

**CONSTITUTION**

**OF**

**MISSION WITHOUT BORDERS**  
**(AUSTRALIA) LIMITED**

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Corporations Act  
Company Limited by Guarantee

**CONSTITUTION**  
**OF**  
**MISSION WITHOUT BORDERS (AUSTRALIA) LIMITED**

**NAME**

1. The name of the Company is Mission Without Borders (Australia) Limited ACN 000 827 798.

**OBJECTS**

2. The objects of the Company are:
  - a. Motivated by the Christian faith, and in accordance with a Christian worldview consistent with the Statement of Faith, to relieve poverty, sickness, suffering, distress, misfortune, disability or helplessness of people and to work proactively to enhance the physical, mental, emotional and spiritual wellbeing of people, in Australia and overseas, without discrimination due to age, sex, race, ethnic background, religion, political beliefs or marital status;
  - b. To give to other entities providing direct benevolent relief; and
  - c. To engage in income producing activities to aid in the funding of the benevolent relief;

**LIABILITY**

3. The liability of the members is limited. Every Member of the Company undertakes to contribute such amount as may be required not exceeding \$20.00 to the assets of the Company if the Company is wound up during the time he or she is a member or within one year afterwards for:
  - a. payment of the debts and liabilities of the Company contracted before the time he or she ceased to be member;

- b. the costs, charges and expenses of winding up the Company; and
- c. the adjustment of the rights of the members among themselves.

#### **INCOME AND PROPERTY**

- 4. The Company's income and property is to be applied solely towards the promotion of the Company's objects as set out in this Constitution. No part of the Company's income and property may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to the Members of the Company. However, this clause does not prevent:
  - a. the payment in good faith of remuneration to any employee of the Company or to any member or other person in return for any services actually rendered to the Company;
  - b. the payment to a Director of out-of-pocket expenses incurred in carrying out the duties of a director where the payments do not exceed an amount previously approved by the Board;
  - c. the payment to a member of the Board for any service rendered to the Company in a professional or technical capacity where:
    - d. the provision of that service has the prior approval of the Board; and
    - e. the amount payable is approved by a resolution of the Board and is on reasonable commercial terms;
  - f. the payment to a Director as an employee of the Company where the terms of employment have been approved by a resolution of the Board;
  - g. the payment to Members of interest on any money borrowed from such Members for the purpose of the Company at a rate not exceeding the lowest rate paid for the time being by the Company's principal bank in New South Wales in respect of term deposits of \$50,000.00 for six months;

- h. the payment to members of reasonable market rent for premises leased by any Member to the Company.

## **USE OF PROPERTY ON WINDING UP**

### **5. No distribution to Members on winding up**

If, on the Company's winding up or dissolution, there remains after satisfaction of all its debts and liabilities, any property whatsoever (surplus), the surplus shall not be paid or distributed among the Members of the Company.

### **6. Distribution of surplus on winding up**

Subject to clause 5, the surplus shall be given or transferred to some other institution or institutions in Australia which is/are public benevolent institutions to which income tax deductible gifts can be made, such institution or institutions to be determined by the Members of the Company at or before the time of dissolution and in default thereof by a Judge of the Supreme Court of a State or Territory in which the Company operates.

### **7. Public Benevolent Institution**

#### **7.1 Use of gifts and contributions for principal purpose**

If the Company is endorsed as a Public Benevolent Institution, any gift or contribution to that institution must only be used for the principal purpose for which the Company was granted Deductible Gift Recipient status.

#### **7.2 Distribution of assets on revocation of Public Benevolent Institution tax endorsement**

If the tax endorsement of the Company as a Public Benevolent Institution is revoked, the following assets remaining after the payment of the Company's liabilities shall be transferred to an institution with similar objects, which is charitable at law and registered as a Public Benevolent Institution and to which income tax deductible gifts can be made, such institution to be determined by the members of the Company at the time the endorsement is revoked and in default thereof by a Judge of the Supreme Court of a State or Territory in which the Company operates:

- 1.1.1 gifts of money or property for the principal purpose of the Company;
- 1.1.2 contributions made in relation to an eligible fundraising event held for the principal purpose of the Company; and
- 1.1.3 money received by the Company because of such gifts and contributions.

