revoked or suspended by this Article.
- (c) The appointment of a proxy for a Member is not revoked by an attorney or Corporate Representative for that Member attending and taking part in a meeting of Members to which the appointment relates, but if that attorney or Corporate Representative votes on a resolution at that meeting, the proxy is not entitled to vote, and must not vote, as the Member's proxy on that resolution.

34. Voting at meeting of Members

- (a) A resolution put to the vote at a meeting of Members must be decided on a show of hands, unless a poll is demanded in accordance with Article 37 and that demand is not withdrawn.
- (b) The Board may determine that Members entitled to attend and vote at a meeting of Members or at a meeting of a class of Members may vote at that meeting without an Attending Member in respect of that person being present at that meeting (and voting in this manner is referred to in this Article 34(b) as direct voting). The Board may determine rules and procedures in relation to direct voting, including the

class of Members entitled to cast a direct vote, the manner in which a direct vote may be cast, the circumstances in which a direct vote will be valid and the effect of a Member casting both a direct vote and a vote in any other manner. Where a notice of meeting specifies that direct voting may occur by eligible Members, a direct vote cast by an eligible Member is taken to have been cast by that person at the meeting if the rules and procedures for direct voting determined by the Board (whether set out in the notice of meeting or otherwise) are complied with.

- (c) Subject to this Constitution and any rights or restrictions of a class of Members, on a show of hands at a meeting of Members, each Attending Member having the right to vote on the resolution has one vote, provided that where a person is entitled to vote in more than one capacity, that person is entitled only to one vote.
- (d) Subject to this Constitution and any rights or restrictions of a class of Members, on a poll at a meeting of Members, each Attending Member having the right to vote on the resolution has one vote for each Member that the Attending Member represents.
- (e) Subject to this Constitution and any rights or restrictions of a class of Members, where the Board has determined other means (including electronic) permitted by law for the casting and recording of votes by Members on any resolution to be put at a meeting of Members, each Member having a right to vote on the resolution has one vote.
- (f) An objection to a right to vote at a meeting of Members or to a determination to allow or disregard a vote at the meeting may only be made at that meeting (or any resumed meeting if that meeting is adjourned). Any objection under this Article 34(f) must be decided by the chairperson of the meeting of Members, whose decision, made in good faith, is final and conclusive.
- (g) Except where a resolution at a meeting of Members requires a special majority pursuant to the law, the resolution is passed if more votes are cast by Members entitled to vote in favour on the resolution than against it.
- (h) In the case of an equality of votes on a resolution at a meeting of Members, the chairperson of that meeting does not have a casting vote on that resolution.
- (i) Unless a poll is demanded and the demand is not withdrawn, a determination by the chairperson of a meeting of Members following a vote on a show of hands that a resolution has been passed or not passed is conclusive, without proof of the number or proportion of the votes recorded in favour or against the resolution.

35. Voting by representatives

- (a) The validity of any resolution passed at a meeting of Members is not affected by the failure of any proxy or attorney to vote in accordance with directions (if any) of the appointing Member.
- (b) If a proxy of a Member purports to vote in a way or circumstances that contravene the Corporations Act, on a show of hands the vote of that proxy is invalid and the Company must not count it. If a poll is demanded, votes which the Corporations Act require a proxy of a Member to cast in a given way must be treated as cast in that way.
- (c) Subject to this Constitution and the Corporations Act, a vote cast at a meeting of Members by a person appointed by a Member as a proxy, attorney or Corporate Representative is valid despite the revocation of the appointment (or the authority under which the appointment was executed), if no notice in writing of that matter has been received by the Company at least 48 hours before the commencement of

that meeting.

36. Restrictions on voting rights

- (a) The authority of a proxy or attorney for a Member to speak or vote at a meeting of Members to which the authority relates is suspended while the Member is present in person at that meeting.
- (b) An Attending Member is not entitled to vote on any resolution on which any Fee or other amount due and payable to the Company in respect of that Member's membership of the Company has not been paid.
- (c) An Attending Member is not entitled to vote on a resolution at a meeting of Members where that vote is prohibited by the Corporations Act or an order of a court of competent jurisdiction.
- (d) The Company must disregard any vote on a resolution at a meeting of Members purported to be cast by an Attending Member where that person is not entitled to vote on that resolution. A failure by the Company to disregard a vote on a resolution as required by this Article does not invalidate that resolution or any act, matter or thing done at the meeting, unless that failure occurred by wilful default of the Company or of the chairperson of that meeting.

37. Polls

- (a) A poll on a resolution at a meeting of Members may be demanded by a Member only in accordance with the Corporations Act or by the chairperson of that meeting.
- (b) No poll may be demanded at a meeting of Members on the election of a chairperson of that meeting, or unless the chairperson of the meeting otherwise determines, the adjournment of that meeting.
- (c) A demand for a poll may be withdrawn.
- (d) A poll demanded on a resolution at a meeting of Members for the adjournment of that meeting must be taken immediately. A poll demanded on any other resolution at a meeting of Members must be taken in the manner and at the time and place the chairperson of the meeting directs.
- (e) The result of a poll demanded on a resolution of a meeting of Members is a resolution of that meeting.
- (f) A demand for a poll on a resolution of a meeting of Members does not prevent the continuance of that meeting or that meeting dealing with any other business.

38. Proxies

- (a) A Member who is entitled to attend and vote at a meeting of Members may appoint a person as proxy to attend and vote for the Member in accordance with the Corporations Act but not otherwise.
- (b) A proxy appointed in accordance with the Corporations Act to attend and vote may only exercise the rights of the Member on the basis and subject to the restrictions provided in the Corporations Act.
- (c) A form of appointment of proxy is valid if it is in accordance with the Corporations Act or in any other form (including electronic) which the Board may determine or accept.

- (d) If the name of the proxy or the name of the office of the proxy in a proxy appointment of a Member is not filled in, the proxy of that Member is:
 - (i) the person specified by the Company in the form of proxy in the case the Member does not choose; or
 - (ii) if no person is so specified, the chairperson of that meeting.

39. Receipt of appointments

- (a) An appointment of proxy, attorney or Corporate Representative for a meeting of Members is effective only if the Company receives the appointment (and any authority under which the appointment was signed or a certified copy of the authority) not less than 48 hours before the time appointed for the meeting to commence or (in the case of an adjourned meeting) resume.
- (b) Where a notice of meeting specifies an electronic address or other electronic means by which a Member may give the Company a proxy appointment (and any authority under which the appointment is signed), a proxy given at that electronic address or by that other electronic means is taken to have been given by the Member and received by the Company if the requirements set out in the notice of meeting are complied with.

40. Adjournments

- (a) The chairperson of a meeting of Members may at any time during the meeting adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered at the meeting or any discussion or debate, either to a later time at the same meeting or to an adjourned meeting to be held at the time and place determined by the chairperson.
- (b) If the chairperson of a meeting of Members exercises the right to adjourn that meeting under Article 40(a) the chairperson may (but is not obliged to) obtain the approval of Attending Members to the adjournment.
- (c) No person other than the chairperson of a meeting of Members may adjourn that meeting.
- (d) The Company may give notice of a meeting of Members resumed from an adjourned meeting as the Board resolves. Failure to give notice of an adjournment of a meeting of Members or the failure to receive any notice of the meeting does not invalidate the adjournment or anything done (including the passing of a resolution) at a resumed meeting.
- (e) Only business left unfinished is to be transacted at a meeting of Members resumed after an adjournment.

41. Cancellations and postponements

- (a) Subject to the Corporations Act, the Company may by resolution of the Board cancel or postpone a meeting of Members or change the place for the meeting, prior to the date on which the meeting is to be held.
- (b) Article 41(a) does not apply to a meeting called in accordance with the Corporations Act by Members or by the Board on the request of Members, unless those Members consent to the cancellation or postponement.