#### **7.3 Keeping of records**

If the Company is endorsed as a Public Benevolent Institution the Company must:

- 1.1.4 Keep records that record and explain all transactions and other acts the Company engages in that are relevant to the Company's status as a Deductible Gift Recipient; and

- 1.1.5 Retain those records for at least five (5) years after the completion of the transactions or acts to which they relate.

## **8. AMALGAMATION**

The Company must not amalgamate with any other body that does not have Tax Concession Charity status.

## **DEFINITIONS**

9. In this Constitution, the following words and expressions have the meanings indicated unless the context requires otherwise.

"ACT" means the Corporations Act 2001 (Cth) as amended from time to time.

"ACNC" means the Australian Charities and Not-for-profits Commission Act 2012 (Cth) as amended from time to time.

"Auditor" means the Company's auditor.

"Board" means the Board of Directors of the Company.

"Company" means Mission Without Borders (Australia) Limited ACN 000 827 798.

"Constitution" means the Constitution of the Company as amended from time to time.

"Director" means a person elected or appointed as a Director of the Company.

"Members" means the people shown as members on the Company's register of members.

"Notice" includes all written communications to members.

"Office" means the Company's registered office.

"Register" means the Company's register of members.

"Registered address" means the last known address of a member as noted in the Register.

"Secretary" means any person appointed by the Board to perform the duties of a secretary of the Company and includes an Honorary Secretary.

## **INTERPRETATION**

10. a. Words importing the singular number include the plural and the converse applies.
- b. Words importing persons include corporations, companies, associations and institutions.
- c. A reference to the *Corporations Act* is a reference to the *Corporations Act* as modified or amended from time to time.
- d. Unless the context otherwise requires, headings are for ease of reference only and do not affect the construction of this Constitution.

## **APPLICATION OF CORPORATIONS ACT**

11. Unless the contrary intention appears in this Constitution:
  - a. an expression in this Constitution has the same meaning as in that part of the *Corporations Act* which deals with the same matter as this Constitution; and
  - b. an expression which is given a general meaning by the *Corporations Act* has the same meaning in this Constitution; and
  - c. the replaceable rules set out in the *Corporations Act* do not apply.

## **MEMBERSHIP**

12. A member of the Company is a person who:
  - a. is a subscriber to the Constitution; or
  - b. has applied for membership in accordance with this Constitution and whose name is recorded in the Register.
13. The Board may elect as a member of the Company any person who:
  - a. consents in writing to being a member; and
  - b. signs a commitment to the Company's Objects.

## **CATEGORIES OF MEMBERSHIP**

14. At the time of incorporation, all members are ordinary members.
15. Additional categories of members may be created from time to time by the Board.

## **APPLICATION FOR MEMBERSHIP**

16. Any natural person who is not less than 18 years of age at the date of application may apply for ordinary membership of the Company.
17. An application for membership must be in writing in a form approved by the Board.
18. The Board may accept or reject an applicant for membership without giving a reason.

## **ADMISSION TO MEMBERSHIP**

19. As soon as practicable after the Company receives an application for membership which satisfies the requirements of this Constitution:
  - a. the Company must notify the applicant of admission in writing; and
  - b. the name and details of the applicant must be entered in the Register.

## **REGISTER OF MEMBERS**

20. Register must be kept

The Board must keep a Register of Members.

21. Contents of Register

The following information must be contained in the Register of Members in respect of each Member:

- a. the full name of the Member;
  - b. the address of the Member;
  - c. the date of admission to and cessation of membership;
  - d. in the case of a Corporate Member, the full name and address of its nominated representative;
  - e. if a person is admitted as a Member as the nominated representative of an unincorporated association or body, the full name and address of the Member, the name of the unincorporated association or body and the fact that the Member is its nominated representative. Subject to the Directors' right to decline to accept any person as a Member, the unincorporated association or body may replace the Member who is its nominated representative with another person by notice in writing to the Company signed by any officer of the association or body concerned and setting out the details of the new nominated representative, without it being necessary for the outgoing Member to resign or the incoming Member to apply to become a Member; and
  - f. such other information as the Board requires.
22. Member must notify changes

Each Member and nominated representative must notify the Secretary in writing of any change in that person's name or address.

23. Evidence of membership

Inclusion of a name in the Register of Members is prima facie evidence of membership.

### **CESSATION OF MEMBERSHIP**

24. Any member may by notice to the Secretary resign as a member with immediate effect or with effect from a particular date subsequent to, but not being later than six months from, the date of that notice.
25. The Board may by resolution of at least three-quarters of its members expel a member of the Company from the Company if the member:
  - a. wilfully refuses or neglects to comply with the provisions of this Constitution; or
  - b. in the Board's opinion ceases:
    - i. to have an active interest in the Company; or
    - ii. to be committed to the Company's Objects.
26. Before resolving to expel a member, the Board must give the member:
  - a. at least one week's notice of the Board meeting at which the resolution for expulsion is to be put and of the intended resolution for expulsion; and
  - b. an opportunity of attending the meeting and of giving at it orally or in writing any explanation or defence which the member may desire to offer.

### **GENERAL MEETINGS**

27.
  - a. The Board may, at any time, convene a general meeting.
  - b. The Board must convene in every calendar year a general meeting, to be called the annual general meeting, which is to be held at such time as may be determined by the Board.
  - c. A member may requisition, convene, or join in requisitioning or convening a general meeting in accordance with the *Corporations Act*.



## **NOTICE OF GENERAL MEETINGS**

28. a. At least 21 days' notice must be given to members of all general meetings.
- b. A notice convening a general meeting must:
- i. set out the place, date and time for the meeting (and, if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this); and
  - ii. state the general nature of any special business to be transacted at the meeting.
- c. For the purposes of the preceding paragraph, special business means any business to be transacted at a meeting other than an annual general meeting and any business to be transacted at an annual general meeting other than the matters listed in paragraphs a. to c. inclusive of the next clause.
- d. The Board may postpone or cancel any general meeting whenever it thinks fit, other than a meeting convened under paragraph c. of the previous clause.
- e. The Board must give notice of the postponement or cancellation to all members.
- f. The failure or accidental omission to send a notice of a general meeting or the adjournment or postponement or cancellation of a general meeting to any member or the non-receipt of a notice by any member does not invalidate the proceedings at or any resolution passed at the general meeting.

## **CALLING MEETINGS ON SHORTER NOTICE**

29. Except in the circumstances set out in clause 30 below, the Company may call on shorter notice:
- a. an Annual General Meeting, if all the members entitled to attend and vote at the Annual General Meeting agree in writing beforehand; and
  - b. an extraordinary general meeting, if members with at least 95% of the votes that may be cast at the extraordinary general meeting agree in writing beforehand.
30. Shorter notice not allowed

At least 21 days notice must be given of a meeting of the members at which a resolution will be moved to:

- a. remove a director under section 203D of the Act; or
- b. appoint a director in place of a director removed section 203D of the Act; or
- c. remove an auditor under section 329 of the Act.

## **ANNUAL GENERAL MEETINGS**

31. The business of an annual general meeting is to:
- a. receive and consider the accounts and reports of the Board and the Auditor required by the *Corporations Act*;
  - b. elect the Directors to be elected pursuant to this Constitution;
  - c. when relevant, appoint the Auditor; and
  - d. transact any other business which under this Constitution may be transacted at a general meeting.

#### **QUORUM AT GENERAL MEETINGS**

32. a. No business may be transacted at a general meeting unless a quorum of members is present, in person or by proxy or representative, when the meeting proceeds to business.
- b. A quorum of members is not fewer than 50% of the members entitled to vote.
- c. If a quorum is not present within 30 minutes after the time appointed for a meeting:

- i. if the meeting was convened on the requisition of members, it is automatically dissolved; or
- ii. in any other case:
  - (1) it stands adjourned to the same time and place 7 days after the meeting, or to another day, time and place determined by the Board; and
  - (2) if at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, a quorum is 2 members.

### **CHAIRMAN OF GENERAL MEETINGS**

33. The Chairman, or in the Chairman's absence, the Deputy Chairman, presides as Chairman at every general meeting. If neither of such officers is present within 10 minutes after the time appointed for the meeting, the members present must choose one of their number as Chairman of the meeting.