- (c) The Company may give notice of a cancellation or postponement or change of place of a meeting of Members as the Board resolves. Failure to give notice of a cancellation or postponement or change of place of a meeting of Members or the failure to receive any notice of the meeting does not invalidate the cancellation, postponement or change of place of a meeting or anything done (including the passing of a resolution) at a postponed meeting or the meeting at the new place.
- (d) The only business that may be transacted at a meeting of Members the holding of which is postponed is the business specified in the original notice calling the meeting.

42. Meetings of a class of Members

All the provisions of this Constitution relating to a meeting of Members apply so far as they are capable of application and with any necessary changes to a meeting of a class of Members required to be held under this Constitution or the Corporations Act except that:

- (a) a quorum is 2 Attending Members who are (or whose Member they represent are) members of that class of Members, or if only one person is a member of that class of Members, that person (or an Attending Member representing that person); and
- (b) any Attending Member who is (or whose Member they represent is) a member of that class of Members may demand a poll.

Directors

43. Appointment of Directors

- (a) The number of Directors must be the number, not being less than 3 nor more than 8, determined by the Directors, but the number so determined at a particular time must not be less than the number of Directors in office when the determination takes effect.
- (b) Subject to Article 43(a) the Board may appoint any person as a Director.
- (c) Subject to Article 43(a) and Article 44(e), the Company may, at a meeting of Members at which a Director retires or otherwise vacates office, by resolution fill the vacated office by electing a person to that office.
- (d) A Director need not be, or represent, a Member.
- (e) A Director may, with the approval of the Directors, appoint any person as his or her alternate for a period determined by that Director.
- (f) An Alternate Director is entitled to notice of meetings of Directors and, if the appointor is not present at a meeting, is entitled to attend, be counted in a quorum and vote as a Director.
- (g) An Alternate Director is an officer of the Company and is not an agent of the appointor.
- (h) The provisions of this Constitution which apply to Directors also apply to Alternate Directors.
- (i) The appointment of an Alternate Director:
 - (i) may be revoked at any time by the appointor or by the other Directors; and

- (ii) ends automatically when the appointor ceases to be a Director.
- (j) Any appointment or revocation of an Alternative Director under this Article 43 must be effected by written notice delivered to the Company.

44. Retirement of Directors

- (a) A Director must retire from office no later than the longer of the third annual general meeting of the Company or 3 years following that Director's last election or appointment.
- (b) A Director who retires under Article 44(a) holds office as Director until the end of the meeting at which the Director retires and is eligible for re-election.
- (c) No person, other than a Director retiring under this Article 44 or a Director appointed under Article 43(b) or a person nominated by the Board, is eligible to be appointed as a Director at any meeting of members unless a nomination signed by a Member accompanied by the consent of the nominee to act is given to the Company at least 30 days before the date notified to Members under Article 26(c).
- (d) At the same time it notifies Members of the date under Article 26(c), the Company must:
 - (i) invite Members to nominate persons to be appointed to the Board; and
 - (ii) notify Members of the date by which nominations and consents of nominees are required to be given to the Company under Article 44(c)
- (e) A director who has held office for a continuous period of 9 years or more may only be re-elected by a special resolution of Members.

45. Termination of office

A person ceases to be a Director if the person:

- (a) fails to attend 3 consecutive Board meetings without the consent of the Board;
- (b) resigns by notice in writing to the Company;
- (c) retires under Article 44 and is not re-elected;
- (d) is removed from office under the Corporations Act;
- (e) becomes an insolvent under administration;
- (f) becomes of unsound mind or a person whose property is liable to be dealt with under a law about mental health; or
- (g) is not permitted to be a director, or to manage a corporation, pursuant to the Corporations Act or the Australian Charities and Not-for-profits Commission Act 2012 (Cth).

46. Interests of Directors

- (a) A Director is not disqualified by reason only of being a Director (or the fiduciary obligations arising from that office) from:

- (i) holding an office (except auditor) or place of profit in the Company or a related body corporate of the Company;
- (ii) holding an office or place of profit or employment in any other company, body corporate, trust or entity promoted by the Company or in which it has an interest;
- (iii) being a member, creditor or otherwise be interested in any body corporate (including the Company), partnership or entity, except auditor of the Company;
- (iv) entering into any agreement or arrangement with the Company; or
- (v) acting in a professional capacity (or being a member of a firm which acts in a professional capacity) for the Company, except as auditor of the Company,

provided that a Director (other than a Chief Executive Officer of the Company) may not be an employee of the Company or a related body corporate of the Company.

- (b) Each Director must comply with Corporations Act in relation to the disclosure of the Director's interests.
- (c) A Director who has a material personal interest in a matter that is being considered at a Board meeting must not be present while the matter is being considered at the meeting nor vote on the matter, except where permitted by the Corporations Act.
- (d) If a Director has an interest in a matter, then subject to Article 46(c) and Article 46(e) and this Constitution:
 - (i) that Director may be counted on in a quorum at the Board meeting that considers matters that relate to the interest provided that Director is entitled to vote on at least one of the resolutions to be proposed at that Board meeting;
 - (ii) that Director may participate in and vote on matters that relate to the interest;
 - (iii) the Company may proceed with any transaction that relates to the interest and the Director may participate in the execution of any relevant document by or on behalf of the Company;
 - (iv) the Director may retain the benefits under any transaction that relates to the interest even though the Director has the interest; and
 - (v) the Company cannot avoid any transaction that relates to the interest merely because of the existence of the interest.
- (e) If an interest of a Director is required to be disclosed under Article 46(b), Article 46(d)(iv) applies only if the interest disclosed before the transaction is entered into.

Officers

47. Chief Executive Officer and other management

- (a) The Board may appoint one or more persons as a chief executive officer of the Company, for any period and on any terms (including, subject to Article 6, as to remuneration) as the Board resolves. Subject to any agreement between the

Company and the Chief Executive Officer, the Board may vary or terminate the appointment at any time.

- (b) The Board may delegate any of its powers to a Chief Executive Officer for any period and on any terms (including the power to further delegate) as the Board resolves. The Board may revoke or vary any power delegated to a Chief Executive Officer of the Company. Where more than one Chief Executive Officer is appointed, the Board will determine the powers and responsibilities of each person.
- (c) A Chief Executive Officer must exercise the powers delegated to him or her in accordance with any directions of the Board.
- (d) Without limiting the powers or responsibilities of a Chief Executive Officer, a Chief Executive Officer must:
 - (i) as far as practicable, attend all Board meetings and general meetings of the Company;
 - (ii) as the Board's delegate, prepare the notice of and agenda for all Board meetings and meetings of Members;
 - (iii) as the Board's delegate, ensure minutes of proceedings of Board meetings and meetings of Members are taken and approved; and
 - (iv) regularly report to the Board regarding the activities of and issues relating to the Company.
- (e) Subject to the Corporations Act, this Constitution and any directive or delegation of the Board, a Chief Executive Officer will have the power to do all things as appear necessary or desirable to the Chief Executive Officer for the proper management and administration of the Company.
- (f) Subject to the Corporations Act, no resolution passed by the Members will invalidate any prior act of a Chief Executive Officer or the Board which would have been valid if that resolution had not been passed.
- (g) Subject to the Corporations Act, this Constitution and any directive or delegation of the Board, a Chief Executive Officer, in consultation with the Board, may procure the Company to employ such office personnel as are deemed necessary by the Chief Executive Officer and Board from time to time. Such appointments will be for such period and on such conditions as the Chief Executive Officer and the Board determine.