### **ADJOURNMENT OF GENERAL MEETINGS**

34. a. The chairman of a meeting at which a quorum is present:
- i. in his or her discretion may adjourn a meeting with the meeting's consent; and
  - ii. must adjourn a meeting if the meeting directs him or her to do so.
- b. An adjourned meeting may take place at a different venue to the initial meeting.
- c. The only business that can be transacted at an adjourned meeting is the unfinished business of the initial meeting.
- d. A resolution passed at a meeting resumed after an adjournment is passed on the day it was passed.
- e. Notice of an adjourned meeting must only be given if a general meeting has been adjourned for one month or more. If notice is required, it must be at least 21 days' notice.
- f. No poll may be demanded on the question of adjournment of a meeting except by the chairman.

### **RESOLUTIONS AND POLLS AT GENERAL MEETINGS**

35. a. Subject to the *Corporations Act* in relation to special resolutions, a resolution is carried if a majority of the votes cast on the resolution are in favour of the resolution.

- b. A resolution put to the vote of a meeting is decided on a show of hands unless a poll is demanded by:
    - i. the chairman; or
    - ii. any five members who have the right to vote at the meeting and who are present in person or by proxy or representative; or
    - iii. members with at least 5% of the votes that may be cast on the resolution.
  - c. A poll may be demanded:
    - i. before a vote on a show of hands takes place;
    - ii. after a vote on a show of hands takes place but before the declaration of the result of the show of hands; or
    - iii. immediately after the declaration of the result of a show of hands.
  - d. Unless a poll is demanded:
    - i. a declaration by the chairman that a resolution has been carried or lost; and
    - ii. an entry to that effect in the minutes of the meeting,

are conclusive evidence of the fact without proof of the number or proportion of the votes in favour of or against the resolution.
  - e. The demand for a poll may be withdrawn.
  - f. A poll must be taken at the time and in the manner that the chairman directs.
  - g. The result of the poll is the resolution of the meeting at which the poll is demanded.
  - h. A poll demanded on the election of the chairman or the adjournment of a meeting must be taken immediately.
  - i. After a poll has been demanded at a meeting, the meeting may continue for the transaction of business other than the question on which the poll was demanded.
36. a. A decision of a general meeting may not be invalidated on the ground that a person voting at the meeting was not entitled to do so.
- b. A challenge to a right to vote at a general meeting may only be made at the meeting.
  - c. The chairman must determine such challenge and such determination, if made in good faith, is final.

## **CHAIRMAN'S CASTING VOTE AT GENERAL MEETINGS**

37. The chairman has a casting vote on a show of hands and on a poll in addition to the chairman's votes as a member, proxy or representative.

## **RIGHT TO VOTE AT GENERAL MEETINGS**

38. Every member has one vote.

## **PROXY**

39. A member may by notice to the Secretary appoint another member as his or her proxy to attend and vote at general meetings instead of him or her and any proxy has the same right as the member to speak at the meeting.
40. The notice must be in a form approved by the Board.
41. The notice must be signed:
  - a. by the appointor or by his or her attorney; or
  - b. if the appointor is an organisation, either under seal or by an officer or attorney of the organisation.
42. The notice may specify the manner in which the proxy is to vote in respect of a particular resolution. Where it does so, the proxy must not vote in any other way. A proxy may vote as the proxy thinks fit on any motion or resolution in respect of which no manner of voting is indicated.
43.
  - a. The notice and, if the notice is signed by the appointor's attorney, the authority under which the appointment was signed or a certified copy of the authority must be received by the Company at least 48 hours before the meeting.
  - b. If a Company meeting has been adjourned, a notice and any authority received by the company at least 48 hours before the resumption of the meeting are effective for the resumed part of the meeting.
44. A proxy instrument received at an electronic address specified in the notice of meeting for the receipt of proxy instruments will be taken to have been signed if the appointment of the proxy:
  - a. includes or is accompanied by a personal identification code allocated by the company to the member making the appointment; or
  - b. has been authorised by the member in another manner approved by the directors and specified in or with the notice of meeting.

## **MANAGEMENT OF THE COMPANY**

45. The Company's business is managed by or under the direction of the Board which may exercise all the Company's powers which are not required by this Constitution or any law to be exercised by the Company in general meeting.