48. Secretary

The Board may appoint a Secretary, for any period and on any terms (including, subject to Article 6, as to remuneration) as the Board resolves. Subject to any agreement between the Company and the Secretary, the Board may vary or terminate the appointment of a Secretary at any time, with or without cause.

49. Indemnity and insurance

- (a) To the extent permitted by law, the Company may indemnify each Relevant Officer against a Liability of that person and the Legal Costs of that person.
- (b) The indemnity under Article 49(a):
 - (i) is enforceable without the Relevant Officer having first to incur any

- expense or make any payment;
- (ii) is a continuing obligation and is enforceable by the Relevant Officer even though the Relevant Officer may have ceased to be an officer of the Company; and
 - (iii) applies to Liabilities and Legal Costs incurred both before and after this Article 49 became effective.
- (c) To the extent permitted by law, the Company may make a payment (whether by way of advance, loan or otherwise) to a Relevant Officer in respect of Legal Costs of that person.
- (d) To the extent permitted by law, the Company may:
- (i) enter into, or agree to enter into; or
 - (ii) pay, or agree to pay, a premium for,
a contract insuring a Relevant Officer against a Liability of that person and the Legal Costs of that person.
- (e) To the extent permitted by law, the Company may enter into an agreement or deed with a Relevant Officer or a person who is, or has been, an officer of the Company or a subsidiary of the Company, under which the Company must do all or any of the following:
- (i) keep books of the Company and allow either or both that person and that person's advisers access to those books on the terms agreed;
 - (ii) indemnify that person against any Liability and Legal Costs of that person;
 - (iii) make a payment (whether by way of advance, loan or otherwise) to that person in respect of Legal Costs of that person; and
 - (iv) keep that person insured in respect of any act or omission by that person while a Relevant Officer or an officer of the Company or a subsidiary of the Company, on the terms agreed (including as to payment of all or part of the premium for the contract of insurance).

Powers of the Board

50. General powers

- (a) The Board has the power to manage the business of the Company and may exercise to the exclusion of the Company in general meeting all powers of the Company which are not, by the law or this Constitution, required to be exercised by the Company in general meeting.
- (b) A power of the Board can only be exercised by a resolution passed at a meeting of the Board in accordance with Article 55, a resolution passed by signing a document in accordance with Article 54, or in accordance with a delegation of the power under Article 47, 52 or 53. A reference in this Constitution to the Company exercising a power by a resolution of the Board includes an exercise of that power in accordance with a delegation of the power under Article 47, 52 or 53.

51. Execution of documents

- (a) If the Company has a common seal, the Company may execute a document if that seal is fixed to the document and the fixing of that seal is witnessed by one Director and either another Director, a Secretary, or another person appointed by the Board for that purpose.
- (b) The Company may execute a document without a common seal if the document is signed by one Director and either another Director, a Secretary, or another person appointed by the Board for that purpose.
- (c) The Board may determine the manner in which and the persons by whom cheques, promissory notes, bankers' drafts, bills of exchange and other negotiable or transferable instruments in the name of or on behalf of the Company, and receipts for money paid to the Company, must be signed, drawn, accepted, endorsed or otherwise executed.

52. Committees and delegates

- (a) The Board may delegate any of its powers to a committee of the Board, a Director, an employee of the Company or any other person. A delegation of those powers may be made for any period and on any terms (including the power to further delegate) as the Board resolves. The Board may revoke or vary any power so delegated.
- (b) A committee or delegate must exercise the powers delegated in accordance with any directions of the Board.
- (c) Subject to the terms of appointment or reference of a committee, Article 55 applies with the necessary changes to meetings of a committee of the Board.
- (d) A committee or delegate will operate with such name as is given to it by the Board.

53. Attorney or agent

- (a) The Board may appoint any person to be attorney or agent of the Company for any purpose, for any period and on any terms (including as to remuneration) as the Board resolves. Subject to the terms of appointment of an attorney or agent of the Company, the Board may revoke or vary that appointment at any time, with or without cause.
- (b) The Board may delegate any of their powers (including the power to delegate) to an attorney or agent as the Board resolves. The Board may revoke or vary any power delegated to an attorney or agent.

Proceedings of Directors

54. Written resolutions of Directors

- (a) The Board may pass a resolution without a Board meeting being held if notice in writing of the resolution is given to all Directors and a majority of the Directors entitled to vote on the resolution (not being less than the number required for a quorum at a meeting of Directors) sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) A resolution under Article 54(a) may consist of several documents in the same form each signed by one or more Directors and is effective when signed by the last of the Directors constituting the majority.

- (c) A facsimile transmission or other document produced by electronic means under the name of a Director with the Director's authority is taken to be a document signed by the Director for the purposes of Article 54(a) and is taken to be signed when received by the Company in legible form.

55. Board Meetings

- (a) Subject to this Constitution, the Board must meet, and may adjourn and otherwise regulate their meetings as it thinks fit.
- (b) On request of any Director, a Chief Executive Officer of the Company must call a meeting of the Directors.
- (c) A Chief Executive Officer may call a meeting of the Directors at any time.
- (d) Notice of a Board meeting must be given to each Director (except a Director on leave of absence approved by the Board). Notice of a Board meeting may be given in person, or by post or by telephone, fax or other electronic means.
- (e) A Director may waive notice of a Board meeting by giving notice to that effect to the Company in person or by post or by telephone, fax or other electronic means.
- (f) Anything done (including the passing of a resolution) at a Board meeting is not invalid because either or both a person does not receive notice of the meeting or the Company accidentally does not give notice of the meeting to a person.
- (g) For the purposes of the Corporations Act, each Director, by consenting to be a Director or by reason of the adoption of this Constitution, consents to the use of each of the following technologies for the holding of a Board meeting:
 - (i) telephone;
 - (ii) video;
 - (iii) any other technology which permits each Director to communicate with every other participating Director; or
 - (iv) any combination of these technologies.A Director may withdraw the consent given under this Article 55(g) in accordance with the Corporations Act.
- (h) If a Board meeting is held in 2 or more places linked together by any technology:
 - (i) Director present at one of the places is taken to be present at the meeting unless and until the Director states to the chairperson of the meeting that the Director is discontinuing her or her participation in the meeting; and
 - (ii) the chairperson of that meeting may determine at which of those places the meeting will be taken to have been held.
- (i) Until otherwise determined by the Board, a quorum for a Board meeting is a majority of the Directors entitled to vote on a resolution that may be proposed at that meeting. A quorum for a Board meeting must be present at all times during the meeting. Each individual present may only be counted once towards a quorum.

56. Chairperson of the Board

- (a) Subject to Articles 56(b) and 56(d), the Board will choose and appoint the chairperson of the Board from time to time.
- (b) The Board may remove the chairperson of the Board at any time and elect another Director as chairperson of the Board for any period they resolve, or if no period is specified, until that person ceases to be a Director.
- (c) Subject to Article 56(d), the chairperson of the Board must chair each Board meeting.
- (d) Only a director of the Company may be chosen and appointed as the chairperson of the Board.
- (e) A person does not cease to be a chairperson of the Board if that person retires as a Director at a meeting of Members and is re-elected as a Director at that meeting (or any adjournment of that meeting).

57. Board resolutions

- (a) Subject to Article 54(a), a resolution of the Board is passed if more votes are cast by Directors entitled to vote in favour of the resolution than against it.
- (b) Subject to Article 46, each Director present in person has one vote on a matter arising at a Board meeting.
- (c) In the case of an equality of votes on a resolution at a Board meeting, the chairperson of that meeting will not have a casting vote on that resolution in addition to any vote the chairperson has in his or her capacity as a Director in respect of that resolution.