## **COMPOSITION OF THE BOARD**

46. The Board of Directors consists of at least three but not more than eight directors.
47. The Board consists of the Directors in office when this Constitution is adopted. They are to hold office subject to this Constitution until the close of the first annual general meeting after this Constitution is adopted when they must retire from office (but are eligible for election to the Board at that first annual general meeting). Thereafter, the Directors are elected by the members from among their number at each annual general meeting (including the first after this Constitution is adopted) to hold office subject to this Constitution until the close of the next annual general meeting when they must retire from office but are eligible for re-election.
48. A person is not eligible for election as a Director at any General Meeting unless:
- a. the person or some other member has at least 28 days before the meeting left at the office a notice (endorsed with the person's consent) proposing the person for appointment as a Director (if a person is recommended by the Board for election, such notice is not required); and
  - b. the person is a member; and
  - c. the person has signed a commitment to the Company's Objects and Policies.

## **CASUAL VACANCIES ON THE BOARD**

49. Any casual vacancy among the Directors elected by the members must be filled by the Directors appointing a person from among the members. A Director appointed in this way holds office until the close of the next annual general meeting when that Director must retire from office but is eligible for re-election.
50. The Board may act even if there are vacancies on the Board.
51. If at any time the number of Directors in office is fewer than three, the Board may meet and act only:
- a. to appoint a Director; or
  - b. to elect a person as a member of the Company; or
  - c. to convene a general meeting.

## **DEFECT IN APPOINTMENT**

52. If it is discovered that:

- a. there was a defect in the appointment of a person as a Director or member of a Board committee; or
- b. a person appointed to one of those positions was disqualified;

all acts of the Board or the Board committee before the discovery was made are as valid as if the person had been duly appointed and was not disqualified.

## **REMUNERATION OF DIRECTORS**

53. The Directors may be paid all travelling and other expenses properly incurred by them in attending and returning from Directors' meetings or any committee meetings or General Meetings or otherwise in connection with the Company's business, provided that any such payment would be reasonable in the circumstances of the Company. Any such payment must be approved by the Directors.

## **CHAIRMAN OF THE BOARD**

54. At the first Board meeting after each annual general meeting, the Directors must elect a Director as Chairman and a Director as Deputy Chairman. If the Chairman or Deputy Chairman ceases to be a Director, that person must immediately vacate the office of Chairman or Deputy Chairman as the case may be.

55. Any casual vacancy occurring in the office of Chairman or Deputy Chairman must be filled by the Directors. The newly elected person holds office for the remainder of the term of office of the former Chairman or Deputy Chairman but is eligible for re-election.

## **VACATION OF OFFICE OF DIRECTOR**

56. The office of a Director is vacated if that Director:

- a. dies;
- b. resigns by notice to the Company;
- c. becomes bankrupt or, as the debtor, becomes a party to a personal insolvency agreement;
- d. becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- e. is absent from three consecutive meetings of the Board without leave of the Board;
- f. ceases to be a member of the Company; or
- g. is found guilty of any offence punishable under the criminal or company law of any country or the law of any country relating to charities or trusts; or

- h. otherwise ceases to be, or becomes prohibited from being, a Director by virtue of the *Corporations Act*.

## **SECRECY OBLIGATIONS**

- 57. Every Director and other agent or officer of the Company must keep secret all aspects of all transactions of the Company, except:
  - a. to the extent necessary to enable the person to perform his or her duties to the Company;
  - b. as required by law;
  - c. when requested to disclose information by the Board to the Auditor or a general meeting of the Company;
  - d. as otherwise permitted by the Board.

## **PROCEEDINGS OF THE BOARD**

- 58. The Board may meet together for the dispatch of business, adjourn or otherwise regulate its meetings and proceedings as it thinks fit.
- 59.
  - a. A Board meeting may be held by the Directors communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion.
  - b. The Directors need not all be physically present in the same place for a Board meeting to be held.
  - c. A Director who participates in a meeting held in accordance with this clause is taken to be present and entitled to vote at the meeting.

## **BOARD QUORUM**

- 60. The quorum necessary for the transaction of the business of the Board is 50% of the Directors entitled to vote.

## **CHAIRMAN OF BOARD MEETINGS**

- 61. The Chairman or, in his or her absence, the Deputy Chairman must take the chair at all Board meetings. If at any meeting neither of such officers is present within 10 minutes after the time appointed for holding the meeting, the Directors present must choose one of their number to be chairman of the meeting.

## **VOTING AT BOARD MEETINGS**

- 62. Questions arising at a Board meeting are decided by a majority of the votes of the Directors present and voting. In case of an equality of votes, the Chairman of the meeting has a casting vote in addition to his or her deliberative vote.



## **CONVENING OF SPECIAL BOARD MEETINGS**

63. Upon the written requisition of any two Directors, the Chairman, or Deputy Chairman, or in their absence the Secretary, must convene a special meeting of Board to be held within 14 days after the receipt of the requisition. The requisition must set out the purposes for which the meeting is required.

## **BOARD RESOLUTIONS WITHOUT A MEETING**

64. a. If all the Directors who are eligible to vote on a resolution have signed a document containing a statement that they are in favour of a resolution in terms set out in the document, then a resolution in those terms is taken to have been passed at a Board meeting held on the day on which the document was last signed by a Director.
- b. For the purposes of paragraph a., two or more identical documents, each of which is signed by one or more Directors, together constitute one document signed by those Directors on the days on which they signed the separate documents.
- c. Any document referred to in this clause may be in the form of electronic mail or facsimile transmission.
- d. The minutes of Board meetings must record that a meeting was held in accordance with this clause.
- e. This clause applies to meetings of Board committees as if all members of the committee were Directors.

## **MATERIAL PERSONAL INTEREST**

65. a. Unless permitted by the *Corporations Act*, a Director who has a material personal interest in a matter that is to be considered at a Board meeting:
- i. must not vote on the matter or be present while the matter is being considered at the meeting; and
  - ii. must not be counted in a quorum in relation to that matter.
- b. Paragraph a. does not apply to an interest that the Director has as a member in common with the other members.
- c. The quorum for consideration at a Board meeting of a matter in which one or more Directors have a material personal interest is 50% of the Directors who are entitled to vote on any motion that may be moved at the meeting in relation to that matter.
- d. Each Director must disclose to the Company any material contract in which the Director is interested, and must provide the Company with the names of the parties to the contract, particulars of the contract, and the Director's interest in the contract.
- e. A Director's failure to make disclosure under this clause does not render void or voidable a contract in which the Director has an interest.

## **MINUTES**

66. a. The Board must cause minutes to be made of:
- i. the names of the Directors present at all general meetings, Board meetings and meetings of Board committees;
  - ii. all proceedings of general meetings, Board meetings and meetings of Board committees;
  - iii. all appointments of officers;
  - iv. all orders made by the Board and Board committees; and
  - v. all disclosures of interests made pursuant to the previous clause.
- b. Minutes must be signed by the chairman of the meeting or by the chairman of the next meeting of the relevant body and if so signed are as between the members conclusive evidence of the matters stated in such minutes.

## **COMMITTEES**

67. The Board may delegate any of its powers to committees consisting of such persons as it thinks fit and may revoke such delegation. Any committee so formed must conform to any rules imposed upon it by the Board. The meetings and proceedings of any such committee consisting of two or more members are governed by the clauses of this Constitution for regulating the meetings and proceedings of Board so far as the same are applicable and are not superseded by any rule made by the Board under this clause.

## **SECRETARY**

68. The Board must appoint a Secretary for such term, at such remuneration (if any) and upon such conditions as it thinks fit.
69. The Secretary may be removed by the Board.

## **FINANCIAL REPORT**

70. a. The Board must cause the Company to prepare a financial report of the Company's business in accordance with the *Corporations Act*.
- b. The Board must cause the financial report to be:
- i. audited; and
  - ii. laid before the annual general meeting of the Company.
- c. A copy of the financial report must be sent to all persons entitled to it.
71. The financial report when audited (and, if required, approved by a general meeting) is conclusive except as regards any material error discovered in the report within 6 months

next after its approval. Whenever any material error is discovered within that period, the financial report must immediately be corrected and then it is conclusive.

## **ACCOUNTS**

### 72. Keeping of financial records

True accounts shall be kept in accordance with the Act, the ACNC Act and any Charitable Fundraising Legislation (as applicable), of the sums of money received and expended by the Company and the matters in respect of which receipt and expenditure takes place and of the proper credits and liabilities of the Company.

### 73. Inspection by Members

The Board shall from time to time determine at what times and places and under what conditions the accounting and other records of the Company shall be open to the inspection of Members.

### 74. Reporting to Members

The Board shall provide annual financial reporting to Members in accordance with the Act.