58. Valid proceedings

- (a) An act at any Board meeting or a committee of the Board or an act of any person acting as a Director is not invalidated by:
 - (i) a defect in the appointment or continuance in office of a person as a Director, a member of the committee or of the person so acting; or
 - (ii) a person so appointing being disqualified or not being entitled to vote, if that circumstance was not known by the Board, committee or person (as the case may be) when the act was done.
- (b) If the number of Directors is below the minimum required by this Constitution, the Board must not act except in emergencies, to appoint Directors up to that minimum number or to call and arrange to hold a meeting of Members.

Notices

59. Notices to Members

- (a) The Company may give Notice to a Member by any of the following means in the Board's discretion:
 - (i) delivering it to that Member;
 - (ii) leaving it at, or sending it by post to, the address of the Member in the Register or the alternative address (if any) nominated by that Member for

- that purpose;
- (iii) sending it to the fax number or electronic address (if any) nominated by that Member for that purpose;
 - (iv) if permitted by the Corporations Act, notifying that Member of the notice's availability by an electronic means nominated by the Member for that purpose; or
 - (v) any other means permitted by the Corporations Act.
- (b) Where a Member does not have an address in the Register or where the Board believes that a Member is not at the address in the Register, the Company may give Notice to that Member by exhibiting the Notice at the registered office of the Company for a period of 48 hours, unless and until the Member gives the Company written notice of an address for the giving of Notices.
- (c) The Company must send all documents to a Member whose address for Notices is not within Australia by air-mail, air courier, fax or electronic transmission.
- (d) Any Notice required or allowed to be given by the Company to one or more Members by advertisement is, unless otherwise stipulated, sufficiently advertised if advertised once in a daily newspaper circulating in the states and territories of Australia.

60. Notice to Directors

The Company may give Notice to a Director by:

- (a) delivering it to that person;
- (b) sending it by post to the usual residential address of that person or the alternative address (if any) nominated by that person for that purpose;
- (c) sending it to the fax number or electronic address (if any) nominated by that person for that purpose; or
- (d) any other means agreed between the Company and that person.

61. Notice to the Company

A person may give Notice to the Company by:

- (a) leaving it at, or by sending by post to, the registered office of the Company;
- (b) leaving it at, or by sending it by post to, a place nominated by the Company for that purpose;
- (c) sending it to the fax number at the registered office of the Company nominated by the Company for that purpose;
- (d) sending it to the electronic address (if any) nominated by the Company for that purpose; or
- (e) any other means permitted by the Corporations Act.

62. Time of service

- (a) A Notice sent by post or air-mail is taken to be given on the day after the date it is

posted.

- (b) A Notice sent by fax or other electronic transmission is taken to be given when the transmission is sent provided that in the case of notice to the Company or a Director, the sender meets any action required by the recipient to verify the receipt of the document by the recipient.
- (c) A Notice given in accordance with Article 59(a)(iv) is taken to be given on the day after the date on which the Member is notified that the Notice is available.
- (d) A Notice given in accordance with Article 59(b) is taken to be given at the commencement of the 48 hour period referred to in that Article.
- (e) A certificate by a Director or Secretary to the effect that a Notice by the Company has been given in accordance with this Constitution is conclusive evidence of that fact.

63. Notice requirements

The Board may specify, generally or in a particular case, requirements in relation to Notices given by any electronic means, including requirements as to:

- (a) the classes of, and circumstances in which, Notices may be sent;
- (b) verification (whether by encryption code or otherwise); and
- (c) the circumstances in which, and the time when, the Notice is taken to be given.

Patrons of the Company

64. Appointment

- (a) The Board may invite any person or persons to become a patron or patrons of the Company.
- (b) If a person accepts an invitation to become a patron, the Board may appoint the person a patron for such period, on such terms and with such functions as the Board resolves.
- (c) A person who is appointed a patron of the Company will not be a Director by reason of that appointment alone.
- (d) The Board may revoke or vary a person's appointment as a patron at any time and for any reason (including for no reason), notwithstanding the terms of an appointment.