## **INSURANCE**

### 75. Insurance for Directors, Secretaries and other officers

Subject to the Act, the Company may pay insurance premiums in respect of insurance for the benefit of a Director, Secretary or another officer of the Company acting in that capacity against:

1.1.6 costs and expenses in defending any proceedings, whether civil or criminal, whatever their outcome; or

1.1.7 a liability arising from negligence or other conduct not being a liability incurred by the person acting in that capacity and arising out of conduct involving a wilful breach of duty in relation to the Company or a breach of the provisions of the Act dealing with improper use of inside information or position.

### 76. Insurance for others

The Company may pay insurance premiums in respect of insurance for the benefit of the auditor or an employee of the Company who is not a Director, Secretary or another officer of the Company concerned in the management of the Company.

## **NOTICES**

### 77. Notices must be in writing.

### 78. A notice may be served by the Company on a member by any of the following methods:

a. by serving it personally on the member;

- b. by leaving it at the registered address;
  - c. by sending it by post in a prepaid envelope addressed to the member at the registered address;
  - d. by sending it by facsimile transmission to a facsimile number nominated by the member for the purpose of serving notices on the member; or
  - e. by sending it by electronic mail to an electronic mail address nominated by the member for the purpose of serving notices on the member.
79. Each member whose registered address is not in Australia may notify the Company of an address in Australia which is taken to be that member's registered address for the purpose of serving notice.
80. Any notice sent by post, air-mail or air courier is taken to have been served on the business day following that on which the envelope containing the notice is posted or delivered to the air courier. In proving service, it is sufficient to prove that the envelope containing the notice was properly addressed and put into the post office or other public postal receptacle or delivered to the air courier. A certificate in writing signed by any officer of the Company that the envelope containing the notice was so addressed and posted is conclusive.
81. Any notice sent by facsimile transmission or electronic mail is taken to have been served when the transmission is sent.
82. Any notice sent by post to or left at the registered address is taken to have been properly served even if the member is then dead or bankrupt and whether or not the Company has notice of the death or bankruptcy.
83. The signature to any notice given by the Company may be written or printed or a facsimile of the signature may be affixed by mechanical or other means.
84. Where a period of notice is required to be given, the day on which the notice is served and the day of doing the act or other thing is not included in the number of days or other period.

## INDEMNITY

85. Each officer is, to the maximum extent permitted by law, indemnified out of the property of the Company against any liability the officer may incur to another person as such an officer, except to the extent the liability is any of the following:
- a. a liability owed to the Company or a related body corporate;
  - b. a liability for a pecuniary penalty order under section 1317G of the *Corporations Act* or a compensation order under sections 1317H or 1317HA of the *Corporations Act*; or
  - c. a liability that is owed to someone other than the Company or a related body corporate and did not arise out of conduct in good faith.

This clause does not apply to a liability for legal costs.

86. Each officer is, to the maximum extent permitted by law, indemnified out of the property of the Company against any liability for legal costs the officer may incur as such an officer, except to the extent the liability is a liability for legal costs incurred in defending an action for a liability incurred as such an officer and the costs are incurred:
- a. in defending or resisting proceedings in which the person is found to have a liability for which they could not be indemnified under the previous clause;
  - b. in defending or resisting criminal proceedings in which the officer is found guilty;
  - c. in defending or resisting proceedings brought by the Australian Securities and Investments Commission or a liquidator for a court order if the grounds for making the order are found by the court to have been established; or
  - d. in connection with proceedings for relief to the officer under the *Corporations Act* in which the court denies the relief.

Paragraph c. does not apply to costs incurred in responding to actions taken by the Australian Securities and Investments Commission or a liquidator as part of an investigation before commencing proceedings for the court order.

87. For the purposes of the previous clause, the outcome of proceedings is the outcome of the proceedings and any appeal in relation to the proceedings.
88. Clause 85 and clause 86 are separate and independent indemnities and one is not to be read down by reference to the other.
89. The Company may pay a premium in respect of a contract insuring a person who is or has been an officer of the Company against a liability incurred by the person as an officer of the Company except in circumstances prohibited by the *Corporations Act*.

## ALTERATION OF THIS CONSTITUTION

### 90. Prior approval required

No amendment shall be made to this Constitution without the prior written approval of the Board.

**91. Special resolution**

A resolution altering or repealing any part of this Constitution must be passed by special resolution.