Winding up

65. Winding up of the Fund

In case of the winding-up of the Fund, any surplus assets are to be transferred to another fund with similar objectives that is on the Register of Environmental Organisations.

66. Winding up of the Company

- (a) Subject to paragraph (b), on a winding up of the Company, any surplus assets of the Company remaining after the payment of its debts must not be paid to or

distributed among the Members, but must be given or transferred to:

- (i) one or more bodies corporate, associations or institutions (whether or not a Member or Members) selected by the Members by resolution at or before the dissolution of the Company:
 - (A) having object similar to the objects of the Company; and
 - (B) whose constitution prohibits the distribution of its or their income or property to no lesser extent than that imposed on the Company under Article 6; or
 - (ii) if there are no bodies corporate, associations or institutions which meet the requirements of Article 66(a)(i), to one or more bodies corporate, associations or institutions (whether or not a Member or Members) selected by the Members by resolution at or before dissolution of the Company, the objects of which are the promotion of charity and gifts to which are allowable deductions under the Income Tax Assessment Act 1997 (Cth); or
 - (iii) if the Members do not make a selection pursuant to Article 66(a)(i) or Article 66(a)(ii) for any reason, to one or more bodies corporate, associations or institutions meeting the requirements of either Article 66(a)(i) or 66(a)(ii) selected by the Board, subject to Board obtaining court approval under the Corporations Act to exercise this power.
- (b) If the Fund and the Company are wound-up simultaneously, any surplus assets in the Fund must be transferred in accordance with Article 65 before any transfer occurs under Article 66(a).

Audit and accounts

67. Audit and accounts

- (a) The Directors must cause the Company to keep written financial records in relation to the business of the Company in accordance with the requirements of the Corporations Act.
- (b) The Directors must cause the financial records of the Company to be audited in to the extent required by, and otherwise in accordance with, the requirements of the Corporations Act.

Public fund

68. Public fund

- (a) The Company must notify the Commonwealth Department of the Environment (or such other government department as is responsible for the environment) as soon as possible if:
 - (i) it changes its name or the name of the Fund;
 - (ii) there is any change to the membership of the management committee of the Fund; or
 - (iii) there has been any departure from the model rules for public funds located in the Guidelines to the Register of Environmental Organisations

(as published by the Commonwealth Department of the Environment).

- (b) The Company will agree to comply with any rules that the Commonwealth Treasurer and the Minister with responsibility for the environment may make to ensure that gifts made to the fund are only used for its principal purpose.
- (c) Any allocation by the Company of funds or property to other persons or organisations will be made in accordance with the established purposes of the Company and not be influenced by the preference of the donor.
- (d) The Company will provide statistical information requested by the Department of the Environment on donations to the Fund within four months of the end of the financial year.
- (e) The Company will prepare and supply audited financial statements for the Company and the Fund with the annual statistical return. The statements will provide information on the expenditure of the Fund monies and the management of the Fund assets.
- (f) The objective of the Fund is to support the Company's environmental purposes.
- (g) Members of the public are to be invited to make gifts of money or property to the Fund for the environmental purposes of the Company.
- (h) Money from interest on donations, income derived from donated property, and money from the realisation of such property is to be deposited into the Fund.
- (i) A separate bank account is to be opened to deposit money donated to the Fund, including interest accruing thereon, and gifts to it are to be kept separate from other funds of the Company.
- (j) Receipts are to be issued in the name of the Fund and proper accounting records and procedures are to be kept and used for the Fund.
- (k) The Fund will be operated on a not-for-profit basis.
- (l) A committee of management of no fewer than three persons will administer the Fund. The committee will be appointed by the Company. A majority of the members of the committee are required to be 'responsible persons' as defined by the Guidelines to the Register of Environmental Organisations.